HOUSE BILL NO. 775

INTRODUCED BY NORDTVEDT

BY REQUEST OF THE HOUSE TAXATION COMMITTEE

IN THE HOUSE

February 1	6, 1981	Introduced and referred to Committee on Taxation.
February 1	7, 1981	Fiscal note requested.
February 2	3, 1981	Fiscal note returned.
Pebruary 2	4, 1981	Committee recommend bill do pass. Report adopted.
March 3, 1	981	Bill printed and placed on members desks.
		Second reading, do pass.
March 4, 1	981	Considered correctly engrossed.
March 5, 1	981	Third reading, passed. Ayes, 93; Noes, 1. Transmitted to Senate.

IN THE SENATE

March 6, 1981	Introduced and referred to Committee on Taxation.
March 14, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 17, 1981	Motion pass consideration.
March 18, 1981	Second reading, concurred in.
March 20, 1981	Third reading, concurred in as amended. Ayes, 43; Noes, 5.

IN THE HOUSE

March	21,	1981
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Returned from Senate with amendments.

April 8, 1981

Second reading, amendments not concurred in.

On motion Conference Committee requested and appointed.

April 20, 1981

Conference Committee dissolved.

On motion new Conference Committee requested and appointed.

New Conference Committee reported and dissolved.

April 21, 1981

New Conference Committee reported and dissolved.

April 22, 1981

Second reading, new Conference Committee report adopted.

On motion rules suspended and new Conference Committee report placed on third reading this day.

Third reading, new Conference Committee report adopted. Ayes, 96, Noes, 0.

IN THE SENATE

April 23, 1981

New Conference Committee report adopted.

IN THE HOUSE

April 23, 1981

Returned from Senate. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 775

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A BILL FOR AN ACT ENTITLED: "AN ACT TO REPEAL PROVISIONS RELATING TO WITHHOLDING FOR NONRESIDENT'S INCOME TAX; AMENDING SECTIONS 15-30-311 AND 20-15-403, MCA; REPEALING SECTIONS 15-30-221 THROUGH 15-30-228, MCA."

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

Section 1. Section 15-30-311, MCA, is amended to read:

"15-30-311. Levy upon and sale of property. (1) If any
tax imposed by this chapter, except-15-30-221-through
15-30-226, or any portion of such tax is not paid within 60
days after the same becomes due, the department shall issue
a warrant under its official seal directed to the sheriff of
any county of the state commanding him to levy upon and sell
the real and personal property of the person owing the same
found within his county for the payment of the amount
thereof, with the added penalties, interest, and the cost of
executing the warrant, and to return such warrant to the
department and pay to it the money collected by virtue
thereof by a time to be therein specified, not more than 60
days from the date of the warrant.

(2) The sheriff shall, within 5 days after the receipt

of the warrant, file with the clerk of the district court of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant and, in appropriate columns, the amount of the tax or portion thereof and penalties for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest in real property or chattels real of the person against whom it is levied in the same manner as a judgment docketed in the office of such clerk.

(3) The sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. In the discretion of the department, a warrant of like terms, force, and effect may be issued and directed to any agent authorized to collect income taxes and, in the execution thereof, such agent shall have the powers conferred by law upon sheriffs but shall be entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. In the execution of such warrants, a notice of levy issued by the department's authorized agent

may be served by certified mail.

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- 2 (4) If a warrant be returned not satisfied in full,
 3 the department shall have the same remedies to enforce the
 4 claim for taxes against the taxpayer as if the people of the
 5 state had recovered judgment against the taxpayer for the
 6 amount of the tax.
- 7 Section 2. Section 20-15-403, MCA, is amended to read: 8 *20-15-403. Applications of other school district 9 provisions. (1) When the term "school district" appears in 10 the following sections outside of Title 20, the term includes community college districts and the provisions of 11 those sections applicable to school districts apply to 12 13 community college districts: 2-9-101, 2-9-111, 2-9-316, 14 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 15 7-6-2801, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103, 16 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 17 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-18-108, 18 15-24-502, 15-24-505, 15-30-221, 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 19 17-7-201, 18-1-102, 18-1-105, 18-1-112, 18-1-201, 18-2-101, 20 21 18-2-103, 18-2-113, 18-2-114, 18-2-115, 18-2-404, 18-2-408, 22 18-5-205, 19-1-102, 19-1-602, 19-1-811, 22-1-309, 25-1-402, 23 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206, 24 25 40-6-237, 40-8-124, 40-8-125, 40-8-128, 41-5-912, 49-3-101,

- 1 49-3-102, 53-20-304, 77-3-321, 82-10-201, 82-10-202,
- 2 82-10-203, 85-7-2158, and 90-6-208 and Rules 40(2)(g) and
- 3 15(c), M.R.Civ.P., as amended.
- 4 (2) When the term "school district" appears in a
- 5 section outside of Title 20 but the section is not listed in
- 6 subsection (1), the school district provision does not apply
- 7 to a community college district.
- 8 Section 3. Repealer. Sections 15-30-221 through
- 9 15-30-228, MCA, are repealed.

-End-

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STATE OF MONTANA

REQUEST NO. 400-81

FISCAL NOTE

Form BD-15

In	compliance	with	a written	request	received	February	19	, 19 81	, there is	hereby subn	nitted a Fise	cal Note
for	HOUSE	BILI	L 775		_ pursua	nt to Title 5,	Chapter 4, I	Part 2 of the	e Montana	Code Annot	ated (MCA).	*
Ba	ckground inf	ormat	ion used in	develop	ing this F	iscal Note is a	ıvailable from	the Office	of Budget	and Program i	Planning, to	members
of	the Legislatu	re up	on reques	t.				:			•	

DESCRIPTION

This proposal repeals the provision in Montana law requiring income tax to be withheld from certain payments made to non-residents.

