

SENATE BILL NO. 91

INTRODUCED BY F. THOMAS

BY REQUEST OF THE DEPARTMENT OF REVENUE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO RECIPROCAL TAX COLLECTION;
6 CLARIFYING THE PRIORITY OF RECIPROCAL COLLECTIONS OF STATE AGENCY AND LOCAL
7 GOVERNMENT DEBTS BETWEEN THE INTERNAL REVENUE SERVICE AND THE DEPARTMENT OF
8 REVENUE; ALLOWING FOR RECIPROCAL COLLECTION AND OFFSET OF TAX LIABILITY BETWEEN THE
9 STATE AND FEDERAL GOVERNMENT; AMENDING SECTIONS 15-1-201, 15-1-218, AND 17-4-105, MCA;
10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 15-1-201, MCA, is amended to read:

15 **"15-1-201. Administration of revenue laws.** (1) (a) The department has general supervision over the
16 administration of the assessment and tax laws of the state, except Title 15, chapters 70 and 71, and over any
17 officers of municipal corporations having any duties to perform under the laws of this state relating to taxation to
18 the end that all assessments of property are made relatively just and equal, at true value, and in substantial
19 compliance with law. The department may make rules to supervise the administration of all revenue laws of the
20 state and assist in their enforcement.

21 (b) In the administration of any tax over which it has general supervision, the department may require
22 all individuals subject to the tax laws of the state to provide to the department the individual's social security
23 number, federal employee identification number, or taxpayer identification number.

24 (c) The department may contract with the U.S. department of the interior or any other federal agency to
25 perform federal royalty audits, collection services, and any other delegable functions related to mining operations
26 on federal lands within the state pursuant to the Federal Oil and Gas Royalty Simplification and Fairness Act of
27 1996.

28 (d) The department may contract with the internal revenue service for tax collection services, including
29 participation in the federal government treasury offset program and any reciprocal offset agreement program.

30 ~~(d)~~(e) The department shall adopt rules specifying which types of property within the several classes are

1 considered comparable property as defined in 15-1-101.

2 ~~(e)~~(f) The department shall also adopt rules for determining the value-weighted mean sales assessment
3 ratio for all commercial and industrial real property and improvements.

4 (2) The department shall confer with, advise, and direct officers of municipal corporations concerning
5 their duties, with respect to taxation, under the laws of the state.

6 (3) The department shall collect annually from the proper officers of the municipal corporations
7 information, in a form prescribed by the department, about the assessment of property, collection of taxes,
8 receipts from licenses and other sources, expenditure of public funds for all purposes, and other information as
9 may be necessary and helpful in the work of the department. It is the duty of all public officers to fill out properly
10 and return promptly to the department all forms and to aid the department in its work. The department shall
11 examine the records of all municipal corporations for purposes considered necessary or helpful."
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13 **Section 2.** Section 15-1-218, MCA, is amended to read:

14 **"15-1-218. Out-of-state collections -- authority to enter into contracts -- statutory appropriation.**

15 The department may enter into contracts with out-of-state attorneys, other state tax agencies, the federal
16 government, and others located outside the state for out-of-state collections of taxes, fees, and other debt owed
17 the state when the department determines that the amount collected under a contract will likely exceed the cost
18 of collection. The department shall deposit the gross amount collected in the account or fund to which the tax,
19 fee, or other debt was originally owed. The costs of collection are statutorily appropriated, as provided in
20 17-7-502, from the general fund to the department for the purposes of this section."
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22 **Section 3.** Section 17-4-105, MCA, is amended to read:

23 **"17-4-105. Authority to collect debt -- offsets.** (1) Once a debt of an agency has been transferred to
24 the department, the department may collect it. The department may contract with commercial collection agents
25 for recovery of debts owed to agencies.

26 (2) The department shall, when appropriate, offset any amount due an agency from a person or entity
27 against any amount, including refunds of taxes, owing the person or entity by an agency. The department may
28 not exercise this right of offset until the debtor has first been notified by the department and been given an
29 opportunity for a hearing pursuant to 15-1-211. An offset may not be made against any amount paid out as child
30 support collected by the department of public health and human services. The department shall deduct from the

1 claim and draw warrants for the amounts offset in favor of the respective agencies to which the debt is due and
 2 for any balance in favor of the claimant. Whenever insufficient to offset all amounts due the agencies, the amount
 3 available must be applied first to debts owed by reason of the nonpayment of child support and then in the
 4 manner determined appropriate by the department.

