

HOUSE BILL 625

Introduced by Mercer, et al.

2/09	Introduced
2/10	Referred to Taxation
2/11	Fiscal Note Requested
2/16	Fiscal Note Received
2/22	Fiscal Note Printed
3/01	Hearing
3/07	Tabled in Committee

1 *Amend* BILL NO. *625*  
2 INTRODUCED BY *MERCER Harrington Davis for Russell Cole*  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STATE TO  
5 REIMBURSE A LOCAL GOVERNMENT LOCATED ON A FEDERALLY  
6 RECOGNIZED INDIAN RESERVATION FOR VIDEO DRAW POKER AND KENO  
7 REVENUES LOST AS A RESULT OF AN AGREEMENT ENTERED INTO BY  
8 THE STATE AND THE TRIBAL GOVERNMENT PURSUANT TO THE FEDERAL  
9 INDIAN GAMING REGULATORY ACT; AND AMENDING SECTIONS 17-7-502  
10 AND 23-5-610, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
11 DATE."  
12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
14 NEW SECTION. Section 1. Short title. [Sections 1  
15 through 3] may be cited as the "Tribal Gambling Impact Act".  
16 NEW SECTION. Section 2. Purpose. The purpose of  
17 [sections 1 through 3] is to fully reimburse a local  
18 government located on a federally recognized Indian  
19 reservation for revenue lost as a result of the Indian  
20 Gaming Regulatory Act (25 U.S.C. 2701, et seq.).  
21 NEW SECTION. Section 3. Reimbursement of local  
22 governments. (1) If an agreement entered into by the state  
23 and a tribal government pursuant to the Federal Indian  
24 Gaming Regulatory Act, or the absence of an agreement,  
25 reduces or eliminates the revenue from video draw poker or

1 keno gambling collected by a local government located on a  
2 federally recognized Indian reservation, the state shall  
3 reimburse the local government from the state's share of  
4 nonlottery gambling revenue.

5 (2) The reimbursement received by a local government is  
6 determined by multiplying the per machine average of a local  
7 government's share of the net machine income tax collected  
8 pursuant to 23-5-610 by the number of known licensed video  
9 draw poker and keno machines located in each municipality  
10 and county. This reimbursement is statutorily appropriated,  
11 as provided in 17-7-502, to the department for deposit to  
12 the county or municipal treasury.

13 **Section 4.** Section 17-7-502, MCA, is amended to read:  
14 "17-7-502. Statutory appropriations -- definition --  
15 requisites for validity. (1) A statutory appropriation is an  
16 appropriation made by permanent law that authorizes spending  
17 by a state agency without the need for a biennial  
18 legislative appropriation or budget amendment.

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

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

24 (b) The law or portion of the law making a statutory  
25 appropriation must specifically state that a statutory

appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; [section 3]; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for

such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"

**Section 5.** Section 23-5-610, MCA, is amended to read:

"23-5-610. Video draw poker and keno machine net income tax -- records -- distribution -- quarterly statement and payment. (1) Each licensee shall pay to the department a video draw poker and keno machine tax of 15% of net machine income from each video draw poker and keno machine licensed under this part.

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

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

1 department may require.

2 (4) (a) The Except as provided in [section 3], the  
3 department must deposit one-third of the tax collected under  
4 subsection (3) in the general fund.

5 (b) The department must forward the remaining  
6 two-thirds of the tax collected under subsection (3) to the  
7 treasurer of the county or the clerk, finance officer, or  
8 treasurer of the city or town in which the licensed machine  
9 is located, for deposit to the county or municipal treasury.  
10 Counties are not entitled to proceeds from taxes on income  
11 from video draw poker and keno machines located in cities  
12 and towns. The two-thirds local government portion of the  
13 tax collected under subsection (3) and the payment in lieu  
14 of tax provided for in [section 3] is are statutorily  
15 appropriated to the department, as provided in 17-7-502, for  
16 deposit to the county or municipal treasury."

17 NEW SECTION. Section 6. Effective date. [This act] is  
18 effective on passage and approval.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB625, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB625 would eliminate the fiscal impact on local governments which are located on a federally-recognized Indian Reservation of implementing the federal Indian Gaming Regulatory Act. This is accomplished by authorizing the Department of Commerce to distribute estimated losses in video gaming revenue to these county and local governments when tax is no longer paid on machines located on the reservations.

ASSUMPTIONS:

1. All of the reservations in Montana will enter into an agreement with the state in compliance with the federal Indian Gaming Regulatory Act.
2. This new federal act (25 U.S.C. 2701, et seq.) does not allow for state taxing authority, resulting in an annual state video gaming tax revenue loss of \$237,556.
3. Tribal governments will not provide any form of revenue to local governments as a result of federal law.
4. Because the state will no longer be able to assess the machine tax on reservation machines, the one-third share of the tax collected which is deposited to the state general fund will decrease by \$362,680 per year.
5. There are 18 local government entities (9 counties and 9 cities) effected by this bill which will receive a total annual increase of \$125,124 in video gaming tax receipts. This is because the average daily net income reported on the machines located on the Indian reservations is below the statewide average which is used in the proposed law formula.
6. Local governments outside the reservations boundaries will not be impacted by this bill.
7. The state share of the remaining tax to be collected will be sufficient to make these local government payments.
8. Implementation of this legislation will be accomplished within current appropriations.

FISCAL IMPACT:Expenditures: No Impact

	<u>FY90</u>			<u>FY91</u>		
<u>Revenues:</u>	Current	Proposed		Current	Proposed	
	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
Video Gaming Tax	\$10,950,000	\$10,712,444	(\$237,556)	\$10,950,000	\$10,712,444	(\$237,556)
License Fees	617,372	617,372	-0-	600,109	600,109	-0-
Total	\$11,567,372	\$11,329,816	(\$237,556)	\$11,550,109	\$11,312,553	(\$237,556)
<u>Fund Impact:</u>						
To General Fund	\$ 3,650,000	\$ 3,287,320	(\$362,680)	\$ 3,650,000	\$ 3,287,320	(\$362,680)
To Local Government	7,300,000	7,425,124	125,124	7,300,000	7,425,124	125,124



RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/16/89



JOHN A. MERCER, PRIMARY SPONSOR

DATE 2/21/89

Fiscal Note for HB625, as introduced

HB 625

Fiscal Note Request HB625 as introduced

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EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

County and local governments located on reservations will receive increase revenue as a result of the formula in the proposed bill requiring distributions to be calculated using statewide average net daily machine income which is greater than the amounts reported on machines located on reservations.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

There will be an ongoing reduction in video gaming revenue deposited to the general fund as a result of the non-payment of tax from reservation-based machines due to federal prohibition and to the payment of video gaming revenue to county and local governments located on reservations.

HB 625