

1 *House* BILL NO. *606*
 2 INTRODUCED BY *Merrill Grogan, McEdden*
 3 *Murphy*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE
 5 AUTHORIZATION, LICENSING AND A LICENSE TAX ON PUNCHBOARDS,
 6 PULLTABS, PULLCARDS AND SIMILAR DEVICES; TO PROVIDE
 7 PENALTIES FOR VIOLATION OF THIS ACT AND TO REPEAL ALL ACTS
 8 AND PARTS OF ACTS IN CONFLICT."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Definitions. As used in this act:

12 (1) "Department" means the state department of revenue
 13 of the state of Montana.

14 (2) "Person" means individuals, partnership,
 15 corporations, associations or organizations.

16 (3) "Device" means punchboards, pulltabs, pullcards
 17 and similar objects containing, holding or enclosing or
 18 having as a part thereof numbered tickets, variegated
 19 symbols and tokens which are dispensed mechanically or
 20 punched from holes in a board or removed from its face or
 21 from a spindle, or the equivalent or combination of any one
 22 or more of these objects which announces that an award will
 23 be made to a purchaser thereof, upon selection of the proper
 24 numbers or symbols which winning combinations must be
 25 clearly posted on the device. This does not mean or include

1 slot machines or similar devices.

2 (4) "Insignia" means the impression of a serially
 3 numbered mark, stamp or similar tax identification device
 4 approved by the state department of revenue under the
 5 provisions of this act.

6 (5) "Full face value of insignia" means the total
 7 amount of the tax levied under this act.

8 (6) "Licensed wholesaler" means and includes:

9 (a) any person that is a resident in this state who
 10 brings or causes to be brought into the state any device
 11 authorized by this act, and purchased directly from an
 12 "approved manufacturer" thereof outside the state of Montana
 13 and stores or otherwise disposes of the same after it
 14 reaches the state; and

15 (b) also any person who, within this state,
 16 manufactures or produces, sells or distributes any of the
 17 devices authorized by this act.

18 (7) "Approved manufacturer" means any manufacturer of
 19 the devices authorized by this act outside the state of
 20 Montana who has been approved and licensed under this act to
 21 sell to a "licensed wholesaler" resident of the state.

22 (8) "Licensed retailer" means any person other than
 23 licensed wholesaler duly licensed under this act to purchase
 24 from a licensed wholesaler the devices authorized under this
 25 act and distribute or sell to an exhibitor under the terms

1 of this act.

2 (9) "Exhibitor" means any person with licensed
3 premises authorized to exhibit the devices authorized under
4 this act to the public for sale on a chance by chance basis,
5 only, under the terms of this act.

6 (10) "Bootleg board" means any device authorized by
7 this act manufactured, wholesaled, retailed, exhibited,
8 bought, sold, traded, bartered, used, or stored, in
9 violation of the terms of this act.

10 (11) "Sell" or "sale" means any transfer of the devices
11 authorized herein by sale, as defined in 87A-2-106, R.C.M.
12 1947, or by gift, barter, or exchange.

13 Section 2. Prohibition. From and after the effective
14 date of this act it shall be lawful for any person, as
15 defined herein, to manufacture, sell and exhibit for use and
16 sale any of the devices authorized under this act and for
17 the purpose of this act the devices shall be considered as
18 punchboards, pulltabs, pullcards and similar objects as
19 defined in this act, not including slot machines or similar
20 devices, when and after the person complies with the terms
21 of this act.

22 Section 3. Police power. The control exercised by the
23 state of Montana over the subject matter contained in this
24 act is an exercise of the police power of this state for the
25 protection and the general welfare and health of its

1 citizens, and all licenses issued hereunder are a privilege
2 and not a vested property right, and are revocable for cause
3 by the state of Montana under the terms of this act.

4 Section 4. Wholesaler's license -- multiple places of
5 business -- application forms. (1) Every wholesaler shall
6 obtain a license from the department before engaging in the
7 business of wholesaler. A separate license shall be
8 required for each place of business owned, controlled or
9 operated by such wholesaler within the state of Montana.
10 The application forms shall require a full disclosure of the
11 type and general description of applicant's organization,
12 names and home addresses of all owners or board of directors
13 and officers of the organization, the citizenship, length of
14 Montana residence, principal business of each member, and
15 financial condition statement as may be required by the
16 department to insure financial responsibility, and such
17 other pertinent information as may be required by the
18 department.

