# HOUSE BILL NO. 166

# INTRODUCED BY JONES, C. SMITH

### IN THE HOUSE

- JANUARY 13, 1987 INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
- JANUARY 21, 1987 COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
- JANUARY 22, 1987 PRINTING REPORT.
- JANUARY 23, 1987 SECOND READING, DO PASS.
- JANUARY 24, 1987 ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 86; NOES, 6.

TRANSMITTED TO SENATE.

IN THE SENATE

- JANUARY 26, 1987 INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
- FEBRUARY 7, 1987 COMMITTEE RECOMMEND BILL BE NOT CONCURRED IN. REPORT ADOPTED.

RETURNED TO HOUSE.

FEBRUARY 9, 1987 ON MOTION, RECONSIDER ACTION IN ADOPTING ADVERSE COMMITTEE REPORT.

ON MOTION, SENATE REQUEST RETURN OF HB NO. 166 FOR FURTHER CONSIDERATION.

## IN THE HOUSE

FEBRUARY 10, 1987 ON MOTION, REQUEST OF SENATE GRANTED FOR RETURN OF HB NO. 166 FOR FURTHER CONSIDERATION.

RETURNED TO SENATE.

	IN THE SENATE
FEBRUARY 11, 1987	RECEIVED FROM HOUSE.
	REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
MARCH 21, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 26, 1987	SECOND READING, CONCURRED IN.
MARCH 28, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.
	IN THE HOUSE
APRIL 7, 1987	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 8, 1987	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.

INTRODUCED BY Jona C. Smith 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE PROVISION 4 5 THAT PROVIDES THAT THE EFFECT OF A JUDGMENT AGAINST AN EMPLOYER FOR UNPAID UNEMPLOYMENT INSURANCE CONTRIBUTIONS 6 ARISES AT THE TIME THE CONTRIBUTIONS ARE DUE; 7 AMENDING SECTION 39-51-1304, MCA; AND PROVIDING AN IMMEDIATE 8 EFFECTIVE DATE AND AN APPLICABILITY DATE." 9 10

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

12 Section 1. Section 39-51-1304, MCA, is amended to 13 read:

"39-51-1304. Lien for payment of unpaid contributions 14 -- levy and execution. Unpaid contributions have the effect 15 of a judgment against the employer;-arising-at-the-time-the 16 contributions-are-due. The department may issue a lien 17 certificate setting forth the amount of contributions due 18 and accrued interest and directing the clerk of the district 19 court of any county of the state to enter the certificate as 20 a judgment in the docket pursuant to 25-9-301. After the 21 due process requirements of 39-51-1109 and 39-51-2403 have 22 23 been satisfied, the department may enforce the judgment 24 pursuant to Title 25, chapter 13, except that the department 25 may enforce the judgment at any time within 10 years of the

ontana Legislative Council

1 creation of the lien."

<u>NEW SECTION.</u> Section 2. Extension of authority. Any
existing authority of the department of labor and industry
to make rules on the subject of the provisions of this act
is extended to the provisions of this act.
<u>NEW SECTION.</u> Section 3. Effective date -applicability. This act is effective on passage and approval
and applies to contributions due after the effective date of

9 this act.

-End-

-2- INTRODUCED BILL HB·/66 50th Legislature

LC 0852/01

LC 0852/01

APPROVED BY COMM. ON BUSINESS AND LABOR

AHB BILL NO. 166 1 Konas C. Smith 2 INTRODUCED BY 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE PROVISION 5 THAT PROVIDES THAT THE EFFECT OF A JUDGMENT AGAINST AN 6 EMPLOYER FOR UNPAID UNEMPLOYMENT INSURANCE CONTRIBUTIONS 7 ARISES AT THE TIME THE CONTRIBUTIONS ARE DUE; AMENDING 8 SECTION 39-51-1304, MCA: AND PROVIDING AN IMMEDIATE 9 EFFECTIVE DATE AND AN APPLICABILITY DATE."

