

HOUSE BILL 753

Introduced by Pavlovich, et al.

3/01	Introduced
3/03	Referred to Taxation
3/04	Fiscal Note Requested
3/10	Fiscal Note Received
3/14	Fiscal Note Printed
3/16	Hearing
3/20	Tabled in Committee

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2 INTRODUCED BY House Bill No. 753
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5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING UNLIMITED
6 PROGRESSIVE PRIZES IN VIDEO DRAW POKER AND KENO MACHINES
7 CONNECTED TO A CENTRALIZED COMPUTERIZED SYSTEM; PROVIDING
8 FOR A GROSS INCOME TAX ON THOSE MACHINES; AND AMENDING
9 SECTIONS 23-5-605, 23-5-608, AND 23-5-610, MCA."

10 STATEMENT OF INTENT

11 The legislature intends that the department of
12 commerce, in making rules to implement the provisions of
13 [this act], conform with the applicable laws and with its
14 own rules on the subjects of [this act]. The legislature
15 further intends that the department adopt any reasonable
16 rule necessary to ensure the integrity of the centralized
17 system for computerized electronic retrieval of accounting
18 and security information and the preservation of that
19 information, including the verification of the information
20 in the system by persons independent of the licensees,
21 operators, or manufacturers of the system.

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 **Section 1.** Section 23-5-605, MCA, is amended to read:
25 "23-5-605. Powers and duties of the department --

1 licensing. (1) The department shall administer the
2 provisions of this part, except 23-5-615.
3 (2) The department shall adopt rules implementing this
4 part, except 23-5-615, and:
5 (a) with respect to state licenses:
6 (i) provide licensing procedures;
7 (ii) prescribe necessary application forms; and
8 (iii) grant or deny license applications;
9 (b) with respect to the video draw poker and keno
10 machine net income tax and the video draw poker and keno
11 machine gross income tax:
12 (i) prescribe recordkeeping requirements for
13 licensees;
14 (ii) provide a procedure for inspection of records;
15 (iii) provide a method for collection of the tax; and
16 (iv) establish penalties for the delinquent reporting
17 and payment of the required tax.
18 (3) The department may not suspend, revoke, deny, or
19 place a condition on a license except for reasonable cause.
20 Reasonable cause includes but is not limited to conviction
21 of a violation of a local government gambling ordinance.
22 (4) The department is a criminal justice agency, and
23 designated employees and duly authorized department
24 representatives are granted peace officer status with powers
25 of search, seizure, and arrest to regulate and control those

1 persons licensed under this part, except 23-5-615."

2 **Section 2.** Section 23-5-608, MCA, is amended to read:

3 "23-5-608. Limitation on amount of money played and
4 value of prizes -- payment of credits in cash -- exception.

5 Except as provided in [section 4]:

6 (1) A video draw poker or keno machine may not allow
7 more than \$2 to be played on a game or award free games or
8 credits in excess of the value of \$100 per hand; and

9 (2) Each licensee shall pay in cash all credits
10 owed to a player as shown on a valid ticket voucher provided
11 in 23-5-606(4)(k)."

12 **Section 3.** Section 23-5-610, MCA, is amended to read:

13 "23-5-610. Video draw poker and keno machine net
14 income tax -- video draw poker and keno machine gross income
15 tax -- records -- distribution -- quarterly statement and
16 payment. (1) Each licensee shall pay to the department:

17 (a) a video draw poker and keno machine tax of 15% of
18 net machine income from each video draw poker and keno
19 machine licensed under this part; and

20 (b) a video draw poker and keno machine tax of 1.25%
21 of gross machine income from each video draw poker and keno
22 machine subject to the provisions of [section 4].

23 (2) Each licensee shall keep a record of net machine
24 income and, when required, of gross machine income, in such
25 form as the department may require. The records must at all

1 times during the business hours of the licensee be subject
2 to inspection by the department, its agents, or employees.

