HOUSE BILL NO. 170

INTRODUCED BY JONES, C. SMITH

IN THE HOUSE

	241	1111 110 001		
JANUARY 13,	1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.		
JANUARY 16,	1987	ON MOTION, REREFERRED 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, 85; NOES, 9.		
		TRANSMITTED TO SENATE.		
IN THE SENATE				
JANUARY 26,	1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.		
JANUARY 30,	1987	ON MOTION, REREFERRED 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. 170 FOR FURTHER CONSIDERATION.		

IN THE HOUSE

FEBRUARY 10, 1987

ON MOTION, REQUEST OF SENATE GRANTED FOR RETURN OF HB NO. 170 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.

1 2 INTRODUCED BY HB BILL NO. 170
C. Smith

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A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE PROVISION DEFINING PRIORITY DATE AND ESTABLISHING LIEN PRIORITY OF WITHHOLDING TAXES; AMENDING SECTION 15-30-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-30-208, MCA, is amended to read:

"15-30-208. Withheld taxes held in trust for state -warrants to collect. (1) Every employer who deducts and
withholds any amounts under the provisions of 15-30-201
through 15-30-209 shall hold the same in trust for the state
of Montana.

(2) If any tax imposed by 15-30-201 through 15-30-209 or any portion of such tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The-priority-date-of-the-tax lien-created-by-filing-the-warrant-for-distraint-is-the-date the-tax-was-due-as-indicated-on-the-warrant-for-distraint-"

NEW SECTION. Section 2. Extension of authority. Any

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Montana Legislative Council

- extended to the provisions of this act.
- NEW SECTION. Section 3. Effective date
- 3 applicability. This act if effective on passage and approval
- 4 and applies to taxes due after December 31, 1986.

RE-REFERRED AND APPROVED BY COMM. ON BUSINESS AND LABOR

2 INTRODUCED BY HB BILL NO. 170
2 INTRODUCED BY

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A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE PROVISION DEFINING PRIORITY DATE AND ESTABLISHING LIEN PRIORITY OF WITHHOLDING TAXES; AMENDING SECTION 15-30-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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or any portion of such tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The priority date of the tax lien-created by filing the warrant for distraint is the date the tax was due as indicated on the warrant for distraint."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is

Montana Legislative Council

- extended to the provisions of this act.
- 2 NEW SECTION. Section 3. Effective date --
- 3 applicability. This act if effective on passage and approval
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1 2 INTRODUCED BY AND C. Smill

A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE PROVISION DEFINING PRIORITY DATE AND ESTABLISHING LIEN PRIORITY OF WITHHOLDING TAXES; AMENDING SECTION 15-30-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-30-208, MCA, is amended to read:

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1 extended to the provisions of this act.

NEW SECTION. Section 3. Effective date

3 applicability. This act if effective on passage and approval

4 and applies to taxes due after December 31, 1986.

50th Legislature

HB 0170/02 HB 0170/02

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1	HOUSE BILL NO. 170
2	INTRODUCED BY JONES, C. SMITH
3	INTRODUCED DI GONDO, C. SMITH
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO BELETE-THE-PROVISION
5	BEPINING-PRIORITY-DATE-AND-BESTABLISHING-LIEN-PRIORITY-OF
6	WITHHOLDING TAXES PROVIDE THAT THE LIEN ON REAL OR PERSONAL
7	PROPERTY CREATED BY A WARRANT FOR DISTRAINT IS NOT VALID
8	AGAINST A THIRD PARTY WHO RECEIVED AN AFFIDAVIT FROM THE
9	MOST RECENT GRANTOR CONFIRMING THAT ALL TAXES, ASSESSMENTS,
0	PENALTIES, AND INTEREST DUE HAVE BEEN PAID; AMENDING SECTION
1	15-30-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
2	AND AN APPLICABILITY DATE."
3	
4	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
5	Section 1. Section 15-30-208, MCA, is amended to read:
6	"15-30-208. Withheld taxes held in trust for state
7	warrants to collect. (1) Every employer who deducts and
В	withholds any amounts under the provisions of 15-30-201
9	through 15-30-209 shall hold the same in trust for the state
0	of Montana.
1	(2) If any tax imposed by 15-30-201 through 15-30-209
2	or any portion of such tax is not paid when due, the
3	department may issue a warrant for distraint as provided in
4	Title 15, chapter 1, part 7. The priority date of the tax
5	lien-created-by-filing-the-warrant-for-distraint-is-the-date

