

1 SENATE BILL NO. 96

2 INTRODUCED BY GROSFIELD

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF JUSTICE TO OPERATE
6 AND MAINTAIN AN AUTOMATED ACCOUNTING AND REPORTING SYSTEM FOR VIDEO GAMBLING
7 MACHINES; ELIMINATING THE REQUIREMENT THAT MACHINE SPECIFICATIONS MUST BE
8 SUBSTANTIALLY THE SAME AS THE SPECIFICATIONS REQUIRED ON SEPTEMBER 30, 1989; ASSIGNING
9 RESPONSIBILITY FOR PAYMENT OF VIDEO GAMBLING MACHINE TAXES TO THE OWNER OF THE
10 MACHINE; AUTHORIZING LOANS TO VIDEO GAMBLING MACHINE OWNERS WITH STATE
11 PARTICIPATION TO COVER COSTS OF CONVERTING TO THE AUTOMATED SYSTEM; PROVIDING A TAX
12 CREDIT TO MACHINE OWNERS WHO PARTICIPATE IN THE SYSTEM; PLEDGING AN AMOUNT OF THE
13 STATE'S SHARE OF VIDEO GAMBLING MACHINE TAX REVENUE TO GUARANTEE LOANS MADE TO
14 MACHINE OWNERS WHO CONVERT VIDEO MACHINES FOR THE PURPOSE OF IMPLEMENTING THE
15 AUTOMATED SYSTEM; AMENDING SECTIONS 23-5-116, 23-5-602, 23-5-610, AND 23-5-621, MCA; AND
16 PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

17
18 STATEMENT OF INTENT

19 A statement of intent is required for this bill to provide guidelines for the adoption of rules by the
20 department of justice to implement the automated accounting and reporting system provided for in [section
21 1]. The department's rules for an automated system should provide for simplified exchange of video
22 gambling machine revenue information that the department is entitled by law to receive. The rules should
23 require new video gambling machines or machines with software approved after the date the automated
24 system becomes operational to be capable of being connected to the automated system. The rules should
25 also provide for inspection of machine components and require, except when necessary to protect the
26 integrity of the system or to prevent or detect criminal activity, prior notification to a licensee before a
27 machine is disabled for malfunctions or violations detected by use of the automated accounting and
28 reporting system. The rules should provide that funds may not be transferred electronically without the
29 consent of the licensed operator.

30

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

2

3 **NEW SECTION. Section 1. Automated accounting and reporting system.** (1) For the purposes
4 of performing its duties under this chapter, minimizing regulatory costs, simplifying the reporting of video
5 gambling machine revenue data, and preserving the integrity of video gambling machines within its
6 jurisdiction, the department may operate and maintain an automated accounting and reporting system for
7 video gambling machines.

8 (2) Except as provided in subsection (3), licensed operators and machine owners shall participate
9 in the automated accounting and reporting system and all machines for which a permit has been issued
10 under this part must be connected to the automated system within the time required by the department.

11 (3) The provisions of subsection (2) do not apply to:

12 (a) owners of five or fewer video gambling machines; or

13 (b) individual machines that, as determined by the department, are incapable of converting to the
14 automated system.

15

16 **NEW SECTION. Section 2. Loans to machine owners -- loan limit.** (1) An owner of a video
17 gambling machine who incurs actual hardware or software costs for conversion of a machine to make it
18 compatible with the automatic accounting and reporting system authorized by [section 1] is eligible to
19 receive a loan pursuant to 17-6-312(1) to cover the actual costs of conversion, not to exceed \$300 for
20 each machine, if the owner:

21 (a) is eligible to receive a tax credit under 23-5-610; and

22 (b) meets all other eligibility criteria required by the lending institution.

23 (2) The total amount of loans authorized under this section may not exceed \$3.6 million.

24

25 **Section 3.** Section 23-5-116, MCA, is amended to read:

26 **"23-5-116. Disclosure of information.** (1) The department shall, upon request, disclose the
27 following information from a license or permit application:

28 (a) the applicant's name;

29 (b) the address of the business where the activity under the license or permit is to be conducted;

30 (c) the name of each person who has an ownership interest in the business; and

