

MINUTES OF THE MEETING OF THE HOUSE TAXATION COMMITTEE  
March 4, 1983

The meeting was called to order at 8:00 a.m. by Chairman Yardley. Roll call was taken and all committee members were present except Representatives Harp, Harrington, Keenan, and Neuman, who were excused. Representatives Harrington, Keenan and Neuman came into the meeting later.

Testimony was heard on SB 163, SB 189, HB 841 and HB 866.

Executive action was taken on HB 160, HB 599, HB 631, HB 713, HB 723, HB 735, HB 753, HB 866, SB 73, SB 110, SB 163 and SB 189.

HOUSE BILL 866

REPRESENTATIVE WALTER SALES, District 79, sponsor of the bill, asked the committee to table HB 866. House Bill 866 is an act to provide for a sale by advertisement of property in county rural improvement districts and city special improvement districts in lieu of a tax sale on such properties when assessments become delinquent. Representative Sales said the bill was intended to be a vehicle by which counties, cities and towns could accelerate the collection of delinquent taxes on special improvement districts and rural improvement districts. The bill does not do what it was intended to do. He said if he has an opportunity to work out the problems with the bill in the next couple of weeks, he will bring something back to this committee.

The hearing was closed on HB 866.

SENATE BILL 189

SENATOR CHET BLAYLOCK, District 35, sponsor of the bill, said SB 189 is an act to generally revise and clarify the light vehicle fee statutes; to provide that the amount of the fee for light vehicles be a whole dollar amount; to clarify the fee category that applies to 8-year-old vehicles; and to provide clarification of light vehicles eligible for reimbursement. Senate Bill 189 was introduced to clear up problems that arose in the counties on the flat fee licensing system. This bill will allow the county officials to round the amount charged per vehicle to the nearest dollar amount.

Proponents

ELLEN FEAVER, Director of the Department of Revenue, said the county commissioners and treasurers have complained about the

extra work caused by not rounding off the amounts to the nearest dollar amount. As the statutes read now, literally, the 8-year-old cars do not have to pay a fee at all. This bill fixes that problem. She said the bill also states that in order to be eligible for reimbursement payment, a light vehicle might be such that it would have been subject to ad valorem tax if it had been registered prior to January 1, 1982.

There were no opponents testifying on SB 189.

SENATOR BLAYLOCK closed his presentation on SB 189.

The hearing was closed on SB 189.

#### SENATE BILL 163

SENATOR FRED VAN VALKENBURG, District 50, sponsor of the bill, said SB 163 is an act raising the public contract value limit for exemption from license fees; and raising the public contract value limit in defining a public contractor. Senator Van Valkenburg said the bill raises the limit that is the minimum amount considered as a public contract from \$1,000 to \$5,000. The bill was introduced upon request of the Missoula County commissioners. Senator Van Valkenburg said when this bill was heard in the Senate, there was no opposition from contractors or the Department of Revenue.

#### Proponents

ELLEN FEAVER, Director of the Department of Revenue, said SB 163 is a good bill that will lower the hassle level of local government.

BILL OLSON, representing the Montana Contractors Association, said as long as those agencies go to competitive bids, the association he represents has no problem with the bill.

There were no opponents testifying on SB 163.

SENATOR VAN VALKENBURG closed his presentation on SB 163.

The hearing was closed on SB 163.

#### HOUSE BILL 841

REPRESENTATIVE JERRY DRISCOLL, District 69, sponsor of the bill, said HB 841 is an act to exempt tips from Montana income tax liability. The federal law that was passed, said 8% of the gross of restaurants shall be tips and shall be reported as income.

REPRESENTATIVE DRISCOLL said the fiscal note for this bill is

based on 5% being the average tax rate. In order to get to 5%, a waitress would have to have a taxable income of \$7,000 per year. The average income of waitresses/waiters is \$5,000 per year. Therefore, Representative Driscoll said he believes the fiscal note is incorrect.

REPRESENTATIVE KEENAN was present at the meeting at this time.

### Proponents

NADIEAN JENSEN, representing the Montana State AFL-CIO, said they support HB 841. She said tipped employees already pay a federal tax on tips, and new regulations of the I.R.S. have created a great amount of misunderstanding. The I.R.S. gave employers the impression that they had to withhold an amount equaling 8% of their gross sales, from the paychecks of waiters and waitresses. What happened was that for some employees, the employer withheld the amount of their entire paycheck. Some even ended up owing the employer, even though their tips had not equaled the stated amount. Now the I.R.S. says that employers are not required to withhold 8% of the total food and drink served by an employee, but only to note it on the employee's W-2 form at the end of the year. But there is still a lot of confusion, and employees will have to keep detailed daily records of the tips they earn, or they will have to pay 8%. The people this bill would most affect are waitresses. They are barely able to exist on the low wages which they receive. Many of them make very minimal tips. With over 40,000 people unemployed in this state, and most of the rest of us feeling the financial crunch of the economic recession, most people who eat out are leaving much smaller tips than they might like to. For the most part, the Montana State AFL-CIO opposes tax breaks, at least to industries like the oil and gas industry. But for these low-paid workers, we believe this break is a fair and just one. She asked this committee to vote for HB 841.

FRANK SULLIVAN, president and business representative of Hotel Employees and Restaurant Employees Local 457, AFL-CIO, Butte, Montana, read a prepared statement in support of HB 841. He said he is also testifying on behalf of the state Culinary and Bartenders Alliance of Montana. He said they support this bill because it gives some much needed assistance to some of the lowest paid workers in this state. Most of the tipped employees in Montana are waitresses. If they are union waitresses, they make \$3.35 per hour. That is not much, but it is still better than the minimum wage level of many non-union waitresses who make only \$2.75 per hour. Most of these waitresses are women, many of whom are single parents and the sole support of their families. Their low hourly wage is supplemented to some degree by the tips which they receive. But of course, tips are voluntary

gratuities, not a set rate, which they can depend on. The amount in tips they make depends on what kind of establishment they work in, what shift, and what days they work. Many of them are now working reduced hours, because of the economic recession. And, because everyone is struggling to make ends meet, many of those who are tipped employees find they are getting fewer and smaller tips. This bill will help hard-working, low-paid workers who really need the assistance. He asked for this committee to vote for HB 841.

SANDI OTTEN, employed by Jorgenson's Restaurant, spoke in support of HB 841. She gave examples of waitresses getting 2% tips but yet the federal government wants to tax on an 8% basis.

