

Proposed 2013 Session Legislation

Agency Name & No:	Department of Revenue - 5801		
Priority Number:	5	Filename:	5801\05-005
Short Title:	Allow for recording the notice of state tax lien with the Secretary of State		
Agency Contact Person/Phone:	Steve Austin/444-1479		

**1. Purpose:**  
 To improve the collection of state tax debt and transparency to creditors and lenders by enabling the department to record a notice of state tax lien with the Secretary of State (SOS) to obtain a statewide lien against the debtor's personal property. This is a case where improving state tax administration and the operation of the commercial marketplace go hand in hand.

**2. Background:**  
 Under current state statute, 15-1-704, MCA, the department is only allowed to file a warrant for distraint with the clerk of court. This filing creates the department's lien against real and personal property located within the county where the warrant for distraint is filed, according to 15-1-701(2), MCA. For the warrant for distraint to be effective in another county, the filing must be abstracted (a separate legal process) into the other county. The proposed legislation provides for recording a "notice of state tax lien" with the SOS by amending 15-1-704, MCA, and provides that the state tax lien is effective against personal property statewide by amending 15-1-701(2), MCA. Thus, the department would obtain a statewide lien on personal property without having to abstract the original warrant for distraint into each county. Personal property by its nature is susceptible to being moved between counties. The department would, however, continue to obtain a lien against real property by filing the warrant for distraint with the clerk of court. Creditors and lenders, who are accustomed to searching records with the SOS to identify liens against personal property, would now be notified of the department's tax lien, thereby improving transparency. Currently, the Internal Revenue Service has the capability to record notices of federal tax liens with the SOS. The SOS has updated its operating system to enable the department to record its notice of state tax lien.

**3. Fiscal Impact by Fund Type:** *This impact should be as specific as possible.*  
 Although this proposed legislation will create efficiencies in obtaining a statewide lien against personal property, a defined savings in dollars cannot be determined.

**4. Summary Checklist [Check & complete all that apply]--**

<input checked="" type="checkbox"/> Housekeeping Only	<input type="checkbox"/> Federal Requirement	<input type="checkbox"/> Audit Recommendation (Audit No.):	<input type="text"/>	<input type="checkbox"/> Major Legislation
<input type="checkbox"/> Anticipated to be Controversial Legislation	<input type="checkbox"/> Bill Draft has been Included In Legislation Submittal (If available)			
<input type="checkbox"/> Supports Submitted EPP Item Number	<input type="text"/>	<input type="checkbox"/> Local Government Fiscal Impact		
<input type="checkbox"/> Increases FTE, or	<input type="checkbox"/> Decreases FTE by	List FTE amount and program	<input type="text"/>	
<input type="checkbox"/> Increases Existing Revenue	<input type="radio"/> Tax	<input type="radio"/> Fee	<input type="radio"/> Penalty [amount in #3]	
<input type="checkbox"/> Decreases Existing Revenue	<input type="radio"/> Tax	<input type="radio"/> Fee	<input type="radio"/> Penalty [amount in #3]	
<input type="checkbox"/> Establishes New Revenue	<input type="radio"/> Tax	<input type="radio"/> Fee	<input type="radio"/> Penalty [amount in #3]	
<input type="checkbox"/> Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):	<input type="text"/>			
<input checked="" type="checkbox"/> Legislation would affect other state agencies (list):	Secretary of State			
<input type="checkbox"/> Special Interest Groups Affected (list):	<input type="text"/>			
<input checked="" type="checkbox"/> Other:	Legislation would create efficiencies in processing warrants for distraint			