FISCAL NOTE

Bill #: SB0348 **Title:** Increase video gambling tax for residential property tax relief tax credit

Primary Sponsor: Toole, K **Status:** As Introduced

Sponsor signature	Date	David Ewer, Budget Director	Date

Fiscal Summary

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
General Fund	$0	$75,357
State Special Revenue	$0	$39,428,586
Revenue:		
General Fund	($915,709)	($955,614)
State Special Revenue	$39,081,426	$40,855,712
Net Impact on General Fund Balance:	($915,709)	($1,030,971)

☒	Significant Local Gov. Impact	☒	Technical Concerns
☐	Included in the Executive Budget	☒	Significant Long-Term Impacts
☐	Dedicated Revenue Form Attached	☒	Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. The proposal provides for three significant changes:
   i. Increasing the video gaming tax from 15% to 30% of gross income on those establishments with more than 5 machines on the premises.
   ii. Provides for an income tax credit for owner-occupied residential property owners based on video gaming revenue increases.
   iii. Changes the allocation of video gaming gross income taxes. Under current law the general fund receives 100% of video gaming gross income taxes. Under the proposal, the tax on machines owned by establishments with 5 or less machines is deposited 100% to the general fund, while the tax on those establishments with more than 5 machines is deposited 50% to the general fund and 50% to a special revenue account for property tax relief.

Video Gaming Revenue

2. For purposes of this fiscal note, the Department of Justice (DOJ) Gambling Control Division assumes that establishments that currently license from 6 to 16 machines will remove all but 5 machines.

3. It is estimated that approximately 2,893 fewer video gambling machine permits will be issued under the proposal. When a permit is issued, an annual fee of $220 is paid, along with an additional $10 annual surcharge fee for machines located on premises with fewer than 20 machines, or $20 for machines that are located on premises with 20 or more machines.
4. The $10, or $20 annual surcharge fee is deposited to the state general fund.
5. Per assumptions #2 and #3, the machines being removed are currently paying the $10 surcharge fee. With 2,893 fewer machines paying the $10 surcharge, it is projected that the general fund revenue from surcharge fees would decrease by $28,930.
6. The $220 annual surcharge is split $120 to the state special revenue fund for administration of gaming, and the remainder is returned to the local government where the machine is located.
7. With 2,893 fewer machines receiving permits, it is estimated that the state special revenue account will be reduced by $347,160 (2,893 x $120) per year.
8. DOJ assumes that while operators with 6 to 16 machines will drop all but 5 machines each, they will only lose about 10% of their gross revenue. It is assumed that there will be times when locations in this category will not have enough machines for every customer.
9. In FY 2004, reported gross income and taxes paid from locations that will decrease from between 6 and 16 machines, to 5 machines will decrease by 10%, or $812,050.
10. It is projected the gross video gaming income will grow by approximately 4.5% per year.
11. Using the 4.5% growth rate on taxes paid from locations decreasing the number of machines on premises to 5 machines; yields a decrease in general fund revenue of $886,779 ($812,050 x 104.5% ^ 2) in FY 2006, and $926,684 ($886,779 x 104.5%) in FY 2007.
12. In FY 2004, gross income reported by those establishments with 17 or more (up to 20) machines was $240,706,247; the estimated tax at the current rate of 15% is $36,105,937 ($240,706,247 x 15%).
13. It is estimated that the bill will not affect the number of machines licensed, or gross income reported by those establishments with 17 or more machines. It is anticipated that since gross income will not be affected, but the tax is effectively doubled from 15% to 30%, that revenue received from this group would also double.
14. Using the abovementioned 4.5% growth rate in assumption #10, the proposal would generate an additional $39,428,586 ($36,105,937 x 104.5% ^2) in FY 2006, and $41,202,872 ($39,428,586 x 104.5%) in FY 2007.
15. Under the proposal, estimated video gaming income revenues from establishments with more than 5 machines is estimated to be $78,857,172 ($39,428,586 + $39,428,586) in FY 2006 and $82,405,744 ($41,202,872 + $41,202,872) in FY 2007.
16. Under SB 348, gross machine income tax revenue received from establishments with more than 5 machines is distributed 50% to the general fund, and 50% to a special revenue account for property tax relief. Each account would receive an estimated $39,428,586 in FY 2006, and $41,202,872 in FY 2007.
17. Per assumption #13, since the tax is doubled on establishments with 5 or more machines, the reduction in allocation percentage to the general fund from 100% to 50% will not reduce revenues received from establishments with 17 or more machines.
18. However, per assumption #2, the general fund will lose revenues associated with those establishments reducing the number of machines on the premises to 5 machines.
19. Under the proposal, because the absolute number of machines is reduced, the general fund revenue would be *reduced* by $915,709 ($28,930 in surcharge fees + $886,779 in gross machine income tax) in FY 2006, and $955,614 ($28,930 in surcharge fees + $926,684 in gross machine income tax) in FY 2007.

