

House BILL NO. 149

INTRODUCED BY MERCER Harding John
Veenan John

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FINANCIAL ASSISTANCE TO CERTAIN COUNTIES AND CITIES AND TOWNS FOR THE LOSS OF VIDEO GAMBLING MACHINE GROSS INCOME TAX REVENUE AND TO CERTAIN HOLDERS OF A LICENSE TO SELL ALCOHOLIC BEVERAGES ON THE PREMISES FOR THE LOSS OF GROSS INCOME ASSOCIATED WITH THE FAILURE OF THE STATE OF MONTANA AND CERTAIN INDIAN TRIBES TO NEGOTIATE A COMPACT UNDER THE FEDERAL INDIAN GAMING REGULATORY ACT OR ASSOCIATED WITH ANY FEDERAL LAWS THAT PROHIBIT THE OPERATION OF A VIDEO GAMBLING MACHINE ON AN INDIAN RESERVATION; DEFINING A VIDEO GAMBLING MACHINE TAKEN OUT OF SERVICE; ALLOCATING A PORTION OF THE VIDEO GAMBLING MACHINE GROSS INCOME TAX TO COUNTIES AND TO CITIES AND TOWNS FOR THE LOSS OF TAX REVENUE FROM VIDEO GAMBLING MACHINES TAKEN OUT OF SERVICE; PROVIDING A TAX CREDIT TO CERTAIN HOLDERS OF A LICENSE TO SELL ALCOHOLIC BEVERAGES ON THE PREMISES FOR THE LOSS OF GROSS INCOME FROM VIDEO GAMBLING MACHINES TAKEN OUT OF SERVICE; REQUIRING THE DEPARTMENT TO DISCLOSE TO TAXPAYERS THE AMOUNT OF THE CREDIT DUE; AMENDING SECTIONS 23-5-116 AND 23-5-610, MCA; AND PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES."

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

NEW SECTION. Section 1. Reimbursements to local governments for video gambling machines taken out of service -- limitations. (1) A county or a city or town is entitled to receive a distribution of the video gambling machine gross income tax collected under 23-5-610 for video gambling machines taken out of service, as that phrase is defined in subsection (6). The amount of the distribution is equal to the amount that the county or city or town received from video gambling machines taken out of service for the calendar quarters that began after June 30, 1991, and ended before July 1, 1992.

(2) The department shall, for each calendar quarter that began after June 30, 1991, and ended before July 1, 1992, determine the amount of revenue received by a county or by a city or town from video gambling machines taken out of service.

(3) The department shall determine the amount to be distributed in quarterly payments as follows:



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1 (a) for the distribution of taxes collected by the department for the period July, August, and
2 September of the current year, the amount received by a county or by a city or town from video gambling
3 machines taken out of service for the quarter that began after June 30, 1991, and ended before October
4 1, 1991;

5 (b) for the distribution of taxes collected by the department for the period October, November, and
6 December of the current year, the amount received by a county or by a city or town from video gambling
7 machines taken out of service for the quarter that began after September 30, 1991, and ended before
8 January 1, 1992;

9 (c) for the distribution of taxes collected by the department for the period January, February, and
10 March of the current year, the amount received by a county or by a city or town from video gambling
11 machines taken out of service for the quarter that began after December 31, 1991, and ended before April
12 1, 1992; and

13 (d) for the distribution of taxes collected by the department for the period April, May, and June of
14 the current year, the amount received by a county or by a city or town from video gambling machines taken
15 out of service for the quarter that began after March 31, 1992, and ended before July 1, 1992.

16 (4) The amounts determined under subsection (3) must be forwarded to counties and to cities and
17 towns in quarterly payments as provided in 23-5-610.

18 (5) A distribution to a county or a city or town allowed in this section may not be made for a
19 quarter in which video gambling machines are allowed to operate in the county or the city or town pursuant
20 to a tribal-state compact under 25 U.S.C. 2710 or are allowed to operate in the county or the city or town
21 pursuant to any other federal law that allows video gambling machines on Indian reservations.

22 (6) For the purposes of [section 3] and this section, "video gambling machine taken out of service"
23 means a draw poker machine or a keno machine:

24 (a) for which a permit to operate had been issued under 23-5-612 prior to June 25, 1992;

25 (b) for which taxes imposed under 23-5-610 had been paid:

26 (i) for the calendar quarter immediately preceding July 1, 1992; or

27 (ii) for the calendar quarter immediately preceding April 1, 1993; and

28 (c) that is prohibited under 15 U.S.C. 1175 because a tribal-state compact pursuant to 25 U.S.C.
29 2710 of the Indian Gaming Regulatory Act has not been entered into.