10

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

12 Section 1. Section 39-51-1304, MCA, is amended to 13 read:

14 "39-51-1304. Lien for payment of unpaid contributions 15 -- levy and execution. Unpaid contributions have the effect 16 of a judgment against the employer, -arising-at-the-time-the 17 contributions-are-due. The department may issue a lien 18 certificate setting forth the amount of contributions due 19 and accrued interest and directing the clerk of the district court of any county of the state to enter the certificate as 20 21 a judgment in the docket pursuant to 25-9-301. After the due process requirements of 39-51-1109 and 39-51-2403 have 22 23 been satisfied, the department may enforce the judgment 24 pursuant to Title 25, chapter 13, except that the department 25 may enforce the judgment at any time within 10 years of the



1 creation of the lien."

2 <u>NEW SECTION.</u> Section 2. Extension of authority. Any 3 existing authority of the department of labor and industry 4 to make rules on the subject of the provisions of this act 5 is extended to the provisions of this act.

6 <u>NEW SECTION.</u> Section 3. Effective date --7 applicability. This act is effective on passage and approval 8 and applies to contributions due after the effective date of 9 this act.

-End-

SECOND READING -2- HB-166 LC 0852/01

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INTRODUCED BY C. Smith 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE PROVISION 4 5 THAT PROVIDES THAT THE EFFECT OF A JUDGMENT AGAINST AN 6 EMPLOYER FOR UNPAID UNEMPLOYMENT INSURANCE CONTRIBUTIONS ARISES AT THE TIME THE CONTRIBUTIONS ARE DUE: AMENDING 7 SECTION 39-51-1304, MCA; AND PROVIDING AN IMMEDIATE 8 9 EFFECTIVE DATE AND AN APPLICABILITY DATE." 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 39-51-1304, MCA, is amended to 13 read: 14 "39-51-1304. Lien for payment of unpaid contributions 15 -- levy and execution. Unpaid contributions have the effect of a judgment against the employer, -arising-at-the-time-the 16 17 contributions-are-duc. The department may issue a lien certificate setting forth the amount of contributions due 18 and accrued interest and directing the clerk of the district 19 20 court of any county of the state to enter the certificate as a judgment in the docket pursuant to 25-9-301. After the 21 22 due process requirements of 39-51-1109 and 39-51-2403 have 23 been satisfied, the department may enforce the judgment 24 pursuant to Title 25, chapter 13, except that the department may enforce the judgment at any time within 10 years of the 25



1 creation of the lien."

2 <u>NEW SECTION.</u> Section 2. Extension of authority. Any 3 existing authority of the department of labor and industry 4 to make rules on the subject of the provisions of this act 5 is extended to the provisions of this act.

6 <u>NEW SECTION.</u> Section 3. Effective date --7 applicability. This act is effective on passage and approval 8 and applies to contributions due after the effective date of 9 this act.

-End-

-2- THIRD READING

HB 0166/02

1	HOUSE BILL NO. 166
2	INTRODUCED BY JONES, C. SMITH
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO BELETE-THE-PROVISION
5	That-Provides-That-TheEppectopaJudgmentAgainstan
6	Employerforunpaidunemploymentinsurance-contributions
7	ARISES-AT-THE-TIME-THE-CONTRIBUTIONS-AREBUE PROVIDE THAT
8	THE LIEN ON REAL OR PERSONAL PROPERTY CREATED BY THE
9	ENTRANCE OF THE CERTIFICATE IS NOT VALID AGAINST ANY THIRD
10	PARTY WHO RECEIVED AN AFFIDAVIT FROM THE MOST RECENT GRANTOR
11	CONFIRMING THAT ALL CONTRIBUTIONS, ASSESSMENTS, PENALTIES,
12	AND INTEREST DUE HAVE BEEN PAID; AMENDING SECTION
13	39-51-1304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
14	AND AN APPLICABILITY DATE."
15	
16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17	Section 1. Section 39-51-1304, MCA, is amended to
18	read:
19	"39~51-1304, Lien for payment of unpaid contributions
20	levy and execution. (1) Unpaid contributions have the
21	effect of a judgment against the employer-arising-at-the
22	time-the-contributions-are-due, ARISING AT THE TIME THE
23	CONTRIBUTIONS ARE DUE. The department may issue a lien
24	certificate setting forth the amount of contributions due
25	and accrued interest and directing the clerk of the district

