1		Lause	BILL NO.	422
2	INTRODUCED	BY MUIAR L	YNCL	\overline{I} .

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A BILL FOR AN ACT ENTITLED: "AN ACT TO LICENSE AND TAX
PUNCH BOARDS AND SLOT MACHINES AND TO UTILIZE THE FUNDS
DERIVED TO OFFSET LOCAL REAL PROPERTY TAXES, TO PROVIDE
PENALTIES FOR VIOLATION THEREOF AND TO REPEAL SECTIONS
94-8-428 AND 94-8-431, R.C.M. 1947."

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

11 Section 1. Short Title. This act may be cited as "The 12 Slot Machine and Punch Board Act of 1975".

13 Section 2. Purpose. The purpose of this act is to
14 provide financial relief to the people of Montana in the
15 form of lower assessments on real property by licensing and
16 taxing punch boards and slot machines.

Section 3. Definitions. As used in this act:

- (1) "Punch boards" means the game from which prizes are awarded on the basis of designated numbers or symbols on pieces of paper which are inserted in a board, and which may be removed from that board by a punch or device inserted into the board, and where exposed, the designated numbers or symbols conform to numbers or symbols selected at random.
- (2) "Slot machine" means any mechanical, electrical or other device, contrivance or machine which, upon insertion

- 1 of a coin, token or similar object therein, or upon payment
- 2 of any consideration, is available to play or operate, the
- 3 play or operation of which, whether by reason of the skill
- 4 of the operator or application of the element of chance, or
- 5 both, may deliver or entitle the person playing or operating
- 6 the machine to receive cash, premiums, merchandise, tokens
- 7 or any thing of value, whether the payoff is made
- 8 automatically from the machine or in any other manner.
- 9 (3) "Licensed wholesaler" means any person licensed
- 10 under the provisions of this act who is engaged in the
- ll business of:
- 12 (a) selling punch boards, or
- 13 (b) leasing or selling slot machines.
- 14 (4) "Licensed retailer" means any person who is
- 15 licensed under the provisions of this act and is engaged in
- 16 the business of:
- 17 (a) selling chances on punch boards; or
- (b) operating or controlling slot machines.
- 19 (5) "Licensee" means any qualified person to whom a
- 20 license has been issued under this act.
- 21 (6) "Person" means a natural person, firm,
- 22 association, corporation or other legal entity.
- 23 (7) "Department" means department of revenue.
- 24 Section 4. Department of revenue licensing authority.
- 25 (1) The department is designated as the licensing authority

under this act. The department shall enforce the terms and provisions of this act, and shall:

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- (a) Grant or refuse licenses under this act. The department, on its own motion based on reasonable grounds, or on complaint made and after investigation and public hearing, at which the licensee is afforded an opportunity to be heard, may suspend or revoke any license issued by the department for any violation by the licensee or any officer, director, agent, member or employee of that licensee of the provisions of this act or any rule authorized hereunder. Notice of suspension or revocation, as well as notice of hearing, shall be given by certified mail to the licensee at the address contained on the license.
- 14 (b) Supervise the administration of this act and 15 adopt, amend, and repeal rules governing the operation and 16 conduct of punch boards and slot machines.
 - (c) Hear and determine at public hearing all complaints against any licensee, and administer oaths and issue subpoenas to require the presence of persons and production of papers, books and records necessary to the determination of any hearing so held.
- 22 (d) Keep records of all actions and transactions of 23 the department concerning this act.
- 24 (e) Report annually to the governor or legislature 25 respecting the administration of this act, including an

accounting of all licenses issued and moneys collected and
make recommendations in regard to legislation.

- (f) Enforce the provisions of this act. The department, its members and agents have the powers of peace officers, and are authorized to arrest any person violating any provision of this act, and to file a complaint before any court of competent jurisdiction, and to lawfully search and seize and use as evidence, any unlawful or unlawfully possessed license, punch board, slot machine, or insignia found in the possession of any person or place.
- (2) Proceedings to suspend or to revoke any license shall be brought by the department in accordance with the Montana Administrative Procedure Act. The department may stop the operation of punch boards and slot machines by notice to a licensee pending hearing, in which case the hearing shall be held within thirty (30) days of notice.
- (3) When a license is ordered suspended or revoked, the licensee shall surrender the license to the department on or before the effective date of the suspension or revocation. No license is valid beyond the effective date of the suspension or revocation, whether surrendered or not.
- (4) In addition to any other penalty imposed under this act the department may declare the violator ineligible to conduct punch boards and to operate or control slot machines for no more than two (2) years after the

1 declaration.

