

SENATE BILL NO. 51
INTRODUCED BY MAZUREK
BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

JANUARY 3, 1989 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

JANUARY 6, 1989 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 7, 1989 PRINTING REPORT.

JANUARY 10, 1989 SECOND READING, DO PASS.

JANUARY 11, 1989 ENGROSSING REPORT.

JANUARY 12, 1989 THIRD READING, PASSED.
AYES, 48; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

MARCH 1, 1989 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 4, 1989 SECOND READING, CONCURRED IN AS
AMENDED.

MARCH 7, 1989 THIRD READING, CONCURRED IN.
AYES, 92; NOES, 0.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 11, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 14, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. 51
2 INTRODUCED BY MAZUREK
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO STANDARDIZE THE
6 FILING REQUIREMENTS FOR STATE WITHHOLDING STATEMENTS AND THE
7 FILING REQUIREMENTS FOR INFORMATION AGENTS WITH THE
8 REQUIREMENTS OF THE UNITED STATES INTERNAL REVENUE CODE;
9 AMENDING SECTIONS 15-30-101, 15-30-204, 15-30-206,
10 15-30-207, AND 15-30-301, MCA; AND PROVIDING AN
11 APPLICABILITY DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 15-30-101, MCA, is amended to read:

15 "15-30-101. Definitions. For the purpose of this
16 chapter, unless otherwise required by the context, the
17 following definitions apply:

18 (1) "Base year structure" means the following elements
19 of the income tax structure:

20 (a) the tax brackets established in 15-30-103, but
21 unadjusted by subsection (2) of 15-30-103, in effect on June
22 30 of the taxable year;

23 (b) the exemptions contained in 15-30-112, but
24 unadjusted by subsections (7) and (8) of 15-30-112, in
25 effect on June 30 of the taxable year;

1 (c) the maximum standard deduction provided in
2 15-30-122, but unadjusted by subsection (2) of 15-30-122, in
3 effect on June 30 of the taxable year.

4 (2) "Consumer price index" means the consumer price
5 index, United States city average, for all items, using the
6 1967 base of 100 as published by the bureau of labor
7 statistics of the U.S. department of labor.

8 (3) "Department" means the department of revenue.

9 (4) "Dividend" means any distribution made by a
10 corporation out of its earnings or profits to its
11 shareholders or members, whether in cash or in other
12 property or in stock of the corporation, other than stock
13 dividends as herein defined. "Stock dividends" means new
14 stock issued, for surplus or profits capitalized, to
15 shareholders in proportion to their previous holdings.

16 (5) "Fiduciary" means a guardian, trustee, executor,
17 administrator, receiver, conservator, or any person, whether
18 individual or corporate, acting in any fiduciary capacity
19 for any person, trust, or estate.

20 (6) "Foreign country" or "foreign government" means
21 any jurisdiction other than the one embraced within the
22 United States, its territories and possessions.

23 (7) "Gross income" means the taxpayer's gross income
24 for federal income tax purposes as defined in section 61 of
25 the Internal Revenue Code of 1954 or as that section may be



-2- INTRODUCED BILL
 SB 51

1 labeled or amended, excluding unemployment compensation
2 included in federal gross income under the provisions of
3 section 85 of the Internal Revenue Code of 1954 as amended.

4 (8) "Inflation factor" means a number determined for
5 each taxable year by dividing the consumer price index for
6 June of the taxable year by the consumer price index for
7 June, 1980.

8 (9) "Information agents" includes all individuals,
9 corporations, associations, and partnerships, in whatever
10 capacity acting, including lessees or mortgagors of real or
11 personal property, fiduciaries, brokers, real estate
12 brokers, employers, and all officers and employees of the
13 state or of any municipal corporation or political
14 subdivision of the state, having the control, receipt,
15 custody, disposal, or payment of interest, rent, salaries,
16 wages, premiums, annuities, compensations, remunerations,
17 emoluments, or other fixed or determinable annual or
18 periodical gains, profits, and income with respect to which
19 any person or fiduciary is taxable under this chapter.

20 (10) "Knowingly" is as defined in 45-2-101.

21 (11) "Net income" means the adjusted gross income of a
22 taxpayer less the deductions allowed by this chapter.

23 (12) "Paid", for the purposes of the deductions and
24 credits under this chapter, means paid or accrued or paid or
25 incurred, and the terms "paid or incurred" and "paid or

1 accrued" shall be construed according to the method of
2 accounting upon the basis of which the taxable income is
3 computed under this chapter.