30

1 **Section 2.** Section 23-5-610, MCA, is amended to read:

2 **"23-5-610. Video gambling machine gross income tax -- records -- distribution -- quarterly**
 3 **statement and payment.** (1) A licensed operator who is issued a permit under this part shall pay to the
 4 department a video gambling machine tax of 15% of the gross income from each video gambling machine
 5 licensed under this part. A licensed operator may deduct from the gross income amounts equal to amounts
 6 stolen from machines if the amounts stolen are not repaid by insurance or under a court order, if a law
 7 enforcement agency investigated the theft, and if the theft is the result of either unauthorized entry and
 8 physical removal of the money from the machines or of machine tampering and the amounts stolen are
 9 documented.

10 (2) A licensed operator who is issued a permit under this part shall keep a record of the gross
 11 income from each machine in the form the department may require. The records must at all times during
 12 the business hours of the licensee be subject to inspection by the department.

13 (3) A licensed operator who is issued a permit under this part shall, within 15 days after the end
 14 of each quarter, complete and deliver to the department a statement showing the total gross income from
 15 each video gambling machine licensed to the operator, together with the total amount due the state as
 16 video gambling machine gross income tax for the preceding quarter. The statement must contain other
 17 relevant information as the department may require.

18 (4) (a) The department shall, in accordance with the provisions of 15-1-501(6), forward ~~one-third~~
 19 ~~of the tax collected under subsection (3) to the general fund~~ from the tax collected under subsection (3)
 20 the amount determined for the appropriate quarter in [section 1] to the treasurer of the county or the clerk,
 21 finance officer, or treasurer of the city or town for deposit to the county or municipal treasury.

22 **(b) The department shall, in accordance with the provisions of 15-1-501(6), forward to the general**
 23 **fund one-third of the tax collected under subsection (3) remaining after the distribution in subsection (4)(a).**

24 ~~(b)(c)~~ **(i)** The department shall, in accordance with the provisions of 15-1-501(6), forward ~~the~~
 25 ~~remaining~~ **two-thirds of the tax collected under subsection (3) remaining after the distribution in subsection**
 26 **(4)(a) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which**
 27 **the licensed machine is located, for deposit to the county or municipal treasury.**

28 **(ii) The amount distributed to each county under this subsection (c) is equal to the ratio of the**
 29 **amount that would be distributed to the county under this section, as this section read July 1, 1994, had**
 30 **the distribution under subsection (4)(a) not been made, to the total amount that would be distributed to all**

1 counties had the distribution under subsection (4)(a) not been made.

2 (iii) The amount distributed to each city or town under this subsection (c) is equal to the ratio of
 3 the amount that would be distributed to the city or town under this section, as this section read on July
 4 1, 1994, had the distribution under subsection (4)(a) not been made, to the total amount that would be
 5 distributed to all cities or towns had the distribution under subsection (4)(a) not been made.

6 (5) Counties are not entitled to proceeds from taxes on income from video gambling machines
 7 located in incorporated cities and towns. The ~~two-thirds~~ local government portion of the tax collected under
 8 subsection (3) and distributed under subsection (4) is statutorily appropriated to the department as provided
 9 in 17-7-502 for deposit to the county or municipal treasury."

10

11 **NEW SECTION. Section 3. Credit for loss of video gambling machine revenue -- eligibility --**
 12 **limitations -- duties of department.** (1) Except as provided in subsection (7), an individual, a corporation,
 13 a partnership, or a small business corporation as defined in 15-31-201 is allowed a tax credit for each year
 14 against the taxes imposed by 15-30-103 or 15-31-101 for the loss of gross income from each video
 15 gambling machine that was taken out of service, as that phrase is defined in [section 1], and that was
 16 licensed to operate before June 25, 1992.

17 (2) (a) Except as provided in subsections (2)(b) and (5), only a taxpayer who is the current holder
 18 of a license to sell alcoholic beverages on the premises for which a permit had been issued to operate a
 19 video gambling machine taken out of service is eligible for the credit under this section.

20 (b) A taxpayer who had been issued a permit under 23-5-611(1)(b) to operate a video gambling
 21 machine taken out of service is eligible for the credit under this section.

22 (3) The amount of the credit is equal to 30% of the gross income from all video gambling machines
 23 taken out of service as the gross income was reported on the quarterly statements and submitted to the
 24 department as required in 23-5-610 for the tax year that began after December 31, 1990.

25 (4) For the purposes of determining the amount of the credit to which a taxpayer is entitled, the
 26 department shall:

27 (a) verify the accuracy of the quarterly statements referred to in subsection (3);

28 (b) calculate, based on the information contained in the quarterly statements and subject to
 29 verification by the department, the amount of the credit due under this section; and

30 (c) notify the taxpayer by January 15 of each year of the amount of the credit to which the

1 taxpayer is entitled for the previous tax year.

