

SB 336 INTRODUCED BY MANNING  
REVISE VIDEO POKER LICENSING LAW

2/14 INTRODUCED  
2/14 REFERRED TO BUSINESS & INDUSTRY  
2/14 FISCAL NOTE REQUESTED  
2/19 HEARING  
2/19 FISCAL NOTE RECEIVED  
2/19 TABLED IN COMMITTEE

1 *Senate* BILL NO. 336  
 2 INTRODUCED BY *Richard E. Manning*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 5 LAW REGULATING VIDEO DRAW POKER MACHINES; ALLOWING ONLY  
 6 LOCAL LICENSURE OF MACHINES; AUTHORIZING STATE CERTIFICATION  
 7 OF MACHINES MEETING STATUTORY REQUIREMENTS; ESTABLISHING  
 8 LOCAL LICENSING FEES FOR VIDEO DRAW POKER MACHINES AND BINGO  
 9 MACHINES; AND AMENDING SECTIONS 23-5-603, 23-5-605,  
 10 23-5-606, 23-5-611 THROUGH 23-5-613, AND 23-5-615, MCA."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 13 Section 1. Section 23-5-603, MCA, is amended to read:  
 14 "23-5-603. Video draw poker machines -- possession --  
 15 play -- restriction. No person may place an electronic video  
 16 game machine that simulates or offers a game of poker in his  
 17 licensed establishment unless ~~he is licensed under 23-5-612~~  
 18 it meets the specifications prescribed in 23-5-606. Machines  
 19 ~~licensed under 23-5-612~~ meeting the specifications  
 20 prescribed in 23-5-606 are legal, and it is legal to play  
 21 such machines, except that a person under the age of 18  
 22 years may not play a video draw poker machine. The  
 23 provisions of part 3 of this chapter do not apply to or  
 24 prohibit video draw poker machines or the playing of such  
 25 machines."

1 Section 2. Section 23-5-605, MCA, is amended to read:  
 2 "23-5-605. Powers and duties of the department --  
 3 licensing machine certification. (1) The department shall  
 4 administer the provisions of this part, except 23-5-615.  
 5 (2) The department shall adopt rules implementing this  
 6 part, except 23-5-615, and, with respect to state ~~licenses~~  
 7 certification of machines:  
 8 (a) provide licensing certification procedures;  
 9 (b) prescribe necessary application forms; and  
 10 (c) grant or deny license applications for  
 11 certification.  
 12 ~~{3}--The department may not deny or place a condition~~  
 13 ~~on a license except for reasonable cause;~~  
 14 ~~{4}~~ {3} The department is a criminal justice agency,  
 15 and designated employees are granted peace officer status  
 16 with powers of search, seizure, and arrest to regulate and  
 17 control those persons licensed under this part, ~~except~~  
 18 23-5-615 with respect to the use of certified machines."  
 19 Section 3. Section 23-5-606, MCA, is amended to read:  
 20 "23-5-606. Description and specifications. Each type  
 21 of video draw poker machine must:  
 22 (1) be inspected in the state of Montana for  
 23 certification ~~and licensure~~ by the department;  
 24 (2) be connected with a system consisting of  
 25 player-operated terminals. The terminals must be intelligent



1 devices operated by the players in the manner specified in  
2 this part.

3 (3) not have any switches, jumpers, wire posts, or any  
4 other means of manipulation that could affect the operation  
5 or outcome of a game; and

6 (4) offer only the game of draw poker and have the  
7 following method of operation:

8 (a) the cards must be shuffled after each hand of  
9 poker is dealt;

10 (b) the game must have one memory location for each  
11 card in the deck. The deck must be shuffled by use of a  
12 random number generator to exchange each card in the deck  
13 with another randomly selected card.

14 (c) after shuffling, five cards must be dealt from the  
15 top of the deck;

16 (d) any discarded cards must be replaced by remaining  
17 cards in the deck, starting with the sixth card and using  
18 the cards in the order of the deck;

19 (e) after the first five cards of a hand have been  
20 dealt, the player may be allowed to raise his wager up to  
21 the amount of his initial ante, not to exceed eight  
22 quarters;

23 (f) the game must display the hands for which free  
24 games or credits will be awarded and the number of free  
25 games or credits for each hand;

1 (g) the machine must have doors to two locking areas,  
2 one area containing the logic board and software for the  
3 game draw poker and the other housing the cash compartment  
4 and mechanical meters. These areas must be locking and  
5 separated. Access to one from the other must not be allowed  
6 at any time.