4 (13) "Purposely" is as defined in 45-2-101.

5 (14) "Received", for the purpose of computation of
6 taxable income under this chapter, means received or accrued
7 and the term "received or accrued" shall be construed
8 according to the method of accounting upon the basis of
9 which the taxable income is computed under this chapter.

10 (15) "Resident" applies only to natural persons and
11 includes, for the purpose of determining liability to the
12 tax imposed by this chapter with reference to the income of
13 any taxable year, any person domiciled in the state of
14 Montana and any other person who maintains a permanent place
15 of abode within the state even though temporarily absent
16 from the state and has not established a residence
17 elsewhere.

18 (16) "Taxable income" means the adjusted gross income
19 of a taxpayer less the deductions and exemptions provided
20 for in this chapter.

21 (17) "Taxable year" means the taxpayer's taxable year
22 for federal income tax purposes.

23 (18) "Taxpayer" includes any person or fiduciary,
24 resident or nonresident, subject to a tax imposed by this
25 chapter and does not include corporations."

1 **Section 2.** Section 15-30-204, MCA, is amended to read:

2 **"15-30-204. Quarterly or weekly payment.** (1) Except as
3 provided in subsection (3), on or before the last day of
4 April, July, October, and January, every employer subject to
5 the provisions of 15-30-202 and 15-30-203 shall file a
6 return in such form and containing such information as may
7 be required by the department and, except as provided in
8 subsection (2), shall pay therewith the amount required by
9 15-30-202 to be deducted and withheld by the employer from
10 wages paid during the preceding quarter. Quarterly returns
11 for employers paying weekly shall be used to summarize and
12 adjust payments and request refunds of overpayments.

13 (2) An employer subject to the provisions of 15-30-202
14 and 15-30-203 whose total liability for withholdings
15 equalled or exceeded \$300,000 for the preceding calendar
16 year shall remit a weekly payment to the department for the
17 amount required by 15-30-202 to be deducted and withheld by
18 the employer from wages paid during the preceding week. The
19 weekly payment must be submitted on or before the date on
20 which federal income tax weekly withholding payments are
21 due.

22 (3) If the total amount of the tax withheld by an
23 employer under the provisions of 15-30-202 upon the wages of
24 all employees of any employer is less than \$10 in each
25 quarterly period of any year, such employer shall not be

1 required to file the quarterly returns or to make the
2 quarterly payments as provided in subsection (1), but in
3 lieu thereof such employer shall, on or before February 15
4 28 of the year succeeding that in which such wages were
5 paid, file an annual return in such form as may be required
6 by the department and shall pay therewith the amount
7 required to be deducted and withheld by the employer from
8 all wages paid during the preceding calendar year.

9 (4) If the department has reason to believe that
10 collection of the amount of any tax withheld is in jeopardy,
11 it may proceed as provided for under 15-30-312 with respect
12 to jeopardy assessments of income tax."

13 **Section 3.** Section 15-30-206, MCA, is amended to read:

14 **"15-30-206. Annual withholding statement.** Every
15 employer shall, prior to February 15 28 in each year,
16 furnish to each employee a written statement showing the
17 total wages paid by the employer to the employee during the
18 preceding calendar year and showing the amount of the
19 federal income tax deducted and withheld from such wages and
20 the amount of the tax deducted and withheld therefrom under
21 the provisions of 15-30-201 through 15-30-209. Said
22 statement shall contain such additional information and
23 shall be in such form as the department shall prescribe, and
24 a duplicate thereof shall be filed by the employee with his
25 state income tax return."

1 **Section 4.** Section 15-30-207, MCA, is amended to read:

2 **"15-30-207. Annual statement by employer.** (1) Every
3 employer shall, on or before February 15 28 in each year,
4 file with the department a wage and tax statement for each
5 employee in such form and summarizing such information as
6 the department requires, including the total wages paid to
7 the employee during the preceding calendar year or any part
8 thereof and showing the total amount of the federal income
9 tax deducted and withheld from such wages and the total
10 amount of the tax deducted and withheld therefrom under the
11 provisions of 15-30-201 through 15-30-209.

12 (2) The annual statement filed by an employer with
13 respect to the wage payments reported constitutes full
14 compliance with the requirements of 15-30-301 relating to
15 the duties of information agents, and no additional
16 information return is required with respect to such wage
17 payments.

