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 2 INTRODUCED BY <sup>H</sup> Ellis Barrett J. Henderson, Klee BILL NO. 555  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING  
 5 NICKEL-OPERATED PINBALL MACHINES, PROVIDING FOR LICENSURE  
 6 AND DISTRIBUTION OF LICENSE REVENUE, AND EXEMPTING SUCH  
 7 MACHINES FROM THE GENERAL GAMBLING LAWS."  
 8

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

10 Section 1. Definitions. As used in this act, unless  
 11 the context otherwise requires, the following definitions  
 12 apply:

13 (1) "Nickel-operated automatic cash payout pinball  
 14 machine" means a machine of the so-called inline or  
 15 bingo-type pinball game which, upon the insertion of one or  
 16 more nickels, electrically displays odds on its face and  
 17 causes the mechanism to release one or more balls for the  
 18 use of the player to be propelled by means of a spring-type  
 19 plunger device, and which provides for an automatic cash  
 20 payout of nickels to the successful player. Successful play  
 21 of the machine depends in part upon the manual dexterity and  
 22 skill of the player. The foregoing defined game does not  
 23 include any game commonly known as a "slot machine", an  
 24 essential part of which is a drum or reel with insignia  
 25 thereon or an electronic representation of a reel with

1 insignia, which machine does not depend in part upon the  
 2 manual dexterity and skill of the player for a successful  
 3 play of the game.

4 (2) "Department" means the department of revenue  
 5 provided for in Title 82A, chapter 18.

6 Section 2. Pinball machines authorized.  
 7 Nickel-operated automatic cash payout pinball machines and  
 8 the operation thereof are hereby authorized. Such games are  
 9 exempt from the provisions of 94-8-301 through 94-8-311 and  
 10 94-8-401 through 94-8-431.

11 Section 3. License fee. There is imposed on the  
 12 privilege of operating a nickel-operated automatic cash  
 13 payout pinball machine in this state an annual license fee  
 14 of \$200 payable to the department.

15 Section 4. License to be issued before games may be  
 16 displayed. (1) Any person, firm, or corporation desiring to  
 17 obtain a license for a nickel-operated automatic cash payout  
 18 pinball machine to be played or operated by the public at  
 19 any place owned or leased by such person, firm, or  
 20 corporation shall, before he displays such machine, file  
 21 with the department a verified application for a license,  
 22 setting forth his name and address, a brief description of  
 23 the machine to be displayed and the premises where the  
 24 machine will be located, and such other relevant data as the  
 25 department may require.

1 (2) The application for a license shall be accompanied  
 2 by the required license fee, which shall be paid to the  
 3 department. When applications for machines not previously  
 4 licensed are received by the department after January 1 of  
 5 any year, the fee for that year shall be prorated at \$16.67  
 6 for each month or part thereof remaining in the year. All  
 7 licenses are renewable annually conditioned upon the payment  
 8 of the total annual fee, which shall be due on January 1 of  
 9 each year, and compliance with other provisions of this act.  
 10 All moneys received by the department under this act shall  
 11 be paid into the general fund.

12 (3) The department shall supply and deliver to the  
 13 person, firm, or corporation which displays any  
 14 nickel-operated automatic cash payout pinball machine,  
 15 charges prepaid and without additional cost, one license tag  
 16 for each machine for which an application is made and  
 17 granted. No machine may be displayed to the public until a  
 18 current license has been issued by the department.

19 (4) No license may be issued by the department to any  
 20 applicant unless the governing body of the city, town, or  
 21 county where the machine is to be displayed has authorized  
 22 the issuance of licenses within the boundaries of the city,  
 23 town, or county.

24 Section 5. Local fee for machines. (1) The local  
 25 governing body of each city, town, or county may charge an

1 annual fee not in excess of \$100 for each licensed machine  
 2 displayed in its jurisdiction. Such fee shall be prorated on  
 3 a monthly basis if the license is issued for a fractional  
 4 portion of a year.

5 (2) Within the incorporated cities or towns, the fee  
 6 may be charged by the city or town council or commission.  
 7 Outside the limits of any incorporated city or town the fee  
 8 may be charged by the county commissioners of the respective  
 9 counties. When a fee has been required by any city, town, or  
 10 county, no nickel-operated automatic cash payout pinball  
 11 machine may be operated on any premises within that city,  
 12 town, or county until the required fee has been paid.

13 Section 6. Rules. (1) The department may establish  
 14 rules governing the qualifications for and the issuance,  
 15 renewal, suspension, and revocation of such licenses. These  
 16 regulations, in addition to other requirements, shall  
 17 provide that no license may be issued when the owner:

18 (a) has been convicted of being the keeper or is  
 19 keeping a house of prostitution;

20 (b) has been convicted of a crime involving moral  
 21 turpitude under the laws of the federal government or any  
 22 state of the United States;

23 (c) held a license issued under this act which has  
 24 been revoked for cause;

25 (d) at the time of application for renewal of any

1 license issued hereunder would not be eligible for such  
2 license upon a first application;

3 (e) is not a citizen of the United States and has not  
4 been a resident of the state of Montana for at least 1 year  
5 immediately preceding the filing of the application for  
6 license;

7 (f) is not the owner or operator of the business where  
8 the licensed machine is located;

9 (g) has been convicted of violating this act.