7 (h) the machine must have two mechanisms, hereinafter  
8 referred to as "mechanism 1" and "mechanism 2", that accept  
9 quarters;

10 (i) the machine must use a color display with images  
11 of cards that closely resemble standard poker playing cards;

12 (j) the machine must be capable of printing a ticket  
13 voucher for the player at the completion of each game. If  
14 credits are owed the player, the ticket must contain:

15 (i) the name of the licensed establishment;

16 (ii) the name of the city, town, or county in which the  
17 licensed establishment is located;

18 (iii) the value of the prize in numbers;

19 (iv) the value of the prize in words;

20 (v) the time of day, in hours and minutes in a 24-hour  
21 format;

22 (vi) the date;

23 (vii) the machine license-number-or serial number up to  
24 eight digits;

25 (viii) the sequential number of the ticket voucher; and

1 (ix) an encrypted validation number from which the  
2 validity of the prize can be determined;

3 (k) an exact copy of each printed ticket voucher must  
4 be printed and retained within the machine;

5 (l) the machine must have nonresettable mechanical  
6 meters housed in the cash compartment that keep a permanent  
7 record of:

8 (i) coins accepted by each coin acceptor;

9 (ii) credits played by player;

10 (iii) credits won by player; and

11 (iv) credits printed out by the ticket voucher printer;

12 (m) the machine must contain electronic metering,  
13 using meters that record the following and display them on  
14 the video screen:

15 (i) total coins in mechanism 1, total coins in  
16 mechanism 2, and total coins in mechanisms 1 and 2 combined;

17 (ii) total credits, total credits played, and total  
18 credits won;

19 (iii) total hands of poker played and total hands of  
20 poker won;

21 (iv) total winning hands, consisting of a pair, two  
22 pair, three of a kind, a straight, a flush, a full house,  
23 four of a kind, a straight flush, or five of a kind;

24 (v) total errors from the logic board random access  
25 memory; and

1 (vi) total examination of electronic meters;

2 (n) the machine may not have any functions or  
3 parameters adjustable by or through any separate video  
4 display or input codes, except for the adjustment of  
5 features that are wholly cosmetic;

6 (o) the machine must issue, by activation of an  
7 external switch, an accounting ticket containing a  
8 performance synopsis of the machine. The ticket must  
9 contain:

10 (i) the name of the licensed establishment;

11 (ii) the name of the city, town, or county in which the  
12 licensed establishment is located;

13 (iii) the license serial number of the machine;

14 (iv) the time of day, in hours and minutes in a 24-hour  
15 format;

16 (v) the date; and

17 (vi) the electronic meter readings required by  
18 subsection (4)(m)."

19 Section 4. Section 23-5-611, MCA, is amended to read:

20 "23-5-611. State license qualifications -- limitations  
21 -- right to hearing. (1) A person who has been granted a  
22 license under 16-4-401(2) to sell alcoholic beverages for  
23 consumption on the premises may ~~be granted a license for the~~  
24 ~~placement of~~ place video draw poker machines in his licensed  
25 establishment.

1 (2) A licensee may not have on the premises or make  
2 available for play on the premises of his licensed  
3 establishment more than five machines.

4 (3) A person denied a state license certification has  
5 the right to a hearing before the department. The hearing  
6 must be conducted in accordance with the provisions of the  
7 Montana Administrative Procedure Act."

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

9 "23-5-612. State license certification -- fee -- used  
10 video draw poker machines. (1) (a) The department of  
11 revenue, upon payment of the fee provided in subsection  
12 (1)(b) and in conformance with rules adopted under 23-5-605,  
13 shall ~~issue to the licensee a license for~~ certify each type  
14 of video draw poker machine meeting the requirements of  
15 23-5-606.