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1	court of any county of the state to enter the certificate as
2	a judgment in the docket pursuant to 25-9-301. After the
3	due process requirements of 39-51-1109 and 39-51-2403 have
4	been satisfied, the department may enforce the judgment
5	pursuant to Title 25, chapter 13, except that the department
6	may enforce the judgment at any time within 10 years of the
7	creation of the lien.
8	(2) THE LIEN PROVIDED FOR IN SUBSECTION (1) IS NOT
9	VALID AGAINST ANY THIRD PARTY OWNING AN INTEREST IN REAL OR
10	PERSONAL PROPERTY AGAINST WHICH THE JUDGMENT IS ENFORCED IF:
11	(A) THE THIRD PARTY'S INTEREST IS RECORDED PRIOR TO
12	THE ENTRANCE OF THE CERTIFICATE AS A JUDGMENT; AND
13	(B) THE THIRD PARTY RECEIVES FROM THE MOST RECENT
14	GRANTOR OF THE INTEREST A SIGNED AFFIDAVIT STATING THAT ALL
15	CONTRIBUTIONS, ASSESSMENTS, PENALTIES, AND INTEREST DUE FROM
16	THE GRANTOR HAVE BEEN PAID.
17	(3) A GRANTOR WHO SIGNS AND DELIVERS AN AFFIDAVIT IS
18	SUBJECT TO THE PENALTIES IMPOSED BY 39-51-3204 IF ANY PART
19	OF IT IS UNTRUE. NOTWITHSTANDING THE PROVISIONS OF
20	39-51-3204, THE DEPARTMENT MAY PROCEED AGAINST THE EMPLOYER
21	UNDER THIS SECTION OR 39-51-1303, OR BOTH, TO COLLECT THE
22	DELINQUENT CONTRIBUTIONS, ASSESSMENTS, PENALTIES, AND
23	INTEREST."
24	NEW SECTION. Section 2. Extension of authority. Any
25	existing authority of the department of labor and industry

- 2 --

REFERENCE BILL

#### HB 0166/02

1 to make rules on the subject of the provisions of this act

2 is extended to the provisions of this act.

3 <u>NEW SECTION.</u> Section 3. Effective date --4 applicability. This act is effective on passage and approval 5 and applies to contributions due after the effective date of 6 this act.

-End-

# **STANDING COMMITTEE REPORT** SENATE March 19 19 87 MR PRESIDENT We, your committee on LABOR AND EMPLOYMENT RELATIONS Third \_\_\_\_\_ reading copy ( \_\_\_\_\_ blue \_\_ ) color JUDGMENT FOR UNPAID UNEMPLOYMENT INSURANCE NOT ARISE WHEN CONTRIBUTIONS DUE JONES (GAGE) . Respectfully report as follows: That HOUSE BILL No. 166 be amended as follows: 1. Title, lines 4 through 7. Strike: "DELETE" on line 4 through "DUE" on line 7 Insert: "PROVIDE THAT THE LIEN ON REAL OR PERSONAL PROPERTY CREATED BY THE ENTRANCE OF THE CERTIFICATE IS NOT VALID AGAINST ANY THIRD PARTY WHO RECEIVED AN AFFIDAVIT FROM THE MOST RECENT GRANTOR CONFIRMING THAT ALL CONTRIBUTIONS. ASSESSMENTS, PENALTIES, AND INTEREST DUE HAVE BEEN PAID" 2. Page 1, line 15. Following: "execution." Insert: "(1)" 3. Page 1, line 17. Following: "due" Insert: ", arising at the time the contributions are due" 4. Page 2, following line 1. Insert: "(2) The lien provided for in subsection (1) is not valid against any third party owning an interest in real or personal property against which the judgment is enforced if: (a) the third party's interest is recorded prior to the entrance of the certificate as a judgment: and (b) the third party receives from the most recent grantor of the interest a signed affidavit stating that all contributions, assessments, penalties, and interest due from the grantor have been paid. XXXXXXXX

#### XXXXXXXXXXX

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(3) A grantor who signs and delivers an affidavit is subject to the penalties imposed by 39-51-3204 if any part of it is untrue. Notwithstanding the provisions of 39-51-3204, the department may proceed against the employer under this section or 39-51-1303, or both, to collect the delinquent contributions, assessments, penalties, and interest."

AND AS AMENDED. BE CONCURRED IN

J.D." LYNCH, Chairm

Chairman.