

1 SENATE BILL NO. 51

2 INTRODUCED BY DICK BARRETT

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF REVENUE TO SHARE
6 INFORMATION RELATED TO DEBT OFFSET OR COLLECTION WITH THE DEPARTMENT OF COMMERCE;
7 AMENDING SECTIONS 15-30-2618, 15-31-511, AND 90-1-113, MCA; AND PROVIDING AN IMMEDIATE
8 EFFECTIVE DATE."

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

11

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

13 **"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,
14 and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided
15 by law, it is unlawful to divulge or make known in any manner:

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

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

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

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

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

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

28 (3) This section does not prohibit:

29 (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return
30 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."

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30 **SECTION 2. SECTION 15-31-511, MCA, IS AMENDED TO READ:**

1 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with
2 a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:
3 (a) the amount of income or any particulars set forth or disclosed in any return or report required under
4 this chapter or any other information relating to taxation secured in the administration of this chapter; or
5 (b) any federal return or information in or disclosed on a federal return or report required by law or rule
6 of the department under this chapter.

7 (2) (a) An officer or employee charged with custody of returns and reports required by this chapter may
8 not be ordered to produce any of them or evidence of anything contained in them in any administrative
9 proceeding or action or proceeding in any court, except:
10 (i) in an action or proceeding in which the department is a party under the provisions of this chapter; or
11 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of
12 this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.
13 (b) If the production of a return, report, or information contained in them is ordered, the court shall limit
14 production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the
15 action or proceeding.

16 (3) This section does not prohibit:
17 (a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer
18 who filed the return or report or to the taxpayer's authorized representative;
19 (b) the publication of statistics prepared in a manner that prevents the identification of particular returns,
20 reports, or items from returns or reports;
21 (c) the inspection of returns and reports by the attorney general or other legal representative of the state
22 in the course of an administrative proceeding or litigation under this chapter;
23 (d) access to information under subsection (4);
24 (e) the director of revenue from permitting a representative of the commissioner of internal revenue of
25 the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer
26 to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of
27 income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an
28 investigation of the income or return of a corporation. The director of revenue may not furnish that information
29 to a person representing the United States or another state unless the United States or the other state grants
30 substantially similar privileges to an officer of this state charged with the administration of this chapter.

1 (f) the disclosure of information to the commissioner of insurance's office that is necessary for the
2 administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20.

3 (4) On written request to the director or a designee of the director, the department shall:

4 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to
5 the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection
6 (1); ~~and~~

7 (b) provide corporate income tax and alternative corporate income tax information, including any
8 information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided
9 in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111.
10 The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject
11 to the same restrictions on disclosure outside those offices as provided in subsection (1); and

12 (c) provide to the department of commerce tax information about a taxpayer whose debt is assigned to
13 the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The
14 information provided to the department of commerce must be used for the purposes of preventing and detecting
15 fraud or abuse and determining eligibility for grants or loans.

16 (5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or
17 public employee is convicted of violating this section, the person is dismissed from office or employment and may
18 not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case
19 of a former officer or employee, for 1 year after conviction."
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21 **Section 3.** Section 90-1-113, MCA, is amended to read:

22 **"90-1-113. Cooperation of state agencies.** (1) State agencies that have economic development
23 responsibilities shall cooperate with the office of economic development and provide information, technical
24 expertise, and other assistance when requested by the office of economic development.

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