

SENATE BILL NO. 322

INTRODUCED BY TVEIT, TOEWS, HOCKETT, BRUSKI-MAUS, NATHE,
HAYNE, ZOOK
BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

IN THE SENATE

FEBRUARY 5, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 3, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 4, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
MARCH 5, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 46; NOES, 2.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 6, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 12, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 15, 1993	SECOND READING, CONCURRED IN.
MARCH 18, 1993	THIRD READING, CONCURRED IN. AYES, 81; NOES, 17.
MARCH 19, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 20, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 322
 2 INTRODUCED BY Toritt Jean Hinkley
 3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT
 6 OF TRANSPORTATION ACCESS TO INDIVIDUAL INCOME TAX
 7 INFORMATION UNDER CERTAIN CONDITIONS; AMENDING SECTION
 8 15-30-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
 9 AND AN APPLICABILITY DATE."
 10

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

12 **Section 1.** Section 15-30-303, MCA, is amended to read:

13 "15-30-303. Confidentiality of tax records. (1) Except
 14 in accordance with proper judicial order or as otherwise
 15 provided by law, it is unlawful for the department or any
 16 deputy, assistant, agent, clerk, or other officer or
 17 employee to divulge or make known in any manner the amount
 18 of income or any particulars set forth or disclosed in any
 19 report or return required under this chapter or any other
 20 information secured in the administration of this chapter.
 21 It is also unlawful to divulge or make known in any manner
 22 any federal return or federal return information disclosed
 23 on any return or report required by rule of the department
 24 or under this chapter.

25 (2) The officers charged with the custody of such the

1 reports and returns ~~shall~~ may not be required to produce any
 2 of them or evidence of anything contained in them in any
 3 action or proceeding in any court, except in any action or
 4 proceeding to which the department is a party under the
 5 provisions of this chapter or any other taxing act or on
 6 behalf of any party to any action or proceedings under the
 7 provisions of this chapter or ~~such~~ other act when the
 8 reports or facts shown ~~thereby~~ are directly involved in ~~such~~
 9 the action or proceedings, in either of which events the
 10 court may require the production of and may admit in
 11 evidence so much of ~~said the~~ reports or of the facts shown
 12 ~~thereby~~ as are pertinent to the action or proceedings and no
 13 more.

14 (3) ~~Nothing--herein--shall~~ This section may not be
 15 construed to prohibit:

16 (a) the delivery to a taxpayer or his the taxpayer's
 17 duly authorized representative of a certified copy of any
 18 return or report filed in connection with his the tax;

19 (b) the publication of statistics ~~so~~ classified as to
 20 prevent the identification of particular reports or returns
 21 and the items thereof of the reports or returns; or

22 (c) the inspection by the attorney general or other
 23 legal representative of the state of the report or return of
 24 any taxpayer who ~~shall-bring~~ brings an action to set aside
 25 or review the tax based ~~thereon~~ on the report or return or

1 against whom an action or proceeding has been instituted in
2 accordance with the provisions of 15-30-311 and 15-30-322.

3 (4) Reports and returns ~~shall~~ must be preserved for at
4 least 3 years and thereafter until the department orders
5 them to be destroyed.

6 (5) Any offense against subsections (1) through (4) of
7 ~~this--section~~ shall be punished by a fine not exceeding
8 \$1,000 or by imprisonment in the county jail not exceeding 1
9 year, or both, at the discretion of the court, and if the
10 offender ~~be is~~ an officer or employee of the state, ~~he-shall~~
11 the offender must be dismissed from office and ~~be is~~
12 incapable of holding any public office in this state for a
13 period of 1 year thereafter.

14 (6) Notwithstanding the provisions of this section, the
15 department may permit the commissioner of internal revenue
16 of the United States or the proper officer of any state
17 imposing a tax upon the incomes of individuals or the
18 authorized representative of either such officer to inspect
19 the return of income of any individual or may furnish to
20 such the officer or his the officer's authorized
21 representative an abstract of the return of income of any
22 individual or supply ~~him~~ the officer with information
23 concerning any item of income contained in any return or
24 disclosed by the report of any investigation of the income
25 or return of income of any individual, but ~~such the~~

1 permission ~~shall~~ must be granted or ~~such the~~ information
2 furnished to ~~such the~~ officer or ~~his the officer's~~
3 representative only if the statutes of the United States or
4 of ~~such the~~ other state, as the case may be, grant
5 substantially similar privileges to the proper officer of
6 this state charged with the administration of this chapter.