5 (3) (a) The department may enter into an agreement with the federal government to offset against tax
 6 refunds payable by the federal government and pay to the state any taxes or other debts owed to an agency of
 7 the state. ~~The EXCEPT AS PROVIDED IN SUBSECTION (3)(C), THE state may also enter into a reciprocal agreement~~
 8 ~~with the federal government for the state to offset against tax refunds payable by the state and pay to the federal~~
 9 ~~government any taxes or other debts owed to the federal government IF THOSE TAXES OR DEBTS CAN BE LIENED OR~~
 10 ~~LEVIED UPON PURSUANT TO 26 U.S.C. 5000A(G).~~

11 ~~(b) For purposes of offsetting of debts referred to in subsection (3)(a), offsets or payments will be made~~
 12 ~~in the following priority:~~

13 ~~(i) child support payments;~~

14 ~~(ii) any debts that are owed to this state, an agency of this state as defined in 17-4-101, or a local~~
 15 ~~government unit, including a county, city, town, consolidated city-county, school district, or local public entity with~~
 16 ~~the authority to spend or receive public funds; and~~

17 ~~(iii) any debts owed to the federal government.~~

18 ~~(C) TAXES OR DEBTS THAT CANNOT BE LIENED OR LEVIED UPON PURSUANT TO 26 U.S.C. 5000A(G) MUST BE~~
 19 ~~EXCLUDED FROM THE OFFSET.~~

20 ~~(b)(c)(D)~~ (i) The department may enter into an agreement with another state or an agency of another
 21 state to offset against tax refunds payable by the other state or agency of the other state and pay to this state any
 22 taxes or other debts owed to this state or an agency of this state.

23 (ii) To facilitate an agreement of the kind authorized by subsection ~~(3)(b)(i) (3)(c)(i) (3)(D)(I)~~, the
 24 department may enter into an agreement that allows the other state or agency of the other state to offset against
 25 tax refunds payable by this state the whole or part of an amount owed for taxes to the other state or agency of
 26 the other state. However, the department may enter into an agreement of the type authorized by ~~this subsection~~
 27 ~~(3)(b)(ii) subsection (3)(a) or (3)(c)(i) (3)(D)(I)~~ only if the other state or agency of the other state or the federal
 28 government allows ~~this state or an agency of this state to~~ the offset against tax refunds owed by the other state
 29 or agency of the other state or the federal government any taxes or other debts owed to this state or an agency
 30 of this state.

1 ~~(c)(d)(E)~~ A state or agency of another state or the federal government entering into an agreement with
 2 the department pursuant to subsection ~~(3)(b)(ii)~~ (3)(a) or (3)(c)(i) (3)(D)(l) may not exercise the offset against tax
 3 refunds unless the other state or agency of the other state or the federal government has notified the taxpayer
 4 of the taxes due and has given the taxpayer an opportunity for review or appeal of the tax debt. Another state or
 5 agency of another state intending to offset taxes shall provide the department with proof of notification and
 6 opportunity for review or appeal before the offset is exercised.

7 (4) (a) A debt owed to the department of public health and human services or being collected by the
 8 department of public health and human services on behalf of any person or agency may be offset by the
 9 department if the debt is being enforced or collected by the department of public health and human services
 10 under Title IV-D of the Social Security Act.

11 (b) The debt does not need to be determined to be uncollectible as provided for in 17-4-104 before being
 12 transferred to the department for offset. The debt must have accrued through written contract, court judgment,
 13 administrative order, or a distribution the recipient was not entitled to retain as described in 40-5-910.

14 (c) Within 30 days following the notification provided for in subsection (2), the person owing a debt
 15 described in subsection (4)(a) may request a hearing. The request must be in writing and be mailed to the
 16 department. The person owing a debt is not entitled to a hearing if the amount of the debt has been the subject
 17 matter of any proceeding conducted for the purpose of determining the validity of the debt and a decision made
 18 as a result of that proceeding has become final. The hearing must initially be conducted by teleconferencing
 19 methods and is subject to the provisions of the Montana Administrative Procedure Act. The department of public
 20 health and human services shall adopt rules governing the hearing procedures.

21 (5) If the department determines that a person or entity has refused or neglected to file a claim within
 22 a reasonable time, the head of the state agency owing the amount shall file the claim on behalf of the person or
 23 entity. If the claim is approved by the department, the claim has the same force and effect as if it were filed by
 24 the person or entity. The amount due any person or entity from the state or any agency of the state is the net
 25 amount otherwise owing the person or entity after any offset, as provided in this section.

26 (6) A debt owed to a state agency by a local government may not be offset against a payment due to
 27 a local government pursuant to 15-1-121."

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29 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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