

SENATE BILL 55

Introduced by Harp

1/03	Introduced
1/03	Referred to Judiciary
1/03	Fiscal Note Requested
1/09	Hearing
1/09	Fiscal Note Received
1/10	Fiscal Note Printed
1/10	Committee Report--Bill Passed
1/12	2nd Reading Passed
1/14	3rd Reading Passed

Transmitted to House

2/21	Referred to Taxation
3/03	Hearing
3/03	Tabled in Committee

SENATE BILL NO. 55

INTRODUCED BY HARP

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT EARNINGS OF A JUDGMENT DEBTOR ARE NOT EXEMPT FROM EXECUTION TO SATISFY A STATE TAX DEBT; CONFORMING THE EXCEPTIONS TO SUCH EXEMPTION TO THE FEDERAL LAW; AND AMENDING SECTIONS 15-30-310 AND 25-13-614, MCA."

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

**Section 1.** Section 25-13-614, MCA, is amended to read:

"25-13-614. Earnings of judgment debtor. (1) No earnings are exempt unless the judgment debtor complies with 25-13-411.

(2) Except as provided in subsections (3) and--(4) through (5), the maximum part of the aggregate disposable earnings of a judgment debtor for any workweek that is subjected to garnishment may not exceed the lesser of:

(a) the amount by which his disposable earnings for the week exceed 30 times the federal minimum hourly wage in effect at the time the earnings are payable; or

(b) 25% of his disposable earnings for that week.

(3) The restrictions of subsection (2) do not apply in the case of an order or judgment for the maintenance or

support of any person, issued by a court of competent jurisdiction or pursuant to an administrative procedure that is established by state law, affords substantial due process, and is subject to judicial review.

(4) (a) The maximum part of the aggregate disposable earnings of a judgment debtor for any workweek that is subject to garnishment to enforce an order described in subsection (3) may not exceed:

(i) 50% of the judgment debtor's disposable earnings for that week if he is supporting his spouse or dependent child (other than a spouse or child for whom the order is issued); or

(ii) 60% of the judgment debtor's disposable earnings for that week if he is not supporting a spouse or dependent child described in subsection (4)(a)(i).

(b) However, the amount stated in (4)(a)(i) may be 55% and the amount stated in (4)(a)(ii) may be 65% if such earnings are being garnished to enforce an order for maintenance or support for a period prior to the 12-week period that ends with the beginning of such workweek.

(5) The restrictions of subsection (2) do not apply to any debt due from any state tax.

(5)(6) For the purposes of this section, the definitions of earnings, disposable earnings, and garnishment are as set forth in 15 U.S.C. 1672."

**Section 2.** Section 15-30-310, MCA, is amended to read:

"15-30-310. Authority to collect tax -- offset -- hearing. (1) The department shall collect taxes that are delinquent as determined under this chapter.

(2) To collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the taxpayer from the state, except wages ~~subject to the provisions of 25-13-614~~ and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a hearing on the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset.

(5) The department must provide the taxpayer with notice of the right to request a hearing under the contested case procedures of Title 2, chapter 4, on the matter of the offset action or the department intent to file a claim on behalf of a taxpayer. A request for hearing must be made within 30 days of the date of the notice and such hearing, if requested, must be held within 20 days."

**Section 3.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

**Section 4.** Saving clause. [This act] does not affect

rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB055, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act providing that earnings of a judgement debtor are not exempt from execution to satisfy a state tax debt; conforming the exceptions to such exemption to the federal law.

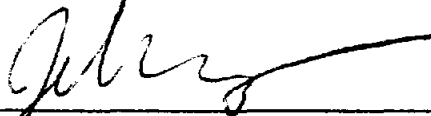
FISCAL IMPACT:

Providing an exception for state tax liabilities to the earnings of a judgement debtor that otherwise would be exempt from execution will increase administrative efficiency, and enhance revenue collections. Although insufficient data prevents an accurate estimation of the revenue impact, the current \$ 24 million accounts receivable balance is testimony to the need for increased administrative capabilities.

This bill will also place the state on equal footing with the federal government, which currently provides for such an exception.

Passage of this bill will not impact department expenditures.

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

  
JOHN G. HARP, PRIMARY SPONSOR      DATE  
Fiscal Note for SB055, as introduced

SB 55

APPROVED BY COMMITTEE  
ON JUDICIARY

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2    INTRODUCED BY HARP  
3                    BY REQUEST OF THE DEPARTMENT OF REVENUE  
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6    OF A JUDGMENT DEBTOR ARE NOT EXEMPT FROM EXECUTION TO  
7    SATISFY A STATE TAX DEBT; CONFORMING THE EXCEPTIONS TO SUCH  
8    EXEMPTION TO THE FEDERAL LAW; AND AMENDING SECTIONS  
9    15-30-310 AND 25-13-614, MCA."  
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12                    **Section 1.** Section 25-13-614, MCA, is amended to read:  
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14    earnings are exempt unless the judgment debtor complies with  
15    25-13-411.  
16                    (2) Except as provided in subsections (3) and ~~---(4)~~  
17    through (5), the maximum part of the aggregate disposable  
18    earnings of a judgment debtor for any workweek that is  
19    subjected to garnishment may not exceed the lesser of:  
20                    (a) the amount by which his disposable earnings for  
21    the week exceed 30 times the federal minimum hourly wage in  
22    effect at the time the earnings are payable; or  
23                    (b) 25% of his disposable earnings for that week.  
24                    (3) The restrictions of subsection (2) do not apply in  
25    the case of an order or judgment for the maintenance or

1    support of any person, issued by a court of competent  
2    jurisdiction or pursuant to an administrative procedure that  
3    is established by state law, affords substantial due  
4    process, and is subject to judicial review.

5                    (4) (a) The maximum part of the aggregate disposable  
6    earnings of a judgment debtor for any workweek that is  
7    subject to garnishment to enforce an order described in  
8    subsection (3) may not exceed:

9                    (i) 50% of the judgment debtor's disposable earnings  
10    for that week if he is supporting his spouse or dependent  
11    child (other than a spouse or child for whom the order is  
12    issued); or

13                    (ii) 60% of the judgment debtor's disposable earnings  
14    for that week if he is not supporting a spouse or dependent  
15    child described in subsection (4)(a)(i).

16                    (b) However, the amount stated in (4)(a)(i) may be 55%  
17    and the amount stated in (4)(a)(ii) may be 65% if such  
18    earnings are being garnished to enforce an order for  
19    maintenance or support for a period prior to the 12-week  
20    period that ends with the beginning of such workweek.

21                    (5) The restrictions of subsection (2) do not apply to  
22    any debt due from any state tax.

23                    ~~(5)~~(6) For the purposes of this section, the  
24    definitions of earnings, disposable earnings, and  
25    garnishment are as set forth in 15 U.S.C. 1672."

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**\*15-30-310. Authority to collect tax -- offset -- hearing.** (1) The department shall collect taxes that are delinquent as determined under this chapter.

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