

HOUSE BILL NO. 202

Introduced: 01/13/83

Referred to Committee on Taxation: 01/13/83

Hearing: 1/19/83

Report: 01/25/83, Do Pass

2nd Reading: 01/27/83, Do Pass

3rd Reading: 01/29/83, Do Pass

Transmitted to Senate: 1/29/83

Referred to Committee on Taxation: 01/31/83

Hearing 3/3/83

Died in Senate Committee

1 House BILL NO. 202
2 INTRODUCED BY J. BROWN
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW PERSONAL
5 PROPERTY TO BE SEIZED AND SOLD FOR NONPAYMENT OF FEES IN
6 LIEU OF TAX ON THE PROPERTY; AMENDING SECTIONS 15-16-111,
7 15-16-113, 15-17-901, AND 15-17-902, MCA."
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 Section 1. Section 15-16-111, MCA, is amended to read:
11 "15-16-111. Personal property — duty of department.
12 (1) It shall be the duty of the department of revenue or its
13 agent, upon discovery of any personal property in the county
14 the taxes or fees upon which are not a lien upon real
15 property sufficient to secure the payment of such taxes or
16 fees, to immediately and in any event not more than 5 days
17 thereafter make a report to the treasurer, setting forth the
18 nature, kind, description, and character of such property in
19 such a definite manner that the treasurer can identify the
20 same, the amount and assessed valuation of such property,
21 where the same is located, the amount of taxes or fees due
22 thereon, and the name and address of the owner, claimant, or
23 other person in possession of the same.
24 (2) Where such personal property is located in any
25 city or town which shall have provided by ordinance for the

1 collection of its taxes or fees for general, municipal, and
2 administrative purposes by its city treasurer or town clerk,
3 the department also and at the same time shall furnish to
4 said city treasurer or town clerk a duplicate of such notice
5 to the county treasurer. For the purpose of determining the
6 taxes or fees due on such personal property, the department
7 or its agent must use the levy made during the previous
8 year."
9 Section 2. Section 15-16-113, MCA, is amended to read:
10 "15-16-113. Personal property — duty of treasurer.
11 (1) The county treasurer shall collect taxes and fees
12 payable to him on all personal property and, in the case
13 provided in 15-16-111, shall immediately upon receipt of the
14 report prescribed by 15-16-111 notify the person or persons
15 against whom the tax or fee is assessed and any person who
16 has a properly perfected security interest of record with
17 the division of motor vehicles, department of justice, that
18 the amount of such tax or fee is due and payable at the
19 county treasurer's office. The county treasurer shall, at
20 the time of receiving the report and in any event within 30
21 days from the receipt of such report, levy upon and take
22 into his possession the personal property against which a
23 tax or fee is assessed or any other personal property in the
24 hands of the delinquent taxpayer and proceed to sell the
25 same in the same manner as property is sold on execution by

the sheriff. The county treasurer may, for the purpose of making the levy and sale, direct the sheriff to make the levy and sale. The sheriff, undersheriff, or any deputy sheriff of the county is ex officio a deputy county treasurer for such purposes, and either may act and receive payment of such taxes or fees. The sheriff may receive the same fees as he is entitled to in making a seizure and sale under execution.

(2) The county treasurer and his sureties are liable on his official bond for all taxes or fees on personal property remaining uncollected by reason of the willful failure and neglect of the treasurer to levy upon and sell such personal property for the taxes or fees levied thereon."

Section 3. Section 15-17-901, MCA, is amended to read:

"15-17-901. Sale of personal property for delinquent taxes or fees. (1) The tax or fee on personal property may be collected and the payment thereof enforced by the seizure and sale of any personal property in the possession of the person assessed at any time after the date the assessment is made or by the institution of a civil action for its collection in any court of competent jurisdiction. A resort to any one of the methods provided for does not bar the right to resort to either or both of the other methods. Any of the methods provided for may be used until the full

amount of the tax or fee is collected.

(2) The provisions of this part and 15-16-113 apply to such seizure and sale.

(3) The sale must be at public auction and of a sufficient amount of the property to pay the taxes or fees, percentages, and costs.

(4) For seizing or selling personal property, the treasurer may charge in each case the sum of \$3 for the use of the county and the same mileage as is allowed by law to the sheriff of the county and reasonable expenses for seizing, handling, keeping, or caring for any property so seized or sold.

(5) On the payment of the price bid for any property sold, the delivery thereof, with a bill of sale, vests the title thereto in the purchaser."

Section 4. Section 15-17-902, MCA, is amended to read:

"15-17-902. Deposit of excess proceeds from sale. All excess over the taxes or fees, percent, and costs of the proceeds of any such sale must be returned to the owner of the property sold and until claimed must be deposited in the county treasury, subject to the order of the owner, heirs, or assigns."

-End-

STATE OF MONTANA

REQUEST NO. 112-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 17, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 202 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

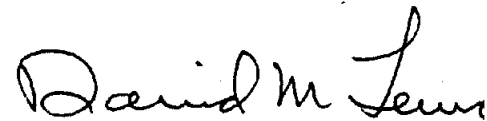
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 202 allows personal property to be seized and sold for nonpayment of fees in lieu of tax on the property.

FISCAL IMPACT:

The proposed legislation will give counties the same authority to collect delinquent personal property fees as they now have to collect delinquent personal property taxes. The fiscal impact should be minimal.

FISCAL NOTE 4:BB/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-18-83

Approved by Committee
on Taxation

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15 property sufficient to secure the payment of such taxes or
16 fees, to immediately and in any event not more than 5 days
17 thereafter make a report to the treasurer, setting forth the
18 nature, kind, description, and character of such property in
19 such a definite manner that the treasurer can identify the
20 same, the amount and assessed valuation of such property,
21 where the same is located, the amount of taxes or fees due
22 thereon, and the name and address of the owner, claimant, or
23 other person in possession of the same.

24 (2) Where such personal property is located in any
25 city or town which shall have provided by ordinance for the

1 collection of its taxes or fees for general, municipal, and
2 administrative purposes by its city treasurer or town clerk,
3 the department also and at the same time shall furnish to
4 said city treasurer or town clerk a duplicate of such notice
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7 or its agent must use the levy made during the previous
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15 against whom the tax or fee is assessed and any person who
16 has a properly perfected security interest of record with
17 the division of motor vehicles, department of justice, that
18 the amount of such tax or fee is due and payable at the
19 county treasurer's office. The county treasurer shall, at
20 the time of receiving the report and in any event within 30
21 days from the receipt of such report, levy upon and take
22 into his possession the personal property against which a
23 tax or fee is assessed or any other personal property in the
24 hands of the delinquent taxpayer and proceed to sell the
25 same in the same manner as property is sold on execution by

SECOND READING

1 the sheriff. The county treasurer may, for the purpose of
 2 making the levy and sale, direct the sheriff to make the
 3 levy and sale. The sheriff, undersheriff, or any deputy
 4 sheriff of the county is ex officio a deputy county
 5 treasurer for such purposes, and either may act and receive
 6 payment of such taxes or fees. The sheriff may receive the
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9 (2) The county treasurer and his sureties are liable
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13 (5) On the payment of the price bid for any property
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17 "15-17-902. Deposit of excess proceeds from sale. All
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