

HOUSE BILL NO. 38

INTRODUCED BY GRADY
BY REQUEST OF THE STATE AUDITOR

IN THE HOUSE

DECEMBER 29, 1990	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
JANUARY 7, 1991	FIRST READING.
JANUARY 17, 1991	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED. PRINTING REPORT.
JANUARY 18, 1991	SECOND READING, DO PASS.
JANUARY 19, 1991	ENGROSSING REPORT.
JANUARY 21, 1991	THIRD READING, PASSED. AYES, 93; NOES, 4. TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 22, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION. FIRST READING.
JANUARY 25, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
JANUARY 28, 1991	SECOND READING, CONCURRED IN. TAKEN FROM 3RD READ-REREFERRED. ON MOTION, REREFERRED TO COMMITTEE ON FINANCE & CLAIMS.
FEBRUARY 14, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
FEBRUARY 15, 1991	SECOND READING, CONCURRED IN.
FEBRUARY 16, 1991	THIRD READING, CONCURRED IN.

AYES, 49; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 11, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 12, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 38

INTRODUCED BY GRADY

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATUTES RELATING TO ASSISTANCE BY THE STATE AUDITOR IN THE COLLECTION OF DELINQUENT ACCOUNTS OWED TO STATE AGENCIES; AMENDING SECTIONS 17-4-103 AND 17-4-106, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 17-4-103, MCA, is amended to read:

"17-4-103. Collection of claims by state auditor. (1)

In his discretion, it is the duty of the state auditor to examine the collection of ~~money's~~ money due the state and institute suits in its name for official delinquencies in relation to the assessment, collection, and payment of the revenue and against persons who ~~by any means have become possessed of~~ possess public money or property and ~~failed~~ fails to pay over or deliver the same money or property and against debtors of the state, ~~of which suits the~~ The courts of the county ~~in which where~~ the seat of government may be located have jurisdiction, without regard to the residence of the defendants, over the collection suits authorized by this section.

(2) Whenever any a person has ~~received moneys or has~~ money or other personal property which that belongs to the state by escheat or otherwise or has been entrusted with the collection, management, or disbursement of ~~any moneys~~ money, bonds, or interest accruing ~~therefrom~~ from the money or bonds, belonging to or held in trust by the state, and fails to render an account ~~thereof~~ of the money or personal property to and make settlement with the state auditor within the time prescribed by law or, when no particular time is specified, fails to render ~~such an~~ an account and make settlement or who fails to pay into the state treasury ~~any~~ the moneys money belonging to the state, upon being required to do so ~~to do~~ by the state auditor, within 20 days after ~~such the~~ such requisition, the state auditor ~~must~~ shall state an account with ~~such that~~ that person, charging 25% damages and interest at the rate of 10% per-annum a year from the time of the failure, ~~a~~ A copy of which the account in ~~any a~~ any a suit ~~therein~~ therein is prima facie evidence of the things ~~therein~~ therein stated in the account, ~~but in case when~~ the state auditor cannot for want of information state an account, he may in ~~any an~~ any an action brought by him aver that fact and allege generally the amount of money or other property which ~~is~~ is due to or which ~~belongs~~ belonging to the state.

(3) The state auditor may assist in the collection of any a delinquent account owing to any state agency and may

1 separately charge the state agency that transferred the debt
2 for the cost of assistance. The state auditor may designate
3 the percentage of collected proceeds to be retained for the
4 cost of assistance.

5 (4) The state auditor ~~is hereby authorized to~~ may
6 provide a collection service for the general purpose of
7 centralizing the collection of all debts owing to the
8 state."

9 **Section 2.** Section 17-4-106, MCA, is amended to read:

10 "17-4-106. Agency owed debt to receive all moneys money
11 collected -- exception. (1) All moneys money collected by
12 the state auditor on debts transferred to it him by the
13 various state agencies, except funds collected under
14 17-4-103(3), shall must be deposited to the account or fund
15 of the agency to which the debt was originally owing.

16 (2) Funds collected under 17-4-103(3) must be deposited
17 in an account in the internal service fund for the cost of
18 assistance of debt collection by the state auditor. Funds
19 deposited in excess of the amount appropriated for operation
20 of the debt collection program must be carried forward into
21 the next fiscal year for operation of the debt collection
22 program."

