

SENATE BILL NO. 15

INTRODUCED BY D. WANZENRIED

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING DISCLOSURE OF INFORMATION RELATED TO A TAXPAYER'S RETURNS OR REPORTS TO THE TAXPAYER'S SPOUSE IF THE SPOUSE IS A MARRIED TAXPAYER FILING SEPARATELY ON THE SAME RETURN; AMENDING SECTIONS 15-30-2618 AND 53-2-211, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-30-2618, MCA, is amended to read:

"15-30-2618. Confidentiality of tax records. (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections ~~(7)~~ (8) and ~~(8)~~ (9) of this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

(a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return or report filed in connection with the taxpayer's tax;



1 (b) the publication of statistics classified to prevent the identification of particular reports or returns and
2 the items of particular reports or returns; or

3 (c) the inspection by the attorney general or other legal representative of the state of the report or return
4 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom
5 an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

6 (4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to
7 the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing
8 separately on the same return. The information being provided to the spouse or reported on the return, including
9 subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and
10 the taxpayer filed the return using a joint filing status for that tax year.

11 ~~(4)~~(5) Reports and returns must be preserved for at least 3 years and may be preserved until the
12 department orders them to be destroyed.

13 ~~(5)~~(6) Any offense against subsections (1) through ~~(4)~~ (5) is punishable by a fine not exceeding \$500.
14 If the offender is an officer or employee of the state, the offender must be dismissed from office or employment
15 and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in
16 the case of a former officer or employee, for 1 year after conviction.

17 ~~(6)~~(7) This section may not be construed to prohibit the department from providing taxpayer return
18 information and information from employers' payroll withholding reports to:

19 (a) the department of labor and industry to be used for the purpose of investigation and prevention of
20 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

21 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,
22 and abuse under the workers' compensation program.

23 ~~(7)~~(8) The department may permit the commissioner of internal revenue of the United States or the
24 proper officer of any state imposing a tax upon the incomes of individuals or the authorized representative of
25 either officer to inspect the return of income of any individual or may furnish to the officer or an authorized
26 representative an abstract of the return of income of any individual or supply the officer with information
27 concerning an item of income contained in a return or disclosed by the report of an investigation of the income
28 or return of income of an individual, but the permission may be granted or information furnished only if the statutes
29 of the United States or of the other state grant substantially similar privileges to the proper officer of this state
30 charged with the administration of this chapter.

- 1 ~~(f)~~(9) On written request to the director or a designee of the director, the department shall furnish:
- 2 (a) to the department of justice all information necessary to identify those persons qualifying for the
- 3 additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of
- 4 justice to administer the provisions of 61-5-105;
- 5 (b) to the department of public health and human services information acquired under 15-30-2616,
- 6 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public
- 7 assistance fraud and abuse, provided notice to the applicant has been given;
- 8 (c) to the department of labor and industry for the purpose of prevention and detection of fraud and
- 9 abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs
- 10 information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and
- 11 industry is an employee, an independent contractor, or self-employed;
- 12 (d) to the department of fish, wildlife, and parks specific information that is available from income tax
- 13 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and
- 14 fishing licenses;
- 15 (e) to the board of regents information required under 20-26-1111;
- 16 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax
- 17 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget
- 18 and program planning must be the same as the information provided to the legislative fiscal analyst.
- 19 (g) to the department of transportation farm income information based on the most recent income tax
- 20 return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the
- 21 applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department
- 22 of transportation is subject to the same restrictions on disclosure as are individual income tax returns.
- 23 (h) to the commissioner of insurance's office all information necessary for the administration of the small
- 24 business health insurance tax credit provided for in Title 33, chapter 22, part 20."

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26 **Section 2.** Section 53-2-211, MCA, is amended to read:

27 **"53-2-211. Department to share eligibility data.** (1) The department shall make available to the

28 unemployment compensation program of the department of labor and industry all information contained in its files

29 and records pertaining to eligibility of persons for medicaid, financial assistance and nonfinancial assistance, as

30 defined in 53-2-902, and food stamps. The information made available must include information on the amount

1 and source of an applicant's income. The information received from the department must be used by the
2 department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the
3 unemployment compensation program of the state and for no other purpose.

4 (2) The department shall make available to the unemployment compensation and workers' compensation
5 programs of the department of labor and industry all information contained in its files and records pertaining to
6 eligibility of persons for low-income energy assistance and weatherization. The information made available must
7 include information on the amount and source of an applicant's income. The information received from the
8 department must be used by the department of labor and industry for the purpose of determining fraud, abuse,
9 or eligibility for benefits under the unemployment compensation and workers' compensation programs of the state
10 and for no other purpose.

11 (3) (a) Subject to federal restrictions, the department may request information from the department of
12 labor and industry pertaining to unemployment, workers' compensation, and occupational disease benefits. If the
13 department of labor and industry discovers evidence relating to fraud or abuse for unemployment, workers'
14 compensation, or occupational benefits, the department of labor and industry may request information from the
15 department of revenue pertaining to income as provided in 15-30-2618~~(b)(e)~~(9)(c).

16 (b) The information must be used by the department for the purpose of determining fraud, abuse, or
17 eligibility for benefits.

18 (4) The department may, to the extent permitted by federal law, make available to an agency of the state
19 or to any other organization information contained in its files and records pertaining to the eligibility of persons
20 for medicaid, financial assistance and nonfinancial assistance, as defined in 53-2-902, food stamps, low-income
21 energy assistance, weatherization, or other public assistance."
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23 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the
24 meaning of 1-2-109, to tax years beginning after December 31, 2012.

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