

SENATE BILL NO. 52  
INTRODUCED BY CRIPPEN  
BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

JANUARY 3, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
JANUARY 6, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 7, 1989	PRINTING REPORT.
JANUARY 10, 1989	SECOND READING, DO PASS.
JANUARY 11, 1989	ENGROSSING REPORT.
JANUARY 12, 1989	THIRD READING, PASSED. AYES, 47; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 12, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
FEBRUARY 20, 1989	FIRST READING.
MARCH 3, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	PASSED CONSIDERATION FOR THE DAY.
MARCH 6, 1989	SECOND READING, CONCURRED IN.
MARCH 7, 1989	THIRD READING, CONCURRED IN. AYES, 92; NOES, 0.

MARCH 8, 1989

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 52

INTRODUCED BY CRIPPEN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE TAX LIEN FOR INHERITANCE AND ESTATE TAXES MAY BE PERFECTED AND EXECUTED UPON AS OTHER TAX LIENS ARE PERFECTED AND EXECUTED UPON; AMENDING SECTIONS 15-1-702, 72-16-432, 72-16-477, AND 72-16-478, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 15-1-702, MCA, is amended to read:

"15-1-702. Issuance of warrant. (1) If a tax, ~~other than inheritance or estate tax,~~ administered and collected by the department is not paid within 30 days of the due date, the department may issue a notice to the taxpayer notifying him that unless payment is received within 30 days of the date of the notice a warrant for distraint may be issued. Thirty days after the date of the notice, the department may issue a warrant if payment is not received.

(2) Use of the procedure to issue a warrant under this section does not preclude use of the procedure under 15-1-703 if the department determines that it is appropriate to utilize 15-1-703."

**Section 2.** Section 72-16-432, MCA, is amended to read:

"72-16-432. Tax lien -- continuing personal liability -- filing of warrant for distraint. (1) All property which is affected by the death of the decedent and on which inheritance, estate, or death taxes are due under the laws of this state is subject to the lien of the state of Montana until such taxes have been paid. This lien follows all property sold in the course of administration or distributed under chapters 1 through 5 until such time as all inheritance taxes have been paid and a receipt showing payment thereof has been filed with the clerk of court, subject to subsection (2).

(2) Every such tax shall be and remain a lien upon the property transferred for a period of 10 years from the time of the death of the decedent, whether said death occurred before or after July 1, 1965, unless sooner paid.

(3) The person to whom the property is transferred and the personal representatives and trustees of every estate so transferred shall be personally liable for such tax until its payment.

(4) (a) The lien provided for in subsection (1) shall be perfected by the filing of a warrant for distraint by the department of revenue with the clerk of a district court in the county in which the estate is being administered or in a county where any of the estate property is located or has

1 been transported.

2 (b) The warrant shall be filed 60 days after the  
3 department has determined the amount of any tax or, if the  
4 department's determination has been appealed to the district  
5 court, the warrant shall be filed after the court's  
6 determination has become final.

7 (c) The procedures provided for a hearing before  
8 execution of a warrant for distraint contained in 15-1-705  
9 do not apply to warrants filed under this section.

10 (5) The department or the sheriff of a county to whom  
11 a writ of execution is directed may proceed to execute upon  
12 the warrant in the same manner as prescribed for the  
13 execution upon a judgment, except that execution may be had  
14 as a matter of right for a period of 10 years, as provided  
15 in subsection (2)."

16 **Section 3.** Section 72-16-477, MCA, is amended to read:  
17 "72-16-477. **Filing of lien.** The lien imposed by  
18 72-16-472 is not valid against a purchaser, holder of a  
19 security interest, construction lien, or judgment lien  
20 creditor until ~~notice--that--meets--the--requirements---~~of  
21 ~~71-3-204~~ a warrant for distraint has been filed by the  
22 department pursuant to 72-16-432."

23 **Section 4.** Section 72-16-478, MCA, is amended to read:  
24 "72-16-478. **Period of lien.** The lien imposed by  
25 72-16-472 arises at the time ~~notice~~ a warrant for distraint

1 is filed under ~~72-16-477~~ 72-16-432 and continues until  
2 liability for the deferred amount is satisfied or becomes  
3 unenforceable by reason of lapse of time."

4 **Section 5. Extension of authority.** Any existing  
5 authority to make rules on the subject of the provisions of  
6 [this act] is extended to the provisions of [this act].

7 **Section 6. Retroactive applicability.** [This act]  
8 applies retroactively, within the meaning of 1-2-109, to tax  
9 years beginning after December 31, 1988.

10 **Section 7. Effective date.** [This act] is effective on  
11 passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB052, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide that the tax lien for inheritance and estate taxes may be perfected and executed upon as other tax liens are perfected and executed upon; providing an immediate effective date and a retroactive applicability date.

FISCAL IMPACT:

This bill would act to enhance revenues and increase administrative efficiency by allowing the department to issue a warrant for distraint in instances of delinquent inheritance and estate taxes. Although the precise impact on revenues is not known, department records show that the accounts receivable balance for inheritance and estate tax was \$5,645,587 as of August 1, 1988.

LONG-RANGE EFFECTS:

Revenue and expense impacts would be minimal in the first biennium following passage of this bill because the 18-month grace period provided for the payment of inheritance taxes remains in effect. In subsequent years, however, the ability to execute a warrant for distraint on delinquent inheritance taxes would increase revenue while reducing administrative procedures now used to collect these taxes.

Ray Shackelford 1/7/89  
RAY SHACKLEFORD, DIRECTOR DATE  
Office of Budget and Program Planning

Bruce D. Crippen 1-9-89  
BRUCE D. CRIPPEN, PRIMARY SPONSOR DATE

Fiscal Note for SB052, as introduced

SB 52

APPROVED BY COMMITTEE  
ON TAXATIONSENATE BILL NO. 52

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BY REQUEST OF THE DEPARTMENT OF REVENUE

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(2) Use of the procedure to issue a warrant under this section does not preclude use of the procedure under 15-1-703 if the department determines that it is appropriate to utilize 15-1-703."

**Section 2.** Section 72-16-432, MCA, is amended to read:

"72-16-432. Tax lien -- continuing personal liability -- filing of warrant for distraint. (1) All property which is affected by the death of the decedent and on which inheritance, estate, or death taxes are due under the laws of this state is subject to the lien of the state of Montana until such taxes have been paid. This lien follows all property sold in the course of administration or distributed under chapters 1 through 5 until such time as all inheritance taxes have been paid and a receipt showing payment thereof has been filed with the clerk of court, subject to subsection (2).

(2) Every such tax shall be and remain a lien upon the property transferred for a period of 10 years from the time of the death of the decedent, whether said death occurred before or after July 1, 1965, unless sooner paid.

(3) The person to whom the property is transferred and the personal representatives and trustees of every estate so transferred shall be personally liable for such tax until its payment.

(4) (a) The lien provided for in subsection (1) shall be perfected by the filing of a warrant for distraint by the department of revenue with the clerk of a district court in the county in which the estate is being administered or in a county where any of the estate property is located or has

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3 department has determined the amount of any tax or, if the  
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9 do not apply to warrants filed under this section.

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