18 (3) In addition to any other penalty provided by law,
19 the failure of an employer to furnish a statement as
20 required by subsection (1) subjects the employer to a
21 penalty of \$5 for each failure, provided that the minimum
22 penalty for failure to file the statements required on or
23 before February 15 of each year shall be \$50. This penalty
24 may be abated by the department upon a showing of good cause
25 by the employer. The penalty may be collected in the same

1 manner as are other tax debts."

2 **Section 5.** Section 15-30-301, MCA, is amended to read:

3 **"15-30-301. Information agents' duties.** (1) Every
4 information agent shall make return to the department of
5 complete information concerning the following distributions
6 made for any individual during the taxable year upon which
7 no withholding tax has been deducted:

8 (a) sums in excess of \$10 distributed as dividends,
9 interest as defined in section 6049 of the Internal Revenue
10 Code of 1965 or as that section may be amended, royalties,
11 and payments made under a retirement plan covering an
12 owner-employee as defined in section 401(c)(3) of the
13 Internal Revenue Code of 1965 or as that section may be
14 amended;

15 (b) interest, other than that specified in subsection
16 (1)(a) of this section, rents, royalties, salaries, wages,
17 prizes, awards, annuities, pensions, and other fixed or
18 determinable gains, profits, and income in excess of \$600,
19 except interest coupons payable to the bearer.

20 (2) The return should be made under the regulations
21 and in the form and manner prescribed by the department;
22 provided, however, that for ease of reporting, the form
23 shall be as nearly identical to the comparable federal form
24 as possible."

25 **Section 6. Extension of authority.** Any existing

1 authority to make rules on the subject of the provisions of
2 [this act] is extended to the provisions of [this act].

3 **Section 7. Applicability.** [This act] applies to
4 taxable years beginning after December 31, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB051, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to standardize the filing requirements for state withholding statements and the filing requirements for information agents with the requirements of the United States Internal Revenue Code.

FISCAL IMPACT:

This bill adds "brokers" and "real estate brokers" to the definition of information agents, and requires information agents to file information returns on royalties in excess of \$10 (instead of the current law level of \$600).

The bill also provides for uniformity in state and federal law by changing the due date for filing employer withholding statements and mailing employee W-2 Forms from February 15 to February 28.

This bill is expected to produce no appreciable revenue or expenditure impact.

Ray Shackelford 1/7/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Joseph P. Mazurek
JOSEPH P. MAZUREK, SPONSOR DATE
Fiscal Note for SB051, as introduced

SB 51

APPROVED BY COMMITTEE
ON TAXATION

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1 (c) the maximum standard deduction provided in
2 15-30-122, but unadjusted by subsection (2) of 15-30-122, in
3 effect on June 30 of the taxable year.

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5 index, United States city average, for all items, using the
6 1967 base of 100 as published by the bureau of labor
7 statistics of the U.S. department of labor.

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10 corporation out of its earnings or profits to its
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14 stock issued, for surplus or profits capitalized, to
15 shareholders in proportion to their previous holdings.

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17 administrator, receiver, conservator, or any person, whether
18 individual or corporate, acting in any fiduciary capacity
19 for any person, trust, or estate.

20 (6) "Foreign country" or "foreign government" means
21 any jurisdiction other than the one embraced within the
22 United States, its territories and possessions.

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24 for federal income tax purposes as defined in section 61 of
25 the Internal Revenue Code of 1954 or as that section may be



1 labeled or amended, excluding unemployment compensation
 2 included in federal gross income under the provisions of
 3 section 85 of the Internal Revenue Code of 1954 as amended.

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 7 June, 1980.

8 (9) "Information agents" includes all individuals,
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 11 personal property, fiduciaries, brokers, real estate
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 13 state or of any municipal corporation or political
 14 subdivision of the state, having the control, receipt,
 15 custody, disposal, or payment of interest, rent, salaries,
 16 wages, premiums, annuities, compensations, remunerations,
 17 emoluments, or other fixed or determinable annual or
 18 periodical gains, profits, and income with respect to which
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 24 credits under this chapter, means paid or accrued or paid or
 25 incurred, and the terms "paid or incurred" and "paid or

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 2 accounting upon the basis of which the taxable income is
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10 (15) "Resident" applies only to natural persons and
 11 includes, for the purpose of determining liability to the
 12 tax imposed by this chapter with reference to the income of
 13 any taxable year, any person domiciled in the state of
 14 Montana and any other person who maintains a permanent place
 15 of abode within the state even though temporarily absent
 16 from the state and has not established a residence
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18 (16) "Taxable income" means the adjusted gross income
 19 of a taxpayer less the deductions and exemptions provided
 20 for in this chapter.

