

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman Jan Brown, on February 14, 1989, at 8:30 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Judy Burggraff, Secretary; Lois Menzies, Staff Researcher

Announcements/Discussion: REP. ROTH moved to reconsider action of HJR 7 since he didn't have an opportunity to vote. CHAIRMAN BROWN said that the Committee had proxies for everyone else who was missing. The vote on HJR 7 was 10 - 7. The motion FAILED on a voice vote.

Chairman Brown said that the Committee would convene at 8:00 a.m. tomorrow. They would take executive action on the bills that will be heard today and four others that are in the Committee.

DISPOSITION OF HB 513

Hearing Date: February 10, 1989

Motion: Rep. Phillips moved HB 513 DO PASS.

Amendments, Discussion, and Votes: Sponsor's amendments were distributed during the hearing (Exhibit 1 A) and an additional set of sponsor's amendments were distributed to the Committee (Exhibit 1 B). Rep. Whalen moved amendments No. 1 and No. 2 of Exhibit 1 A. The motion CARRIED unanimously.

CHAIRMAN BROWN said that the amendments distributed that morning (Exhibit 1 B) were discussed with REP. COCCHIARELLA, and she was asked if she wished to discuss them. REP. COCCHIARELLA said that the amendments Rep. Rice provided tried to address some of the complaints that she has with the negative tone of this bill. REP. COCCHIARELLA said that she still does not like this bill.

REP. PHILLIPS moved the sponsor's amendments that were distributed that morning (Exhibit 1 B). The motion CARRIED unanimously.
REP. PHILLIPS moved HB 513 DO PASS AS AMENDED.

REP. DAVIS said he still does not like the bill since it encourages and legalizes anonymous calls. If someone has a complaint, Rep. Davis said

he would rather face the individual rather than have somebody call someone else. It is second and third-hand by that time.

REP. GERVAIS offered a substitute motion that HB 513 DO NOT PASS. REP. PHILLIPS said that this system works well in all the federal agencies. He said he thinks that people are seeing a lot of "boogie men" here that don't exist. REP. PHILLIPS said he would rather see the hotline going into the governor's office because the Governor has the power to fix things.

REP. DAVIS said that he is sure that the Committee is aware of the anonymous phone calling that went on through the campaign to candidate Winslow in Billings. That never would have solved the thing if that individual ultimately admitted it. I do not like this anonymous call with the investigation following.

REP. ROTH said that a lot of the larger companies have instituted a program like this. It isn't always negative, it is also to point out some of the good things that happen. We need to have more of that. This is not to create a lot of false accusations against people. I don't think that will happen. It wasn't my experience with the company I was involved in. I think that the intent of the bill is very good and it protects everybody from the top on down. This should help state government.

REP. NELSON said that the wording of the bill is negative. However, this is not much different than the Crime Stoppers that most large communities around the state have where you call in anonymously and report some misdoing. More often than not, the sheriff or local law enforcement follows it up to get a handle on the problem. They pay cash rewards up to \$1,000 in some cases.

REP. COCCHIARELLA said she wished to echo some of what Rep. Nelson just said. This bill is not an incentive program; incentive programs are good. This bill is a snitch program.

REP. MOORE said that the wording is somewhat better than the way it was, but it still bothers her on page 2, line 16, where it says "help state government save tax dollars." To me that is like waving a red flag in front of a bull. You know how people feel about how we're wasting tax money up here all of the time anyway. I would like to say, "let's help government save." Leave the tax issue out.

Recommendation and Vote: REP. RUSSELL offered a substitute motion TO TABLE HB 513. A roll call vote was taken. The motion CARRIED 10 - 8 (see roll call vote).

DISPOSITION OF HB 474.

Hearing Date: February 10, 1989

Motion: REP. CAMPBELL moved HB 474 DO NOT PASS.

Discussion: REP. O'CONNELL said she would like to table the bill. REP. ROTH said he does not think the bill would solve anything and the cost is going to be passed right along. It is an anti-utility bill to provide the competition with the funds to testify against the home team. I think it is strictly a harassment situation and it is not necessary.

Amendments, Discussion, and Votes: None

Recommendation and Vote: REP. ROTH made a substitute motion TO TABLE HB 474. A roll call vote was taken. The motion CARRIED 13 - 5 (see roll call vote).

HEARING ON HB 605

Presentation and Opening Statement by Sponsor: Rep. Ed Grady, House District 47, introduced the bill. Currently, the Department of Revenue is responsible for collecting bad debts owing to state agencies. This bill transfers these debt collection duties to the State Auditor. It also clarifies the Department of Revenue's procedures regarding tax offsets.