Section 5. Wholesale license. (1) Each wholesaler
 shall obtain a license from the department before engaging

4 in the business of wholesaler or retailer.

- 5 (2) A separate application and a separate license is 6 required for each place of business owned, controlled, or 7 operated by the licensed wholesaler within the state of 8 Montana.
- 9 (3) Application forms supplied by the department shall 10 contain:
- 11 (a) the type and general description of applicant's 12 organization,
- (b) names and home addresses of all owners, stating
 whether or not principals of these organizations have been
 convicted of a felony,
- 16 (c) identification of each convicted individual, and
- 17 (d) other pertinent information as the department 18 requires by rule.
- 19 (4) All applicants for a wholesaler's license and all
 20 persons, owners or others who have a financial interest in
 21 the applicant's organization shall be at least eighteen (18)
 22 years of age and a resident of the state at least five (5)
 23 years prior to the date of application.
- 24 (5) Each application for a wholesaler's license shall 25 be accompanied by a fee of five hundred dollars (\$500).

1 (6) The department shall adopt proper insignia to
2 indicate the applicable fee has been paid. The fee shall be
3 collected before the department issues the insignia, unless
4 the licensed wholesaler is allowed a credit under section 6
5 of this act. Other requirements applicable to insignia are:

- (a) only licensed wholesalers shall purchase insignia,
- 7 (b) licensed wholesalers shall affix insignia to punch 8 boards and slot machines prior to transfer to a licensed 9 retailer or any use by the licensed wholesaler, and
- 10 (c) licensed wholesalers shall not resell insignia,
 11 but may return them to the department for a refund.
- 12 (7) Each punch board that a licensed wholesaler
 13 distributes shall have firmly affixed and in a conspicuous
 14 place, a statement which indicates the following:
- 15 (a) the charge for each play or chance,
- 16 (b) the total number of plays or chances in that punch 17 board,
- 18 (c) the prizes or awards which will be provided in 19 that punch board.
- This statement shall not be altered, modified or changed in any manner by any person. The charge for playing the punch board may not be exceeded. All prizes indicated
- on the statement for each punch board must be awarded.
- 24 Section 6. Wholesaler credit. (1) Each licensed 25 wholesaler shall pay on a cash basis for one (1) complete

calendar year, before he is eligible to delay payment as provided in this section.

LC 0131

- (2) The department shall permit a licensed wholesaler 3 to pay for the insignia purchased within thirty (30) days 5 after the date of purchase if that wholesaler files with the department a bond issued by a surety company, approved by 7 the department, of insurance as to solvency and 8 responsibility and authority to transact business in the 9 state, for any amount the department may fix, but not in 10 excess of an amount equal to the maximum insignia purchase 11 incurred for any thirty (30) day period in the previous calendar year. 12
- 13 (3) The amount of the bond required above may be added 14 to the amount of any other bond which a wholesaler furnishes 15 to the state of Montana so that only one bond may be 16 provided for the total amount.
 - Section 7. Cash basis only. No sale or delivery of punch boards or rental, sale or delivery of slot machines shall be made to any licensed retailer, except for cash paid on or before the date of delivery. A correctly dated check which is honored upon presentment shall be considered as cash for purposes of this section.
- 23 Section 8. Retail licenses. (1) Licenses for 24 retailers under this act are of three types:
- 25 (a) punch boards only;