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23 (18) "Taxpayer" includes any person or fiduciary,
 24 resident or nonresident, subject to a tax imposed by this
 25 chapter and does not include corporations."

1 **Section 2.** Section 15-30-204, MCA, is amended to read:

2 "15-30-204. **Quarterly or weekly payment.** (1) Except as
3 provided in subsection (3), on or before the last day of
4 April, July, October, and January, every employer subject to
5 the provisions of 15-30-202 and 15-30-203 shall file a
6 return in such form and containing such information as may
7 be required by the department and, except as provided in
8 subsection (2), shall pay therewith the amount required by
9 15-30-202 to be deducted and withheld by the employer from
10 wages paid during the preceding quarter. Quarterly returns
11 for employers paying weekly shall be used to summarize and
12 adjust payments and request refunds of overpayments.

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14 and 15-30-203 whose total liability for withholdings
15 equalled or exceeded \$300,000 for the preceding calendar
16 year shall remit a weekly payment to the department for the
17 amount required by 15-30-202 to be deducted and withheld by
18 the employer from wages paid during the preceding week. The
19 weekly payment must be submitted on or before the date on
20 which federal income tax weekly withholding payments are
21 due.

22 (3) If the total amount of the tax withheld by an
23 employer under the provisions of 15-30-202 upon the wages of
24 all employees of any employer is less than \$10 in each
25 quarterly period of any year, such employer shall not be

1 required to file the quarterly returns or to make the
2 quarterly payments as provided in subsection (1), but in
3 lieu thereof such employer shall, on or before February ~~15~~
4 28 of the year succeeding that in which such wages were
5 paid, file an annual return in such form as may be required
6 by the department and shall pay therewith the amount
7 required to be deducted and withheld by the employer from
8 all wages paid during the preceding calendar year.

9 (4) If the department has reason to believe that
10 collection of the amount of any tax withheld is in jeopardy,
11 it may proceed as provided for under 15-30-312 with respect
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13 **Section 3.** Section 15-30-206, MCA, is amended to read:

14 "15-30-206. **Annual withholding statement.** Every
15 employer shall, prior to February ~~15~~ 28 in each year,
16 furnish to each employee a written statement showing the
17 total wages paid by the employer to the employee during the
18 preceding calendar year and showing the amount of the
19 federal income tax deducted and withheld from such wages and
20 the amount of the tax deducted and withheld therefrom under
21 the provisions of 15-30-201 through 15-30-209. Said
22 statement shall contain such additional information and
23 shall be in such form as the department shall prescribe, and
24 a duplicate thereof shall be filed by the employee with his
25 state income tax return."

1 **Section 4.** Section 15-30-207, MCA, is amended to read:

2 *15-30-207. **Annual statement by employer.** (1) Every
3 employer shall, on or before February 15 28 in each year,
4 file with the department a wage and tax statement for each
5 employee in such form and summarizing such information as
6 the department requires, including the total wages paid to
7 the employee during the preceding calendar year or any part
8 thereof and showing the total amount of the federal income
9 tax deducted and withheld from such wages and the total
10 amount of the tax deducted and withheld therefrom under the
11 provisions of 15-30-201 through 15-30-209.

12 (2) The annual statement filed by an employer with
13 respect to the wage payments reported constitutes full
14 compliance with the requirements of 15-30-301 relating to
15 the duties of information agents, and no additional
16 information return is required with respect to such wage
17 payments.

18 (3) In addition to any other penalty provided by law,
19 the failure of an employer to furnish a statement as
20 required by subsection (1) subjects the employer to a
21 penalty of \$5 for each failure, provided that the minimum
22 penalty for failure to file the statements required on or
23 before February 15 28 of each year shall be \$50. This
24 penalty may be abated by the department upon a showing of
25 good cause by the employer. The penalty may be collected in

1 the same manner as are other tax debts."

2 **Section 5.** Section 15-30-301, MCA, is amended to read:

3 *15-30-301. **Information agents' duties.** (1) Every
4 information agent shall make return to the department of
5 complete information concerning the following distributions
6 made for any individual during the taxable year upon which
7 no withholding tax has been deducted:

8 (a) sums in excess of \$10 distributed as dividends,
9 interest as defined in section 6049 of the Internal Revenue
10 Code of 1965 or as that section may be amended, royalties,
11 and payments made under a retirement plan covering an
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15 (b) interest, other than that specified in subsection
16 (1)(a) of this section, rents, ~~royalties~~, salaries, wages,
17 prizes, awards, annuities, pensions, and other fixed or
18 determinable gains, profits, and income in excess of \$600,
19 except interest coupons payable to the bearer.