CELINDA LAKE, representing the Women's Lobbyist Fund, said federal income tax law has changed to require restaurants to report at least 8% of their gross sales as estimated tips. Montana income tax laws have traditionally followed the federal. However, this change in the law does not give enough consideration to tip differences depending on location, shift and type of restaurant. Women are particularly likely to work in restaurants where they earn less than 8% of the gross in tips. They will be taxed for income they do not make. Many waitresses are also single parent heads of households, displaced homemakers newly returned to the job market, and older women who are single heads of households. These women are currently now eligible for additional economic assistance. If their incomes are overestimated, that may remove their eligibility and rather than gaining money for the state, there will be a disincentive to work. The Women's Lobbyist Fund encourages the passage of HB 841 which they believe more accurately reflects the economic reality of Montana.

REPRESENTATIVE BOB DOZIER, District 61, said the new federal law is causing problems. He said the fiscal note is a joke. He said the statement, "It is assumed that the new IRS withholding of tip income will result in the reporting of 8% of the retail sales. The IRS estimates an average tip of 14% for the mountain states. The difference is assumed unreported to the Department." accuses employees of lying about their income. The fact is the amount earned in tips is reported but the employees just did not get as much in tips as the Department of Revenue expected. Representative Dozier said it is bad to charge taxes on assumed income. He said we cannot change federal law so we are trying to get some justice with HB 841.

EUGENIA COLLINS, representing Hotel and Restaurant Employees #56, in Billings, said with the new federal law, management and labor are on the same side of the fence for once. She asked the committee to support HB 841.

ELLEN FEAVER said she was appearing as neither an opponent nor a proponent. She said HB 841 deals only with income tax, not with

withholding tax. If HB 841 passes, this committee should also amend Section 15-30-202, which deals with withholding. She offered to prepare some amendments for the committee.

There were no opponents testifying on HB 841.

REPRESENTATIVE DRISCOLL, in closing, said even though this state is in trouble, budgetwise, we should not try to balance the budget at the waitresses' expense.

Questions from the committee were heard at this time.

REPRESENTATIVE WILLIAMS said there are some restaurants that charge 15% onto the bill for tips. Is that amount shown on the employee's record? Representative Driscoll said the W-2 form shows wages received and tips received.

REPRESENTATIVE NEUMAN asked what the average percentage of tips received is. Sandy Otten said the average tip at the restaurant she works at is between 5% and 10%.

CHAIRMAN YARDLEY asked if this type of bill wouldn't be unfair to janitors who make the minimum wage but have to claim all their income. Representative Driscoll said we are not exempting waitresses' income, just the tips. Janitors do not receive tips.

The hearing on HB 841 was closed.

At this time, Chairman Yardley called the meeting into Executive Session.

#### EXECUTIVE SESSION

CHAIRMAN YARDLEY passed out copies of a fact sheet on the new tip reporting requirements from the IRS. He said the representative from the IRS said she could not lobby but wanted the members of this committee to have the fact sheet. (See EXHIBIT 1.)

CHAIRMAN YARDLEY passed out copies of information prepared by Jim Oppedahl, legislative researcher from the Legislative Council, which shows the fiscal impacts of the bills left in committee to have action taken on. (See EXHIBIT 2.)

REPRESENTATIVE HARRINGTON was present at the meeting at this time.

#### House Bill 713

REPRESENTATIVE SWITZER moved HB 713 DO NOT PASS.

REPRESENTATIVE DOZIER said there was an amendment offered to

have HB 713 include just the weatherization program. He said the weatherization program pays off. It is cheaper to buy back gas from the user than it is to find natural gas in Montana.

REPRESENTATIVE NEUMAN said only 60% of the houses in the state are heated with natural gas. Only half of the people using natural gas subsidize everyone else using natural gas..

The motion was voted on and PASSED. All committee members voted yes except Representatives Keenan, Dozier, Nilson, Harrington, and Ream, who voted no. Representative Harp was excused.

#### House Bill 735

REPRESENTATIVE DOZIER moved HB 735 DO NOT PASS. He said anyone who listened to the testimony realized this is an unworkable solution. The bill does not do what it was intended to do.

The motion was voted on and PASSED unanimously. Representative Harp was excused.

#### House Bill 747

CHAIRMAN YARDLEY passed out copies of offered amendments to HB 747. (See EXHIBIT 3.)

REPRESENTATIVE DOZIER asked if we are creating a problem by taxing another federal agency. Chairman Yardley said this bill would tax the users.

REPRESENTATIVE ASAY said the people east of Townsend pay taxes on the power line now. The people west of Townsend do not. There is a certain amount of equity to tax all users.

REPRESENTATIVE DOZIER said this bill is so broad. We are taxing every person who is a beneficial user of a tax exempt company.

ELLEN FEAVER said HB 747 is limited to centrally assessed property. She said privilege taxes are assessed now, in part, on leased property. On any Indian reservation, there are buildings that non-Indians use to practice medicine, law, etc. Because the building is a tribal building, the tribe does not pay taxes on the building but the user of the building has to pay beneficial use taxes.

REPRESENTATIVE BERTELSEN said if we do not establish this process, anyone who wants to build something in the state could talk the federal government into building it and then Montana would receive no taxes from what was built.

REPRESENTATIVE VINGER asked if this bill was going to be amended to include only 500KV and larger. Chairman Yardley said that is

not included in the offered amendments. Ms. Feaver said the department could look into that if this committee wants to delay action on the bill.

REPRESENTATIVE WILLIAMS said he has trouble with the overall scope of the bill. He is concerned with what will happen if the bill passes.

CHAIRMAN YARDLEY said Montana Power Company is paying a huge property tax now on the line which means the consumers are actually paying for that property tax through increases in power rates.

CHAIRMAN YARDLEY asked the Department of Revenue to provide this committee with information as to what Montana statute this bill applies to, if the bill passes.

CHAIRMAN YARDLEY said this committee will hold off on acting on this bill today.

#### House Bill 753

REPRESENTATIVE DOZIER moved HB 753 DO PASS.

REPRESENTATIVE ASAY asked if this bill includes businesses that duplicate existing businesses or if the bill applies just to new businesses.

REPRESENTATIVE NORDTVEDT said he opposes the bill. Upfront subsidies are not the way to create new business climates.

REPRESENTATIVE WILLIAMS asked how fair this bill is to existing businesses. This bill favors new businesses over existing businesses.

The motion was voted on and FAILED. All committee members voted no. Representative Harp was excused.

REPRESENTATIVE BERTELSEN moved HB 753 DO NOT PASS.

The motion was voted on and PASSED. All committee members voted yes except Representative Jacobsen, who voted no. Representative Harp was excused.