- the -- tax -- was -due as -indicated on the -warrant for distraint -2 THE PRIORITY DATE OF THE TAX LIEN CREATED BY FILING THE WARRANT FOR DISTRAINT IS THE DATE THE TAX WAS DUE AS 3 INDICATED ON THE WARRANT FOR DISTRAINT.
- 5 (3) THE TAX LIEN PROVIDED FOR IN SUBSECTION (2) IS NOT 6 VALID AGAINST ANY THIRD PARTY OWNING AN INTEREST IN THE REAL 7 OR PERSONAL PROPERTY WHOSE INTEREST IS RECORDED PRIOR TO THE FILING OF THE WARRANT FOR DISTRAINT IF THE THIRD PARTY RECEIVES FROM THE MOST RECENT GRANTOR OF THE INTEREST AN 9 10 AFFIDAVIT STATING THAT ALL TAXES, ASSESSMENTS, PENALTIES, AND INTEREST DUE FROM THE GRANTOR HAVE BEEN PAID. 11
- 12 (4) A GRANTOR WHO SIGNS AND DELIVERS TO THE THIRD 13 PARTY AN AFFIDAVIT AS PROVIDED IN SUBSECTION (3) IS SUBJECT 14 TO THE PENALTIES IMPOSED BY 15-30-321(3) IF ANY PART OF THE 15 AFFIDAVIT IS UNTRUE. NOTWITHSTANDING THE PROVISIONS OF 15-30-321(3), THE DEPARTMENT MAY BRING AN ACTION AS PROVIDED 16 FOR IN THAT SUBSECTION IN THE NAME OF THE STATE TO RECOVER 17 18 THE CIVIL PENALTY AND ANY DELINQUENT TAXES."
- 19 NEW SECTION. Section 2. Extension of authority. Any 20 existing authority of the department of revenue to make rules on the subject of the provisions of this act is 21 22 extended to the provisions of this act.
- 23 NEW SECTION. Section 3. Effective 24 applicability. This act is effective on passage and approval and applies to taxes due after--December--317--1986 ON AND

HB 0170/02

AFTER THE EFFECTIVE DATE OF THIS ACT.

STANDING COMMITTEE REPORT

SENATE	March 19.	1987
MR. PRESIDENT		
We, your committee on LABOR AND EMPLOYN	MENT RELATIONS	
having had under consideration		No. 170
third reading copy (blue) DELETE PROVISION SETTING LIEN PR	IORITY OF WITHOLDING TAXE	:s
JONES (GAGE)		
Respectfully report as follows: ThatHOUSEBILLbe amended as follows:		No. 170
1. Title, lines 4 through 6. Following: "AN ACT TO" on li Strike: remainder of line 4	through "TAXES" on line	

CREATED BY A WARRANT FOR DISTRAINT IS NOT VALID AGAINST A THIRD PARTY WHO RECEIVED AN AFFIDAVIT FROM THE MOST RECENT GRANTOR CONFIRMING THAT ALL TAXES, ASSESSMENTS, PENALTIES,

2. Page 1, line 22.
Following: "distraint="
Insert: "The priority date of the tax

AND INTEREST DUE HAVE BEEN PAID"

Insert: "The priority date of the tax lien created by filing the warrant of distraint is the date the tax was due as indicated on the warrant for distraint.

(3) The tax lien provided for in subsection (2) is not valid against any third party owning an interest in the real or personal property whose interest is recorded prior to the filing of the warrant for distraint if the third party receives from the most recent grantor of the interest an affidavit stating that all taxes, assessments, penalties, and interest due

from the grantor have been paid.

(4) A grantor who signs and delivers to the third party an affidavit as provided in subsection (3) is subject to the penalties imposed by 15-30-321 (3) if any part of the affidavit is untrue. Notwithstanding the provisions of 15-30-321 (3), the department may bring an action as provided for in that subsection in the name of the state to recover the civil penalty and any delinquent taxes."

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(CONTINUED)

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Chairman

Labor HB 170 Page 2

March19.		19.8.7
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3. Page 2, line 4.
Following: "due"
Strike: "after December 31, 1986"
Insert: "on and after the effective date of this act"

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AND AS AMENDED, BE CONCURRED IN

Sen John "J.D." Lynch Chairman