20 (2) The return should be made under the regulations
21 and in the form and manner prescribed by the department;
22 provided, however, that for ease of reporting, the form
23 shall be as nearly identical to the comparable federal form
24 as possible."

25 NEW SECTION. **Section 6.** Extension of authority. Any

1 existing authority to make rules on the subject of the
2 provisions of [this act] is extended to the provisions of
3 [this act].

4 NEW SECTION. **Section 7. Applicability.** [This act]
5 applies to taxable years beginning after December 31, 1989.

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13 state or of any municipal corporation or political
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15 custody, disposal, or payment of interest, rent, salaries,
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15 of abode within the state even though temporarily absent
16 from the state and has not established a residence
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5 the provisions of 15-30-202 and 15-30-203 shall file a
6 return in such form and containing such information as may
7 be required by the department and, except as provided in
8 subsection (2), shall pay therewith the amount required by
9 15-30-202 to be deducted and withheld by the employer from
10 wages paid during the preceding quarter. Quarterly returns
11 for employers paying weekly shall be used to summarize and
12 adjust payments and request refunds of overpayments.

13 (2) An employer subject to the provisions of 15-30-202
14 and 15-30-203 whose total liability for withholdings
15 equalled or exceeded \$300,000 for the preceding calendar
16 year shall remit a weekly payment to the department for the
17 amount required by 15-30-202 to be deducted and withheld by
18 the employer from wages paid during the preceding week. The
19 weekly payment must be submitted on or before the date on
20 which federal income tax weekly withholding payments are
21 due.

22 (3) If the total amount of the tax withheld by an
23 employer under the provisions of 15-30-202 upon the wages of
24 all employees of any employer is less than \$10 in each
25 quarterly period of any year, such employer shall not be

1 required to file the quarterly returns or to make the
2 quarterly payments as provided in subsection (1), but in
3 lieu thereof such employer shall, on or before February 15
4 28 of the year succeeding that in which such wages were
5 paid, file an annual return in such form as may be required
6 by the department and shall pay therewith the amount
7 required to be deducted and withheld by the employer from
8 all wages paid during the preceding calendar year.

9 (4) If the department has reason to believe that
10 collection of the amount of any tax withheld is in jeopardy,
11 it may proceed as provided for under 15-30-312 with respect
12 to jeopardy assessments of income tax."

13 **Section 3.** Section 15-30-206, MCA, is amended to read:

14 "15-30-206. **Annual withholding statement.** Every
15 employer shall, prior to February 15 28 in each year,
16 furnish to each employee a written statement showing the
17 total wages paid by the employer to the employee during the
18 preceding calendar year and showing the amount of the
19 federal income tax deducted and withheld from such wages and
20 the amount of the tax deducted and withheld therefrom under
21 the provisions of 15-30-201 through 15-30-209. Said
22 statement shall contain such additional information and
23 shall be in such form as the department shall prescribe, and
24 a duplicate thereof shall be filed by the employee with his
25 state income tax return."

1 **Section 4.** Section 15-30-207, MCA, is amended to read:

2 **"15-30-207. Annual statement by employer.** (1) Every
3 employer shall, on or before February 15 28 in each year,
4 file with the department a wage and tax statement for each
5 employee in such form and summarizing such information as
6 the department requires, including the total wages paid to
7 the employee during the preceding calendar year or any part
8 thereof and showing the total amount of the federal income
9 tax deducted and withheld from such wages and the total
10 amount of the tax deducted and withheld therefrom under the
11 provisions of 15-30-201 through 15-30-209.

12 (2) The annual statement filed by an employer with
13 respect to the wage payments reported constitutes full
14 compliance with the requirements of 15-30-301 relating to
15 the duties of information agents, and no additional
16 information return is required with respect to such wage
17 payments.

18 (3) In addition to any other penalty provided by law,
19 the failure of an employer to furnish a statement as
20 required by subsection (1) subjects the employer to a
21 penalty of \$5 for each failure, provided that the minimum
22 penalty for failure to file the statements required on or
23 before February 15 28 of each year shall be \$50. This
24 penalty may be abated by the department upon a showing of
25 good cause by the employer. The penalty may be collected in

1 the same manner as are other tax debts."

