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February 16, 2023

Honorable Paul Fielder, Chair
Honorable Mark Thane, Vice Chair
Honorable Tom Welch, Vice Chair
House Taxation Committee
Montana Legislature

Via E-mail

Re: COST's Support of H.B. 447 – Mobile Workforce

Dear Chair Fielder, Vice Chair Thane, Vice Chair Welch, and Members of the Committee:

On behalf of the Council On State Taxation (COST), I am writing in support of H.B. 447 and in appreciation of the efforts to address the issue of non-resident withholding and personal income tax liability on employees traveling to Montana. H.B. 447 would establish a 30-day safe harbor for non-resident employees who travel to Montana to perform work duties. H.B. 447 simplifies individual income tax filings and reduces employers' withholding and reporting burdens related to employees working less than 30 days in Montana and contains a reciprocity provision that would only apply to states offering similar withholding and personal income tax liability requirements, giving Montana residents the same benefits when they perform out-of-state work travel in a state with similar safe harbor provisions.¹

About COST

COST is a non-profit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of over 500 major corporations engaged in interstate and international business, many of which directly do business in Montana. COST's objective is to preserve and promote the equitable and non-discriminatory state and local taxation of multijurisdictional business entities.

Non-Resident Taxation Becoming an Increasing Problem

Every day, hundreds of thousands of employees across the country are sent by their employers to work in states where they are not residents. Many of these trips are temporary in nature, with employees conducting limited business in the non-resident state for short periods of time and then returning to their resident state. Non-resident employees who travel to Montana for business purposes are subject to onerous

¹ See Illinois S.B. 1515 (2019); Louisiana S.B. 157 (2021); West Virginia H.B. 2026 (2021); Nebraska L.B. 173 (introduced 2023).

administrative burdens because, in addition to filing a federal income tax return and a state income tax return in their home state, they are also legally required to file an income tax return in Montana, and their employers to withhold from their pay checks, if they spend even a single day working in Montana.

A Simple Solution: Impose a 30-Day Threshold with Reciprocity

H.B. 447 provides for a fair and easily administered law in the form of a 30-day threshold which helps individuals and businesses stay compliant with tax return and withholding laws, greatly reducing the undue burden that the current system places on employees and employers. The 30-day threshold is a simple solution to protect non-resident employees traveling into Montana for a temporary period from incurring a personal income tax liability in Montana and employers (including businesses, associations, governments, and unions) from incurring withholding obligations for those employees.² Of course, a non-resident employee's earnings would be subject to income tax in Montana if the employee is present and performing duties for more than 30 days during the calendar year, from day one. The legislation also has a reciprocity provision to offer Montana's 30-day safe harbor to only those non-resident employees whose resident state provides the same protection to Montana employees—a provision which will encourage other states with an income tax to adopt comparable legislation.

Conclusion

H.B. 447 is not just a business bill – it most importantly protects individuals such as emergency workers and first responders; trade union workers; non-profit staff; teachers; federal, state and local government employees; and many others. Any organization with employees who cross state lines for temporary periods will benefit from this law. Enactment of H.B. 447 will greatly improve Montana's national reputation for fair, efficient and customer-focused tax administration and we urge this Committee to pass H.B. 447. Please let me know if you have any questions.

Respectfully,



Stephanie T. Do

cc: COST Board of Directors
Douglas L. Lindholm, COST President & Executive Director

² There are exceptions for certain types of employees, such as professional athletes and professional entertainers, who would be subject to Montana income tax on all income earned in the State.