Property Tax Relief

20. This bill would provide an income tax credit to individuals who are owner-occupiers of a single-family or multiple unit dwelling, or who rent a single or multi-residential dwelling for at least 180 days a year and who filed a tax return in the previous year.
21. Information on the number of owner-occupiers of a single-family or multiple-unit dwelling or who rent a single or multi-residential dwelling for at least 180 days a year is not currently captured by the Department of Revenue (DOR) in its tax systems.
22. For purposes of calculating this fiscal note, data from the Housing Census was used. Between April 1, 2000 to July 1, 2003, the number of housing units in Montana grew by an average annual rate of 0.57% a year.

	2000	**2001**	**2002**	**2003**	**Average Annual Growth**
Estimated Total Housing Units in Montana	412,633	415,362	417,106	419,726	
Annual Growth Rate		0.66%	0.42%	0.63%	0.57%

23. Figures from the 2003 American Community Survey indicate that of the estimated 419,726 housing units (includes single and multi-family dwellings), 365,680 (87%) were occupied and 54,046 (13%) were vacant. The vacant category includes housing units for seasonal, recreational, or occasional use.
24. Data on the length of time housing occupants reside in Montana is not available, so this fiscal note assumes all housing unit occupants reside in Montana for more than 180 days. Data is also not available on the number of housing units occupied by individuals who file income taxes. For purposes of this fiscal note estimate, it is assumed that all occupants file.
25. Using the 0.57% growth rate, projected housing units would be 426,942 in calendar year 2006, and 429,374 in calendar year 2007. Using the 2003 occupancy rate of 87%, projected occupied housing units would be 371,439 (426,942 X 87%) in calendar year 2006, and 373,556 (429,374 X 87%) in calendar 2007.
26. This bill is effective July 1, 2005, which is the start of fiscal year 2006. Under Section 1(3)(a), at the end of each year, DOR will calculate the amount available for the property tax relief income tax credit. Since the amount for the first year would not be calculated until the end of FY 2006, no credits will be paid in the first year of the program. The amount of video gaming revenue deposited to the state special account for property tax relief in FY 2006 will be the basis for FY 2007 credits, and transfer to the general fund.
27. As this bill provides no direction as to how credits are claimed by qualifying individuals, it is assumed that DOR would communicate the amount of credit available to qualifying taxpayers, and a process whereby taxpayers would submit a form making claim to the credit would be established. It is likely that not all eligible claimants will actually apply for and receive the credit; however, for purposes of the fiscal note it is assumed that all credits are claimed (see technical notes #2, #3, and #4).
28. The average estimated credit is found by dividing the estimated additional gaming revenue deposited into the new special revenue account for property tax relief of $39,428,586 in FY 2006, and $41,202,872 by the estimated number of occupied housing units (see technical note #1).
29. In FY 2006 the average credit per occupied housing unit is estimated to be $106 ($39,428,586 ÷ 371,439).
30. In FY 2007 the average credit per occupied housing unit is estimated to be $110 ($41,202,872 ÷ 373,556).

Administrative Costs

31. Department of Justice (DOJ) Gambling Control Division assumes it will be able to administer the video gaming provisions of this bill without additional staff or expenditures.
32. The Department of Revenue (DOR) estimates an additional 2.00 FTE, grade 13, auditor positions would be needed to effectively audit and ensure compliance with the provisions of this bill. Administrative expenditures totaling $75,357 in FY 2007 are detailed below in the fiscal impacts sections.