23 NEW SECTION. **Section 3.** Effective date. [This act] is
24 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0038, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


This is an act to enable the state auditor to charge state agencies based upon a percentage of the amounts collected by the bad debts division. The funds collected by these charges and the costs of the bad debts collection effort will be accounted for in an internal service fund rather than in various other funds. The fund balance will be carried forward and will not revert to the fund for which the debt is owed.

ASSUMPTIONS:

1. Current general fund support for the bad debt division will be replaced entirely by internal service fund support. The revenue source for the internal service fund will be provided by a percentage service charge against the receipt of bad debt recoveries.
2. Expenditures are based upon the Governor's Executive Budget for FY92-93.
3. Debt collections by the bad debts division for FY90 were \$751,061. The estimated amount of collections for FY91 is \$826,167.
4. Debts are written off as uncollectible by the other state agencies prior to being referred for collection. The funds ultimately collected by the bad debts division, less a percentage retained for division costs, will be returned to the agencies who made the bad debt referrals.

FISCAL IMPACT:

(See next page)


ROD SUNDSTED, BUDGET DIRECTOR 1-8-91 DATE
Office of Budget and Program Planning


ED GRADY, PRIMARY SPONSOR 1-9-91 DATE

Fiscal Note for HB0038, as introduced

HB 38

Fiscal Note Request, HB0038, as requested
 Form BD-15
 Page 2

Agency: State Auditor's Office
 Program: Fiscal Control and Management

	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Personal Services	77,026	77,026	0	76,985	76,985	0
Operating Costs	<u>9,117</u>	<u>9,117</u>	<u>0</u>	<u>10,302</u>	<u>10,302</u>	<u>0</u>
Total	86,143	86,143	0	87,287	87,287	0
<u>Funding:</u>						
General Fund (01)	86,143	0	(86,143)	87,287	0	(87,287)
Proprietary Fund (06)	<u>0</u>	<u>86,143</u>	<u>86,143</u>	<u>0</u>	<u>87,287</u>	<u>87,287</u>
Total	86,143	86,143	0	87,287	87,287	0
Net Change	0	0	0	0	0	0

REVENUE IMPACT:

The proposed will divert \$86,143 in FY92 and \$87,287 in FY93 from the various funds for which the bad debts are owed. Major funds affected include the general fund, school equalization fund, unemployment insurance fund and the state fund. Since these other funds will assist in the financing of the bad debt program, the proposal should result in a modest net increase to the general fund.

HB 38

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 HOUSE BILL NO. 38

2 INTRODUCED BY GRADY

3 BY REQUEST OF THE STATE AUDITOR

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATUTES
6 RELATING TO ASSISTANCE BY THE STATE AUDITOR IN THE
7 COLLECTION OF DELINQUENT ACCOUNTS OWED TO STATE AGENCIES;
8 AMENDING SECTIONS 17-4-103 AND 17-4-106, MCA; AND PROVIDING
9 AN EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 17-4-103, MCA, is amended to read:

13 **"17-4-103. Collection of claims by state auditor. (1)**
14 **In his discretion,** it is the duty of the state auditor to
15 **examine the collection of moneys money due the state and**
16 **institute suits in its name for official delinquencies in**
17 **relation to the assessment, collection, and payment of the**
18 **revenue and against persons who ~~by any means have become~~**
19 **possessed of possess public money or property and ~~failed~~**
20 **fails to pay over or deliver the same money or property and**
21 **against debtors of the state, ~~of which suits the~~ The courts**
22 **of the county ~~in which~~ where the seat of government may be**
23 **located have jurisdiction, without regard to the residence**
24 **of the defendants, over the collection suits authorized by**
25 **this section.**

1 (2) Whenever ~~any a~~ person has ~~received-moneys-or-has~~
2 ~~money or other personal property which that belongs to the~~
3 ~~state by escheat or otherwise or has been entrusted with the~~
4 ~~collection, management, or disbursement of any-moneys money,~~
5 ~~bonds, or interest accruing therefrom from the money or~~
6 ~~bonds, belonging to or held in trust by the state, and fails~~
7 ~~to render an account thereof of the money or personal~~
8 ~~property to and make settlement with the state auditor~~
9 ~~within the time prescribed by law or, when no particular~~
10 ~~time is specified, fails to render such an account and make~~
11 ~~settlement or who fails to pay into the state treasury any~~
12 ~~the moneys money belonging to the state, upon being required~~
13 ~~to do so to-do by the state auditor, within 20 days after~~
14 ~~such the requisition, the state auditor ~~must shall~~ state an~~
15 ~~account with such that person, charging 25% damages and~~
16 ~~interest at the rate of 10% per-annum a year from the time~~
17 ~~of the failure, ~~a~~ A copy of which the account in any a suit~~
18 ~~therein is prima facie evidence of the things therein stated~~
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21 ~~action brought by him aver that fact and allege generally~~
22 ~~the amount of money or other property which--is due to or~~
23 ~~which-belongs belonging to the state.~~