2 **Section 5.** Section 15-30-301, MCA, is amended to read:

3 **"15-30-301. Information agents' duties.** (1) Every
4 information agent shall make return to the department of
5 complete information concerning the following distributions
6 made for any individual during the taxable year upon which
7 no withholding tax has been deducted:

8 (a) sums in excess of \$10 distributed as dividends,
9 interest as defined in section 6049 of the Internal Revenue
10 Code of 1965 or as that section may be amended, royalties,
11 and payments made under a retirement plan covering an
12 owner-employee as defined in section 401(c)(3) of the
13 Internal Revenue Code of 1965 or as that section may be
14 amended;

15 (b) interest, other than that specified in subsection
16 (1)(a) of this section, rents, ~~royalties~~, salaries, wages,
17 prizes, awards, annuities, pensions, and other fixed or
18 determinable gains, profits, and income in excess of \$600,
19 except interest coupons payable to the bearer.

20 (2) The return should be made under the regulations
21 and in the form and manner prescribed by the department;
22 provided, however, that for ease of reporting, the form
23 shall be as nearly identical to the comparable federal form
24 as possible."

25 NEW SECTION. **Section 6.** Extension of authority. Any

1 existing authority to make rules on the subject of the
2 provisions of [this act] is extended to the provisions of
3 [this act].

4 NEW SECTION. **Section 7. Applicability.** [This act]
5 applies to taxable years beginning after December 31, 1989.

-End-

STANDING COMMITTEE REPORT

2/11/89
1:15 pm
JD

March 1, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that SENATE BILL 51 (blue reference copy) be concurred in as amended.

Signed: *Dan Harrington*

Dan Harrington, Chairman

[REP. *J. Muscare* WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 9.

Strike: "15-30-206,"

2. Page 6, lines 13 through 25.

Strike: section 3 in its entirety

Renumber: subsequent sections

HOUSE

(B)

481159SC.HBV

COMMITTEE OF THE WHOLE AMENDMENT
SENATE BILL 51
Representative Driscoll

March 4, 1989 8:21 am
Page 1 of 1

Mr. Chairman: I move to amend SENATE BILL 51 (third reading copy -- blue).

Signed: *Driscoll*
Representative Driscoll

And, that such amendments to SENATE BILL 51 read :

1. Amend House Committee on Taxation amendment dated March 1, 1989, as follows:

Strike amendments 1 and 2 in their entirety.

2. Amend Senate Bill 51 to read as follows:

Page 6, line 15.

Following: "prior to"

Strike: "February"

Following: "15"

Strike: "28"

Insert: "January 31"

ADOPT

REJECT

HOUSE

510821CW.HRT RT

SB 51

1 SENATE BILL NO. 51
 2 INTRODUCED BY MAZUREK
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO STANDARDIZE THE
 6 FILING REQUIREMENTS FOR STATE WITHHOLDING STATEMENTS AND THE
 7 FILING REQUIREMENTS FOR INFORMATION AGENTS WITH THE
 8 REQUIREMENTS OF THE UNITED STATES INTERNAL REVENUE CODE;
 9 AMENDING SECTIONS 15-30-101, 15-30-204, ~~15-30-206,~~
 10 15-30-206, 15-30-207, AND 15-30-301, MCA; AND PROVIDING AN
 11 APPLICABILITY DATE."
 12

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

14 **Section 1.** Section 15-30-101, MCA, is amended to read:

15 "15-30-101. Definitions. For the purpose of this
 16 chapter, unless otherwise required by the context, the
 17 following definitions apply:

18 (1) "Base year structure" means the following elements
 19 of the income tax structure:

20 (a) the tax brackets established in 15-30-103, but
 21 unadjusted by subsection (2) of 15-30-103, in effect on June
 22 30 of the taxable year;

23 (b) the exemptions contained in 15-30-112, but
 24 unadjusted by subsections (7) and (8) of 15-30-112, in
 25 effect on June 30 of the taxable year;

1 (c) the maximum standard deduction provided in
 2 15-30-122, but unadjusted by subsection (2) of 15-30-122, in
 3 effect on June 30 of the taxable year.

4 (2) "Consumer price index" means the consumer price
 5 index, United States city average, for all items, using the
 6 1967 base of 100 as published by the bureau of labor
 7 statistics of the U.S. department of labor.

8 (3) "Department" means the department of revenue.

9 (4) "Dividend" means any distribution made by a
 10 corporation out of its earnings or profits to its
 11 shareholders or members, whether in cash or in other
 12 property or in stock of the corporation, other than stock
 13 dividends as herein defined. "Stock dividends" means new
 14 stock issued, for surplus or profits capitalized, to
 15 shareholders in proportion to their previous holdings.