19 (2) Wholesalers who purchase directly from an approved
20 manufacturer outside the state of Montana shall furnish to
21 the department the name and locations of the manufacturer
22 and the manufacturer's Montana license number issued to that
23 manufacturer.

24 (3) Wholesalers who are in-state manufacturers must
25 submit to an inspection of their manufacturing facility by

1 the department.

2 Section 5. Retail license -- multiple places of
3 business -- application form. Every retailer must obtain a
4 license from the department before engaging in the business
5 of retailer. A separate license is required for each place
6 of business owned, controlled or operated by such retailer
7 within the state of Montana. Application forms shall
8 include:

9 (a) a full disclosure of the type and general
10 description of applicant's organization;

11 (b) names and addresses of all owners or board of
12 directors and officers of the organization;

13 (c) the citizenship, length of Montana residence,
14 principal business of each member, and a financial condition
15 statement as required by the department to insure financial
16 responsibility; and

17 (d) other pertinent information required by the
18 department.

19 Section 6. Approved manufacturer license requirements
20 -- application form. (1) Every approved out-of-state
21 manufacturer shall obtain a license from the department
22 before selling to or shipping any device authorized by this
23 act to a licensed wholesaler in the state of Montana. Each
24 person shall apply to the department in person. Application
25 forms shall include:

1 (a) a full disclosure of the type and general
2 description of applicant's organization;

3 (b) names and homes addresses of all owners, board of
4 directors, members and officers of the organization; and

5 (c) a financial condition statement to insure
6 financial responsibility and other pertinent information as
7 required by the department.

8 (2) Each applicant shall sign a written consent to
9 conform to the regulations of the department when shipping
10 devices into this state and post a performance bond if
11 considered necessary by the department. A bond is subject
12 to forfeiture together with license in the event of willful
13 violation of the regulations of the department.

14 Section 7. Exhibitor's license -- application form.
15 Every exhibitor shall obtain a license from the department
16 before engaging in the business of an exhibitor.
17 Application forms shall include:

18 (a) the name and type of applicant's business;

19 (b) name and home address of each owner, board of
20 directors, members and officers and their length of
21 residence in Montana;

22 (c) a financial disclosure to insure financial
23 responsibility; and

24 (d) other pertinent information required by the
25 department.

1 Section 8. No license to certain persons. No license
 2 for the business of wholesaler or retailer or exhibitor
 3 shall be issued to any person who has been convicted of a
 4 felony or who has suffered a revocation of a previous
 5 license or license under the Card Game Act or Bingo and
 6 Raffle Law, or to a person who is not a citizen of the
 7 United States and the state of Montana. A person must have
 8 resided in Montana for at least one (1) year immediately
 9 prior to the application for an exhibitor's license, three
 10 (3) years immediately prior to the application for a
 11 retailer's license, five (5) years immediately prior to the
 12 application for a wholesaler's license.

13 Section 9. Wholesalers -- retailers -- approved
 14 out-of-state manufacturer -- exhibitors -- license fee --
 15 renewal -- display of license. Each application for a
 16 wholesaler's license shall be accompanied by a fee of one
 17 thousand dollars (\$1,000) effective July 1, 1975. Each
 18 application for a retailer's license shall be accompanied by
 19 a fee of five hundred dollars (\$500) effective July 1, 1975.
 20 Each application for an exhibitor's license shall be
 21 accompanied by a fee of three hundred dollars (\$300)
 22 effective July 1, 1975. Each application for an
 23 out-of-state approved manufacturer's license shall be
 24 accompanied by a fee of one thousand dollars (\$1,000)
 25 effective July 1, 1975. These licenses shall be renewed

1 annually upon payment of the annual fee in the amount set
 2 forth above, and shall be effective for one (1) year,
 3 without proration, except for a period of time from the date
 4 of the enactment of this act to July 1, 1975. Each license
 5 except the out-of-state manufacturer's shall be prominently
 6 displayed on the licensed premises and separate licenses
 7 shall be displayed in each place of business owned or
 8 controlled by the licensee.

9 Section 10. Insignia required -- affixing of insignia
 10 -- authorization and amount. Wholesalers licensed under
 11 this act may sell or distribute, and retailers and
 12 exhibitors may purchase or have in their possession only
 13 devices on which the insignia provided by this act is
 14 permanently affixed to each individual device. The insignia
 15 provided for in this act shall be sold to and affixed by
 16 licensed wholesalers only.

