

HOUSE BILL NO. 82

INTRODUCED BY J. BROWN

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

JANUARY 5, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON HUMAN SERVICES & AGING.

JANUARY 8, 1987 ON MOTION, REREFERRED TO COMMITTEE
ON JUDICIARY.

JANUARY 16, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 17, 1987 PRINTING REPORT.

JANUARY 20, 1987 SECOND READING, DO PASS.

JANUARY 21, 1987 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 95; NOES, 3.

 TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 22, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON PUBLIC HEALTH, WELFARE & SAFETY.

JANUARY 28, 1987 ON MOTION, REREFERRED TO COMMITTEE
ON JUDICIARY.

MARCH 5, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 9, 1987 SECOND READING, CONCURRED IN.

MARCH 11, 1987 THIRD READING, CONCURRED IN.
AYES, 50; NOES, 0.

 RETURNED TO HOUSE.

IN THE HOUSE

MARCH 12, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

1 HOUSE BILL NO. 82
2 INTRODUCED BY J. BROWN

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONFORM SECTION
6 53-2-613, MCA, WITH FEDERAL LAW, TO CLARIFY THE RESPECTIVE
7 RIGHTS OF THE DEPARTMENT OF REVENUE AND RECIPIENTS AND
8 FORMER RECIPIENTS OF PUBLIC ASSISTANCE WITH REGARD TO
9 ASSIGNED SUPPORT RIGHTS, AND TO ASSURE PROPER DISTRIBUTION
10 OF ASSIGNED SUPPORT MONEY BY CLERKS OF COURT; AND AMENDING
11 SECTION 53-2-613, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 53-2-613, MCA, is amended to read:

15 "53-2-613. Application for assistance -- assignment of
16 support rights. (1) Applications for public assistance,
17 including but not limited to aid to dependent children and
18 medical assistance, must be made to the county department of
19 public welfare in the county in which the person is
20 residing. The application shall be submitted, the manner
21 and form prescribed by the department, and shall contain
22 information required by the department.

23 (2) A person by signing an application for public
24 assistance, assigns to the state, the department, and to the
25 county welfare department all rights the applicant may have

1 to support and medical payments from any other person in his
2 own behalf or in behalf of any other family member for whom
3 application is made.

4 (3) The assignment:

5 (a) is effective for both current and accrued support
6 and medical obligations;

7 (b) takes effect upon a determination that the
8 applicant is eligible for public assistance;

9 (c) remains in effect with respect to the amount of
10 any unpaid support and medical obligation accrued under the
11 assignment that was owed prior to the termination of public
12 assistance to a recipient.

13 (4) Whenever a support obligation assigned to the
14 department pursuant to this section is referred to the
15 department of revenue pursuant to 40-5-202, the following
16 provisions apply:

17 (a) If such support obligation is based upon a
18 judgment or decree or an order of a court of competent
19 jurisdiction, the department of revenue may retain assigned
20 support amounts in an amount sufficient to reimburse public
21 assistance money expended.

22 (b) No recipient or former recipient of public
23 assistance may commence or maintain an action to recover a
24 delinquent support obligation without notifying the
25 department of revenue. The department may then release or



1 relinquish its assigned interest or enter the proceeding.
2 This subsection (4)(b) does not limit the right of any
3 person to recover money not assigned.

4 (c) If a notice of assigned interest is filed with the
5 district court, the clerk of the court may not pay over or
6 release for the benefit of any recipient or former recipient
7 of public assistance any amounts received pursuant to a
8 judgment or decree or an order of the court until the
9 department of revenue has filed a written notice that:

10 (i) the assignment of current support amounts has been
11 terminated; and

12 (ii) all assigned support delinquencies, if any, are
13 satisfied or released.

14 (d) No recipient or former recipient of public
15 assistance may take action to modify or make any agreement
16 to modify, settle, or release any past, present, or future
17 support obligation unless the department of revenue is given
18 written notice and an opportunity to participate. Any
19 modifications or agreements entered into without the
20 participation of the department of revenue are void with
21 respect to the state, the department, the department of
22 revenue, and the county welfare department."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB082, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to conform section 53-2-613, MCA, with federal law, to clarify the respective rights of the Department of Revenue and recipients and former recipients of public assistance with regard to assigned support rights, and to assure proper distribution of assigned support money by clerks of court; and amending section 53-2-613, MCA.