Rep. Grady said that there is an amendment which has been distributed to the Committee (Exhibit 2).

Testifying Proponents and Who They Represent:

Debbie Van Vliet, Administrator, Fiscal Management and Control Division, State Auditor's Office

Proponent Testimony:

DEBBIE VAN VLIET presented written testimony (Exhibit 3) and a report entitled, "Report of the Joint Committee to Study Relocation of the Bad Debts Collection Function from the Department of Revenue to the State Auditor's Office" (Exhibit 4).

Testifying as Neither a Proponent nor Opponent and Who They Represent:

Don Bentson, Administrator, Centralized Services Division, Department of Revenue

Testimony:

DON BENTSON said that he is here to provide technical information on what this bill will do. Mr. Bentson said that a joint committee was formed between the Department of Revenue and the State Auditor's Office. The conclusion reached by the joint committee was that the bad debts collection function would be better off in the State Auditor's Office, provided they could get a little bit more funding. It appears that for \$42,000 in expenditures, the state could receive about \$500,000 more in revenue. The funds would come from debts that other agencies have already passed on and had a full collection effort. It is really "dead"

debts that we would be collecting the additional dollars from. The Department of Revenue thinks it is a worthwhile move.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. WHALEN asked why can't the Department of Revenue do this now. Mr. Bentson said it is possible for the Department of Revenue to do this, but it is more efficient to do it in the Auditor's Office. We don't want to have too many offset systems. The Auditor's Office is charged by law with doing the offset process. The Department of Revenue also runs an offset process. There is a lot of confusion on the part of the taxpayer if we offset an income tax return and then it goes down to the State Auditor's Office and they offset an income tax return as part of their coordination to make sure that the taxpayer knows what they are paying for. We are trying to cut down the number of processes that offset against some revenue flowing out of the state. REP. WHALEN asked what percentage of the Department's debt collection effort is offset. Mr. Bentson said it is about one third. The rest of it comes through internal collection. We have about three FTEs that would be transferred. We pass a lot of our debts out to collection agencies. That really is where we are effective in collecting. Mr. Bentson said that the Department of Revenue is willing to transfer to the State Auditor's Office the funds appropriated for this program, which is close to \$75,000. We also believe it would take additional resources because the offsets would expand three fold. The Department of Revenue can not handle that with our three FTEs, and we were not successful in getting additional staff.

REP. PHILLIPS asked if the Department of Revenue would still keep the child support enforcement. Mr. Bentson said that was correct. The child support accounting system is a pretty complex system in itself. It is run on the basis of criteria given to them by the federal government. It does not have an offset program. It just accounts for money that absentee parents owe. There is no duplication. REP. PHILLIPS said he thought that they fed their information to IRS. Mr. Bentson said that they do. We are intercepting people that owe us money. The IRS is doing the same thing with refunds flowing out of the federal government. We are just assisting the child support program in their collections.

REP. PHILLIPS asked Debbie Van Vliet if three FTE's from the Department of Revenue were going to be transferred. Ms. Van Vliet said that we are going to transfer the entire program. They are offsetting \$34 million in the Department of Revenue; we will be able to offset \$119 million in the State Auditor's Office. We would need the two FTEs to cover the extra added offsets. The \$42,000 includes the two FTEs and the cost of moving the program down.

REP. ROTH asked if they are talking five FTEs. Ms. Van Vliet said that currently in the program there are three FTEs. We would need two above the current program.

REP. MOORE asked why the State Auditor's Office gets FTEs and the Department of Revenue can't. Mr. Bentson said bad debt collection is not a priority program in the Department of Revenue; it has taken a back seat to others. The State Auditor's Office is willing to increase the priority of that program in state government. REP. MOORE questioned why the State Auditor's Office can give it more of a priority. Mr. Bentson said that they are a smaller agency; they are willing and able to give it more priority.

Closing by Sponsor: None

HEARING ON HB 632

Presentation and Opening Statement by Sponsor: Rep. Fritz Daily, House District 69, Butte, introduced the bill. Currently, the formula for calculating a service retirement allowance for a member of the Teachers' Retirement System is: $\frac{1}{60}$ x average final compensation x years of service. This bill revises the formula to: $\frac{1}{50}$ x average final compensation x years of service. To fund this benefit enhancement, the member's and employer's contribution rates are increased by 1.555 percent of salary. The member's rate increases from 7.044 percent of salary to 8.599 percent. The employer's rate increases from 7.428 percent of salary to 8.983 percent.