7 (7) ~~Further,--notwithstanding~~ Notwithstanding any of the
8 provisions of this section, the department shall furnish:

9 (a) to the department of justice all information
10 necessary to identify those persons qualifying for the
11 additional exemption for blindness pursuant to 15-30-112(4),
12 for the purpose of enabling the department of justice to
13 administer the provisions of 61-5-105;

14 (b) to the department of social and rehabilitation
15 services information acquired under 15-30-301, pertaining to
16 an applicant for public assistance, reasonably necessary for
17 the prevention and detection of public assistance fraud and
18 abuse, provided notice to the applicant has been given;

19 (c) to the department of fish, wildlife, and parks
20 specific information that is available from income tax
21 returns and required under 87-2-102 to establish the
22 residency requirements of an applicant for hunting and
23 fishing licenses; and

24 (d) to the board of regents information required under
25 20-26-1111; and

1 (e) to the department of transportation information
2 relating to net farm income and gross income when that
3 information pertains to an applicant applying for a refund
4 under 15-70-223, provided that notice to the applicant has
5 been given. The information obtained by the department of
6 transportation is subject to the same restrictions on
7 disclosure as are individual income tax returns."

8 NEW SECTION. Section 2. Effective date --
9 applicability. [This act] is effective on passage and
10 approval and applies to claims for refunds filed on or after
11 [the effective date of this act].

-End-

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 322

INTRODUCED BY TVEIT, TOEWS, HOCKETT, BRUSKI-MAUS, NATHE,

HAYNE, ZOOK

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF TRANSPORTATION ACCESS TO CERTAIN INDIVIDUAL INCOME TAX INFORMATION ~~UNDER--CERTAIN-CONDITIONS~~ IN ORDER TO DETERMINE WHETHER GASOLINE USE QUALIFIES AS AGRICULTURAL USE FOR THE PURPOSE OF OBTAINING A REFUND; AMENDING SECTION SECTIONS 15-30-303 AND 15-70-223, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-30-303, MCA, is amended to read:

"15-30-303. Confidentiality of tax records. (1) Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for the department or any deputy, assistant, agent, clerk, or other officer or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this chapter or any other information secured in the administration of this chapter. It is also unlawful to divulge or make known in any manner any federal return or federal return information disclosed

on any return or report required by rule of the department or under this chapter.

(2) The officers charged with the custody of such the reports and returns ~~shall~~ may not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except in any action or proceeding to which the department is a party under the provisions of this chapter or any other taxing act or on behalf of any party to any action or proceedings under the provisions of this chapter or such other act when the reports or facts shown ~~thereby~~ are directly involved in such the action or proceedings, in either of which events the court may require the production of and may admit in evidence so much of ~~said the~~ reports or of the facts shown ~~thereby~~ as are pertinent to the action or proceedings and no more.

(3) ~~Nothing--herein--shall~~ This section may not be construed to prohibit:

(a) the delivery to a taxpayer or his the taxpayer's duly authorized representative of a certified copy of any return or report filed in connection with his the tax;

(b) the publication of statistics ~~so~~ classified ~~as~~ to prevent the identification of particular reports or returns and the items ~~thereof~~ of the reports or returns; or

(c) the inspection by the attorney general or other

1 legal representative of the state of the report or return of
 2 any taxpayer who ~~shall bring~~ brings an action to set aside
 3 or review the tax based ~~thereon on the report or return~~ or
 4 against whom an action or proceeding has been instituted in
 5 accordance with the provisions of 15-30-311 and 15-30-322.

6 (4) Reports and returns ~~shall~~ must be preserved for at
 7 least 3 years and ~~thereafter~~ until the department orders
 8 them to be destroyed.

9 (5) Any offense against subsections (1) through (4) of
 10 ~~this--section~~ shall be punished by a fine not exceeding
 11 \$1,000 or by imprisonment in the county jail not exceeding 1
 12 year, or both, at the discretion of the court, and if the
 13 offender ~~be is~~ an officer or employee of the state, ~~he-shall~~
 14 the offender must be dismissed from office and be is
 15 incapable of holding any public office in this state for a
 16 period of 1 year thereafter.