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- 1 (b) slot machines only; and
- (c) combined punch board and slot machine.
- 3 (2) A separate application and a separate license is
 4 required for each place of business owned, operated, or
 5 controlled by the licensed retailer within the state of
 6 Montana.
- 7 (3) Application forms supplied by the department shall contain:
- 9 (a) the type and general description of applicant's 10 organization;
- 11 (b) names and home addresses of all owners, stating
 12 whether or not principals of the organizations have been
 13 convicted of a felony:
- 14 (c) identification of each convicted individual; and
- 15 (d) other pertinent information the department 16 requires by rule.
- 17 (4) All applicants for a retailer's license and all
 18 persons, owners, or others who have a financial interest in
 19 the applicant's organization shall be at least eighteen (18)
 20 years of age and a resident of the state of Montana at least
 21 five (5) years prior to the date of application.
- 22 (5) Applications for retailer's licenses shall be 23 accompanied by fees as follows:
- 24 (a) retailer's punch board-only license, \$250;
- 25 (b) retailer's slot machine-only license, \$100 for

LC 0131

each machine up to and including 15 machines; for each machine above 15 the fee is \$40;

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- 3 (c) combined retailer's punch board and slot machine
 4 license, \$2000 for establishments operating or controlling
 5 15 machines or less; with 16 or more machines, \$50
 6 additional for each machine.
- 7 Section 9. License renewal -- display. (1) The 8 licenses may be renewed annually upon payment of the annual 9 fee and shall be effective for one (1) year, without 10 proration.
- 11 (2) Each license shall be prominently displayed on the
 12 licensed premises, and a separate license shall be displayed
 13 at each place of business owned, controlled, or operated by
 14 the licensed wholesaler or licensed retailer.
- Section 10. Gross revenue tax. (1) In addition to any other taxes or fees there are imposed the following taxes on gross revenue:
 - (a) Retailer punch board-only license; an establishment operating or planning to operate under retailer's punch board-only licenses shall pay three percent (3%) of the total gross revenue of each punch board game. The total gross revenue shall be determined by multiplying the cost charged for each individual chance or play times the total number of chances or plays in the punch board.
- 25 (b) Retailer slot machine-only license; an

l establishment operating or planning to operate under a

LC 0131

2 retailer's slot machine-only license shall pay a gross

- 3 revenue tax computed as follows:
- 4 (i) Three percent (3%) of all the gross revenue from 5 slot machines which does not exceed \$150,000 per quarter 6 year; and
- 7 (ii) Four percent (4%) of all the gross revenue from 8 slot machines which exceeds \$150,000 per quarter year and 9 does not exceed \$400,000 per quarter year; and
- 10 (iii) Five and one-half percent (5 1/2%) of all the 11 gross revenue from slot machines which exceeds \$400,000 per 12 quarter year.
- 13 (c) Retailer combined slot machine and punch board
 14 licenses; those establishments operating or planning to
 15 operate under a retailer's combined punch board and slot
 16 machine license shall pay a tax as follows:
- 17 (i) the punch board tax as prescribed in this section; 18 and
- 19 (ii) the slot machine tax as prescribed in this 20 section.
- 21 (2) The department shall charge and collect the tax 22 prescribed in this section:
- 23 (a) on or before the last day of the last month in a 24 calendar quarter, for the ensuing calendar quarter, from a
- 25 licensee whose operation is continuing;

- 1 (b) in advance from a licensee who begins operation or 2 puts additional slot machines into play during a calendar 3 quarter.
- 4 (3) No proration of the fee prescribed in this section 5 may be allowed for any reason.

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- (4) The operator of the location where slot machines are situated shall pay the tax prescribed in this section upon the total number of slot machines situated in that location, whether those machines are owned by one or more licensee-owners.
- Section 11. Payment of gross revenue tax. (1) The department shall charge and collect the tax prescribed in section 10 based upon the gross revenue for the preceding calendar quarter, on or before the last day of the first month of the calendar quarter for which the license is issued.
- (2) When a licensed retailer is operating for the first time, he shall present to the department an estimate of his first quarter's gross revenue. This estimate shall be treated as the gross revenue for the preceding calendar quarter and taxed as provided in subsection (1) of this section.
- 23 (3) If the estimate presented under subsection (2) of 24 this section differs from the the actual gross revenue for 25 the first quarter of operation, the department shall enter a

credit or debit to the amount the licensed retailer shall bay the next succeeding quarter.

