SENATE BILL NO. 73

INTRODUCED BY B. BROWN

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

	IN THE	SENATE
January 6, 1983		Introduced and referred to Committee on Taxation.
January 13, 1983		Committee recommend bill do pass as amended. Report adopted.
January 14, 1983		Bill printed and placed on members' desks.
January 15, 1983		Second reading, do pass.
January 17, 1983		Considered correctly engrossed.
January 18, 1983		Third reading, passed. Ayes, 47; Noes, 0. Transmitted to House.
	IN THE	HOUSE
January 19, 1983		Introduced and referred to Committee on Taxation.
March 5, 1983		Committee recommend bill be concurred in. Report adopted.
March 7, 1983		Second reading, concurred in.
March 8, 1983		Third reading, concurred in.
	IN THE	SBNATE
March 9, 1983		Returned to Senate. Sent to enrolling.
		Reported correctly enrolled.

LC 0375/01

48th Legislature

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Senst BILL NO. 13 INTRODUCED BY BY REQUEST OF THE REVENUE OVERSIGHT CONMITTEE A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INCOME TAX WITHHOLDING ON WAGES PAID TO MEMBERS OF THE RESERVE ARMED FORCES; AMENDING SECTIONS 15-30-201 AND 15-30-202. MCA: AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE." BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA: Section 1. 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

1 term "employee" also includes an officer of a corporation. 2 (3) "Employer" means the person for whom an individual 3 performs or performed any service, of whatever nature, as 4 the employee of such person; except that if the person for 5 whom the individual performs or performed the service does not have control of the payment of the wages for such 6 7 service, the term "employer" means the person having control 8 of the payment of such wages.

9 (4) "Wages" means all remuneration (other than fees 10 paid to a public official; for services performed by an 11 employee for his employer, including the cash value of all 12 remuneration paid in any medium other than cash, except that 13 such term shall not include remuneration paid:

14 (a) for active service as a member of the regular
15 armed forces of the United States, as defined in 10 U₂S_aC_a
16 <u>section 101(33);</u>

17. (b) for agricultural labor as defined in subsection18 (1);

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

22 (d) for casual labor not in the course of the 23 employer's trade or business performed in any calendar 24 quarter by an employee unless the cash remuneration paid for 25 such service is \$50 or more and such service is performed by -2- INTRODUCED BILL -3R - 73

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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 guarter only if:

5 (i) on each of some 24 days during such quarter such 6 individual performs for such employer for some portion of 7 the day service not in the course of the employer's trade or 8 business:

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

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

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

20 (g) (i) for services performed by an individual under
21 the age of 18 in the delivery or distribution of newspapers
22 or shopping news, not including delivery or distribution to
23 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

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1 consumers under an arrangement under which the newspapers or 2 magazines are to be sold by him at a fixed price, his 3 compensation being based on the retention of the excess of such price over the amount at which the newspapers or 4 5 magazines are charged to him, whether or not he is 6 guaranteed a minimum amount of compensation for such service 7 or is entitled to be credited with the unsold newspapers or ß magazines turned back;

9 (h) for services not in the course of the employer's 10 trade or business to the extent paid in any medium other 11 than cash when such payments are in the form of lodgings or 12 meals and such services are received by the employee at the 13 request of and for the convenience of the employer;

14 (i) to or for an employee as a payment for or a 15 contribution toward the cost of any group plan or program 16 which benefits the employee, including but not limited to 17 life insurance, hospitalization insurance for the employee 18 or dependents, and employees, club activities:

19 (j) for national guard and reserve training as

20 provided in 5 U.S.C. section 5517(d)."

21 Section 2. Section 15-30-202, NCA, is amended to read: 22 "15-30-202. Withholding of tax from wages. Every 23 employer making payment of wages shall deduct and withhold 24 upon such wages a tax determined in accordance with the 25 withholding tax tables which shall be prepared and issued by

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1 the department. Persons on active service as members of the 2 regular armed forces of the United States. as defined in 10 3 U.S.C. section 101(33). and members of the national guard 4 and reserves participating in training as provided in 5 5 U.S.C. section 5517(d) shall not be subject to the 6 provisions of this section."

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7 <u>NEW SECTION</u> Section 3. Effective date --8 applicability. This act is effective on July 1, 1983, and 9 applies to wages paid after June 30, 1983.