24 (3) The state auditor may assist in the collection of
25 any a delinquent account owing to any state agency and may

1 separately charge the state agency that transferred the debt
2 for the cost of assistance. The state auditor may designate
3 the percentage of collected proceeds to be retained for the
4 cost of assistance.

5 (4) The state auditor ~~is hereby authorized to~~ may
6 provide a collection service for the general purpose of
7 centralizing the collection of all debts owing to the
8 state."

9 **Section 2.** Section 17-4-106, MCA, is amended to read:

10 "17-4-106. Agency owed debt to receive all moneys money
11 collected -- exception. (1) All moneys money collected by
12 the state auditor on debts transferred to it him by the
13 various state agencies, except funds collected under
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15 of the agency to which the debt was originally owing.

16 (2) Funds collected under 17-4-103(3) must be deposited
17 in an account in the internal service fund for the cost of
18 assistance of debt collection by the state auditor. Funds
19 deposited in excess of the amount appropriated for operation
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21 the next fiscal year for operation of the debt collection
22 program."

23 NEW SECTION. Section 3. Effective date. [This act] is
24 effective July 1, 1991.

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(2) Whenever any a person has received-moneys-or-has money or other personal property which that belongs to the state by escheat or otherwise or has been entrusted with the collection, management, or disbursement of any-moneys money, bonds, or interest accruing therefrom from the money or bonds, belonging to or held in trust by the state, and fails to render an account thereof of the money or personal property to and make settlement with the state auditor within the time prescribed by law or, when no particular time is specified, fails to render such an account and make settlement or who fails to pay into the state treasury any the moneys money belonging to the state, upon being required to do so to-do by the state auditor, within 20 days after such the requisition, the state auditor must shall state an account with such that person, charging 25% damages and interest at the rate of 10% per-annum a year from the time of the failure; a A copy of which the account in any a suit therein is prima facie evidence of the things therein stated in the account; but in-case when the state auditor cannot for want of information state an account, he may in any an action brought by him aver that fact and allege generally the amount of money or other property which--is due to or which-belongs belonging to the state.

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20 of the debt collection program must be carried forward into
21 the next fiscal year for operation of the debt collection
22 program."

23 **NEW SECTION. Section 3.** Effective date. [This act] is
24 effective July 1, 1991.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 25, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 38 (third reading copy -- blue), respectfully report that House Bill No. 38 be amended and as so amended be concurred in:

1. Page 3, line 22..

Following: "."

Insert: "Any excess carried forward into the next fiscal year will be used to reduce the designated percentage of the collected proceeds charged to the various state agencies"

Signed:



Eleanor Vaughn, Chairman

SENATE

HB 38

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 14, 1991

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 38 (third reading copy -- blue), respectfully report that House Bill No. 38 be amended and as so amended be concurred in:

1. Page 3, line 22.

Following: ". "

Insert: "At the end of each biennium, any fund balance in excess of \$10,000 must be transferred back to the general fund."

Signed:

Judy H. Jacobson
Judy H. Jacobson, Chairman

Ugenfritz 2/14/91
App. Coord.

SB 2/14 11:00
Sec. of Senate

HB 38

SENATE

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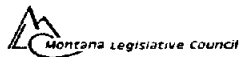
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REFERENCE BILL

HB 38



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 19 deposited in excess of the amount appropriated for operation
 20 of the debt collection program must be carried forward into
 21 the next fiscal year for operation of the debt collection
 22 program. ANY EXCESS CARRIED FORWARD INTO THE NEXT FISCAL
 23 YEAR WILL BE USED TO REDUCE THE DESIGNATED PERCENTAGE OF THE
 24 COLLECTED PROCEEDS CHARGED TO THE VARIOUS STATE AGENCIES. AT
 25 THE END OF EACH BIENNIUM, ANY FUND BALANCE IN EXCESS OF

1 \$10,000 MUST BE TRANSFERRED BACK TO THE GENERAL FUND."

2 NEW SECTION. Section 3. Effective date. [This act] is
 3 effective July 1, 1991.

-End-