- 1 (d) the types of permits requested by the applicant.
- 2 (2) The department shall, upon request, disclose:
- 3 (a) public criminal justice information, as defined in 44-5-103, as required by 44-5-301;
- 4 (b) all records and other information, except confidential criminal justice information, as defined
- 5 in 44-5-103, that relates to:
- 6 (i) a sanction imposed under 23-5-136, for a violation of this chapter or a department rule; or
- 7 (ii) any other civil or administrative sanction or penalty imposed under a provision of this chapter
- 8 or a department rule for a violation of this chapter or a department rule.
- 9 (3) In addition to the information enumerated in subsections (1) and (2), the department may
- 10 disclose any other relevant information obtained in the application or tax reporting process or as a result
- 11 of other department operations to:
- 12 (a) a federal, state, city, county, or tribal criminal justice agency;
- 13 (b) the department of revenue and the federal internal revenue service; and
- 14 (c) a gambling regulatory agency of another state, a local government unit of another state, a tribal
- 15 government, or a foreign nation, provided that the disclosure of the information complies with the law of
- 16 that jurisdiction and that the receiving entity has been approved for receipt by the Montana attorney
- 17 general.
- 18 (4) In the event of delinquency or at the request of a video gambling machine permitholder, the
- 19 department shall inform the permitholder of the status of a licensed machine owner's tax payments for a
- 20 machine located at the permitholder's place of business."

21

22 **Section 4.** Section 23-5-602, MCA, is amended to read:

23 **"23-5-602. Definitions.** As used in this part, the following definitions apply:

24 (1) "Associated equipment" means all proprietary devices, machines, or parts used in the

25 manufacture or maintenance of a video gambling machine, including but not limited to integrated circuit

26 chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering

27 devices, and cabinetry.

28 (2) (a) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash,

29 is available to play bingo as defined by rules of the department. The machine utilizes a video display and

30 microprocessors in which, by the skill of the player, by chance, or by both, the player may receive free

1 games or credits that may be redeemed for cash.

2 (b) The term does not include a slot machine or a machine that directly dispenses coins, cash,
3 tokens, or anything else of value.

4 (3) (a) "Draw poker machine" means an electronic video gambling machine that, upon insertion of
5 cash, is available to play or simulate the play of the game of draw poker as defined by rules of the
6 department. The machine utilizes a video display and microprocessors in which, by the skill of the player,
7 by chance, or both, the player may receive free games or credits that may be redeemed for cash.

8 (b) The term does not include a slot machine or a machine that directly dispenses coins, cash,
9 tokens, or anything else of value.

10 (4) "Gross income" means money put into a video gambling machine minus credits paid out in
11 cash.

12 (5) (a) "Keno machine" means an electronic video gambling machine that, upon insertion of cash,
13 is available to play keno as defined by rules of the department. The machine utilizes a video display and
14 microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games
15 or credits that may be redeemed for cash.

16 (b) The term does not include a slot machine or a machine that directly dispenses coins, cash,
17 tokens, or anything else of value.

18 (6) "Licensed machine owner" means a licensed operator or route operator who owns a video
19 gambling machine for which a permit has been issued by the department.

20 (7) "Permitholder" means a licensed operator on whose premises is located one or more video
21 gambling machines for which a permit has been issued by the department."

22

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

24 **"23-5-610. Video gambling machine gross income tax -- records -- distribution -- quarterly**
25 **statement and payment.** (1) A licensed ~~operator issued a permit under this part~~ machine owner shall pay
26 to the department a video gambling machine tax of 15% of the gross income from each video gambling
27 machine ~~licensed issued a permit~~ under this part. A licensed ~~operator~~ machine owner may deduct from the
28 gross income amounts equal to amounts stolen from machines if the amounts stolen are not repaid by
29 insurance or under a court order, if a law enforcement agency investigated the theft, and if the theft is the
30 result of either unauthorized entry and physical removal of the money from the machines or of machine

1 tampering and the amounts stolen are documented.

2 (2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for
3 which a permit has been issued under this part if:

4 (i) the permit was active for the machine on January 1, 1997;

5 (ii) the department determines that the machine is incapable, in the form in which it was approved
6 by the department, of communicating with the automated accounting and reporting system authorized by
7 [section 1]; and

8 (iii) the machine owner participates in the required automated system and incurs actual hardware
9 or software costs for conversion of the machine to make it compatible with the automated accounting and
10 reporting system.

11 (b) The amount of the tax credit allowed under subsection (2)(a) is \$300 for each machine or the
12 actual hardware and software cost necessary for conversion to the automated system, whichever is less.

13 (3) If a tax credit is claimed under subsection (2)(a), the credit is applied in equal amounts over 12
14 quarters, beginning with the quarter after the machine for which the tax credit is claimed is connected to
15 the automated accounting and reporting system authorized by [section 1].

16 ~~(2)(4)~~ A licensed ~~operator issued a permit under this part~~ machine owner shall keep a record of the
17 gross income from each machine issued a permit under this part in the form the department requires. The
18 records must at all times during the business hours of the licensee be subject to inspection by the
19 department.

20 ~~(3)(5)~~ A licensed ~~operator issued a permit under this part~~ machine owner shall, within 15 days after
21 the end of each quarter and in the manner prescribed by the department, complete and deliver to the
22 department a statement showing the total gross income from each video gambling machine ~~licensed to the~~
23 ~~operator~~ issued a permit under this part, together with the total amount due the state as video gambling
24 machine gross income tax for the preceding quarter. The statement must contain other relevant information
25 that the department requires.