16 (b) The department shall charge ~~an annual license a~~ a  
17 certification fee of ~~\$17500~~ \$50 for each type of machine  
18 certified. ~~The department shall retain 5% of the total~~  
19 ~~license fee collected in fiscal years 1986 and 1987 and~~  
20 ~~shall retain 3% thereafter for purposes of administering~~  
21 ~~this part, except 23-5-615. The department shall deposit~~  
22 ~~one third of the remaining fee in the state general fund and~~  
23 ~~forward two thirds of the remaining fee to the treasurer of~~  
24 ~~the county or the clerk, finance officer, or treasurer of~~  
25 ~~the city or town in which the licensed machine is located.~~

1 ~~for deposit to the county or municipal treasury. Counties~~  
2 ~~are not entitled to proceeds from fees on licensed machines~~  
3 ~~located in cities and towns. The license expires on June 30~~  
4 ~~of each year, and the fee is prorated. The two thirds~~  
5 ~~portion of the annual certification fee is statutorily~~  
6 ~~appropriated to the department as provided in 17-7-502 for~~  
7 ~~deposit to the county or municipal treasury.~~

8 (2) A used video draw poker machine may be licensed  
9 ~~under subsection (1)~~ without meeting the requirements of  
10 23-5-606 (4)(j), (4)(k), and (4)(o) if the applicant for  
11 licensure can establish to the satisfaction of the  
12 department that, on the date of application, he owns or  
13 possesses a machine which was owned or operated in the state  
14 prior to February 3, 1984. ~~A license issued under this~~  
15 ~~subsection expires 1 year from the date of issuance or on~~  
16 ~~July 1, 1987, whichever occurs first. (Subsection (2)~~  
17 ~~terminates July 1, 1987--sec. 15, Ch. 720, L. 1985.)"~~

18 Section 6. Section 23-5-613, MCA, is amended to read:

19 "23-5-613. Investigations and violations. (1) The  
20 department shall make necessary investigations, suspend or  
21 revoke state licenses certification for violations of this  
22 part, except 23-5-615, and hold hearings on such matters. A  
23 license certification may be suspended prior to a hearing  
24 upon a finding of danger to public health and welfare but  
25 may not be revoked until the hearing is completed.

1 (2) A violation of this part, except 23-5-615, or a  
 2 rule promulgated under 23-5-605 is a criminal offense, and a  
 3 fine not to exceed \$10,000 for the first violation and  
 4 \$15,000 for a subsequent violation must be imposed.

5 (3) If a video draw poker machine is operated in  
 6 violation of this part, except 23-5-615, it may be seized  
 7 under 23-5-121 and the provisions of 23-5-122 apply.

8 (4) Employees of the department designated as  
 9 enforcement agents may investigate the background of ~~license~~  
 10 certification applicants to the extent judged necessary by  
 11 the department, but no person may be investigated prior to  
 12 his submission of an application for ~~a license~~  
 13 certification.

14 (5) Findings of suspected illegal activity must be  
 15 reported to the appropriate law enforcement agency.

16 (6) Any peace officer of this state may arrest a  
 17 person for tampering with a video draw poker machine,  
 18 attempting or conspiring to manipulate the outcome or the  
 19 payoff of a video draw poker machine, or manipulating the  
 20 outcome or payoff of a video draw poker machine by physical  
 21 tampering or other interference with the proper functioning  
 22 of the machine."

23 Section 7. Section 23-5-615, MCA, is amended to read:  
 24 "23-5-615. Licensing by local governing bodies. (1)  
 25 Any A city, town, or county governing body may must issue to

1 a person who meets the qualifications of 23-5-611 a license  
 2 for each video draw poker machine to be used on the premises  
 3 of a licensed establishment. A machine may be licensed by a  
 4 city or town if located in the city or town or by the county  
 5 if the machine is not located in a city or town.

6 (2) ~~In addition to the license fee paid under~~  
 7 ~~23-5-612, a~~ A governing body may charge an annual license  
 8 fee for each license issued under this section. The license  
 9 expires on June 30 of each year, and the fee must be  
 10 prorated.