#### House Bill 841

REPRESENTATIVE ASAY moved HB 841 DO PASS.

CHAIRMAN YARDLEY asked if the committee wanted to wait to vote on this bill until the amendments were received (concerning the withholding). The committee said they would like to wait. Chairman Yardley asked Ms. Feaver to prepare those amendments.

House Bill 858

REPRESENTATIVE VINGER moved HB 858 DO PASS.

REPRESENTATIVE ASAY asked if this committee could look at changing the percentage withheld from the face value of the insignia.

REPRESENTATIVE NORDTVEDT said that is a cost of doing business. Why should the government absorb that cost?

REPRESENTATIVE ASAY asked if the wholesalers have to buy the equipment to affix the stamps. Representative Bertelsen said yes.

REPRESENTATIVE REAM said testimony on HB 511 alluded to the fact that HB 511 would have an effect on HB 858. The 3% would be raised if HB 511 passes.

REPRESENTATIVE NORDTVEDT made a substitute motion that HB 858 DO NOT PASS.

A roll call vote was taken on the motion. The motion FAILED because of a tie vote. All committee members voted yes except Representatives Abrams, Asay, Devlin, Harrington, Jacobsen, Nilson, Underdal, Vinger and Zabrocki, who voted no. Representative Harp was excused.

REPRESENTATIVE DEVLIN proposed an amendment to have the percentage on a graduated scale. The percentages would be 6% on the first 30,000 cartons sold, 5% on the next 30,000 cartons sold and 4% over 60,000 cartons sold. He moved the amendments.

REPRESENTATIVE WILLIAMS asked if there would be any problems administering a graduated scale. Ms. Feaver said no.

REPRESENTATIVE ASAY said he thought the equipment should be provided by the state since the wholesalers are providing a service for the state.

The motion on the amendments was voted on and FAILED because of a tie vote. All committee members voted yes except Representatives Asay, Bertelsen, Keenan, Neuman, Nordtvedt, Ream, Switzer, Williams and Yardley.

REPRESENTATIVE NILSON moved to pass action on HB 858 for the day.

The motion was voted on and PASSED unanimously. Representative Harp was excused.

House Bill 866

REPRESENTATIVE JACOBSEN moved to TABLE HB 866.

The motion was voted on and PASSED unanimously.



House Bill 723

REPRESENTATIVE KEENAN moved to TABLE HB 723.

The motion was voted on and PASSED. All committee members voted yes except Representatives Dozier, Jacobsen, Nordtvedt, Ream, Switzer and Vinger, who voted no. Representative Harp was excused.

Senate Bill 73

REPRESENTATIVE DOZIER moved SB 73 BE CONCURRED IN. All SB 73 does is to authorize the withholding on income of National Guard reserve people.

The motion was voted on and PASSED. All committee members voted yes except Representative Switzer, who voted no. Representative Harp was excused.

CHAIRMAN YARDLEY appointed Representative Dozier to carry SB 73 on the floor of the House.

Senate Bill 110

REPRESENTATIVE NORDTVEDT moved SB 110 BE CONCURRED IN.

The motion was voted on and PASSED unanimously. Representative Harp was excused.

CHAIRMAN YARDLEY appointed Representative Nordtvedt to carry SB 110 on the floor of the House.

Senate Bill 163

REPRESENTATIVE ASAY moved SB 163 BE CONCURRED IN.

The motion was voted on and PASSED unanimously. Representative Harp was excused.

CHAIRMAN YARDLEY appointed Representative Ream to carry SB 163 on the floor of the House.

Senate Bill 189

REPRESENTATIVE WILLIAMS moved SB 189 BE CONCURRED IN.

The motion was voted on and PASSED unanimously. Representative Harp was excused.

CHAIRMAN YARDLEY appointed Representative Williams to carry SB 189 on the floor of the House.

House Bill 511

CHAIRMAN YARDLEY asked for a consensus from the committee regarding the amendment to increase the excise tax by 1/4¢ and that amount go to the Montana airports for maintenance.

REPRESENTATIVE ASAY said that money would be used as matching money for federal dollars for airports (10% state money and 90% federal money). The money would be repaid by the users and the money would go back into the fund. It will be a rotating fund. This money is collected in Montana and should be returned to Montana to provide airports of Montana with money for maintaining the airports.

REPRESENTATIVE WILLIAMS said he opposes the amendment because he thinks it is improper to use cigarette tax money for the maintenance of airports. The fuel tax was the most fair way to finance airports.

REPRESENTATIVE DOZIER said he is going to vote against HB 511 but would like to see the amendment on the bill.

REPRESENTATIVE NORDTVEDT said he doesn't think the cigarette tax should go to funding airports. That money could be raised locally if it is really needed.

REPRESENTATIVE REAM asked if HB 573, increasing the aviation fuel tax, could be used for federal matching money. Representative Williams said he understood it did.

REPRESENTATIVE KEENAN said Representative Schye, sponsor of HB 573, had additional information on the bill which she was going to present to this committee but hasn't received the information yet.

REPRESENTATIVE WILLIAMS said Representative Winslow brought up a good point, having the increase in the cigarette and alcohol taxes going to human services funding. However, Representative Williams said he didn't want to see that proposal interfere with the long-range building program. He said we could take Representative Winslow's amendment out of the alcohol tax increase but not out of the cigarette tax increase.

REPRESENTATIVE VINGER said why should cigarette and alcohol taxes pay for these programs when it was originally set up to benefit service people.

REPRESENTATIVE NORDTVEDT said this is a tax raising measure for general fund money. The purpose of this bill was to increase the bonding without affecting the amount of money that flows into the general fund. He said he doesn't want to see this

money go to building a new building for the Department of Natural Resources.

REPRESENTATIVE DOZIER said he thinks HB 511 is a dishonest bill because all it does is pump money into the general fund through the back door. The whole concept of HB 511 is a big lie and a sham.

REPRESENTATIVE WILLIAMS asked if there is some way to get some control on the long-range building proposals as to what is proposed.

REPRESENTATIVE NORDTVEDT said the Long-Range Building Committee should be told that there is a lot of resistance to building the Department of Natural Resources building.

REPRESENTATIVE WILLIAMS said he liked the way HB 511 was put together except for the Department of Natural Resources building.

CHAIRMAN YARDLEY said this committee will pass consideration on HB 511 for the day.

#### House Bill 599

REPRESENTATIVE ZABROCKI moved HB 599 DO NOT PASS.

The motion was voted on and PASSED unanimously. Representative Harp was excused.

REPRESENTATIVES DOZIER, KEENAN, and HARRINGTON left the meeting at this time.