16 (5) "Fiduciary" means a guardian, trustee, executor,
 17 administrator, receiver, conservator, or any person, whether
 18 individual or corporate, acting in any fiduciary capacity
 19 for any person, trust, or estate.

20 (6) "Foreign country" or "foreign government" means
 21 any jurisdiction other than the one embraced within the
 22 United States, its territories and possessions.

23 (7) "Gross income" means the taxpayer's gross income
 24 for federal income tax purposes as defined in section 61 of
 25 the Internal Revenue Code of 1954 or as that section may be



1 labeled or amended, excluding unemployment compensation
2 included in federal gross income under the provisions of
3 section 85 of the Internal Revenue Code of 1954 as amended.

4 (8) "Inflation factor" means a number determined for
5 each taxable year by dividing the consumer price index for
6 June of the taxable year by the consumer price index for
7 June, 1980.

8 (9) "Information agents" includes all individuals,
9 corporations, associations, and partnerships, in whatever
10 capacity acting, including lessees or mortgagors of real or
11 personal property, fiduciaries, brokers, real estate
12 brokers, employers, and all officers and employees of the
13 state or of any municipal corporation or political
14 subdivision of the state, having the control, receipt,
15 custody, disposal, or payment of interest, rent, salaries,
16 wages, premiums, annuities, compensations, remunerations,
17 emoluments, or other fixed or determinable annual or
18 periodical gains, profits, and income with respect to which
19 any person or fiduciary is taxable under this chapter.

20 (10) "Knowingly" is as defined in 45-2-101.

21 (11) "Net income" means the adjusted gross income of a
22 taxpayer less the deductions allowed by this chapter.

23 (12) "Paid", for the purposes of the deductions and
24 credits under this chapter, means paid or accrued or paid or
25 incurred, and the terms "paid or incurred" and "paid or

1 accrued" shall be construed according to the method of
2 accounting upon the basis of which the taxable income is
3 computed under this chapter.

4 (13) "Purposely" is as defined in 45-2-101.

5 (14) "Received", for the purpose of computation of
6 taxable income under this chapter, means received or accrued
7 and the term "received or accrued" shall be construed
8 according to the method of accounting upon the basis of
9 which the taxable income is computed under this chapter.

10 (15) "Resident" applies only to natural persons and
11 includes, for the purpose of determining liability to the
12 tax imposed by this chapter with reference to the income of
13 any taxable year, any person domiciled in the state of
14 Montana and any other person who maintains a permanent place
15 of abode within the state even though temporarily absent
16 from the state and has not established a residence
17 elsewhere.

18 (16) "Taxable income" means the adjusted gross income
19 of a taxpayer less the deductions and exemptions provided
20 for in this chapter.

21 (17) "Taxable year" means the taxpayer's taxable year
22 for federal income tax purposes.

23 (18) "Taxpayer" includes any person or fiduciary,
24 resident or nonresident, subject to a tax imposed by this
25 chapter and does not include corporations."

1 **Section 2.** Section 15-30-204, MCA, is amended to read:

2 "15-30-204. **Quarterly or weekly payment.** (1) Except as
3 provided in subsection (3), on or before the last day of
4 April, July, October, and January, every employer subject to
5 the provisions of 15-30-202 and 15-30-203 shall file a
6 return in such form and containing such information as may
7 be required by the department and, except as provided in
8 subsection (2), shall pay therewith the amount required by
9 15-30-202 to be deducted and withheld by the employer from
10 wages paid during the preceding quarter. Quarterly returns
11 for employers paying weekly shall be used to summarize and
12 adjust payments and request refunds of overpayments.

13 (2) An employer subject to the provisions of 15-30-202
14 and 15-30-203 whose total liability for withholdings
15 equalled or exceeded \$300,000 for the preceding calendar
16 year shall remit a weekly payment to the department for the
17 amount required by 15-30-202 to be deducted and withheld by
18 the employer from wages paid during the preceding week. The
19 weekly payment must be submitted on or before the date on
20 which federal income tax weekly withholding payments are
21 due.

22 (3) If the total amount of the tax withheld by an
23 employer under the provisions of 15-30-202 upon the wages of
24 all employees of any employer is less than \$10 in each
25 quarterly period of any year, such employer shall not be

1 required to file the quarterly returns or to make the
2 quarterly payments as provided in subsection (1), but in
3 lieu thereof such employer shall, on or before February 15
4 28 of the year succeeding that in which such wages were
5 paid, file an annual return in such form as may be required
6 by the department and shall pay therewith the amount
7 required to be deducted and withheld by the employer from
8 all wages paid during the preceding calendar year.