11 (3) ~~Such license fee may not exceed \$1,000. Except as~~  
 12 provided in subsection (5), the license fee for each video  
 13 draw poker machine must be determined on the basis of the  
 14 population of the incorporated city or town as follows:

Population	Fee
2,000 or less	\$ 750
At least 2,000 but less than 5,000	1,000
At least 5,000 but less than 10,000	1,250
10,000 or more	1,750

20 (4) A licensed establishment within a 5-mile radius of  
 21 the city or town limits of an incorporated city or town is  
 22 subject to the license fee applicable to a machine licensed  
 23 in the city or town. A licensed establishment outside a  
 24 5-mile radius of an incorporated city or town must pay the  
 25 under 2,000 population license fee.

1       (5) The holder of an alcoholic beverage license under  
2       16-4-202 or 16-4-208 must pay the 10,000 or more population  
3       license fee."

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

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB336, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the law regulating video poker machines; allowing only local licensure of machines; authorizing state certification of machines meeting statutory requirements; establishing local licensing fees for video draw poker machines and bingo machines.

ASSUMPTIONS:

1. Total poker machine license fees will be \$4,255,670 in FY88 and \$4,298,969 in FY89 (Governor's Budget).
2. Certification fees under the proposed law, will be deposited in the video poker administration fund.
3. If passed, the proposed law would become effective on October 1, 1987. It would affect only 9 months of FY88 and all of FY89.
4. Under the proposed law, the Department of Revenue would certify 28 types of poker machines at \$50 per certification.
5. There will be 2,752 (full year) licensed video poker machines in Montana in FY88 and 2,780 (full year) in FY89 (REAC).
6. Under the proposed law, the average license fee is \$1,250.
7. It is the intent of the proposed law that the Department of Revenue investigate and inspect certified poker machines. Expenditures for investigations and inspections would be \$100,000 per year (Investigations and Enforcement Division Estimate).
8. Certification equipment: emulator @ \$50,000, other equipment @ \$25,000. (One time Expenses).
9. Certification would require 1 FTE (grade 16, step 2, \$26,716 per year salary and benefits) and 1/2 FTE (grade 7, step 2, \$8,425 salaries and benefits plus 20% allowed for operating expenses).
10. It is not the intent of this bill that bingo machines be certified or locally licensed.

FISCAL IMPACT:

	FY88			FY89		
	<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>						
(State License Fee)						
Video Poker License Fees	\$ 4,255,670	\$ 1,063,918	(\$3,191,752)	\$ 4,298,969	\$ 0	(\$4,298,969)
Machine Certification Fees	0	1,400	1,400	0	1,400	1,400
TOTAL	\$ 4,255,670	\$ 1,065,318	(\$3,190,352)	\$ 4,298,969	\$ 1,400	(\$4,297,569)

Expenditure Impact:

Video Poker Program	\$ 212,784	\$ 229,552	\$ 16,768	\$ 214,948	\$ 135,141	(\$ 79,807)
---------------------	------------	------------	-----------	------------	------------	-------------

*David L. Hunter* DATE 2/19/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

*Richard E. Manning* DATE 3/3/87  
 RICHARD MANNING, PRIMARY SPONSOR

Fiscal Note for SB336, as introduced.

SB 336



<u>FISCAL IMPACT (continued):</u>	<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>Fund Information:</u>						
(State License Fee)						
General Fund	\$ 1,346,281	\$ 363,571	(\$ 982,710)	\$ 1,359,979	\$ 0	(\$1,359,979)
Video Poker Program	\$ 212,784	\$ 54,596	(\$ 158,188)	\$ 214,948	\$ 1,400	(\$ 213,548)
Local Governments*	\$ 2,696,605	\$ 674,151	----	\$ 2,724,042	----	----

\* One quarter of state license fees.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Proposed Local License Fee: (Average fee of \$1,250)

FY88 - (9 months) \$ 2.580 million [Total \$.674 M + \$2.580 M = \$3.254 M]

FY89 - \$ 3.475 million

Local revenues from video poker license fees would be increased by \$557,000 in FY88 and \$751,000 in FY89.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Section 5(2) of the proposed law states that a used poker machine may be licensed if the license applicant satisfies the Department of Revenue that he owned or possessed the machine prior to February 3, 1984. One of the intentions of the proposed law is to eliminate state licensure, therefore section 5(2) appears to be in conflict with the remainder of the proposal. Moreover, section 5(2) terminates July 1, 1987, three months before this proposal would become effective.