FISCAL IMPACT:

Department of Revenue

	FY 2006 Difference	FY 2007 Difference
FTE	0.00	2.00
Expenditures:		
Personal Services	0	55,829
Operating Expenses	0	7,928
Equipment	0	11,600
Transfer (to General Fund)	0	39,428,586
TOTAL	$0	$39,503,943
Funding of Expenditures:		
General Fund (01)	0	75,357
State Special Revenue – Transfer to General Fund	0	$39,428,586
TOTAL	$0	$39,503,943
Revenues:		
General Fund (01)	($915,709)	($955,614)
State Special Revenue – Property Tax Relief	$39,428,586	$41,202,872
State Special Revenue – Gaming Adm.	($347,160)	($347,160)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	($915,709)	($1,030,971)
State Special Revenue – Property Tax Relief	$39,428,586	$1,774,286
State Special Revenue – Gaming Adm.	($347,160)	($347,160)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The $220 annual surcharge is split $120 to the state special revenue fund for administration of gaming, and the remaining $100 is returned to the local government where the machine is located. With 2,893 fewer machines receiving permits, it is estimated that local governments would receive $289,300 (2,893 x $120) less revenue per year.

TECHNICAL NOTES:

1. In Section 1, subsection (3)(a), it is not clear how the calculation would be made in reference to transfers to the general fund under subsection (3)(b), or what the intent of this section is in relation to the credit

calculation. Section (3)(a) states that the calculation is to divide the ending fund balance in the property tax relief account, *less the estimated transfer under (3)(b)*, by the number of dwellings. Section 1 (3)(b) seems to transfer all the money out of the account each *quarter*. This would leave no money left in the account, so every other year, the amount of credits to be taken would be $0 – then in the next year, no amounts would be subtracted from the calculation in section 1 (3)(a), and the transfer would effectively double. The calculation and transfer portions of these sections should be clarified.

2. In Section 1, subsection (3)(a), it is not clear what is meant by the phrase "taxpayers who filed income tax returns the previous year". First, the term "previous year" needs to be clarified. Does this mean the previous tax year, or the previous fiscal year? Presumably, it means taxpayers who filed income tax returns *for the previous tax year*, and not *during the previous tax year*, but this is not clear. Income tax liabilities are established for a specific tax year, generally the calendar year, and the Department of Revenue maintains a database of all taxpayers who file *for* a specific tax year. It would be extremely difficult to determine the number of taxpayers who filed either *during* a tax year or *during* a fiscal year. Further, the term "tax return" should be clarified. Every year the vast majority of tax returns filed are "current year" returns that apply to the current (most recent) tax year; but many taxpayers also file amended returns for the previous year, or a prior year return for past tax years. Presumably, the intent is to provide a credit for just returns filed for the current year, and not for amended or prior year returns, but this should be clarified.
3. Subsection (3)(a) requires the department to calculate the amount of the property tax relief income tax credit. Once that is done, there is no direction as to what happens next. How do taxpayers find out that the credit exists? How do they know how much it is?
4. Subsection (3)(b) provides that within 30 days after the end of each fiscal quarter, the department shall transfer from the property tax relief account to the state general fund an amount equal to the amount of credits claimed in the prior fiscal *quarter*. However, there is no mention in the bill of how taxpayers will actually apply for and receive a credit. Without direction as to how the program will work, there is no means of accurately determining the fiscal impact of this bill. What is the process by which a taxpayer obtains the credit? Subsection (1) indicates that this would be a credit against the taxpayer's individual income tax. Most programs of this nature provide for obtaining a credit at the time an individual income tax return is filed, but the language in the bill implies that there is some process by which taxpayers could claim a credit at any point in time, but, again, there is no mention of what this process might be. Also, if the credit is against individual income tax, is the credit of a refundable or nonrefundable nature?
5. It is likely that not all taxpayers eligible for the credit provided for in this bill will actually apply for and receive the credit. In that event, it is likely that the state special revenue account into which the additional gambling revenues are deposited will experience a growing surplus. Language should be added to provide for the disposition of this surplus. For example, surplus amounts in excess of actual credits claimed could periodically revert to the state general fund.