2 (5) If a license to sell alcoholic beverages is transferred, the department shall prorate the amount
3 of the credit to each holder of the license during the tax year in proportion to the number of days in the tax
4 year that each taxpayer held the license.

5 (6) If the amount of the credit allowed under this section exceeds the taxpayer's liability, the
6 amount of the excess must be refunded to the taxpayer.

7 (7) A credit is not allowed for a tax year in which the taxpayer is allowed to operate video
8 gambling machines in a county or a city or town pursuant to a tribal-state compact entered into under the
9 provisions of 25 U.S.C. 2710 or pursuant to any other federal law that allows the operation of a video
10 gambling machine on an Indian reservation.

11 (8) The department shall furnish to the department of revenue all information necessary to ensure
12 that taxpayers claiming the credit under this section are entitled to the credit and to ensure that the amount
13 of the credit claimed is correct.

14

15 **Section 4.** Section 23-5-116, MCA, is amended to read:

16 **"23-5-116. Disclosure of information.** (1) The department shall, upon request, disclose the
17 following information from a license or permit application:

- 18 (a) the applicant's name;
19 (b) the address of the business where the activity under the license or permit is to be conducted;
20 (c) the name of each person ~~having~~ who has an ownership interest in the business; and
21 (d) the types of permits requested by the applicant.

22 (2) The department shall inform a taxpayer eligible for the credit allowed in [section 3] of the
23 amount of the credit to which the taxpayer is entitled.

24 ~~(2)(3)~~ In addition to the information enumerated in ~~subsection~~ subsections (1) and (2), the
25 department may disclose any other relevant information obtained in the application or tax reporting process
26 or as a result of other department operations to:

- 27 (a) a federal, state, city, county, or tribal criminal justice agency; and
28 (b) the department of revenue and the federal internal revenue service."

29

30 NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 3] are intended to be codified

1 as an integral part of Title 23, chapter 5, part 6, and the provisions of Title 23, chapter 5, part 6, apply to
2 [sections 1 and 3].

3

4 NEW SECTION. Section 6. Effective dates. (1) [Sections 3 through 5, 7, and this section] are
5 effective on passage and approval.

6 (2) [Sections 1 and 2] are effective July 1, 1995.

7

8 NEW SECTION. Section 7. Applicability. (1) [Sections 1 and 2] apply to video gambling machine
9 taxes imposed for calendar quarters beginning after June 30, 1995.

10 (2) [Section 3] applies retroactively, within the meaning of 1-2-109, to income tax years beginning
11 after December 31, 1994.

12

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0149, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act providing financial assistance to certain counties and cities and towns for the loss of video gambling machine gross income tax revenue associated with the failure of the State of Montana and certain Indian tribes to negotiate a compact under the Federal Indian Gaming Regulatory Act; and providing a tax credit to certain holders of a license to sell alcoholic beverages on the premises for the loss of gross income from video gambling machines taken out of service.

ASSUMPTIONS:

1. The fiscal impact of the proposal is based on actual returns filed with the Gambling Control Division for the periods referenced in the bill.
2. The credit for loss of gambling revenues is fully refundable (MDOR).
3. All taxpayers eligible for the credit will apply and receive the full amount (MDOR).
4. The credit calculation assumes all corporate licensees are subject to the corporate income tax.
5. The provisions of the bill apply until a tribal-state gaming compact is entered into. This fiscal note assumes such an agreement will not be reached during the biennium.

FISCAL IMPACT:

Expenditures:

There is on state government expenditures under the proposed legislation.

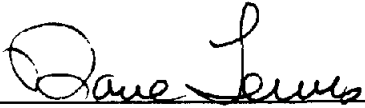
Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Video Gaming Tax	0	0
Individual Income Tax	(\$217,294)	(\$217,294)
<u>Corporation License Tax</u>	<u>(300,184)</u>	<u>(300,184)</u>
Total	(\$517,478)	(\$517,478)

General Fund Impacts:

Video Gaming Tax Distribution	(60,654)	(60,654)
Individual Income Tax	(\$217,294)	(\$217,294)
<u>Corporation License Tax</u>	<u>(300,184)</u>	<u>(300,184)</u>
Total	(\$578,132)	(\$578,132)

(Continued)

 1-17-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOHN MERCER, PRIMARY SPONSOR DATE
Fiscal Note for HB-149, as introduced.

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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposed distribution formula will redistribute \$181,308 annually to taxing jurisdictions in Lake, Sanders and Missoula counties. All other local jurisdictions will receive \$121,308 less per year than under current law. (The difference is made up by the state general fund as noted above).

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The fiscal impacts noted above will continue into the future as long as the state and the Consolidated Salish and Kootenai Tribes do not sign a gambling compact.