-End-

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Approved by	Committee
on <u>Taxation</u>	
	As Amended

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1 term "employee" also includes an officer of a corporation. Z (3) "Employer" means the person for whom an individual 3 performs or performed any service, of whatever nature, as the employee of such person; except that if the person for 4 whom the individual performs or performed the service does 5 not have control of the payment of the wages for such 6 service, the term "employer" means the person having control 7 8 of the payment of such wages. 9 (4) "Wages" means all remuneration (other than fees 10 paid to a public official) for services performed by an 11 employee for his employer, including the cash value of all

13 such term shall not include remuneration paid:
14 (a) for active service as a member of the <u>regular</u>
15 armed forces of the United States<u>, as defined in 10 UaSaCa</u>
16 <u>section 101(33)</u>;

remuneration paid in any medium other than cash, except that

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17 (b) for agricultural labor as defined in subsection 18 (1);

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

22 (d) for casual labor not in the course of the 23 employer's trade or business performed in any calendar 24 quarter by an employee unless the cash remuneration paid for 25 such service is \$50 or more and such service is performed by

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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 guarter only if:

5 (i) on each of some 24 days during such quarter such 6 individual performs for such employer for some portion of 7 the day service not in the course of the employer's trade or 8 business;

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

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

16 (f) for services performed by a duly ordained,
17 commissioned, or licensed minister of a church in the
18 exercise of his ministry or by a member of a religious order
19 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

24 (ii) for services performed by an individual in and at 25 the time of the sale of newspapers or magazines to ultimate

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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

8 magazines turned back;

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9 (h) for services not in the course of the employer's 10 trade or business to the extent paid in any medium other 11 than cash when such payments are in the form of lodgings or 12 meals and such services are received by the employee at the 13 request of and for the convenience of the employer;

14 (i) to or for an employee as a payment for or a
15 contribution toward the cost of any group plan or program
16 which benefits the employee, including but not limited to
17 life insurance, hospitalization insurance for the employee
18 or dependents, and employees' club activities:

19 (j) for national guard and reserve training as
20 provided in 5 U_S_C_ section 5517(d).**

Section 2. Section 15-30-202, MCA, is amended to read:

22 "15-30-202. Withholding of tax from wages. Every 23 employer making payment of wages shall deduct and withhold 24 upon such wages a tax determined in accordance with the 25 withholding tax tables which shall be prepared and issued by

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1	the department. Persons on active service as members of the
2	regular armed forces of the United States, as defined in 10
3	U.S.C. section 101(33). and members of the national guard
4	and reserves participating in training as provided in 5
5	U_S_C_ section517(d) shall not be subject to the
6	provisions of this section.*
7	NEW SECTION. Section 3. Effective date
8	applicability. This act is effective on July 1, 1983, and

9 applies to wages paid after June 30, 1983.

-End-

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1 SENATE BILL NO. 73 1 2 2 INTRODUCED BY B. BROWN BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE 3 3 4 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING ---- FOR 5 5 CLARIFYING THE INCOME YAX WITHHOLDING ON STATUS OF WAGES 6 6 PAID TO MEMBERS OF THE RESERVE ARMED FORCES; AMENDING 7 7 SECTIONS 15-30-201 AND 15-30-202, MCA; AND PROVIDING AN 8 8 EFFECTIVE DATE AND AN APPLICABILITY DATE." 9 9 10 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 15-30-201, NCA, is amended to read: 12 12 *15-30-201. Definitions. When used in 15-30-201 13 13 through 15-30-209, the following definitions apply: 14 14 (1) "Agricultural labor" includes all services 15 15 performed on a farm or ranch in connection with cultivating 16 16 the soil or in connection with raising or harvesting any 17 17 agricultural or horticultural commodity, including the 18 (1);18 raising, shearing, feeding, caring for, training, and 19 19 management of livestock, bees, poultry, and fur-bearing 20 20 21 21 animals and wildlife. (2) "Employee" includes an officer, employee, or 22 22 23 elected public official of the United States, the state of 23 Montana, or any political subdivision thereof or any agency 24 24 or instrumentality of any one or more of the foregoing. The 25 25

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 regular armed forces of the United States, as defined in 10. U.S.C. section 101(33); (b) for agricultural labor as defined in subsection (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

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1 consumers under an arrangement under which the newspapers or 2 magazines are to be sold by him at a fixed price, his 3 compensation being based on the retention of the excess of such price over the amount at which the newspapers or 4 5 magazines are charged to him, whether or not he is 6 guaranteed a minimum amount of compensation for such service 7 or is entitled to be credited with the unsold newspapers or 8 magazines turned back;

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20 provided in 5 U-S-C- section 5517(d).*

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the department. Persons on active service as members of the regular armed forces of the United States. as defined in 10 U.S.C. Section 101(33). and members of the national guard and reserves participating in training as provided in 5 U.S.C. Section 5517(d) shall not be subject to the provisions of this section." NEW SECTION. Section 3. Effective date --

applicability. This act is effective on July 1, 1983, and
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> -2- SB73 REFERENCE BILL

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1	the department. Persons on active service as members of the
2	regular armed forces of the United States <u>, as defined in 10</u>
3	UsssCssection_101(33)sand_members_of_tbe_national_guard
4	and_reserves_participating_io_training_as_provided_in_5
5	<u>UsSaCaSection5517(d)</u> shall not be subject to the
6	provisions of this section."
7	NEW_SECTION. Section 3. Effective date
8	applicability. This act is effective on July 1, 1983, and

9 applies to wages paid after June 30, 1983.

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-End-