26 ~~(4)(6)~~ (a) ~~The~~ Except as provided in subsection (7), the department shall, in accordance with the
27 provisions of 15-1-501, forward one-third of the tax collected under subsection ~~(3) (5)~~ to the general fund.

28 (b) The department shall, in accordance with the provisions of 15-1-501, forward the remaining
29 two-thirds of the tax collected under subsection ~~(3) (5)~~ to the treasurer of the county or the clerk, finance
30 officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county

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

5 (7) Receipts from the state's share of taxes collected under this section are pledged and dedicated
 6 to guarantee repayment of loans authorized by [section 2] in an amount sufficient to meet the prepayment
 7 obligation for the fiscal year during which the loans are made. The amount of taxes pledged by this
 8 subsection is the dollar amount of loans made under [section 2] and must be allocated to a separate
 9 account in the short-term investment pool. The board of investments is not entitled to use the proceeds
 10 from taxes collected under this section to repay a loan made under [section 2] unless the board certifies
 11 that all other commercially available means of collection on the loan have been exhausted."

12
 13 **Section 6.** Section 23-5-610, MCA, is amended to read:

14 **"23-5-610. Video gambling machine gross income tax -- records -- distribution -- quarterly**
 15 **statement and payment.** (1) A licensed ~~operator issued a permit under this part~~ machine owner shall pay
 16 to the department a video gambling machine tax of 15% of the gross income from each video gambling
 17 machine ~~licensed~~ issued a permit under this part. A licensed ~~operator~~ machine owner may deduct from the
 18 gross income amounts equal to amounts stolen from machines if the amounts stolen are not repaid by
 19 insurance or under a court order, if a law enforcement agency investigated the theft, and if the theft is the
 20 result of either unauthorized entry and physical removal of the money from the machines or of machine
 21 tampering and the amounts stolen are documented.

22 (2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for
 23 which a permit has been issued under this part if:

24 (i) the permit was active for the machine on January 1, 1997;

25 (ii) the department determines that the machine is incapable, in the form in which it was approved
 26 by the department, of communicating with the automated accounting and reporting system authorized by
 27 [section 1]; and

28 (iii) the machine owner participates in the required automated system and incurs actual hardware
 29 or software costs for conversion of the machine to make it compatible with the automated accounting and
 30 reporting system.

1 **(b) The amount of the tax credit allowed under subsection (2)(a) is \$300 for each machine or the**
 2 **actual hardware and software cost necessary for conversion to the automated system, whichever is less.**

3 **(3) If a tax credit is claimed under subsection (2)(a), the credit is applied in equal amounts over 12**
 4 **quarters, beginning with the quarter after the machine for which the tax credit is claimed is connected to**
 5 **the automated accounting and reporting system authorized by [section 1].**

6 ~~(2)(4)~~ **(4)** A licensed ~~operator issued a permit under this part~~ **machine owner** shall keep a record of the
 7 gross income from each machine ~~issued a permit under this part~~ in the form the department requires. The
 8 records must at all times during the business hours of the licensee be subject to inspection by the
 9 department.

10 ~~(3)(5)~~ **(5)** A licensed ~~operator issued a permit under this part~~ **machine owner** shall, within 15 days after
 11 the end of each quarter ~~and in the manner prescribed by the department~~, complete and deliver to the
 12 department a statement showing the total gross income from each video gambling machine ~~licensed to the~~
 13 ~~operator~~ **issued a permit under this part**, together with the total amount due the state as video gambling
 14 machine gross income tax for the preceding quarter. The statement must contain other relevant information
 15 that the department requires.

16 ~~(4)(6)~~ **(a)** The department shall, in accordance with the provisions of 15-1-501, forward one-third
 17 of the tax collected under subsection ~~(3) (5)~~ to the general fund.

18 **(b)** The department shall, in accordance with the provisions of 15-1-501, forward the remaining
 19 two-thirds of the tax collected under subsection ~~(3) (5)~~ to the treasurer of the county or the clerk, finance
 20 officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county
 21 or municipal treasury. Counties are not entitled to proceeds from taxes on income from video gambling
 22 machines located in incorporated cities and towns. The two-thirds local government portion of tax collected
 23 under subsection ~~(3) (5)~~ is statutorily appropriated to the department as provided in 17-7-502 for deposit
 24 to the county or municipal treasury."
 25

26 **Section 7.** Section 23-5-621, MCA, is amended to read:

27 **"23-5-621. Video gambling machine specifications -- rules. (1)** The department shall adopt rules
 28 ~~describing that implement [section 1], describe~~ the video gambling machines authorized by this part, and
 29 ~~stating state~~ the specifications for video gambling machines authorized by this part. ~~The specifications in~~
 30 ~~the rules must substantially follow the specifications contained in 23-5-606 and 23-5-609 as those sections~~

1 ~~read on September 30, 1989.~~ The department shall adopt rules allowing video gambling machines to be
2 imported into this state and used for the purposes of trade shows, exhibitions, and similar activities.