9 (4) If the department has reason to believe that
10 collection of the amount of any tax withheld is in jeopardy,
11 it may proceed as provided for under 15-30-312 with respect
12 to jeopardy assessments of income tax."

13 ~~Section 3.~~ ~~Section 15-30-206, MCA, is amended to read:~~

14 "15-30-206. ~~Annual~~ ~~withholding~~ ~~statement.~~ ~~Every~~
15 ~~employer shall, prior to February 15 28 in each year,~~
16 ~~furnish to each employee a written statement showing the~~
17 ~~total wages paid by the employer to the employee during the~~
18 ~~preceding calendar year and showing the amount of the~~
19 ~~federal income tax deducted and withheld from such wages and~~
20 ~~the amount of the tax deducted and withheld therefrom under~~
21 ~~the provisions of 15-30-201 through 15-30-209. Said~~
22 ~~statement shall contain such additional information and~~
23 ~~shall be in such form as the department shall prescribe, and~~
24 ~~a duplicate thereof shall be filed by the employee with his~~
25 ~~state income tax return."~~

1 **SECTION 3. SECTION 15-30-206, MCA, IS AMENDED TO READ:**

2 "15-30-206. Annual withholding statement. Every
3 employer shall, prior to February 15 ~~28~~ JANUARY 31 in each
4 year, furnish to each employee a written statement showing
5 the total wages paid by the employer to the employee during
6 the preceding calendar year and showing the amount of the
7 federal income tax deducted and withheld from such wages and
8 the amount of the tax deducted and withheld therefrom under
9 the provisions of 15-30-201 through 15-30-209. Said
10 statement shall contain such additional information and
11 shall be in such form as the department shall prescribe, and
12 a duplicate thereof shall be filed by the employee with his
13 state income tax return."

14 **Section 4.** Section 15-30-207, MCA, is amended to read:

15 "15-30-207. Annual statement by employer. (1) Every
16 employer shall, on or before February 15 28 in each year,
17 file with the department a wage and tax statement for each
18 employee in such form and summarizing such information as
19 the department requires, including the total wages paid to
20 the employee during the preceding calendar year or any part
21 thereof and showing the total amount of the federal income
22 tax deducted and withheld from such wages and the total
23 amount of the tax deducted and withheld therefrom under the
24 provisions of 15-30-201 through 15-30-209.

25 (2) The annual statement filed by an employer with

1 respect to the wage payments reported constitutes full
2 compliance with the requirements of 15-30-301 relating to
3 the duties of information agents, and no additional
4 information return is required with respect to such wage
5 payments.

6 (3) In addition to any other penalty provided by law,
7 the failure of an employer to furnish a statement as
8 required by subsection (1) subjects the employer to a
9 penalty of \$5 for each failure, provided that the minimum
10 penalty for failure to file the statements required on or
11 before February 15 28 of each year shall be \$50. This
12 penalty may be abated by the department upon a showing of
13 good cause by the employer. The penalty may be collected in
14 the same manner as are other tax debts."

15 **Section 5.** Section 15-30-301, MCA, is amended to read:

16 "15-30-301. Information agents' duties. (1) Every
17 information agent shall make return to the department of
18 complete information concerning the following distributions
19 made for any individual during the taxable year upon which
20 no withholding tax has been deducted:

21 (a) sums in excess of \$10 distributed as dividends,
22 interest as defined in section 6049 of the Internal Revenue
23 Code of 1965 or as that section may be amended, royalties,
24 and payments made under a retirement plan covering an
25 owner-employee as defined in section 401(c)(3) of the

1 Internal Revenue Code of 1965 or as that section may be
2 amended;

3 (b) interest, other than that specified in subsection
4 (1)(a) of this section, rents, ~~royalties~~, salaries, wages,
5 prizes, awards, annuities, pensions, and other fixed or
6 determinable gains, profits, and income in excess of \$600,
7 except interest coupons payable to the bearer.

8 (2) The return should be made under the regulations
9 and in the form and manner prescribed by the department;
10 provided, however, that for ease of reporting, the form
11 shall be as nearly identical to the comparable federal form
12 as possible."

13 NEW SECTION. **Section 6.** Extension of authority. Any
14 existing authority to make rules on the subject of the
15 provisions of [this act] is extended to the provisions of
16 [this act].

17 NEW SECTION. **Section 7.** Applicability. [This act]
18 applies to taxable years beginning after December 31, 1989.

-End-