Rep. Daily said that with the current system teachers can retire with half pay after they have worked for 30 years. Under this bill, a teacher would be able to retire at half pay after serving for 25 years. The reason he is introducing this bill is to encourage teachers to retire. After they retire, hopefully those jobs will be filled by people who are currently graduating from the Montana university system.

Rep. Daily said that he thinks the bill will be a cost-saving measure as teachers that retire will be making in the neighborhood of \$30,000. They will be replaced by teachers making close to \$15,000.

CHAIRMAN BROWN asked if Rep. Daily had a fiscal note. He said he has a partial one, which was presented to him about five minutes ago.

Testifying Proponents and Who They Represent:

Terry Minow, Montana Federation of Teachers

Phil Campbell, Montana Education Association

Proponent Testimony:

TERRY MINOW said she represents the Montana Federation of Teachers and they rise in strong support of this measure. Improving the benefits and improving the retirement opportunities is a step forward for the state of Montana. Teachers and salaries have been hard hit in the last few years of underfunding of the foundation program. This bill will result

in some cost savings in schools that are adversely affected by the provisions of Initiative 105. We don't see a great deal of improvement in at least the next year. She urged the Committee's support.

PHIL CAMPBELL said the Montana Education Association, which he represents, supports HB 632. He said that this proposal has been a long-standing provision in our legislative program. The timing of the bill is not the greatest, and he would like to know what the funding mechanism will be. He asked the Committee for favorable consideration.

Testifying Opponents and Who They Represent:

Dave Evenson, Director of Benefits, Montana University System

Opponent Testimony:

DAVE EVENSON distributed a table (Exhibit 5) that shows the current and the proposed contribution rate in the Teachers' Retirement System (TRS) and the Optional Retirement Plan (ORP). Mr. Evenson also distributed a report entitled "Estimated Annual Salaries," (Exhibit 6). He said he would like to speak to section 5, pages 6 and 7, which addresses the optional retirement system that the University System is allowed to establish. Mr. Evenson said that the employee contribution for the two retirement systems is the same. The employer contribution to the ORP is 2.956 percent, so that the total going into the ORP is 10 percent of employee wage. In addition to that, there is an additional contribution from the University System to the TRS. This additional contribution is intended to offset any adverse impact that might be caused by the ORP. There will be an actuarial study that will be presented at the next Legislature which will determine if there is an adverse impact. The point that concerned us is that the two plans, while different in their concepts, were intended to be relatively comparable. The current rates that we have established will make that comparable. He urged the Committee to consider amendments and said he would like to work with someone to amend the bill.

Presented Written Testimony in Opposition of the Bill but Did Not Testify:

Bruce W. Moerer, Staff Attorney, Montana School Boards' Association

Questions From Committee Members:

REP. PHILLIPS said he was concerned that the bill would be unfair since a person just starting would be paying for 25 years for the people just getting out now and also wanted to know how much the bill would cost. Dave Senn said the documentation that was distributed was very rough as they are still trying to put together more accurate numbers in terms of salary. The cost is approximately \$6 million dollars in employer contribution. Regarding the unfairness of the bill, Mr. Senn said that everyone would receive an enhancement and in that respect it is very equitable; those that retire shortly after the bill takes effect, will receive more than they had paid. This happens in most every retirement system.

REP. NELSON asked what this bill would do to the unfunded liability of the system. Mr. Senn said it will not have an effect on the current unfunded liability in the TRS. They will continue to amortize that liability over 36.5 years as of their last valuation, July 1, 1987. This will be a new liability. It will be accounted for and reported to the Legislature separately. It will be amortized over 40 years. The 3.11 percent of salary will be sufficient to amortize the liability in this proposal.

REP. ROTH asked Dave Evenson if he would support the bill without the amendments. He said that in fairness, he did not think he could as 20 to 25 percent of the university faculty have elected to join the optional retirement plan. REP. ROTH said he would like to have Dave Evenson registered as an opponent of the bill, not a proponent.

REP. DEBRUYCKER asked if this would have an effect on Initiative 105. Rep. Daily said it would have an effect on Initiative 105 in that the school district would have to come up with the 1.5 percent funding. It would not change it, but they would have to find a method to fund it.