3 (2) The department's rules for an automated accounting and reporting system must, at a minimum:

4 (a) provide for confidentiality of information received through the system within the limits
5 prescribed by 23-5-115(6) and 23-5-116;

6 (b) ensure the security and integrity of the automated accounting and reporting system and of the
7 video gambling machines connected to the system;

8 (c) limit and prescribe the circumstances for electronic issuance of video gambling machine permits
9 and electronic transfer of funds for payment of taxes, fees, or penalties to the department; and

10 (d) limit and prescribe the circumstances under which machines may be disabled for malfunctions
11 or violations detected by use of the automated system or other violations of this chapter."

12

13 NEW SECTION. Section 8. Codification instruction. [Sections 1 and 2] are intended to be codified
14 as an integral part of Title 23, chapter 5, part 6, and the provisions of Title 23, chapter 5, part 6, apply to
15 [sections 1 and 2].

16

17 NEW SECTION. Section 9. Effective dates. (1) [Sections 1, 2, 7, and 8 and this section] are
18 effective on passage and approval.

19 (2) [Sections 3 through 5] are effective July 1, 1997.

20 (3) [Section 6] is effective January 1, 2004.

21

22 NEW SECTION. Section 10. Termination. [Sections 2 and 5] terminate December 31, 2003.

23

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0096, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill authorizing the Department of Justice (DOJ) to operate and maintain an automated accounting and reporting system (AARS) for video gambling machines (VGM).

ASSUMPTIONS:

1. In FY98, DOJ will expend \$800,000 to purchase and install the AARS computer hardware and software, plus site preparation, phone line installation, and other miscellaneous expenses in connection with initial hookup.
2. In FY99, DOJ will require 2.00 FTE (grade 16) to operate and maintain the computer system. Operating expenses of \$237,474 are dominated by telephone charges of almost \$140,000 and computer maintenance contracts of over \$70,000. In addition, another \$125,000 will be needed in equipment to purchase additional hardware and software upgrades. These amounts are reflected as a new proposal in the Executive Budget.
3. It is anticipated that income from VGMS will increase by \$500 per machine hooked up to the AARS. In FY99, there will be 5,000 (3,000 existing, 2,000 new) machines operational on the AARS, producing an increase in tax revenue of \$375,000 (5,000 x \$500 x 15%). The growth rate in VGM tax revenue was determined by comparing average weekly income from machines in play in the state of South Dakota with those in play in Montana. South Dakota has an AARS and is somewhat comparable in size and geographics. The calculation takes into consideration and compensates for the variance in numbers of machines in play, discounted by the population variance. The variance due to the improved efficiencies of the system will be approximately \$10/week/machine, or \$500/year.
4. During FY99, the owners of the 3,000 machines will apply for and receive the allowed loan from a private institution of \$300/machine, and will begin amortizing their \$300 tax credit, which will amount to \$150,000 in the last two quarters of FY99.
5. None of the loans applied for in FY99 will default in FY99.

FISCAL IMPACT:

Gambling Control Division:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u> (As Show in the Executive Budget)		
FTE	0	2.00
Personal services	0	72,000
Operating expenses	0	237,474
Equipment	<u>800,000</u>	<u>125,000</u>
Total	800,000	434,474
<u>Funding:</u>		
State Special Revenue (02)	800,000	434,474
<u>Revenues:</u>		
VGM tax (01)	0	\$125,000
VGM tax credit (01)	<u>0</u>	<u>(50,000)</u>
Total	0	\$75,000
<u>Net impact on Fund Balance:</u> (Revenue minus expense)		
General fund (01)	0	75,000
Gambling state special (02)	(800,000)	(434,474)

(Continued)

Dave Lewis 1-16-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Lorent Grosfield Jan 17, 1997
 LORENTS GROSFIELD, SPONSOR DATE

Fiscal Note for SB0096, as introduced

SB 96

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments receive 2/3 of the VGM tax revenue, and will also share in 2/3 of the tax credit. In FY99, it is estimated that local revenues will increase by a net of \$150,000. See below for long-range effects.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

A model developed by the Department of Justice concludes that the estimated new revenue generated by this bill will be greater than the allowed tax credits in all years except FY01, and in that year the difference is very close. The net difference over the period (FY99 - FY03) when all credits will be amortized, is positive by a significant amount (approximately \$2.5 million).