#### House Bill 631

REPRESENTATIVE NORDTVEDT said this bill puts more fairness in all the tax roles than any other bill. He suggested amending the effective date so that this bill could be passed without a hugh fiscal impact.

REPRESENTATIVE BERTELSEN moved HB 631 DO PASS.

CHAIRMAN YARDLEY said this committee could amend the bill, putting on a delayed effective date because the executive and legislative fiscal analyst's budgets do not reflect the fiscal impact from this bill.

REPRESENTATIVE BERTELSEN moved to amend the effective date on HB 631 from December 31, 1982 to December 31, 1983.

The motion was voted on and PASSED with all committee members present voting yes except Representative Neuman, who voted no.

REPRESENTATIVE BERTELSEN amended his motion to HB 631 DO PASS AS AMENDED.

The motion was voted on and PASSED. All committee members present voted yes except Representative Neuman, who voted no.

House Bill 160

REPRESENTATIVE VINGER moved HB 160 BE TABLED.

REPRESENTATIVE NORDTVEDT recommended that people who wanted to support this bill take the approach offered in HB 740.

The motion was voted on and PASSED unanimously by all members of the committee present.

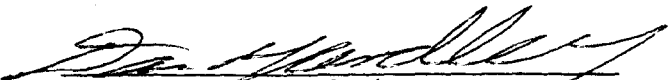
House Bill 550


CHAIRMAN YARDLEY asked how many committee members would support HB 550. Only three committee members said they would.

MS. FEAVER said since this bill has such an impact on the banks, the committee may want to consider it with the other bank bills.

CHAIRMAN YARDLEY said this committee will hold action on HB 550 until a later date.

The meeting was adjourned at 10:30 a.m.

  
DAN YARDLEY, Chairman

  
Vicki Lofthouse, Secretary

# Fact Sheet

Department of the Treasury  
Internal Revenue Service

EXHIBIT 1  
3-4-83

District Office

Fed Off Bldg. Drawer 10016, 301 South Park Ave.  
Helena, MT 59601 Tel. (406) ~~449-3333~~ 449-5244  
Public Affairs Officer Joan Kennedy

2-23-85

## NEW TIP REPORTING REQUIREMENTS

The Tax Equity and Fiscal Responsibility Act of 1982 has created new reporting requirements for large food and beverage establishments on employee tips. There is much confusion over how the new requirements will affect the paycheck of your employees and what owner/operators are required to do.

This new law does not change existing laws which require employees who receive tips to report them to their employer on a monthly basis.

The following guidelines will help you understand the changes.

### COVERED ESTABLISHMENTS

This law generally applies to a business, if the business:

1. Provides food or beverages that will be eaten on the premise by the general public.
2. Is one in which tipping is customary, and
3. Usually employs more than 10 people on a typical business day.

### GENERAL RULES

If the employees of your business voluntarily report tips for the payroll period totaling at least 8 percent of gross receipts, as adjusted, you do not have to allocate tips.

However, if less than 8% is reported, you must allocate the shortfall for the period to directly tipped employees. The short fall is an amount equal to the difference between 8% of the gross receipts and the tip amounts reported by employees for the period.

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THIS LAW DOES NOT CREATE A NEW TAX. The law establishes a minimum amount for tip income that you must include on the W-2 of a directly tipped employee.

THERE IS NO WITHHOLDING FOR INCOME TAX OR SOCIAL SECURITY TAX ON THE PORTION OF TIPS "ALLOCATED" FOR W-2 PURPOSES TO YOUR EMPLOYEE. However, you must continue, as in the past, to withhold income and social security tax on the wages and tips "reported" by your employee and on tips in your control, such as, service charges.

#### RATE REDUCTION

An employer who believes the 8% rate should not apply to his business may apply in writing to the District Director of Internal Revenue Service in Helena, with all applicable facts, for a lower rate.

The request must detail all facts and circumstances which would clearly show that tipped employee's average rates are less than 8%. For example, such information might include the charged tip rate, the type of establishment, menu prices, the location of the business, and the amount of "self-service" required.

IRS can reduce the rate, but not lower than 5%, if circumstances warrant a change.

#### EFFECTIVE DATE

You are required to begin allocating tip income to employees who did not report 8% of gross receipts effective April 1, 1983. The allocations are to be done by payroll period or by a period of time selected by the employer that does not exceed thirty-one days.

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ALLOCATION RULES

If you are required to allocate because the tips your employees reported did not meet the minimum floor, you may allocate by a "good faith agreement" or by an "allocation based on regulation". Each method is explained below.

The word allocation means that you will be assigning income to your employee to bring the tips they reported to you up the the minimum floor. This allocated income is shown on the W-2 of the employee at the end of the year, along with wages and reported tip income. The W-2 is being revised to show a separate block for this amount.

"GOOD FAITH AGREEMENT"

You may use this method when you and two-thirds of your tipped employees agree in writing how the shortfall should be allocated. The agreement must include:

1. A good faith approximation of actual distribution, and
2. Be adopted at a time when there are tipped employees in each occupational group.

The agreement must be effective on the first pay period, thirty days after its adoption. The agreement must end on the last day of the calendar year in which it was adopted.

A good faith agreement can be revoked at the start of a pay period, if 50% of the tipped employees in the occupational categories agree to the change.

"ALLOCATION BASED ON REGULATION"

The process of allocating income under this method requires that you:

1. Determine the shortfall for the business.
2. Use a computation to determine if each employee has actually

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reported 8% of the employees portion of gross receipts, as adjusted, for the business.

3. Exclude employees who have reported at least 8% from the next step in the calculation because they have met the requirement of the law,
4. Use mathematical ratios and computations to distribute the shortfall to directly tipped employees who did not report at least 8% of gross receipts as adjusted for the period.

#### IDENTIFICATION NUMBER

Each business must have a 15 digit identification number. The first 9 digits are the employer's identification number (EIN), the 10th digit establishes the type of food and beverage establishment, and the last 5 digits differentiate between multiple establishments reporting under the same EIN.

#### REPORTS REQUIRED

Each covered business must file two separate reports for 1983. The first report covers the first quarter of 1983 only, and the second covers the remaining three quarters of the year.

#### FIRST QUARTER REPORT MUST INCLUDE:

1. Total gross receipts, as adjusted, from food and beverage sales,
2. Total charge receipts, as adjusted, on which there were tips,
3. Total tips on such charge receipts,
4. Total reported tip income and total mandatory service charges of less than 10%.
5. The name and SSN of each tipped employee, and
6. The wages and tips paid to each tipped employee.