3 (3) Each licensee shall, within 15 days after the end
4 of each quarter, complete and deliver to the department a
5 statement containing any information that the department may
6 require and showing the total:

7 (a) net machine income from each video draw poker and
8 keno machine licensed to him under this part, together with
9 the total amount due the state as video draw poker and keno
10 machine net income tax for the preceding quarter. The
11 statement--must--contain--such--other--information--as--the
12 department--may--require.; and

13 (b) gross machine income from each video draw poker
14 and keno machine subject to the provisions of [section 4],
15 together with the total amount due the state as video draw
16 poker and keno machine gross income tax for the preceding
17 quarter.

18 (4) (a) The department must deposit one-third of
19 the tax collected under subsection (3) in the general fund.

20 (b) The department must forward the remaining
21 two-thirds of the tax collected under subsection (3) to the
22 treasurer of the county or the clerk, finance officer, or
23 treasurer of the city or town in which the licensed machine
24 is located, for deposit to the county or municipal treasury.
25 Counties are not entitled to proceeds from taxes on income

1 from video draw poker and keno machines located in cities
 2 and towns. The two-thirds local government portion of tax
 3 collected under subsection (3) is statutorily appropriated
 4 to the department as provided in 17-7-502 for deposit to the
 5 county or municipal treasury."

6 **NEW SECTION. Section 4. Unlimited progressive prizes**
 7 in certain games. (1) Notwithstanding the provisions of
 8 23-5-608, unlimited progressive prizes on a systemwide basis
 9 may be offered and paid through a centralized system for
 10 video draw poker or keno machines connected to a centralized
 11 progressive prize system if the system provides for:

12 (a) computerized electronic retrieval at least once
 13 each day of accounting and security information from each
 14 machine on the system; and

15 (b) preservation of the accounting and security
 16 information in a centralized location.

17 (2) As used in subsection (1), "progressive prize"
 18 means a prize:

19 (a) that is increased by predetermined amounts of each
 20 coin that is played; and

21 (b) that is exhibited on an indicator visible to the
 22 public at each establishment where it is offered.

23 (3) The progressive prize may be paid in cash or by
 24 annualized payment over an annuity period provided that the
 25 annualized payments are advertised to the public.

1 (4) The centralized system may be leased, maintained,
 2 and operated by a licensed manufacturer who may participate
 3 in the revenue of the gaming machines on the system as
 4 payment for his services.

5 (5) The centralized system is subject to approval by
 6 the department after demonstration of its integrity to the
 7 satisfaction of the department.

8 (6) In a centralized system:

9 (a) the video draw poker or keno machines must have:
 10 (i) the ability to detect a malfunction in the normal
 11 execution sequence and to detect rapid changes in electric
 12 power input; and

13 (ii) brownout protection;

14 (b) accounting information and gaming data must be
 15 stored in two redundant read-and-write memories. When a
 16 machine is powered up or, for any reason, receives a reset,
 17 it must automatically retest itself to ensure proper
 18 functions.

19 (c) each machine must have:

20 (i) a serial transmitter/receiver and must provide the
 21 ability to transfer accounting information from the master
 22 processing unit board to the data collection system; and

23 (ii) a second serial transmitter/receiver;

24 (d) each progressive sign must communicate via
 25 fiberoptic lines to ensure protection from electromagnetic

1 or electrostatic interference;

2 (e) to ensure no incorrect information is displayed,
3 the signs must display all zeros if the communications are
4 interrupted;

5 (f) all critical accounting data must be stored in the
6 local communicators in a redundant fashion to ensure
7 reliability; and

8 (g) the communicators must provide a security mode
9 allowing instantaneous reporting of any security problem.

10 NEW SECTION. **Section 5.** Extension of authority. Any
11 existing authority to make rules on the subject of the
12 provisions of [this act] is extended to the provisions of
13 [this act].

