



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill #	SB0190	Title:	Establish valid tip pool agreements
Primary Sponsor:	Gauthier, Terry	Status:	As Introduced

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: SB 190 creates regulations regarding the distribution of tips. There is no fiscal impact to the state.

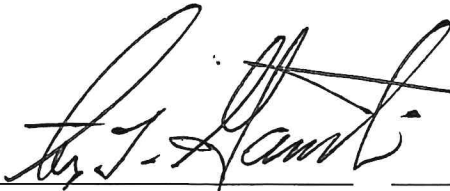
FISCAL ANALYSIS

Technical Notes:

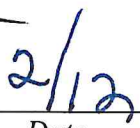
Department of Labor & Industry

1. The new section added in SB 190 does not provide for any enforcement, regulatory, or rulemaking method. The legislation is sought to be included in Title 39, Chapter 3, Part 6 of the Code. That Part was repealed in 1991. Because of the repealer, neither the Department of Labor & Industry nor any other agency may directly enforce its provisions.
2. The new section conflicts with the Wage Payment Act (Title 39, Chapter 3, Part 2) and the Minimum Wage and Overtime Act (Title 39, Chapter 3, Part 2). The legislation seeks to create new a definition of employer distinct from those present in those Parts. Further, these laws presently provide that tips, as wages, are immediately owned and controlled by the employee who receives them. By giving employers the option to create a mandatory tip pool, employers are given the right to control employee wages. By contrast, *see* Admin. R. Mont. 24.16.1508, setting forth current, voluntary tip pool requirements.

3. The new section is ambiguous as to its applicability. While it appears clear that it applies in the restaurant industry due to the codification location and Section 1(2), it does not appear to be limited to that applicability.



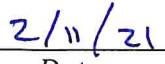
Sponsor's Initials



Date



Budget Director's Initials



Date