NOTE: Receipts from carryout sales and sales with mandatory service charges of 10% or more must be subtracted from gross receipts from food and beverage sales or from total charge receipts to arrive at gross

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receipts, as adjusted and total charge receipts, as adjusted.

BALANCE OF THE YEAR REPORT MUST INCLUDE:

1. Categories 1 through 4 on this report, and
2. The name, SSN and amount allocated to each employee, if tip allocations are made.

FORMS TO FILE

Reports are to be filed on Form 8027 and transmitted to IRS with Form 8027T.

WHEN TO FILE

At present you must file both reports together on or before the last day of February, 1984. At this time, information on the first quarter report for 1983 will be separately stated on the 1983 Form 8027 calendar year return due on the last day of February, 1984. A separate filing for the first quarter is not required.

You must report on an annual basis. The report is due on or before the last day of February of the following year, i.e. February 28, 1985; February 28, 1986, etc.

EFFECT ON EMPLOYEES

If the combination of allocated tip income and reported tip income on the W-2 doesn't match your employees own day by day records of "actual" tip receipts, your employee is only required to report "actual" tip receipts on their federal tax returns (which could be more or less than the amount allocated to them on their W-2s).

The allocation is a guideline for IRS; it is not a mandatory amount to be included in income on the return IF good records are available.

You do not deduct any money from the paycheck of your employees because of the allocation process.

Deductions are computed only on regular wages and reported tip income.

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## EFFECT ON EMPLOYERS

If your employees fail to correctly report tip receipts to you or to the IRS, you are not liable to make any payments to IRS because of the error. An employer is not liable to any employee if an amount is incorrectly allocated, provided one of the two acceptable methods of allocation was used.

## QUESTIONS ON THE LAW

Please call IRS in Helena toll-free (1-800-424-1040) if you have questions concerning this law.

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FISCAL IMPACTS

Bill No.	Sponsor	Subject	Total Biennium	
			State (000)	Local (000)
HB 11	Pistoria	Coal tax for highways	(20,000)	
HB 29	Nordtvedt	Interest income exclusion	(11,820)	
HB 160	Waldron	Depreciation prior to ACRS	12,438	
HB 294A	Nordtvedt	Residential property tax credit	(880)	(17,400)
HB 297	Harrington	Retirement plan exemption	(1,192)	
HB 316	Asay	Agricultural implement	(4,168)	
HB 354	Sands	Investment credit	(33,183)	
HB 380	Switzer	Repeal metal mine license tax	(1,450)	
HB 446	D. Brown	Metal mine tax to impact fund	(6)	
HB 470	Koehnke	Exempt elderly from property tax	(662)	(3,220)
HB 475	Mueller	Class 4 elderly relief - reimb.	(1,059)	
HB 485	Vincent	Class 4 elderly relief	(121)	(594)
HB 511	Bardanouve	Increase cigarette sales tax	8,115	
HB 536	Neuman	Financial institutions tax	3,818	15,400
HB 550	Yardley	Corporation tax deduction	2,400	
HB 561	Addy	Interest exclusion	(4,445)	
HB 573	Schye	Aviation fuel tax		457
HB 582	Switzer	Net proceeds taxation		?
HB 594	Hemstad	Tax credit for the guard	(720)	
HB 599	Waldron	Tourist tax	2,808	11,237
HB 631	Schultz	Standard deduction	(1,385)	
HB 648	Nordtvedt	Investment credit	(24,579)	
HB 665	Yardley	Railway fuel tax	7,334	
HB 704	Harp	Reduce class 11 property tax	*	*
HB 713	J. Jensen	Increase natural gas tax	8,249	917
HB 717	Mueller	Net proceeds of mines taxation	(5,457)	(9,194)
HB 735	Wallin	Revise property tax exemptions	?	?
HB 736	Ream	Credit for low-emission stoves	(272)	
HB 739	Keenan	Investment credit	(12,714)	
HB 740	Neuman	Add back to ACRS	<del>12,196</del>	
HB 747	Marks	Privilege tax	?	?
HB 753	Shontz	Business property tax reductions	?	?
HB 779	Harp	Fee for light trailers/boats	(36)	(136)
HB 780	Harp	Tax incentive for gasohol	(4,800)**	
HB 829	Saunders	Severance tax on palladium, etc.	*	
HB 841	Driscoll	Exemption for tips	(1,470)	
HB 858	Hand	Discount - cigarette packages	(931)	

HB 860	Fagg	Estimated income tax	2,000	
HB 870	Fabrega	Tax jurisdiction for mines	?	?
HB 890	Hand	Eliminate proration car sales tax	0	0
SB 36	Himsl	Exclude railroad retirement income	(600)	
SB 68	Gage	Nonresident income tax deduction	?	
SB 72	B. Brown	Resource indemnity tax quarterly	0	
SB 96	Elliott	Coal severance tax interest	0	
SB 108	B. Brown	Metal mines license tax quarterly	0	
SB 185	Galt	Exempt certain coal producers	?	
SB 186	Elliott	Loans by coal board	0	
SB 189	Blaylock	Light vehicle fee statutes	0	
SB 247	B. Brown	Railroad retirement income 1981/82	(1,200)	
SB 414	Elliott	Definition of 'small business corp'	?	

\* Delayed effective date - no fiscal impact this biennium but has long-term fiscal impact

\*\* Cost to continue present subsidy

AMENDMENTS TO HOUSE BILL 747

- (1) Page 2, Line 1  
Delete: "gross"  
Insert: "market"
- (2) Page 2, Line 24  
After: "like Properties;"  
Delete: "and tax exempt property subject to the"
- (3) Page 2, Line 25  
Delete: "provisions of Title 15, Chapter 24, Part 12;"
- (4) Page 3, Line 4  
After: "(5) the gross proceeds of coal mines"  
Insert: "; and"  
Add: "(6) tax exempt electric power or transmission lines."

2 Employer's name, address, and ZIP code <b>NORTHERN HOTEL BROADWAY &amp; FIRST AVENUE NORTH BILLINGS, MONTANA 59101</b>		3 Employer's identification number <b>S1 81-0308210</b>				4 Employer's state number <b>67063-56-7010</b>											
		5 Stat. em- p-loyee		De- ceased		Pension plan		Legal rep.		942 emp.		Sub- total		Cor- rection		Void	
		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
		6		7 Advance EIC payment													
		9 Federal income tax withheld <b>675.58</b>				10 Wages, tips, other compensation <b>7,423.41</b>				11 FICA tax withheld <b>477.37</b>							
		13 FICA wages <b>5,896.01</b>				14 FICA tips <b>1,527.40</b>											
		16 Employer's use															
		17 State income tax <b>233.54</b>		18 State wages, tips, etc. <b>7423.41</b>		19 Name of State <b>MONTANA</b>											
		20 Local income tax		21 Local wages, tips, etc.		22 Name of locality											

**Wage and Tax Statement 1982**

Copy 2 To be filed with employee's State, City, or Local income tax return. Employee's and employer's copy compared.