17 The department is authorized and directed to provide a
 18 tax insignia serially numbered in a form or forms that
 19 cannot be removed from a device for reuse, and in design and
 20 denominations as are appropriate to collect a prepaid tax on
 21 each device purchased or manufactured for use in Montana by
 22 a licensed wholesaler of percent (%) of the value of
 23 the total number of punches, tickets or the equivalent
 24 contained on or in each device and computed by using the
 25 retail price per chance posted on the device. The

1 department must keep a numbered record of the insignia sold
 2 to each licensed wholesaler and may sell direct to each
 3 wholesaler or at the board's discretion; for convenience
 4 make the insignia available at each county treasurer's
 5 office who shall account on forms prescribed by the
 6 department, and remit the revenue due the state of Montana
 7 each thirty (30) days. No insignia may be sold or traded by
 8 a licensed wholesaler. Any insignia unused for any reason
 9 shall be returned to the department for exchange or refund.

10 Section 11. Duties of approved manufacturer - licensed
 11 wholesaler -- licensed retailer. (1) Every approved
 12 out-of-state manufacturer shall report in writing, all
 13 shipments of devices into Montana to a licensed wholesaler,
 14 on forms provided by the department, setting forth the date,
 15 to whom shipped, quantity and value, and all other
 16 information that the department may require. No
 17 out-of-state approved manufacturer may ship any device into
 18 Montana except to a licensed wholesaler.

19 (2) Licensed wholesalers who purchase from an approved
 20 manufacturer outside the state shall not break the original
 21 container or move the same from the point of delivery until
 22 the proper insignia is placed upon each device. A record
 23 shall be kept by the wholesaler by the insignia serial
 24 number, kind, quantity and value of all sales to licensed
 25 retailers. These records shall be made available to the

1 department on request and maintained for a period of time
 2 considered appropriate by the department.

3 (3) In-state manufacturing licensed wholesalers shall
 4 affix the insignia at the factory before shipment, and keep
 5 a record by the insignia serial number, kind, quantity and
 6 value of all sales to licensed retailers in the state of
 7 Montana. These records shall be kept and produced the same
 8 as in subsection (2) above.

9 (4) All licensed retailers shall keep a record by the
 10 insignia serial number, device description and value of all
 11 devices sold to exhibitors and exhibitor's location by
 12 address, principal business and owner's name.

13 Section 12. Disposition of license fees -- insignia
 14 fees -- transfer to general fund -- justification of
 15 expense. (1) All license fees collected under the
 16 provisions of this act shall be deposited monthly with the
 17 state treasurer in the department's "punchboard" account.
 18 There shall be appropriated to the department from such
 19 punchboard account such sums as may be necessary to comply
 20 with the provisions of this act during the fiscal biennium.
 21 On or before June 30 of each fiscal biennium the department
 22 shall pay to the state treasurer to the credit of the
 23 punchboard institution account all funds in excess of those
 24 funds needed to administer this act.

25 (2) All insignia tax fees collected under the

1 provisions of this act shall be deposited monthly with the
 2 state treasurer in the department's punchboard institution
 3 account. There shall be appropriated from the department's
 4 punchboard institution account to the Montana state board of
 5 institutions special account each fiscal year during the
 6 biennium, all funds deposited in the department punchboard
 7 institution account, subject only to the exceptions
 8 contained in this act. The funds so appropriated to the
 9 Montana board of institutions special account shall only be
 10 expended for the improvement of conditons and bringing to
 11 federal standards the Boulder River school and hospital for
 12 children at Boulder, Montana, and the state hospital for the
 13 mentally afflicted at Warm Springs, Montana. These funds
 14 are in no manner to be used to replace or supplement the
 15 operational budget now appropriated to these institutions
 16 each biennium from the state general fund, or to be used for
 17 general administration expenses. When these goals are
 18 achieved in the judgment of the Montana state legislature,
 19 these funds may be directed to another useful purpose, but
 20 by no other body. In the event the license fees collected
 21 by the department do not fully fund the administration of
 22 this act, then, and in that event, after full accounting and
 23 justification the necessary funds to fulfill that purpose
 24 may be appropriated to the department from the punchboard
 25 institution account.

1 All expenses charged against the funds created by this
 2 act shall be justified by itemized claims together with
 3 standard accounting reports.

