

SENATE BILL NO. 51

1/07 Introduced  
1/07 Referred to Taxation  
1/08 Fiscal Note Requested  
1/10 Hearing  
1/12 Fiscal Note Received  
1/23 Committee Report-Bill Pass As Amended  
1/25 2nd Reading Pass  
1/28 3rd Reading Pass

Transmitted to House

1/29 Referred to Taxation  
3/14 Hearing  
Died in Committee

1                    SENATE    BILL NO. 51  
 2    INTRODUCED BY B. BROWN  
 3                    BY REQUEST OF THE DEPARTMENT OF REVENUE  
 4                    AND THE REVENUE OVERSIGHT COMMITTEE

5  
 6    A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE PENALTY  
 7    FOR VIOLATION OF MONTANA INCOME TAX PROVISIONS; AMENDING  
 8    SECTION 15-30-321, MCA; AND PROVIDING AN EFFECTIVE DATE AND  
 9    AN APPLICABILITY DATE."

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

12            Section 1. Section 15-30-321, MCA, is amended to read:

13            "15-30-321. Penalties for violation of chapter. (1) If  
 14    any person, without purposely or knowingly violating any  
 15    requirement imposed by this chapter, fails to file a return  
 16    of income on or before its due date (determined with regard  
 17    to an extension of time granted for filing the return),  
 18    there shall be imposed a penalty of 5% of any balance of tax  
 19    unpaid with respect to such return as of its due date, but  
 20    in no event shall the penalty for failure to file a return  
 21    by its due date be less than \$5. The department may abate  
 22    the penalty if the taxpayer establishes that the failure to  
 23    file on time was due to reasonable cause and was not due to  
 24    neglect on his part. If any person, without purposely or  
 25    knowingly violating any requirement imposed by this chapter,

1    fails to pay any tax on or before its due date (determined  
 2    with regard to an extension of time granted for the filing  
 3    of a return), there shall be added to the tax a penalty of  
 4    10% of said tax, but not less than \$5, and interest shall  
 5    accrue on the tax at the rate of 9% per annum for the entire  
 6    period it remains unpaid. The department may abate the  
 7    penalty if the taxpayer establishes that the failure to pay  
 8    on time was due to reasonable cause and was not due to  
 9    neglect on his part.

10            (2) (a) If any person fails, purposely or knowingly  
 11    violating any requirement imposed by this chapter, to make a  
 12    return of income or to pay a tax if one is due at the time  
 13    required by or under the provisions of this chapter, there  
 14    shall be added to the tax an additional amount equal to 25%  
 15    thereof, but such additional amount shall in no case be less  
 16    than: ~~\$25~~ and

17            (i) \$100 for a first violation; or  
 18            (ii) \$500 for a second and each succeeding violation  
 19            within 24 months of a previous violation.

20            (b) In addition to the penalty assessed under  
 21            subsection (2)(a), interest at 1% shall be charged for each  
 22            month or fraction of a month during which the tax remains  
 23            unpaid.

24            (3) Any individual, corporation, or partnership or any  
 25    officer or employee of any corporation or member or employee



1 of any partnership who, with intent to evade any tax or any  
 2 requirement of this chapter or any lawful requirement of the  
 3 department thereunder, purposely or knowingly, fails to pay  
 4 the tax or to make, render, or sign any return or to supply  
 5 any information within the time required by or under the  
 6 provisions of this chapter or who, with like intent,  
 7 purposely or knowingly makes, renders, or signs any false or  
 8 fraudulent return or statement or supplies any false or  
 9 fraudulent information shall be liable to a penalty of not  
 10 more than \$1,000, to be recovered by the attorney general in  
 11 the name of the state by action in any court of competent  
 12 jurisdiction, and shall also be guilty of a misdemeanor and  
 13 shall upon conviction be fined not to exceed \$1,000 or be  
 14 imprisoned not to exceed 1 year, or both, at the discretion  
 15 of the court.

16 (4) With respect to the imposition of a civil penalty,  
 17 evidence produced by the department to the effect that a tax  
 18 has not been paid, that a return has not been filed, or that  
 19 information has not been supplied as required under the  
 20 provisions of this chapter is prima facie evidence that the  
 21 tax has not been paid, the return has not been filed, or the  
 22 information has not been supplied."

23 NEW SECTION. Section 2. Extension of authority. Any  
 24 existing authority of the department of revenue to make  
 25 rules on the subject of the provisions of this act is

1 extended to the provisions of this act.

2 NEW SECTION. Section 3. Effective date --  
 3 applicability date. This act is effective on passage and  
 4 approval and applies to tax years beginning after December  
 5 31, 1984.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN028-85

Form BD-15

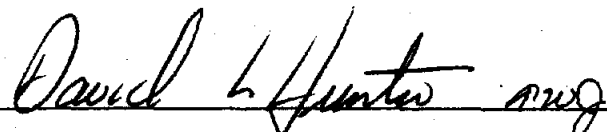
In compliance with a written request received January 8 \_\_\_\_\_, 19 85 \_\_\_\_\_, there is hereby submitted a Fiscal Note for S.B. 51 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act to increase the penalty for violation of Montana Income Tax provisions.

FISCAL IMPACT

The proposal is intended to improve income tax compliance by strengthening penalties for purposely failing to file a return. The likely revenue generated by the additional penalties can not be estimated. Increases in penalty assessments should be minimal since the penalties will affect the few non-filers that are detected.

  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: Jan 12, 1985

APPROVED BY COMMITTEE  
ON TAXATION

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8 on time was due to reasonable cause and was not due to  
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10 (2) (a) If any person fails, purposely or knowingly  
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12 to make a return of income or to pay a tax if-one-is-due at  
13 the time required by or--under the provisions of this  
14 chapter, there shall be added to the tax an additional  
15 amount equal to 25% thereof, but such additional amount  
16 shall in no case be less than: \$25--and

17 (i) \$100 for a first violation; or

18 (ii) \$500 for a second and each succeeding violation  
19 within 24 months of a previous violation.

20 (b) In addition to the penalty assessed under  
21 subsection (2)(a), interest at 1% shall be charged for each  
22 month or fraction of a month during which the tax remains  
23 unpaid.

24 (C) THE MINIMUM PENALTIES PROVIDED FOR IN SUBSECTIONS  
25 (2)(A)(I) AND (2)(A)(II) DO NOT APPLY IF THE TAXPAYER FILES

1 A WRITTEN STATEMENT UNDER OATH ON A FORM PROVIDED BY THE  
 2 DEPARTMENT VERIFYING THAT HE IS UNABLE TO PAY THE TAX DUE.

3 (3) Any individual, corporation, or partnership or any  
 4 officer or employee of any corporation or member or employee  
 5 of any partnership who, with intent to evade any tax or any  
 6 requirement of this chapter or any lawful requirement of the  
 7 department thereunder, purposely or knowingly, fails to pay  
 8 the tax or to make, render, or sign any return or to supply  
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 10 provisions of this chapter or who, with like intent,  
 11 purposely or knowingly makes, renders, or signs any false or  
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 13 fraudulent information shall be liable to a penalty of not  
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 15 the name of the state by action in any court of competent  
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