1 Control number <b>261</b>		22222		OMB No. 1545-0008													
2 Employer's name, address, and ZIP code <b>NORTHERN HOTEL BROADWAY &amp; FIRST AVENUE NORTH BILLINGS, MONTANA 59101</b>		3 Employer's identification number <b>S1 81-0308210</b>				4 Employer's state number <b>67063-56-7010</b>											
		5 Stat. em- p-loyee		De- ceased		Pension plan		Legal rep.		942 emp.		Sub- total		Cor- rection		Void	
		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
		6		7 Advance EIC payment													
8 Employee's social security number		9 Federal income tax withheld <b>411.93</b>				10 Wages, tips, other compensation <b>6,375.46</b>				11 FICA tax withheld <b>427.16</b>							
		13 FICA wages <b>3,981.61</b>				14 FICA tips <b>2,393.85</b>											
		16 Employer's use															
		17 State income tax <b>158.53</b>		18 State wages, tips, etc. <b>6375.46</b>		19 Name of State <b>MONTANA</b>											
		20 Local income tax		21 Local wages, tips, etc.		22 Name of locality											

Form **W-2 Wage and Tax Statement 1982**  
Department of the Treasury—Internal Revenue Service

Copy C For employee's records  
This information is being furnished to the Internal Revenue Service.

1 Control number																	
2 Employer's name, address, and ZIP code <b>NORTHERN HOTEL BROADWAY &amp; FIRST AVENUE NORTH BILLINGS, MONTANA 59101</b>		3 Employer's identification number <b>S1 81-0308210</b>				4 Employer's State number <b>67063-56-7010</b>											
		5 Stat. em- p-loyee		De- ceased		Pension plan		Legal rep.		942 emp.		Sub- total		Cor- rection		Void	
		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
		6		7 Advance EIC payment													
		9 Federal income tax withheld <b>638.56</b>				10 Wages, tips, other compensation <b>5,511.17</b>				11 FICA tax withheld <b>354.57</b>							
		13 FICA wages <b>3,784.17</b>				14 FICA tips <b>1,335.05</b>											
		16 Employer's use															
		17 State income tax <b>138.74</b>		18 State wages, tips, etc. <b>5511.17</b>		19 Name of State <b>MONTANA</b>											
		20 Local income tax		21 Local wages, tips, etc.		22 Name of locality											

Form **W-2 Wage and Tax Statement 1980**

Copy C For employee's records  
This information is being furnished to the Internal Revenue Service.

Department of the Treasury  
Internal Revenue Service

Elderly Homeowner or Renter Credit

	<u>Taxes Paid</u>	<u>Current Law</u>	<u>SB 86</u>	<u>SB 247</u>	<u>HB 227</u>	<u>HB 242</u>	<u>HB 294</u>
Impact with household income of \$3,600	400	150	150	150	342.40	342.40	150
	600	150	150	150	400	400	150
Impact with household income of \$3,600 <sup>5,000</sup>	400	150	150	150	260	260	150
	600	150	150	150	400	400	150
Impact with household income of \$8,500	400	68.50	68.50	68.50	68.50	68.50	68.50
	600	150	150	150	268.50	268.50	150
Impact with household income of \$15,000	400	-0-	-0-	-0-	-0-	-0-	-0-
	600	-0-	-0-	-0-	-0-	-0-	-0-

Phase Out	Household Income	Multiplier	Reduction	Allowable Credit
Assuming Household Income as indicated, \$400 maximum credit, and \$600 taxes paid	2,000	.006	12	400
	3,000	.016	48	400
	4,000	.024	96	400
	5,000	.028	140	400
	6,000	.032	192	400
	7,000	.035	245	355
	8,000	.039	312	288
	9,000	.042	378	222
	10,000	.045	450	150
	11,000	.050	528	72
	12,000	.050	600	-0-

When column 3 = amount of taxes paid credit will = -0-

Prepared for the House Taxation Committee

by

Dept. of Revenue Staff  
 Charles Briggs, Governor's Office  
 Renee Brereton, M.S.C.A.  
 Wade Wilkeson, L.I.S.C.A.





STATE OF MONTANA  
DEPARTMENT OF ADMINISTRATION

HB 511

TED SCHWINDEN  
GOVERNOR

Memorandum

TO: Dave Ashley  
Deputy Director

FROM: Marvin Eicholtz  
Management Analyst

DATE: March 3, 1983

SUBJECT: DEBT BREAKDOWN FOR EXISTING AND NEW DEBT

You requested a breakdown of existing debt and new debt by state share and other sources. The following analysis breaks down the debt for fiscal years 1982-1985.

EXISTING DEBT

	<u>General Fund</u>	<u>Other Funding Sources</u>	<u>Total</u>
FY '82	\$5,643,564	\$2,772,576	\$8,416,140
FY '83	6,390,223	3,058,736	9,448,959
FY '84	6,191,969	2,973,180	9,165,149
FY '85	5,985,682	2,896,552	8,882,234

NEW DEBT - 20 YEAR EVEN PRINCIPAL REPAYMENT - 8.4%

	<u>General Fund</u>	<u>Other Funding Sources - \$7,155,000</u>	<u>Total</u>
FY '82	\$35,943,800		
FY '83			
FY '84	\$4,934,630	\$ 982,292	\$5,916,922
FY '85	4,799,850	955,460	5,755,310

EXISTING + NEW DEBT

	<u>General Fund</u>	<u>Other Funding Sources</u>	<u>Total</u>
FY '82	\$ 5,643,564	\$2,772,576	\$ 8,416,140
FY '83	6,390,223	3,058,736	9,448,959
FY '84	11,126,599	3,955,472	15,082,071
FY '85	10,785,532	3,852,012	14,637,544

WITNESS STATEMENT

Name R. Nadiean Jensen Committee On Taxation  
Address Helena Date 3-4-83  
Representing MT. ST. AFL-CIO Support ✓  
Bill No. HB 841 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *Testimony submitted in writing*

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



Box 1176, Helena, Montana

JAMES W. MURRY  
EXECUTIVE SECRETARY

ZIP CODE 59624  
406/442-1708

TESTIMONY OF R. NADIEAN JENSEN ON HOUSE BILL 841, BEFORE THE HOUSE TAXATION COMMITTEE, MARCH 4, 1983.