Closing by Sponsor: Rep. Daily said he thinks it is a good proposal and that it warrants the Committee's consideration. He said there are some cost savings, too. When you look at any retirement system, (i.e. the social security system) the people that are currently working always pay for the people who have retired. That is the way the systems work. Sponsor's amendments were distributed (Exhibit 7). Rep. Daily asked the Committee to consider the bill using the 27-year figure, if they were unwilling to consider the 25-year figure. If the 27-year figure were to be used, it would take less than 2 percent to fund the proposal. Rep. Daily said he thinks the bill would help the youth of Montana, too. New teachers would be added to the system, and most of the time the new teachers have good ideas and are very energetic.

HEARING ON HB 620

Presentation and Opening Statement by Sponsor: Rep. John Vincent, House District 80, Bozeman, introduced the bill. This bill prohibits a person from providing to an elector information about election procedures that is incorrect or misleading. In addition, no one but an election official may disseminate information prepared in such a way that it appears that the information is official information. A person who violates this provision is guilty of a misdemeanor.

Rep. Vincent said this bill would remedy the problem created during the 1988 election when a pamphlet was mailed to certain voters indicating that they could apply to vote in the privacy of their homes. Many people who received copies of a pamphlet mailed in their request for absentee ballots without knowing that there were certain legal conditions under which a person can request an absentee ballot. The clerk and recorders were inundated with requests for absentee ballots. Some people thought there was a new method of voting in which they could

vote in their own homes; others thought that they could not vote unless they mailed in the request because it says "official election document." Some clerk and recorders refused to accept these absentee ballot requests. There were much larger mailing expenses as a result of responding to the requests. This mailing clearly disrupted the process and confused many voters. Both republicans and democrats were subjected to this mailing, including the republican Secretary of State. There was no way to prevent it and there was no remedy after it happened. This bill says that it is okay to distribute information concerning absentee balloting. It is not okay to do that under the auspices of an official mailing.

Testifying Proponents and Who They Represent:

Garth Jacobson, Secretary of State's Office

Sue Bartlett, Montana Association of County Clerks and Recorders

Margaret Davis, League of Women Voters of Montana

C. B. Pearson, Executive Director, Common Cause of Montana

Proponent Testimony:

GARTH JACOBSON presented written testimony (Exhibit 8).

SUE BARTLETT presented written testimony (Exhibit 9), which included a pamphlet that was mailed out and referred to in Rep. Vincent's testimony.

MARGARET DAVIS said that the League of Women Voters of Montana rises in support of HB 620. They recommended that the bill be amended to clarify it further. Ms. Davis said that misleading or incorrect information of election procedures could easily affect a voter's ability to exercise his or her franchise. We recommend that supplying this erroneous type of information be a misdemeanor. The League has concern with a sentence in section 1, beginning on line 12 and ending on line 16. Under this language in the bill, "a person, other than an election official may not mail or otherwise disseminate to electors information prepared in a manner indicating that the information is official information, or otherwise sanctioned by an election official." The League of Women Voters would ask that the Committee strike the language in lines 12 through 16, and substitute language that more clearly specifies that the law prohibits any indication or impression that election administrators or public officials have endorsed materials prepared by committees formed to support or oppose candidates or ballot issues. That would more directly address the problems. Ms. Davis said that "If one were to read this in the strictest sense, it would mean that as a member of the League of Women Voters I could not Xerox a copy of a sample registration card and distribute it to the members of my organization. The more accurate the information I Xerox and sent around, the more it might look like it was official and, therefore, illegal under this particular sense. Would the newspapers also be jeopardized for running sample ballots that clearly were not official ballots, but certainly were information that had no advocacy material in it? The language in

that sentence is very unclear for those groups of people who wish to produced materials on, about, or by elections. This would affect those groups who were concerned about increasing voter participation in elections. The League supports the thrust and purpose of HB 620. Ms. Davis said she would give a copy of the proposed amendment to Lois Menzies.

C. B. PEARSON said that Common Cause of Montana wants to go on record as supporting HB 620 as they believe it is a good reform and is consistent with clean and honest campaigns. Common Cause is also concerned that this type of technique could be used in ballot issues. We would like to see the area cleaned up now so it isn't used by future interest groups who might be proposing a certain vote on a ballot question. We would like to have this sort of thinking be included when the Committee considers the bill. We urge a do pass.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. PHILLIPS said he was concerned about the language of the sentence starting on line 10, "A person may not provide to any elector information about election procedures that is incorrect or misleading." What happens if someone were asked a question and he mistakenly gave incorrect information on a one-to-one basis? He would be breaking a law. Rep. Vincent said there would have to be a complaint and it would have to be resolved through the Commissioner of Political Practices.