17 (6) Notwithstanding the provisions of this section, the
 18 department may permit the commissioner of internal revenue
 19 of the United States or the proper officer of any state
 20 imposing a tax upon the incomes of individuals or the
 21 authorized representative of either ~~such~~ officer to inspect
 22 the return of income of any individual or may furnish to
 23 ~~such the~~ officer or ~~his the~~ the officer's authorized
 24 representative an abstract of the return of income of any
 25 individual or supply ~~him~~ the officer with information

1 concerning any item of income contained in any return or
 2 disclosed by the report of any investigation of the income
 3 or return of income of any individual, but ~~such the~~
 4 permission ~~shall~~ must be granted or ~~such the~~ information
 5 furnished to ~~such the~~ officer or ~~his the~~ the officer's
 6 representative only if the statutes of the United States or
 7 of ~~such the~~ other state, as the case may be, grant
 8 substantially similar privileges to the proper officer of
 9 this state charged with the administration of this chapter.

10 (7) ~~Further, notwithstanding~~ Notwithstanding any of the
 11 provisions of this section, the department shall furnish:

12 (a) to the department of justice all information
 13 necessary to identify those persons qualifying for the
 14 additional exemption for blindness pursuant to 15-30-112(4),
 15 for the purpose of enabling the department of justice to
 16 administer the provisions of 61-5-105;

17 (b) to the department of social and rehabilitation
 18 services information acquired under 15-30-301, pertaining to
 19 an applicant for public assistance, reasonably necessary for
 20 the prevention and detection of public assistance fraud and
 21 abuse, provided notice to the applicant has been given;

22 (c) to the department of fish, wildlife, and parks
 23 specific information that is available from income tax
 24 returns and required under 87-2-102 to establish the
 25 residency requirements of an applicant for hunting and

1 fishing licenses; and

2 (d) to the board of regents information required under
3 20-26-1111; and

4 (e) to the department of transportation information
5 ~~relating--to--net--farm--income--and--gross--income--when--that~~
6 ~~information--pertains--to~~ THE RATIO OF GROSS FARM INCOME TO
7 TOTAL GROSS INCOME BASED ON THE MOST RECENT INCOME TAX
8 RETURN FILED BY an applicant applying for a refund under
9 15-70-223, provided that notice to the applicant has been
10 given AS PROVIDED IN 15-70-223. The information obtained by
11 the department of transportation is subject to the same
12 restrictions on disclosure as are individual income tax
13 returns."

14 **SECTION 2.** SECTION 15-70-223, MCA, IS AMENDED TO READ:

15 "15-70-223. Estimate allowed for agricultural use --
16 seller's signed statement acceptable on keylock or cardtrol
17 purchases. (1) An applicant whose use qualifies as
18 agricultural use may apply for a refund of 60% of the
19 applicable tax on the gallons of gasoline as indicated by
20 bulk delivery invoices or by evidence of keylock or cardtrol
21 purchases as an estimate of off-roadway use. To ensure that
22 the applicant's use qualifies as agricultural use, the
23 department of transportation may request from the department
24 of revenue information on the ratio of the applicant's gross
25 farm income to total gross income, provided that the

1 department of transportation gives notice to the applicant.

2 (2) For purposes of application for a refund under
3 subsection (1), the department shall accept, as evidence of
4 keylock or cardtrol purchases, a statement of the sale of
5 gasoline with applicable tax that identifies the purchaser
6 and that is signed by a licensed distributor or a person
7 licensed under 15-70-203 from whom the gasoline was
8 purchased.

9 (3) If any invoice or evidence is either lost or
10 destroyed, the purchaser may support his claim for refund by
11 submitting an affidavit relating the circumstances of such
12 loss or destruction and by producing such other evidence as
13 may be required by the department of transportation.

14 (4) An applicant whose use does not qualify as
15 agricultural use may not estimate and must maintain records
16 as required by 15-70-222."

17 **NEW SECTION. Section 3.** Effective date --
18 applicability. [This act] is effective on passage and
19 approval and applies to claims for refunds filed on or after
20 [the effective date of this act].

-End-

SENATE BILL NO. 322

INTRODUCED BY TVEIT, TOEWS, HOCKETT, BRUSKI-MAUS, NATHE,

HAYNE, ZOOK

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

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on any return or report required by rule of the department or under this chapter.

(2) The officers charged with the custody of such the reports and returns ~~shall~~ may not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except in any action or proceeding to which the department is a party under the provisions of this chapter or any other taxing act or on behalf of any party to any action or proceedings under the provisions of this chapter or such other act when the reports or facts shown thereby are directly involved in such the action or proceedings, in either of which events the court may require the production of and may admit in evidence so much of said the reports or of the facts shown thereby as are pertinent to the action or proceedings and no more.

