

HB 832 INTRODUCED BY GOULD, ET AL.
NET INCOME TAX ON VIDEO POKER MACHINES

2/18 INTRODUCED
2/18 REFERRED TO TAXATION
2/19 FISCAL NOTE REQUESTED
3/02 FISCAL NOTE RECEIVED
3/09 REREFERRED TO BUSINESS & LABOR
3/16 HEARING
3/26 TABLED IN COMMITTEE

1 House BILL NO. 832
 2 INTRODUCED BY Carl A. Whit
 3 Harrington HARP Ensign Steve Paul
 4 Waller BILL FOR AN ACT ENTITLED: AN ACT REVISING THE VIDEO DRAW
 5 POKER MACHINE CONTROL LAW BY REDUCING STATE AND LOCAL
 6 LICENSE FEES; IMPOSING A VIDEO DRAW POKER MACHINE NET INCOME
 7 TAX; PROVIDING FOR DISTRIBUTION AND APPROPRIATION OF
 8 REVENUE; AMENDING SECTIONS 17-7-502, 23-5-602, 23-5-605,
 9 23-5-612, AND 23-5-615, MCA; AND PROVIDING AN EFFECTIVE
 10 DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 23-5-602, MCA, is amended to read:
 14 "23-5-602. Definitions. As used in this part, the
 15 following definitions apply:
 16 (1) "Department" means the department of revenue.
 17 (2) "Licensed establishment" means an establishment
 18 that is licensed to sell alcoholic beverages for consumption
 19 on the premises.
 20 (3) "Licensee" means an individual, partnership, or
 21 corporation that has been issued a license by the department
 22 for the placement and operation of video draw poker machines
 23 in the licensed establishment of the individual,
 24 partnership, or corporation.
 25 (4) "Net machine income" means money put into a video

1 draw poker machine minus credits paid out in cash.
 2 ~~(4)~~(5) "Used video draw poker machine" means a video
 3 draw poker machine, as that term is defined in this section,
 4 which is owned or possessed by an applicant on the day he
 5 applies for a license for the used machine and which was
 6 owned or operated in the state prior to February 3, 1984.
 7 ~~(5)~~(6) "Video draw poker machine" means an electronic
 8 video game machine that, upon insertion of cash, is
 9 available to play or simulate the play of the game of draw
 10 poker, as provided in this part, utilizing a video display
 11 and microprocessors in which, by the skill of the player or
 12 by chance, or both, the player may receive free games or
 13 credits that can be redeemed for cash. The term does not
 14 include a machine that directly dispenses coins, cash,
 15 tokens, or anything else of value."
 16 Section 2. Section 23-5-605, MCA, is amended to read:
 17 "23-5-605. Powers and duties of the department --
 18 licensing. (1) The department shall administer the
 19 provisions of this part, except 23-5-615.
 20 (2) The department shall adopt rules implementing this
 21 part, except 23-5-615, and:
 22 (a) with respect to state licenses:
 23 ~~(a)~~(i) provide licensing procedures;
 24 ~~(b)~~(ii) prescribe necessary application forms; and
 25 ~~(c)~~(iii) grant or deny license applications; and



1 (b) with respect to the video draw poker machine net
2 income tax:

3 (i) prescribe recordkeeping requirements for
4 licensees;

5 (ii) provide a procedure for inspection of records; and

6 (iii) provide a method for collection of the tax.

7 (3) The department may not deny or place a condition
8 on a license except for reasonable cause.

9 (4) The department is a criminal justice agency, and
10 designated employees are granted peace officer status with
11 powers of search, seizure, and arrest to regulate and
12 control those persons licensed under this part, except
13 23-5-615."

14 Section 3. Section 23-5-612, MCA, is amended to read:

15 "23-5-612. State license -- fee -- used video draw
16 poker machines. (1) (a) The department of revenue, upon
17 payment of the fee provided in subsection (1)(b) and in
18 conformance with rules adopted under 23-5-605, shall issue
19 to the licensee a license for each video draw poker machine.

20 (b) The department shall charge an annual license fee
21 of \$17500 ~~\$45~~ for each machine. ~~The department shall retain~~
22 ~~5% of the total license fee collected in fiscal years 1986~~
23 ~~and 1987 and shall retain 3% thereafter~~ for purposes of
24 administering this part, except 23-5-615. ~~The department~~
25 ~~shall deposit one third of the remaining fee in the state~~

1 ~~general fund and forward two thirds of the remaining fee to~~
2 ~~the treasurer of the county or the clerk, finance officer,~~
3 ~~or treasurer of the city or town in which the licensed~~
4 ~~machine is located, for deposit to the county or municipal~~
5 ~~treasury. Counties are not entitled to proceeds from fees~~
6 ~~on licensed machines located in cities and towns. The~~
7 ~~license expires on June 30 of each year, and the fee is~~
8 ~~prorated. The two thirds portion of the annual fee is~~
9 ~~statutorily appropriated to the department as provided in~~
10 ~~17-7-502 for deposit to the county or municipal treasury.~~
11 All license fees collected by the department under this
12 section must be deposited in an account in the state special
13 revenue fund for the use of the department in administering
14 this part.