Section 12. Failure to pay tax -- penalty. If a

person fails or refuses to pay when due the tax or fee

required by this act, the department shall proceed to

determine the tax or fee due from any information the

department can obtain and shall assess the tax or fee so

determined against the person and notify him of the amount

thereof. After notice the tax or fee is due and payable,

together with a penalty of five percent (5%) of the tax or

fee or five dollars (\$5) per day for each day after receipt

of the notice, whichever is greater.

13 Section 13. Deposit of fees and taxes -- allocation to 14 local governments. All license fees and taxes collected 15 under this act shall be deposited monthly with the state 16 treasurer in the department's punch board and slot machine 17 enforcement account in the earmarked revenue fund. There 18 shall be appropriated to the department, from the 19 enforcement account, the sum necessary to carry out the 20 provisions of this act for each fiscal year. On or before June 30, at the end of each fiscal year the department shall 22 pay to the treasurer of each county and incorporated city or 23 town which has certified to the department punch boards and 24 slot machines are acceptable to the people thereof. to the 25 credit of the general fund, all funds in excess of ten

- 1 thousand dollars (\$10,000) in the enforcement account not 2 needed for the administration of this act. The amount 3 received by each certified county and incorporated city or town is determined by dividing the total population of all certified counties, cities or towns, as determined by the 5 most recent United States census, into the population of the 6 7 respective local governmental unit, as determined by the most recent United States census and multiplying the 8 9 quotient, as a percentage, times the total available funds. 10 For purposes of this determination population of a certified county does not include the population of certified 11 12 incorporated cities or towns located within the county 13 boundaries. 14 Section 14. Certification procedure. Each county or
- incorporated city or town of the state of Montana shall 15 certify to the department that the people thereof accept 16 17 licensed punch boards and slot machines as a method of 18 contributing to the general revenue of that local 19 government. This certification shall be a verified copy of the results of an election in which the question of 20 acceptance is presented to the people of the local 21 governmental unit and a majority voted to accept. 22
- 23 Section 15. Interstate shipment. Every common carrier 24 hauling, transporting, or shipping into or out of the state 25 of Montana, from or to any other state, any punch board or

- 1 slot machine shall report in writing the shipments or
- 2 deliveries to the department, on forms furnished by the
- 3 department, giving the date, the person to whom the same was
- 4 consigned and delivered, the quantity as shown by the bill
 - of lading and other information as the department may
- 6 require.

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- 7 All punch boards and slot machines without the required
- 8 insignia affixed may only be transported into or out of the
- 9 state by common carrier or United States mail.
- 10 The transportation of punch boards is hereby declared
- 11 exempt from the provisions of 15 U.S.C. F., 1172.
- 12 Section 16. Intrastate shipment. (1) It shall be
- 13 unlawful for any person, except a licensed wholesaler, to
- 14 possess, transport into, receive, carry or move from place
- 15 to place within this state any punch boards or slot machines
- 16 which do not bear the insignia required by this act, except
- 17 in the following cases:
 - (a) when in interstate commerce; or
- 19 (b) when transported from a manufacturer directly to a
- 20 licensed wholesaler.
- 21 (2) Any motor vehicle, airplane, conveyance, vehicle,
- or other means of transportation, in which punch boards or
- 23 slot machines are being unlawfully transported, together
- 24 with the punch boards, slot machines and other equipment or
- 25 personal property used in connection with that

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- transportation, and found in that means of transportation, are subject to seizure by the department or any beace officer.
- (3) If no application for return is made as provided in section 17 of this act, upon completion of all legal and department proceedings, the seized items shall be sold for a reasonable price at public auction and the funds obtained disbursed as provided in section 94-8-412, R.C.M. 1947.