ASSUMPTIONS:

N/A

FISCAL IMPACT:

An accurate estimate of the fiscal impact of this proposal can not be made because comprehensive historical records of outside support payments to recipients and former recipients of public assistance are not kept. Based on several cases, however, the Department of Revenue anticipates that passage of the proposal would significantly increase reimbursements of public assistance money to the state general fund, the federal government, and to county governments commensurate with respective participation in AFDC. This proposal would also reduce costs the Department of Revenue now experiences when identifying and recovering revenue from recipients and former recipients of public assistance. Over the last 3 years, 11 cases involving \$76,950 in arrearage amounts previously assigned to the state were compromised by individual parties. This required the unnecessary expenditure of \$5,000 to collect the money due the state. Such litigation and expense would have been prevented by the proposed law.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

David L. Hunter DATE 1/10/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

J. Brown DATE 1/12/87
JAN BROWN, PRIMARY SPONSOR

Fiscal Note for HB082, as introduced.

HB82

RE-REFERRED AND
APPROVED BY COMMITTEE
ON JUDICIARY

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

Section 1. Section 53-2-613, MCA, is amended to read:

"53-2-613. Application for assistance -- assignment of support rights. (1) Applications for public assistance, including but not limited to aid to dependent children and medical assistance, must be made to the county department of public welfare in the county in which the person is residing. The application shall be submitted, the manner and form prescribed by the department OF SOCIAL AND REHABILITATION SERVICES, and shall contain information required by the department OF SOCIAL AND REHABILITATION SERVICES.

(2) A person by signing an application for public

assistance, assigns to the state, the department OF SOCIAL AND REHABILITATION SERVICES, and to the county welfare department all rights the applicant may have to support and medical payments from any other person in his own behalf or in behalf of any other family member for whom application is made.

(3) The assignment:

(a) is effective for both current and accrued support and medical obligations;

(b) takes effect upon a determination that the applicant is eligible for public assistance;

(c) remains in effect with respect to the amount of any unpaid support and medical obligation accrued under the assignment that was owed prior to the termination of public assistance to a recipient.

(4) Whenever a support obligation assigned to the department OF SOCIAL AND REHABILITATION SERVICES pursuant to this section is referred to the department of revenue pursuant to 40-5-202, the following provisions apply:

(a) If such support obligation is based upon a judgment or decree or an order of a court of competent jurisdiction, the department of revenue may retain assigned support amounts in an amount sufficient to reimburse public assistance money expended.

(b) No recipient or former recipient of public



1 assistance may commence or maintain an action to recover a
 2 delinquent support obligation without notifying the
 3 department of revenue. The department OF SOCIAL AND
 4 REHABILITATION SERVICES may then release or relinquish its
 5 assigned interest or enter the proceeding. This subsection
 6 (4)(b) does not limit the right of any person to recover
 7 money not assigned.

8 (c) If a notice of assigned interest is filed with the
 9 district court, the clerk of the court may not pay over or
 10 release for the benefit of any recipient or former recipient
 11 of public assistance any amounts received pursuant to a
 12 judgment or decree or an order of the court until the
 13 department of revenue has filed a written notice that:

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 15 terminated; and

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 17 satisfied or released.

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 19 assistance may take action to modify or make any agreement
 20 to modify, settle, or release any past, present, or future
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 22 written notice and an opportunity to participate. Any
 23 modifications or agreements entered into without the
 24 participation of the department of revenue are void with
 25 respect to the state, the department OF SOCIAL AND

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3 NEW SECTION. SECTION 2. EXTENSION OF AUTHORITY. ANY
 4 EXISTING AUTHORITY OF THE DEPARTMENT OF REVENUE OR THE
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 6 RULES ON THE SUBJECT OF THE PROVISIONS OF THIS ACT IS
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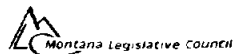
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