15 (2) A used video draw poker machine may be licensed
16 under subsection (1) without meeting the requirements of
17 23-5-606 (4)(j), (4)(k), and (4)(o) if the applicant for
18 licensure can establish to the satisfaction of the
19 department that, on the date of application, he owns or
20 possesses a machine which was owned or operated in the state
21 prior to February 3, 1984. A license issued under this
22 subsection expires 1 year from the date of issuance or on
23 July 1, 1987, whichever occurs first. (Subsection (2)
24 terminates July 1, 1987--sec. 15, Ch. 720, L. 1985.)"

25 Section 4. Section 23-5-615, MCA, is amended to read:

1 "23-5-615. Licensing by local governing bodies. (1)
 2 Any city, town, or county governing body may issue to a
 3 person who meets the qualifications of 23-5-611 a license
 4 for each video draw poker machine to be used on the premises
 5 of a licensed establishment. A machine may be licensed by a
 6 city or town if located in the city or town or by the county
 7 if the machine is not located in a city or town.

8 (2) In addition to the license fee paid under
 9 23-5-612, a governing body may charge an annual license fee
 10 for each license issued under this section. The license
 11 expires on June 30 of each year, and the fee must be
 12 prorated.

13 (3) Such license fee may not exceed ~~\$17000~~ \$50."

14 Section 5. Section 17-7-502, MCA, is amended to read:

15 "17-7-502. Statutory appropriations -- definition --
 16 requisites for validity. (1) A statutory appropriation is an
 17 appropriation made by permanent law that authorizes spending
 18 by a state agency without the need for a biennial
 19 legislative appropriation or budget amendment.

20 (2) Except as provided in subsection (4), to be
 21 effective, a statutory appropriation must comply with both
 22 of the following provisions:

23 (a) The law containing the statutory authority must be
 24 listed in subsection (3).

25 (b) The law or portion of the law making a statutory

1 appropriation must specifically state that a statutory
 2 appropriation is made as provided in this section.

3 (3) The following laws are the only laws containing
 4 statutory appropriations:

5 (a) 2-9-202;

6 (b) 2-17-105;

7 (c) 2-18-812;

8 (d) 10-3-203;

9 (e) 10-3-312;

10 (f) 10-3-314;

11 (g) 10-4-301;

12 (h) 13-37-304;

13 (i) 15-31-702;

14 (j) 15-36-112;

15 (k) 15-70-101;

16 (l) 16-1-404;

17 (m) 16-1-410;

18 (n) 16-1-411;

19 (o) 17-3-212;

20 (p) 17-5-404;

21 (q) 17-5-424;

22 (r) 17-5-804;

23 (s) 19-8-504;

24 (t) 19-9-702;

25 (u) 19-9-1007;

1 (v) 19-10-205;
 2 (w) 19-10-305;
 3 (x) 19-10-506;
 4 (y) 19-11-512;
 5 (z) 19-11-513;
 6 (aa) 19-11-606;
 7 (bb) 19-12-301;
 8 (cc) 19-13-604;
 9 (dd) 20-6-406;
 10 (ee) 20-8-111;
 11 (ff) ~~29-5-612~~ [section 6];
 12 (gg) 37-51-501;
 13 (hh) 53-24-206;
 14 (ii) 75-1-1101;
 15 (jj) 75-7-305;
 16 (kk) 80-2-103;
 17 (ll) 80-2-228;
 18 (mm) 90-3-301;
 19 (nn) 90-3-302;
 20 (oo) 90-15-103; and
 21 (pp) Sec. 13, HB 861, L. 1985.
 22 (4) There is a statutory appropriation to pay the
 23 principal, interest, premiums, and costs of issuing, paying,
 24 and securing all bonds, notes, or other obligations, as due,
 25 that have been authorized and issued pursuant to the laws of

1 Montana. Agencies that have entered into agreements
 2 authorized by the laws of Montana to pay the state
 3 treasurer, for deposit in accordance with 17-2-101 through
 4 17-2-107, as determined by the state treasurer, an amount
 5 sufficient to pay the principal and interest as due on the
 6 bonds or notes have statutory appropriation authority for
 7 such payments."

8 NEW SECTION. Section 6. Video draw poker machine net
 9 income tax -- records -- quarterly statement and payment.

10 (1) Each licensee shall pay to the department of revenue a
 11 video draw poker machine tax of 7.5% of net machine income
 12 from each video draw poker machine licensed under this part.

13 (2) Each licensee shall keep a record of net machine
 14 income in such form as the department may require. The
 15 records must at all times during the business hours of the
 16 licensee be subject to inspection by the department, its
 17 agents, or employees.