FISCAL IMPACT

The fiscal impact of this proposal would be negligible. The current law is virtually unenforceable and results in almost no revenue to the state. It is estimated that, in the worst of circumstances, the potential tax revenue which would escape if this proposal is enacted is in the range of \$60,000 to \$100,000.

TECHNICAL NOTE

The proposal repeals section 15-30-228, MCA, which is only tangentially related to the non-resident withholding. Since this information is valuable in the Department's general effort to enforce compliance, it would be desirable to maintain the provision within the law.

PREPARED BY THE DEPARTMENT OF REVENUE

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: $\frac{2}{2}/8/$

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Approved by Committee on Taxation

OUSE / BILL NO. 775 1 INTRODUCED BY

BY REQUEST OF THE HOUSE TAXATION COMMITTEE

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б SECTIONS 15-30-221 THROUGH 15-30-228, MCA.*

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

Section 1. Section 15-30-311, MCA, is amended to read: "15-30-311. Levy upon and sale of property. (1) If any tax imposed by this chaptery--except--15-38-221--through 15-39-228* or any portion of such tax is not paid within 60 days after the same becomes due, the department shall issue a warrant under its official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the person owing the same found within his county for the payment of the amount thereof, with the added penalties, interest, and the cost of executing the warrant, and to return such warrant to the department and pay to it the money collected by virtue thereof by a time to be therein specified, not more than 60 days from the date of the warrant.

(2) The sheriff shall, within 5 days after the receipt

of the warrant, file with the clark of the district court of his county a copy thereof, and thereupon the clerk shall 2 enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant and, in appropriate columns, the amount of the tax or portion thereof and penalties for which the warrant is issued and the date when such copy is filed. Thereupon the 7 amount of such warrant so docketed shall become a lien upon 9 the title to and interest in real property or chattels real 10 of the person against whom it is levied in the same manner as a judgment docketed in the office of such clerk. 11

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- 8 Section 3. Repealer. Sections 15-30-221 through
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-End-

40-6-237, 40-8-124, 40-8-125, 40-8-128, 41-5-912, 49-3-101,

1 HOUSE BILL NG. 775

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days after the same becomes due, the department shall issue
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HB 0775/02

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- 9 15-30-228 15-30-227. MCA, are repealed.

-End-

SENATE STANDING COMMITTEE REPORT (Taxation)

That House Bill No. 775 be amended as follows:

1. TITLE, line 8. Following: "THROUGH" Strike: "15-30-228" Insert: "15-30-227"

2. Page 4, line 9.
Following: line 8
Strike: "15-30-228"
Insert: "15-30-227"

HOUSE BILL NO. 775

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3	BY REQUEST OF THE HOUSE TAXATION COMMITTEE
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 5 state had recovered judgment against the taxpayer for the
 6 amount of the taxe*
- 7 Section 2. Section 20-15-403. MCA. is amended to read: 8 *20-15-403. Applications of other school district provisions. (1) When the term "school district" appears in 9 10 the following sections outside of Title 20, the term 11 includes community college districts and the provisions of 12 those sections applicable to school districts apply to 13 community college districts: 2-9-101, 2-9-111, 2-9-316, 14 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 15 7-6-2801, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103, 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 16 7-12-4106. 17 15-1-101. 15-6-204. 15-16-101. 15-16-601. 15-18-108. 18 15-24-502, 15-24-505, 15-30-221, 15-55-106, 15-70-301, 19 15-70-322, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 20 17-7-201. 18-1-102. 18-1-105. 18-1-112. 18-1-201. 18-2-101. 21. 18-2-403, 18-2-223, 18-2-114, 18-2-115, 18-2-404, 18-2-408, 22 16-5-205, 19-1-102, 19-1-602, 19-1-811, 22-1-309, 25-1-402, 23 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103, 24 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206, 25 40-6-237, 40-8-124, 40-8-125, 40-8-128, 41-5-912, 49-3-101,

- 49-3-102, 53-20-304, 77-3-321, 82-10-201, 82-10-202,
- 2 82-10-203, 85-7-2158, and 90-6-208 and Rules 40(2)(g) and
- 3 15(c), M.R.Civ.P., as amended.
- {2} When the term "school district" appears in a
- 5 section outside of Title 20 but the section is not listed in
- 6 subsection (1), the school district provision does not apply
- 7 to a community college district.**
- 8 Section 3. Repealer. Sections 15-30-221 through
- 9 15-30-228 15-30-227; MCA, are repeated.

-End-

JOINT CONFERENCE COMMITTEE REPORT NO. 1

ON HOUSE BILL NO. 775

MR. PRESIDENT AND MR. SPEAKER:

We, your Joint Conference Committee on House Bill No. 775, met April 20, 1981, and considered:

Senate Committee on Taxation amendments to the Reference Bill, dated March 14, 1981.

We recommend that:

the House accede to the Committee amendments 1 and 2; the reference copy of House Bill No. 775 remain unchanged; and the Conference Committee Report to House Bill No. 775 be adopted.

FOR THE HOUSE:

FOR THE SENATE:

Nordtvedt

Bob Brown

Fahrega

Crippen

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Eck