(3) ~~Nothing--herein--shall~~ This section may not be construed to prohibit:

(a) the delivery to a taxpayer or his the taxpayer's duly authorized representative of a certified copy of any return or report filed in connection with his the tax;

(b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof of the reports or returns; or

(c) the inspection by the attorney general or other

1 legal representative of the state of the report or return of
 2 any taxpayer who ~~shall bring~~ brings an action to set aside
 3 or review the tax based thereon on the report or return or
 4 against whom an action or proceeding has been instituted in
 5 accordance with the provisions of 15-30-311 and 15-30-322.

6 (4) Reports and returns ~~shall~~ must be preserved for at
 7 least 3 years and thereafter until the department orders
 8 them to be destroyed.

9 (5) Any offense against subsections (1) through (4) of
 10 ~~this--section~~ shall be punished by a fine not exceeding
 11 \$1,000 or by imprisonment in the county jail not exceeding 1
 12 year, or both, at the discretion of the court, and if the
 13 offender be is an officer or employee of the state, ~~he shall~~
 14 the offender must be dismissed from office and be is
 15 incapable of holding any public office in this state for a
 16 period of 1 year thereafter.

17 (6) Notwithstanding the provisions of this section, the
 18 department may permit the commissioner of internal revenue
 19 of the United States or the proper officer of any state
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 21 authorized representative of either such officer to inspect
 22 the return of income of any individual or may furnish to
 23 such the officer or his the officer's authorized
 24 representative an abstract of the return of income of any
 25 individual or supply him the officer with information

1 concerning any item of income contained in any return or
 2 disclosed by the report of any investigation of the income
 3 or return of income of any individual, but such the
 4 permission shall must be granted or such the information
 5 furnished to such the officer or his the officer's
 6 representative only if the statutes of the United States or
 7 of such the other state, as the case may be, grant
 8 substantially similar privileges to the proper officer of
 9 this state charged with the administration of this chapter.

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 11 provisions of this section, the department shall furnish:

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 13 necessary to identify those persons qualifying for the
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5 relating--to--net--farm--income--and--gross--income--when--that
6 information--pertains--to THE RATIO OF GROSS FARM INCOME TO
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9 15-70-223, provided that notice to the applicant has been
10 given AS PROVIDED IN 15-70-223. The information obtained by
11 the department of transportation is subject to the same
12 restrictions on disclosure as are individual income tax
13 returns."

14 **SECTION 2. SECTION 15-70-223, MCA, IS AMENDED TO READ:**

15 "15-70-223. Estimate allowed for agricultural use --
16 seller's signed statement acceptable on keylock or cardtrol
17 purchases. (1) An applicant whose use qualifies as
18 agricultural use may apply for a refund of 60% of the
19 applicable tax on the gallons of gasoline as indicated by
20 bulk delivery invoices or by evidence of keylock or cardtrol
21 purchases as an estimate of off-roadway use. To ensure that
22 the applicant's use qualifies as agricultural use, the
23 department of transportation may request from the department
24 of revenue information on the ratio of the applicant's gross
25 farm income to total gross income, provided that the

1 department of transportation gives notice to the applicant.

2 (2) For purposes of application for a refund under
3 subsection (1), the department shall accept, as evidence of
4 keylock or cardtrol purchases, a statement of the sale of
5 gasoline with applicable tax that identifies the purchaser
6 and that is signed by a licensed distributor or a person
7 licensed under 15-70-203 from whom the gasoline was
8 purchased.

9 (3) If any invoice or evidence is either lost or
10 destroyed, the purchaser may support his claim for refund by
11 submitting an affidavit relating the circumstances of such
12 loss or destruction and by producing such other evidence as
13 may be required by the department of transportation.

14 (4) An applicant whose use does not qualify as
15 agricultural use may not estimate and must maintain records
16 as required by 15-70-222."

17 **NEW SECTION. Section 3. Effective date --**
18 **applicability. [This act] is effective on passage and**
19 **approval and applies to claims for refunds filed on or after**
20 **[the effective date of this act].**

-End-

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17 **NEW SECTION. Section 3.** Effective date --
 18 applicability. [This act] is effective on passage and
 19 approval and applies to claims for refunds filed on or after
 20 [the effective date of this act].

-End-