18 (3) Each licensee shall, within 15 days after the end
 19 of each quarter, complete and deliver to the department a
 20 statement showing the total net machine income from each
 21 video draw poker machine licensed to him, together with the
 22 total amount due to the state as video draw poker machine
 23 net income tax for the preceding quarter. The statement
 24 must contain such other information as the department may
 25 require.

1 (4) (a) The tax collected under subsection (3) must be
2 distributed as follows:

3 (i) 50% to the state general fund; and

4 (ii) 50% to counties and incorporated municipalities.

5 (b) The amount to be distributed to counties and
6 incorporated municipalities under subsection (4)(a)(ii) must
7 be allocated as follows:

8 (i) each county having one or more licensed machines
9 that are not within the corporate limits of any incorporated
10 municipality shall receive a pro rata portion of the amount
11 described in subsection (4)(a)(ii) in the amount that the
12 total collections in the county, exclusive of the amount
13 collected in incorporated municipalities, bear to the total
14 statewide collections in counties, exclusive of collections
15 in incorporated municipalities; and

16 (ii) each incorporated municipality having one or more
17 licensed machines shall receive a pro rata portion of the
18 amount described in subsection (4)(a)(ii) in the amount that
19 the total collections from the incorporated municipality
20 bear to the total collections of incorporated municipalities
21 statewide.

22 (5) The 50% portion of the tax allocated to local
23 governments under subsection (4)(a)(ii) is statutorily
24 appropriated as provided in 17-7-502 to the department for
25 allocation to counties and incorporated municipalities as

1 provided in subsection (4)(b).

2 NEW SECTION. Section 7. Appropriation for fiscal
3 years 1988 and 1989. There is appropriated to the department
4 of revenue for fiscal years 1988 and 1989 from the account
5 established by 23-5-612 an amount necessary to administer
6 Title 23, chapter 5, part 6.

7 NEW SECTION. Section 8. Extension of authority. Any
8 existing authority of the department of revenue to make
9 rules on the subject of the provisions of this act is
10 extended to the provisions of this act.

11 NEW SECTION. Section 9. Codification instruction.
12 Section 6 is intended to be codified as an integral part of
13 Title 23, chapter 5, part 6, and the provisions of Title 23,
14 chapter 5, part 6, apply to section 6.

15 NEW SECTION. Section 10. Effective date. This act is
16 effective June 30, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB832, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the video draw poker machine control law by reducing state and local license fees; imposing a video draw poker machine net income tax; providing for distribution and appropriation of revenue; and providing an effective date.

ASSUMPTIONS:

1. Total poker machine license fees will be \$4,255,670 in FY88 and \$4,298,969 in FY89 (Governor's Budget).
2. Average video poker machine net income is \$16,500 per year (Investigations and Enforcement Division).
3. Under the proposed law all video poker machine net income would be reported.
4. Under the proposed law necessary verification of poker machine net income will require additional expenditures of 1 FTE grade 10, step 2 office auditor and 1 FTE grade 13, step 2 field auditor (\$42,556 combined salary and benefits).
5. There will be 2,896 (full year) licensed video poker machines in FY88 and 2,925 (full year) in FY89 (Revised REAC Assumption).

FISCAL IMPACT:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenue Impact:</u>						
Video Poker License Fees	\$ 4,255,670	\$ 130,320	(\$4,125,350)	\$ 4,298,969	\$ 131,625	(\$4,167,344)
Video Poker Net Income Tax	0	3,583,800	3,583,800	0	3,619,688	3,619,688
TOTAL	\$ 4,255,670	\$ 3,714,120	(\$ 541,550)	\$ 4,298,969	\$ 3,751,313	(\$ 547,656)

Expenditure Impact:

Video Poker Program*	\$ 212,784	\$ 255,340	\$ 42,556	\$ 214,948	\$ 257,504	\$ 42,556
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* Under the proposed legislation, funds available for administration would be \$130,320 in FY88 and \$131,625 in FY89. These amounts would not be enough to cover anticipated expenditures.

Fund Information:

General Fund	\$ 1,346,281	\$ 1,791,900	\$ 445,619	\$ 1,359,979	\$ 1,809,844	\$ 449,865
Video Poker Program**	\$ 212,784	\$ 130,320	(\$ 82,464)	\$ 214,948	\$ 131,625	(\$ 83,323)
Local Government	\$ 2,696,605	\$ 1,791,900	(\$ 904,705)	\$ 2,724,042	\$ 1,809,844	(\$ 914,198)

**Proposed law fees would be insufficient to meet anticipated expenditures.

David L. Hunter DATE 3/4/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Budd Gould DATE _____
 BUDD GOULD, PRIMARY SPONSOR

Fiscal Note for HB832, as introduced.

HB 832

Fiscal Note Request, HB892, as introduced.

Form BD-15

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EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The proposed law would result in a loss of local revenue (state collected) of approximately \$904,705 in FY88 and \$914,198 in FY89. It would also lower the maximum poker license fee a local government may charge from \$1,000 to \$50 per year. It is not possible to accurately estimate the fiscal impact that the proposed change in local fees would have.