

SENATE BILL NO. 51

INTRODUCED BY DICK BARRETT

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF REVENUE TO SHARE INFORMATION RELATED TO DEBT OFFSET OR COLLECTION WITH THE DEPARTMENT OF COMMERCE; AMENDING SECTIONS 15-30-2618 AND 90-1-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE 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 (8) and (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 (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 (6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the  
14 offender is an officer or employee of the state, the offender must be dismissed from office or employment and  
15 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the  
16 case of a former officer or employee, for 1 year after conviction.

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

- 1 (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; and
- 25 (i) to the department of commerce tax information about a taxpayer whose debt is assigned to the
- 26 department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information
- 27 provided to the department of commerce must be used for the purposes of preventing and detecting fraud or
- 28 abuse and determining eligibility for grants or loans."

29

30 **Section 2.** Section 90-1-113, MCA, is amended to read:

1           **"90-1-113. Cooperation of state agencies.** (1) State agencies that have economic development  
2 responsibilities shall cooperate with the office of economic development and provide information, technical  
3 expertise, and other assistance when requested by the office of economic development.

4           (2) On written request to the director of revenue or a designee of the director, the department of revenue  
5 shall furnish to the department of commerce information about debt assigned to the department of revenue for  
6 offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information provided to the department  
7 of commerce must be used for the purposes of preventing and detecting fraud or abuse and determining  
8 eligibility for grants or loans."

9

10           NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

11

- END -