From the description of the proposed law, it appears that bingo machines are to be locally licensed. In the body of the proposal, however, no mention is made of bingo machines.

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB336, as introduced.  
REVISED FISCAL NOTE.

DESCRIPTION OF PROPOSED LEGISLATION:

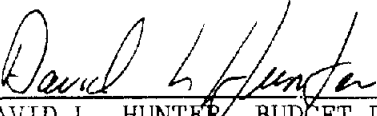
An act generally revising the law regulating video poker machines; allowing only local licensure of machines; authorizing state certification of machines meeting statutory requirements; establishing local licensing fees for video draw poker machines and bingo machines.

ASSUMPTIONS:

1. Total poker machine license fees will be \$4,344,000 in FY88 and \$4,387,500 in FY89 (Based on FY87 licensing data).
2. Certification fees under the proposed law, will be deposited in the video poker administration fund.
3. If passed, the proposed law would become effective on October 1, 1987. It would affect only 9 months of FY88 and all of FY89.
4. Under the proposed law, the Department of Revenue would certify 28 types of poker machines at \$50 per certification.
5. There will be 2,896 (full year) licensed video poker machines in Montana in FY88 and 2,925 (full year) in FY89 (Revised assumption based on FY87 licensing data).
6. Under the proposed law, the average license fee is \$1,250.
7. It is the intent of the proposed law that the Department of Revenue investigate and inspect certified poker machines. Expenditures for investigations and inspections would be \$100,000 per year (Investigations and Enforcement Division Estimate).
8. Under current law, for FY88 and FY89, administrative expenditures are 3% of total license fees.
9. Certification equipment: emulator @ \$50,000, other equipment @ \$25,000. (One time Expenses).
10. Certification would require 1 FTE (grade 16, step 2, \$26,716 per year salary and benefits) and 1/2 FTE (grade 7, step 2, \$8,425 salaries and benefits plus 20% allowed for operating expenses).
11. It is not the intent of this bill that bingo machines be certified or locally licensed.

FISCAL IMPACT:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Revenue Impact:</u>						
(State License Fee)						
Video Poker License Fees	\$ 4,344,000	\$ 1,086,000	(\$3,258,000)	\$ 4,387,500	\$ 0	(\$4,387,500)
Machine Certification Fees	0	1,400	1,400	0	1,400	1,400
TOTAL	\$ 4,344,000	\$ 1,087,400	(\$3,256,600)	\$ 4,387,500	\$ 1,400	(\$4,386,100)

  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning  
 DATE 3/5/87

  
 RICHARD MANNING, PRIMARY SPONSOR  
 DATE 3/6/87

Fiscal Note for SB336, as introduced.REVISED FISCAL NOTE

SB 336  
#2

FISCAL IMPACT (continued):

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditure Impact:</u>						
Video Poker Program	\$ 130,320	\$ 208,936	\$ 78,616	\$ 131,625	\$ 135,141	(\$ 3,516)
<u>Fund Information:</u>						
(State License Fee)						
General Fund	\$ 1,404,559	\$ 351,140	(\$ 1,053,419)	\$ 1,418,623	\$ 0	(\$1,418,623)
Video Poker Program	\$ 130,320	\$ 33,980	(\$ 96,340)	\$ 131,625	\$ 1,400	(\$ 130,225)
Local Governments*	\$ 2,809,121	\$ 702,280	----	\$ 2,837,252	----	----

\* One quarter of state license fees.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Proposed Local License Fee: (Average fee of \$1,250)

FY88 - (9 months)	\$ 2.715 million [Total \$.702 M + \$2.715 M = \$3.417 M]
FY89 -	\$ 3.656 million

Local revenues from video poker license fees would be increased by \$608,000 in FY88 and \$819,000 in FY89.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Section 5(2) of the proposed law states that a used poker machine may be licensed if the license applicant satisfies the Department of Revenue that he owned or possessed the machine prior to February 3, 1984. One of the intentions of the proposed law is to eliminate state licensure, therefore section 5(2) appears to be in conflict with the remainder of the proposal. Moreover, section 5(2) terminates July 1, 1987, three months before this proposal would become effective.

From the description of the proposed law, it appears that bingo machines are to be locally licensed. In the body of the proposal, however, no mention is made of bingo machines.