

SENATE BILL NO. 255

INTRODUCED BY

Franklin Dierker Matt Chapman
Bill Wilson
Hester Monahan Judy Trier
Propila
Subyer
Wm Ryan
Alan
By
Samuel

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE WITHHOLDING OF TAX FROM WAGES RECEIVED BY MEMBERS OF THE NATIONAL GUARD AND RESERVES WHILE PARTICIPATING IN DRILLS AND TRAINING; AMENDING SECTIONS 15-30-201 AND 15-30-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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~~ means 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~~ means an officer, employee, or elected public official of the United States, the state of Montana, or any political subdivision ~~thereof~~ of the state or any agency or instrumentality of the United States, the state of Montana, or a political subdivision ~~thereof~~ of the state. 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 an employee of the person; ~~except that~~ However, if the person for whom the individual performs or performed the service does not have control of the payment of the wages for the service, the term "employer" means the person ~~having~~ who has control of the payment of wages.

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

(a) for active service as a member of the regular armed forces of the United States, as defined in

1 10 U.S.C. 101(33);

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

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

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

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

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

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

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

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

22 (ii) for services performed by an individual in and at the time of the sale of newspapers or
23 magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to
24 be sold by ~~him~~ the individual at a fixed price, ~~his~~ with compensation being based on the retention of the
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29 medium other than cash when the payments are in the form of lodgings or meals and the services are
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 2 program ~~which~~ that benefits the employee, including but not limited to life insurance, hospitalization
 3 insurance for the employee or dependents, and employees' club activities;

4 (j) ~~for national guard and reserve training as provided in 5 U.S.C. 5517(d);~~

5 ~~(k)~~ as tips, in accordance with section 3402(k) of the Internal Revenue Code of 1954, as amended
 6 and applicable on January 1, 1983, received by persons for services rendered by them to patrons of
 7 premises licensed to provide food, beverage, or lodging;

8 ~~(k)~~ by an employer for dependent care assistance actually provided to or on behalf of an
 9 employee and for which a credit is allowed under 15-30-186 or 15-31-131, subject to the limitations
 10 provided in section 129(b) of the Internal Revenue Code as it read on January 1, 1989. (Subsection ~~(4)(k)~~
 11 ~~(4)(j)~~ terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.) "

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

14 "15-30-202. **Withholding of tax from wages.** ~~Every~~ Each employer making payment of wages shall
 15 ~~deduct and withhold upon such~~ from wages a tax determined in accordance with the withholding tax tables
 16 ~~which shall be~~ prepared and issued by the department. Persons on active service as members of the regular
 17 armed forces of the United States, as defined in 10 U.S.C. 101(33), ~~and members of the national guard~~
 18 ~~and reserves participating in training as provided in 5 U.S.C. 5517(d) shall~~ are not be subject to the
 19 provisions of this section."

20
 21 **NEW SECTION.** **Section 3. Effective date.** [This act] is effective on passage and approval.

22 -END-

STATE OF MONTANA - FISCAL NOTE

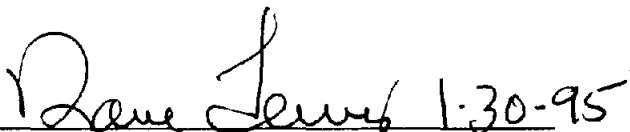
Fiscal Note for SB0255, as introduced

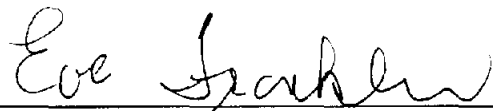
DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for the withholding of tax from wages received by members of the national guard and reserves while participating in drill and training; and providing an immediate effective date.

FISCAL IMPACT:

This proposal has no impact on state expenditures or revenues.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


EVE FRANKLIN, PRIMARY SPONSOR DATE
Fiscal Note for SB0255, as introduced
SB 255

SENATE BILL NO. 255

1
 2 INTRODUCED BY *Frodo Baggins* *Matt Chapman*
 3 *Bill Wilson* *Justin* BY REQUEST OF THE DEPARTMENT OF REVENUE *Wm Ryan*
 4 *Hester* *Marvahn* *Judy* *Triet* *Henry* *By* *Barry*
 5 *Prigala* *Spivee* *Ray* *Hamilton*
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23 magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to
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4 (j) ~~for national guard and reserve training as provided in 5 U.S.C. 5517(d);~~

5 ~~((k))~~ as tips, in accordance with section 3402(k) of the Internal Revenue Code of 1954, as amended
 6 and applicable on January 1, 1983, received by persons for services rendered by them to patrons of
 7 premises licensed to provide food, beverage, or lodging;

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14 "**15-30-202. Withholding of tax from wages.** ~~Every~~ Each employer making payment of wages shall
 15 ~~deduct and~~ withhold ~~upon such~~ from wages a tax determined in accordance with the withholding tax tables
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SENATE BILL NO. 255

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INTRODUCED BY

Franklin Dierks *Matt Chapman*

BY REQUEST OF THE DEPARTMENT OF REVENUE

Bill Wilson *Hector Monahan* *Andy Trier* *W. Lynn*
Priscilla *Spencer* *Henry* *Ben* *Harmon*

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 3 MENAHAN, GRADY, TVIET, STANG, GAGE, SQUIRES, BECK, TROPILA, SPRAGUE, HARPER,
 4 HARRINGTON, MESAROS, KITZENBERG, GALVIN, JENKINS, TUSS

5 BY REQUEST OF THE DEPARTMENT OF REVENUE
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