I am Nadiean Jensen, representing the Montana State AFL-CIO. We support House Bill 841, which provides that tipped employees would not have to pay Montana state income tax on the tips which they receive.

These employees already pay a federal tax on tips, and new regulations of the I.R.S. have created a great amount of misunderstanding. The I.R.S. gave employers the impression that they had to withhold an amount equaling 8% of their gross sales, from the paychecks of waiters and waitresses. What happened was that for some employees, the employer withheld the amount of their entire paycheck. Some even ended up owing the employer, even though their tips had not equalled the stated amount.

Now the I.R.S. says that employers are not required to withhold 8% of the total food and drink served by an employee, but only to note it on the employee's W-2 form at the end of the year. But there is still a lot of confusion, and employees will have to keep detailed daily records of the tips they earn, or they will have to pay 8%.

The people this bill would most affect are waitresses. They are barely able to exist on the low wages which they receive. Many of them make very minimal tips. With over 40,000 people unemployed in this state, and most of the rest of us feeling the financial crunch of the economic recession, most people who eat out are leaving much smaller tips than they might like to.

For the most part, the Montana State AFL-CIO opposes tax breaks, at least to industries like the oil and gas industry. But for these low-paid workers, we believe this break is a fair and just one.

Please vote for House Bill 841. Thank you.

Testimony of Frank Sullivan  
House Bill 841  
House Taxation Committee  
March 4, 1983

I am Frank Sullivan, president and business representative of Hotel Employees and Restaurant Employees Local 457, AFL-CIO, Butte, Montana. I am representing the approximately 1,000 members of our local. I am also here on behalf of the state Culinary and Bartenders Alliance of Montana, which is composed of 14 local unions from all over the state.

Our members support House Bill 841, which would exclude tips from Montana income tax liability. We support this bill because it gives some much-needed assistance to some of the lowest paid workers in this state. Most of the tipped employees in Montana are waitresses. If they are union waitresses, they make \$3.35 per hour. That is not much, but it is still better than the minimum wage level of many non-union waitresses who make only \$2.75 per hour. Most of these waitresses are women, many of whom are single parents and the sole support of their families. Their low hourly wage is supplemented to some degree by the tips which they receive. But of course, tips are voluntary gratuities, not a set rate, which they can depend on.

The amount in tips they make depends on what kind of establishment they work in, what shift, and what days they work. Many of them are now working reduced hours, because of the economic recession. And, because everyone is struggling to make ends meet, many of those who are tipped employees find they are getting fewer and smaller tips.

This bill will help hard working low paid workers, who really need the assistance.

Please vote for House Bill 841.

Thank you.

# WOMEN'S LOBBYIST FUND

Box 1099  
Helena, MT 59624  
449-7917



TESTIMONY BY CELINDA C. LAKE, WOMEN'S LOBBYIST FUND, IN SUPPORT OF HB 841, BEFORE HOUSE TAXATION, MARCH 4, 1983

The Women's Lobbyist fund supports HB 841. Federal income tax law has changed to require restaurants to report at least 8% of their gross sales as estimated tips. Montana income tax laws have traditionally followed the federal. However, this change in the law does not give enough consideration to tip differences depending on location, shift, and type of restaurant. Women are particularly likely to work in restaurants where they earn less than 8% of the gross intips. They will be taxed for income they do not make.

Many waitresses are also single parent heads of households, displaced homemakers newly returned to the job market, and older women who are single heads of households. These women are currently now eligible for additional economic assistance. If their incomes are over-estimate that may remove their eligibility and rather than gaining money for the state, will be a disincentive to work.

We encourage the passage of HB 841 which we believe more accurately reflects the economic reality of Montana.

Kathy A. van Hook  
President

Sib Clack  
Vice President

Connie Flaherty-Erickson  
Treasurer

Celinda C. Lake  
Lobbyist

Stacy A. Flaherty  
Lobbyist

VISITOR'S REGISTER

HOUSE \_\_\_\_\_

COMMITTEE \_\_\_\_\_

BILL HB 841

DATE 3/4

SPONSOR DRISCOLL

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Bob Durkee	Helena	Mout TAVERN Ass	X	
Colinda Lake	Helena	Women's Lobbyist Fund	X	
Madeline Songer	Helena		X	
Aimee Kneecider	Helena		X	
Carolyn Elliott	Helena		X	
Denise Newman	Helena		X	
Eugenia Collins	Billings	H + RE + B #56	X	
Marianne Barber Dobb	Helena		X	
Nellie Riley	Billings	H + RE + B #56	X	
Louella Rogers	Billings	H + RE + B #56	X	
Letty Starnitz	Billings	H + RE + B #56	X	
Beth Cummings	Billings	H + RE + B #56	X	
Gayle Langas	Three Forks		X	
Patricia Lingenfelter	Three Forks		X	
Madeline Allen	Three Forks		X	
Marilyn Keecher	Helena		X	
Margaret Olson	Helena	H + RE + B #533	X	
Harold Martin	Helena		X	
Leola Kaiser	Helena		X	
Jo Ann Shultz	Helena	Jorgensons	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE TAXATION COMMITTEE  
 BILL HB 841 DATE 3/4  
 SPONSOR DRISCOLL

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Ruby Martin	Helena		X	
Dorothy Jagers	Helena	HB 531 Local 533	X	
Mary Kay Kelly	Helena	HB 531 Local 533		
Linda Jacobs	Helena	<del>HB</del>	X	
Bonnie Floyd	Helena		X	
Rudyard Jensen	Helena	AFL-CIO	X	
Sande Otten	E. Helena	Jorgensen's	X	
Paul Sullivan	Butte Mont	N.E.R.E. LOCAL 457	X	
Calvin W Pratt	Helena	MT Restaurant Assoc		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.  
 WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.





STATE OF MONTANA

REQUEST NO. 444-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 19 83, there is hereby submitted a Fiscal Note for House Bill 841 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 841 exempts tips from Montana income tax liability.