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- 9 Section 17. Seizure of punch board or slot machine. 10 Upon the seizure of any punch board or slot machine and 11 within two (2) days thereafter, the person or officer making 12 the seizure shall deliver an inventory of the property 13 seized to the person from whom the seizure was made, if known, and file a copy thereof with the department. The 1.4 15 person from whom the seizure was made, or any other person 16 claiming an interest in the property seized, may apply for its return as provided in sections 95-713 through 95-716, 17 18 R.C.M. 1947.
- 19 Section 18. Grievance procedure -- hearing under Administrative Procedure Act. Any person aggrieved by any 21 action of the department may apply to the department, in 22 writing, for a hearing or rehearing thereon within thirty 23 (30) days after the action of the department or its duly authorized agents. The department shall promptly consider the application, set it for hearing and notify the applicant

- of the time and place fixed for that hearing or rehearing, which may be at its office or in the county of the applicant. Any hearing shall be held in accordance with the Montana Administrative Procedure Act. After a hearing or rehearing, the department may make any order it deems proper lawful and shall furnish a copy thereof to the applicant. The department, on its own initiative, may order a hearing on any matter concerned with the administration of 9 this act, upon at least ten (10) days notice in writing to 10 the person or persons to be investigated.
 - Section 19. Appeal to district court. Any person aggrieved by any action or decision of the department, made under the provisions of this act, may appeal therefrom to the district court of the county where appellant resides, in accordance with the provisions of the Montana Administrative Procedure Act.
 - Section 20. Gambling on a cash basis. (1) In every qambling game conducted under any gambling law of this state the consideration paid for the chance to play shall be cash. Every participant shall present the money with which he intends to play the gambling game at the time the game is played. No check, credit card, note, I.O.U. or other evidence of indebtedness shall be offered or accepted as part of the price of participating in a gambling game or as payment of a gambling debt.

(2) No action based on a gambling debt is maintainable in a court of this state.

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section 21. Cheating unlawful. It shall be unlawful to conduct or participate in a gambling game authorized by this act or any other gambling law in any manner which results in cheating, misrepresentation or other disreputable tactics which distract from a fair and equal chance for all participants or which otherwise affects the outcome of the gambling game.

section 22. Minors not permitted to participate. No person under the age of eighteen (18) years shall be permitted to play a punch board or operate a slot machine and no licensee shall allow any person under eighteen (18) years to play a punch board or operate a slot machine.

Section 23. Prohibition against playing where no proper insignia. No person shall use or play a punch board or slot machine not having affixed thereto the insignia required by this act.

section 24. Assistance of county attorneys and local peace officers. The department may call to its assistance, any county attorney or any peace officer, in this state, who shall assist the department in the enforcement of this act.

Section 25. Venue. Venue for any violation of this act lies in the judicial district where the department maintains its principal office. The department may sue the

violator for the amount of any unpaid tax or fee and costs, including reasonable expenses. Where the court finds the failure to pay the tax has been willful, the court shall assess damages in treble the amount of the tax or fee due.

Section 26. Violation -- public nuisance. Every person having possession or control of, or who maintains a building or place where punch boards are sold or played or

slot machines played in violation of this act, or permits
the same to be carried out in any place or building
possessed, controlled or maintained by him, is guilty of
maintaining and keeping a public nuisance and the building
or place so used, together with the personal property and
fixtures used in connection therewith shall be considered a
public nuisance, and the person shall be enjoined and the

building or place, personal property and fixtures abated as

Section 27. Violation -- a misdemeanor. Any person violating any provision of this act, except as provided in section 28 of this act, shall be punished by a fine of not less than one hundred dollars (\$100), or more than two thousand dollars (\$2,000), or by imprisonment in the county jail for not more than six (6) months, or by imprisonment in

a public nuisance, under section 94-8-107. R.C.M. 1947.

23 the state prison for any term not to exceed five (5) years,

24 or by both fine and imprisonment.

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25 Section 28. Special penalties -- punch board keys --

1 tampering with slot machines. (1) Anv person providing keys 2 to punch boards to any person within the state of Montana, and any person, other than authorized department personnel, 3 4 who possesses a key commits a felony and upon conviction 5 shall be imprisoned in the state prison for a term not less 6

than two (2) years nor more than ten (10) years.