14 NEW SECTION. **Section 6.** Codification instruction.
15 [Section 4] is intended to be codified as an integral part
16 of Title 23, chapter 5, part 6, and the provisions of Title
17 23, chapter 5, part 6, apply to [section 4].

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB753, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB753 would allow unlimited progressive prizes in video draw poker and keno machines connected to a centralized computer system and provide for a gross tax on those machines.

ASSUMPTIONS:

1. There will be 1,000 new video gaming machines placed in play, which is about one machine in 50% of the eligible locations.
2. The proposed law will be effective October 1, 1989.
3. The average net and gross income for the new machines will equal that of existing machines, thereby generating the following revenue:
 - 3.1. Tax on machine gross will be \$281,250 in FY90 (for nine months) and \$375,000 in FY91; and
 - 3.2. The 15% tax on machine net will be \$1,519,312 in FY90 and \$2,025,750 in FY91.
4. Play on existing machines will not be diminished as a result of the proposed law.
5. The contractor will be responsible for the cost of all central gaming equipment.
6. The contractor and the licensees will pay out all prizes.
7. Machines will be in play an average of 16 hours a day, seven days per week, and, based on the assumption that the state will oversee major prize payouts, contracted staff would need to be on call 16 hours a day, seven days per week. This assumption would require seven contracted staff investigators at an annual cost of \$288,200.
8. Administrative costs for the Video Gaming Bureau are projected at \$85,150 per annum, plus one-time equipment purchases of \$8,000 in FY90. This includes 3.00 FTE as follows: a technical specialist Grade 15, an audit technician Grade 10, and an administrative assistant Grade 8.
9. The total cost of administering the proposed law, based on expenditure assumptions no. 7 and no. 8, would exceed the increase of \$100,000 per year in administrative funding, which is generated by licensing 1,000 additional machines at \$100 each, by \$281,350 in FY90 and by \$273,350 in FY91. There is an adequate cash account balance to cover these costs for the 1991 biennium.
10. Current law is as recommended by the appropriations subcommittee.

FISCAL IMPACT:

Expenditures:

Dept. of Commerce	Current		FY90		FY91	
	Proposed	Difference	Proposed	Difference	Proposed	Difference
Video Gaming	Law	Law	Law	Difference	Law	Law
Personal Services	\$ 311,898	\$ 377,398	\$ 65,500	\$ 312,410	\$ 377,910	\$ 65,500
Operating Expenses	466,989	774,839	307,850	465,846	773,696	307,850
Equipment	39,931	47,931	8,000	18,079	18,079	-0-
Total	\$ 818,818	\$ 1,200,168	\$ 381,350	\$ 796,335	\$ 1,169,685	\$ 373,350

Ray Shackleford

DATE 3/10/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

Robert J. Pavlovich

DATE 3/13/89

ROBERT J. PAVLOVICH, PRIMARY SPONSOR

Fiscal Note for HB753, as introduced

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Fiscal Note Request HB753, as introduced

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	<u>Current Law</u>	<u>FY90 Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>FY91 Proposed Law</u>	<u>Difference</u>
<u>Funding:</u>						
State Special License	\$ 818,818	\$1,200,168	\$ 381,350	\$ 796,335	\$1,169,685	\$ 373,350
<u>Fund Information:</u>						
To General Fund	\$3,650,000	\$4,250,100	\$ 600,100	\$3,650,000	\$4,450,250	\$ 800,250
To Local Governments	\$7,300,000	\$8,500,375	\$1,200,375	\$7,300,000	\$8,900,500	\$1,600,500

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Assuming the play of existing gaming machines is not diminished due to passage of this bill, distributions of gaming machine revenue to local governments will increase by approximately \$1.2 million in FY90 and by approximately \$1.6 million in FY 91.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The long-range impact on administrative expenses is approximately \$280,000 in costs over the increase in statutorily appropriated funds per year.

TECHNICAL NOTES:

The administrative costs, given the above assumptions, would exceed the increase in administrative funding.

HB 753