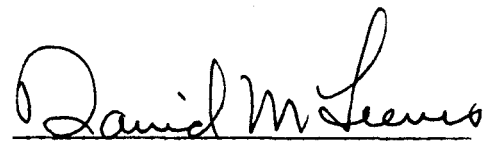
ASSUMPTIONS:

- 1) National estimates of per capita retail sales at eating and drinking establishments are \$414 in 1981. Using an estimated Montana population of 806,200 implies \$334.3 million of retail sales in Montana for 1981. This sales level is assumed constant for the biennium.
- 2) The IRS estimated that 55% of these expenditures are made at establishments where tips are customary.
- 3) It is assumed that the new IRS withholding of tip income will result in the reporting of 8% of the retail sales. The IRS estimates an average tip of 14% for the mountain states. The difference is assumed unreported to the Department.
- 4) A 5% average marginal tax rate is assumed.
- 5) All tips collected in the past have been reported and taxed. If this is not true, the fiscal impact of the bill is less. For example, if only 25% of tips were reported for tax purposes in previous years, the revenue loss caused by the bill would be only \$183,850 per year.

FISCAL IMPACT:

	<u>FY84</u>	<u>FY85</u>
Individual Income Tax		
Under Current Law	\$168,317,188	\$179,746,875
Under Proposed Law	<u>167,581,788</u>	<u>179,011,475</u>
Estimated Decrease	<u>(735,400)</u>	<u>(735,400)</u>
General Fund		
Under Current Law	107,723,000	115,038,000
Under Proposed Law	<u>107,252,344</u>	<u>114,567,344</u>
Estimated Decrease	<u>(470,656)</u>	<u>(470,656)</u>

(Continued)



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-83

## School Equalization Account

Under Current Law	42,079,297	44,936,719
Under Proposed Law	41,895,447	44,752,869
Estimated Decrease	<u>(183,850)</u>	<u>(183,850)</u>

## Sinking Fund

	<u>FY84</u>	<u>FY85</u>
Under Current Law	\$18,514,891	\$19,772,156
Under Proposed Law	<u>18,433,997</u>	<u>16,691,262</u>
Estimated Decrease	<u>(80,894)</u>	<u>(80,894)</u>

FISCAL NOTE 16: L/2

HB 841

# STANDING COMMITTEE REPORT

Page 1 of 4

March 22, 1983

MR. **SPEAKER:** .....

We, your committee on **TAXATION** .....

having had under consideration ..... **HOUSE** Bill No. **841** .....

First reading copy ( White )  
Color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT TIPS FROM MONTANA  
INCOME TAX LIABILITY; AMENDING SECTION 15-30-111, MCA."**

Respectfully report as follows: That ..... **HOUSE** Bill No. **841** .....

**be amended as follows:**

**(SEE ATTACHED SHEETS)**

~~DELETED~~

March 22,

1983

## 1. Title, line 6.

Following: "LIABILITY"

Insert: "AND WITHHOLDING TAX"

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-30-111"

Insert: "AND 15-30-201"

## 2. Title, line 7.

Following: "MCA"

Insert: ";AND PROVIDING A CONTINGENT TERMINATION DATE"

## 3. Page 4, line 4.

Following: line 3

Insert: "Section 2. Section 15-30-201, MCA, is amended to read:  
 "15-30-201. Definitions. When used in 15-30-201 through  
 15-30-209, the following definitions apply:

(1) "Agricultural labor" includes all services performed on a farm or ranch in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) "Employee" includes an officer, employee, or elected public official of the United States, the state of Montana, or any political subdivision thereof or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

(3) "Employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person; except that if the person for whom the individual performs or performed the service does not have control of the payment of the wages for such service, the term "employer" means the person having control of the payment of such wages.

(4) "Wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include remuneration paid:

(a) for active service as a member of the armed forces of the United States;

(b) for agricultural labor as defined in subsection (1);

March 22,

19 83

(c) for domestic service in a private home, a local college club, or local chapter of a college fraternity or sorority;

(d) for casual labor not in the course of the employer's trade or business performed in any calendar quarter by an employee unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this subsection (4)(d), an individual is considered to be regularly employed by an employer during a calendar quarter only if:

(i) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business;

(ii) such individual was regularly employed (as determined under subsection (4)(d)(i)) by such employer in the performance of such service during the preceding calendar quarter;

(e) for services by a citizen or resident of the United States for a foreign government or an international organization;

(f) for services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(g) (i) for services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or

(ii) for services performed by an individual in and at the time of the sale of newspapers or magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service or is entitled to be credited with the unsold newspapers or magazines turned back;

(h) for services not in the course of the employer's trade or business to the extent paid in any medium other than cash when such payments are in the form of lodgings or meals and such services are received by the employee at the request of and for the convenience of the employer;

March 22,

19 83

(1) to or for an employee as a payment for or a contribution toward the cost of any group plan or program which benefits the employee, including but not limited to life insurance, hospitalization insurance for the employee or dependents, and employees' club activities;

(1) as tips, in accordance with section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983.\*

Section 3. Contingent termination date. This act terminates if congress passes and the president approves legislation that removes the provision in section 6053(c)(3) of the Internal Revenue Code of 1954 that requires an employee allocation for tax purposes of 8% of gross receipts of the business for which the employee works. If this act terminates, it does so on the date of the final approval of the congressional legislation.\*

AND AS AMENDED  
DO PASS

# STANDING COMMITTEE REPORT

March 4,

19 83

MR. **SPEAKER:** .....

## TAXATION

We, your committee on .....

having had under consideration ..... **SENATE** Bill No. **163**

Third reading copy ( Blue )  
color

**A BILL FOR AN ACT ENTITLED: "AN ACT RAISING THE PUBLIC CONTRACT VALUE LIMIT FOR EXEMPTION FROM LICENSE FEES; AND RAISING THE PUBLIC CONTRACT VALUE LIMIT IN DEFINING A PUBLIC CONTRACTOR; AMENDING SECTIONS 15-50-101 AND 15-50-202, MCA."**

Respectfully report as follows: That ..... **SENATE** Bill No. **163**

~~XXXXXX~~ **BE CONCURRED IN**

..... **DAN YARDLEY,** .....  
Chairman.

# STANDING COMMITTEE REPORT

March 4, 19 83

**SPEAKER:**

MR. ....

**TAXATION**

We, your committee on .....

having had under consideration ..... **SENATE** **189**  
Bill No.....

Third reading copy ( Blue )  
color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LIGHT VEHICLE FEE STATUTES; TO PROVIDE THAT THE AMOUNT OF THE FEE FOR LIGHT VEHICLES BE A WHOLE DOLLAR AMOUNT; TO CLARIFY THE FEE CATEGORY THAT APPLIES TO 8-YEAR-OLD VEHICLES; AND TO PROVIDE CLARIFICATION OF LIGHT VEHICLES ELIGIBLE FOR REIMBURSEMENT; AMENDING SECTIONS 61-3-533 AND 61-3-536, MCA."**

Respectfully report as follows: That..... **SENATE** **189**  
Bill No.....

XXXXXXXX BE CONCURRED IN