10 (2) Additional regulations may be adopted to implement  
11 this act and to insure compliance with the intent of this  
12 act.

13 Section 7. License a revocable privilege. A license  
14 issued pursuant to this act is a revocable privilege, and no  
15 holder thereof may acquire any vested rights therein.

16 Section 8. Shipment of pinball machines into Montana  
17 legal. All shipments of nickel-operated automatic cash  
18 payout pinball machines into this state which have been  
19 registered, recorded, and labeled by the manufacturer or  
20 dealer thereof in accordance with 15 U.S.C. 1171 through  
21 1178 are legal shipments into this state.

22 Section 9. Playing on cash basis. In every game  
23 conducted under this act the consideration paid for the  
24 chance to play shall be strictly cash. Each participant must  
25 present the money with which he intends to play the game at

1 the time the game is played. No check, credit card, note,  
2 IOU, or other evidence of indebtedness may be offered or  
3 accepted as part of the price of participation in a game  
4 played under this act.

5 Section 10. Payout not to exceed one hundred dollars.  
6 No payment for any individual game may exceed the value of  
7 \$100.

8 Section 11. Minors not to participate. No person under  
9 the age of 18 years may be permitted to participate in any  
10 game held, operated, or conducted under this act.

11 Section 12. Peace officers to enforce act. It is the  
12 duty of all peace officers to enforce the provisions of this  
13 act.

14 Section 13. Penalty. Each person who willfully  
15 violates or who procures, aids, or abets in the willful  
16 violation of this act or any ordinance, resolution, or rules  
17 adopted pursuant thereto is guilty of a misdemeanor and upon  
18 conviction is punishable by a fine of not more than \$1,000  
19 or imprisonment in the county jail for not more than 3  
20 months, or both.

21 Section 14. Cheating unlawful. It is unlawful to  
22 conduct or participate in the play of a nickel-operated  
23 automatic cash payout pinball machine authorized by this act  
24 in any manner which results in cheating, misrepresentation,  
25 or other such disreputable tactics which distract from a

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1 fair and equal chance for any participant or which otherwise  
2 affect the outcome of the game.  
3 Section 15. Effective date. This act is effective  
4 January 1, 1978.

-End-

## STATE OF MONTANA

REQUEST NO. 333-77

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 2, 19 77, there is hereby submitted a Fiscal Note for House Bill 555 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

This bill authorizes nickel-operated pinball machines, providing for licensure and distribution of license revenue, and exempting such machines from the general gambling laws.

ASSUMPTIONS

1. Each of the approximately 1750 establishments with on premise liquor, wine or beer licenses will have 1 to 2 nickel machines.
2. The state general fund revenue will be \$200/nickel machines.
3. Administrative costs to the department would be \$6000/year.

FISCAL IMPACT

	<u>FY 78</u>	<u>FY 79</u>
General Fund Revenue due to nickel machines - current law	\$0	\$0
General Fund Revenue due to nickel machines - proposed law	<u>\$350,000-\$700,000</u>	<u>\$350,000-\$700,000</u>
TOTAL INCREASE - GF REVENUE	<u>\$350,000-\$700,000</u>	<u>\$350,000-\$700,000</u>
TOTAL EXPENDITURES	<u>\$6,000</u>	<u>\$6,000</u>
NET EFFECT	<u>\$344,000-\$694,000</u>	<u>\$344,000-\$694,000</u>

EFFECT ON LOCAL GOVERNMENT REVENUE

Local government cost could increase as enforcement is up to local peace officers. However, local governments are allowed to add an additional license fee of up to \$100 per machine.

PREPARED BY DEPARTMENT OF REVENUE

*Richard L. Drury for*  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 2-8-77

## STATE OF MONTANA

REVISED

REQUEST NO. 333-77

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 19 77, there is hereby submitted a Fiscal Note for House Bill 555 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.

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The assumption of no more than 3500 machines may appear to be conservative. It may be the case that, as the citizens of the state become accustomed to the sort of device legalized by this bill, there may be a further increase in the number of machines. In any event, it appears that, because of Montana's population and the nature of its economy, there is a definite upper limit on the number of machines which could be placed in the state.

LOCAL IMPACT

Assuming that each machine has an assessed value of \$2,000, is placed in Class 11 (40%) for tax purposes, and is located in taxing jurisdictions where the total average levy is 225 mills, there could be as much as \$630,000 (= \$3500 x 2000 x .4 x .225) in additional property tax revenue generated for local government purposes. This sum would be allocated to local governments roughly in proportion to the number of devices within their respective boundaries.

*Richard L. Drury for*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-17-77

PREPARED BY DEPARTMENT OF REVENUE