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- (2) Any person who tampers as defined in section 94-2-101 (62), R.C.M. 1947, with a slot machine in any manner which lowers the gross revenue computation of any slot machine, or any person who manufactures a slot machine which can be tampered with in a manner which lowers the gross revenue computation of any slot machine commits a felony and upon conviction shall be imprisoned in the state prison for a term not less than two (2) years nor more than ten (10) years.
- Section 29. Prior laws still in effect. To the extent 17 that they are not specifically superseded by provisions of this act or any other gambling law, the provisions of sections 94-8-401 through 94-8-431, R.C.M. 1947, remain in effect.
- 21 Section 30. Severability. If a part of this act is 22 invalid, all valid parts that are severable from the invalid 23 part remain in effect. If a part of this act is invalid in 24 one or more of its applications, the part remains in effect in all valid applications that are severable from the 25

- invalid applications.
- 2 Section 31. Repealer. Sections 94-8-428 and 94-8-431,
- 3 R.C.M. 1947 are repealed.
- Section 32. Effective date. This act is effective
- January 1, 1976.

-End-

STATE OF MONTANA

REQUEST NO. 206-75

FISCAL NOTE

•			Form BD	15	
for House Bill 422	pursuant to Chapter 53	, Laws of Montana, 190	, there is hereby submitted a Fiscal N 35 - Thirty-Ninth Legislative Assembly. f Budget and Program Planning, to mem		
ESCRIPTION OF PROPOSED LEGIS louse Bill 422 licenses and taxes punch exes, provides penalties for violation the executive date.	hboards and slot machines, ut	ilizes a portion of such 28 and 94-8-431, R.C.N	collections to offset local real property M. 1947, and provides a January 1, 1976		
SSUMPTIONS:			-		
. House Bill 422 provides for the foll	lowing licenses, license fees, a	nd taxes:			
Vholesale annual license	le annual license \$ 500				
letail Punchboard annual license	\$ 250				
letail slot machine annual license	\$ 100 per machine up	to 15 machines; \$40 pe	er machine after 15.		
Combination retail punchboard and lot machine annual license	\$2,000 up to 15 machin	es; \$50 per machine aft	er 15.		
iross revenue tax - punchboard	3% .				
irosș revenue tax - slotmachine	3, 4, or 5% depending of	on the level of gross rev	enue.		
. In light of the various taxes and lice roposed legislation The Department of Revenue will re	equire a three member office	staff and a five member	•		
roposed legislation. A nine percent sa . Required office space is available w quipment will be needed.			onic equipment and miscellaneous office		
evenue fund. The administrative costs	s of the legislation will be paid costs) are to be distributed,	d from the account. A on a population basis,	chine enforcement account in the earman t the end of each fiscal year, funds in to county and city governments which	ked	
FISCAL IMPACT:	•	FY 76	FY 77		
stimated increase in expenditures by Personal Services	category:	\$ 49,599	\$103,663		
Operating Expenses		26,560	48,239		
Capital Outlay		35,000	0		
Total estimated increase in expendit	tures	\$111,159	\$151,902		
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			CONTINUED		
			BUDGET DIRECTOR		
			Office of Budget and Program Plann	ing	

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REQUEST NO. 206-75

FISCAL NOTE

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Form	RI	15

In compliance with a written request received February 11 , 19 75 , there is hereby submitted a Fiscal Note				
for House Bill 422 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.				
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members				
of the Legislature upon request.				

CONCLUSION:

Enactment of House Bill 422 will result in an indeterminable increase in license fee and tax collections. Revenue in excess of \$10,000 plus administrative expenses, will be distributed to cities and counties which have certified their acceptance of punchboards and slot machines. The distribution will be according to population. The estimated administrative expenses for the proposed legislation is \$263,000 during the 1975-77 Biennium.

TECHNICAL NOTES:

- 1. Section 10 (1)(a), page 9, places a tax on punchboards of 3% of the total gross revenue of each punchboard game. Total gross revenue is defined as the product of the number of chances or plays in the punchboard and the price per chance. In cases where all the chances in the punchboard are not exhausted, what is the correct taxable base?
- 2. Section 10 (2)(a), page 10, and Section 11(1), page 11, appear to disagree as to the time of payment of the gross revenue tax.
- 3. Section 11 (1), page 11, refers to "the calendar quarter for which the license is issued". Other references, throughout the bill, are to annual licenses.

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 21, 1975