4 Section 13. Enforcement -- penalties. (1) The
 5 department and all peace officers have the duty to enforce
 6 the provisions of this act and the county attorney in the
 7 counties has the duty to prosecute all violations.

8 (2) Every person who willfully vioiates or who
 9 procures, aids or abets in a violation of the provisions of
 10 this act is guilty of a misdemeanor and upon conviction
 11 shall be punished by a fine of not more than one thousand
 12 dollars (\$1,000), or imprisonment in the county jail for a
 13 term of not more than three (3) months or both. If the
 14 person convicted holds a license issued under this act, the
 15 license shall be revoked by the department for a period of
 16 not less than one (1) year.

17 (3) Any person who alters, duplicates or reproduces
 18 the insignia authorized by this act, or aids, abets or in
 19 any manner conspires to do the same is guilty of forgery and
 20 subject to the felony penalty prescribed for that offense.

21 (4) Any person who willfully comes into possession of
 22 a bootleg board as defined in this act, or aids or abets in
 23 any way in its use or transport or creation is guilty of a
 24 misdemeanor and upon conviction shall be punished by a fine
 25 of not more than one thousand dollars (\$1,000) or

1 imprisonment in the county jail for a term of not more than
2 three (3) months or both. If the person convicted holds a
3 license issued under this act the license shall be revoked
4 for a period of not less than five (5) years.

5 Section 14. Transportation exempt from federal law.
6 The transportation of devices authorized herein is declared
7 exempt from the provisions of 15 U.S.C., section 1172.

8 Section 15. Minors not to participate. No person
9 under the age of eighteen (18) years shall be permitted to
10 play or participate in any way in the devices authorized
11 with this act.

12 Section 16. Prior acts repealed. All statutes or
13 gambling laws in conflict with the terms of this act are
14 specifically repealed.

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

21 Section 18. Effective date. This act is effective
22 upon its passage and approval.

-End-

HB 606

STATE OF MONTANA

REQUEST NO. 200-75

FISCAL NOTE

Form BD-15

In compliance with a written request received February 11, 19 75, there is hereby submitted a Fiscal Note for House Bill 606 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.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 606 provides authorization, licensing and license taxes on punchboards, pulltabs, pullcords, and similar devices; provides penalties for violations of this act and repeals all acts and parts of acts in conflict. The act is effective upon passage and approval.

ASSUMPTIONS:

1. House Bill 606 provides for the following license taxes:

Wholesaler license	\$1,000 per year	Exhibitors license	\$ 300 per year
Retailer license	500 per year	Device insignia tax	unspecified percent of value of potential retail proceeds.
Manufacturer license	1,000 per year		

2. It is impossible to estimate the number of establishments that would be subject to the provisions of the proposed legislation. It is particularly difficult to predict the number of entities that would participate in the allowed gambling, in light of the fees imposed.

3. The Department of Revenue would require a three member administrative staff and a five member investigation team to administer the proposed legislation. Increases of nine percent for salaries and six percent for expenses are estimated for FY 77.

4. Required office space is available without added cost. Five automobiles and various office equipment are required.

5. All license fees collected under the proposed legislation are deposited in the "Punchboard" account. Appropriations from the account for Department of Revenue administrative expenses are authorized. Excess revenue at the end of each fiscal biennium shall be credited to the "Punchboard Institution" account.

6. All insignia tax fees collected under the proposed legislation are deposited in the "punchboard institution" account. Appropriations from the account for Department of Revenue administrative expenses are authorized only when the "punchboard" accounts do not fully fund the administrative expenses.

7. Each fiscal year, the funds in the "punchboard institution" account will be appropriated to the institutions at Boulder and Warm Springs.

FISCAL IMPACT:

Estimated increase in Department of Revenue expenditures by category	FY 76	FY 77
Personal Services	\$ 102,604	\$ 111,838
Operating Expenses	51,420	51,855
Capital Outlay	30,000	0
Total estimated increase in expenditures	<u>\$ 184,024</u>	<u>\$ 163,693</u>

CONCLUSION:

Enactment of House Bill 606 will result in increased administrative expenses of \$347,717 during the 1975-77 Biennium. Such expenses should be covered with tax and license collections provided for in the legislation. Enactment of the bill should provide tax and license collections which exceed the additional expenses but it is impossible to estimate the magnitude of such collections. The excess revenue will be available for use at Warm Springs and Boulder institutions.

Michael Billings

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 20, 1975