REP. SPRING said he is appalled that the pamphlet was mailed, but he does not think that this bill will prohibit it from happening again. He suggested that there be stronger language in the bill to have it be a felony. Rep. Vincent said that he agrees with Rep. Spring but that the State Administration Committee has always been reluctant to add felony charges in the campaign practices laws.

REP. COCCHIARELLA asked Rep. Vincent if he had heard the amendment proposed by the League of Women Voters, and if so, would he concur that the change be made. Rep. Vincent said that he had not had an opportunity to look at the specific language, but if it served to clarify without getting away from the intent of the bill, he would consider it.

Closing by Sponsor: None

DISPOSITION OF HB 620

Chairman Brown asked Rep. Whalen to work with Speaker Vincent on the League's suggested amendment and to come back to the Committee with a recommendation.

HEARING ON HB 543

Presentation and Opening Statement by Sponsor: Rep. Mary Ellen Connelly introduced the bill. This bill permits retired highway patrol officers or their spouses or dependents who are receiving a retirement allowance under the Highway Patrolmen's Retirement System and who are not members of the State of Montana Employees Group Benefits Plan to elect to become members of the health insurance plan on or before September 1, 1990. In addition, the bill requires the Department of Administration to pay 50 percent of the premium for coverage under the health insurance plan for current and future retired highway patrol officers or their surviving spouses or dependents who are members of the plan. The remainder of the premium must be paid by the retired patrol officer or the surviving spouse or dependents. The bill also increases the additional fee for motor vehicle registration from \$3 to \$4 to fund the partial payment of premiums by the Department of Administration.

Rep. Connelly introduced sponsor's amendments (Exhibit 10) since it was determined that an increase of only 50 cents in the motor vehicle registration fee would be necessary to fund the bill.

Testifying Proponents and Who They Represent:

Buck Baldry, President, Association of Retired Montana Highway Patrol Officers

Al Rierson, Montana Highway Patrol Association

Gene Miller, Montana Highway Patrol Association

Rep. Robert Clark, House District 31

Tom Schneider, Montana Highway Patrolmen

Proponent Testimony:

BUCK BALDRY said that the highway patrolmen, particularly the ones who retired some years ago, are in need of this bill.

AL RIERSON said he is a retired sergeant and is on the Legislative Committee for the retired officers, widows and active highway patrolmen. He distributed a sheet entitled "Monthly Cost Expense Comparison of 1973 and 1988," (Exhibit 11). Mr. Rierson explained the information on the sheet stating that the information contained on it referred to his household and his pension. Mr. Rierson pointed out huge increases in hospital room, doctor visit and dental visit charges. Mr. Rierson said that health care is eating up the pensions making it almost impossible for the older retirees to carry health insurance. Mr. Rierson emphasized that they were not covered by social security. North Dakota has allowed approximately \$75 a month to all of their retired officers for health insurance in this session of their legislature. That bill is now on their governor's desk. Mr. Rierson said that this bill will cost about two postage stamps per year per registered motor vehicle, which he said he didn't think was asking too much for support of this bill.

GENE MILLER, a retired captain living in Great Falls, said that the bill permits officers who are not members of the health insurance plan to become members. He said he was not a member of the Patrol's health insurance plan because his wife was a teacher in a school system. The school system was paying all of the cost of insurance coverage and the patrol was paying none, so he elected to go with the school system's plan. When he was divorced, he was removed from the school district plan, and he was unable to get back in under the patrol's plan. He had to have his own insurance until he reached age 65 when he became eligible for Medicare. There are numerous other people in this same condition. That is the reason for the grandfather clause in the bill.

REP. ROBERT CLARK felt that this is good legislation and it will correct an inequity that has been brought about to a group of public servants who have faithfully served the state of Montana through the years. The inequity is brought about in increases in medical costs which these people have no control over. The funding mechanism that is set up to pay the cost of this is not out of reason. He thinks there would be no objection from the public. He requested a do pass.

TOM SCHNEIDER said that he represents the Montana Highway Patrolmen and they want to go on record as supporting this bill. He said he wanted to emphasize two points: Highway Patrolmen are the only state employees that do not have social security. The reason they don't have it was because the law originally precluded them from having it. In 1973 the federal law was changed to allow them to have it. If they would vote in social security right now it would cost the state a half a million dollars a year. They could do that by simply voting in social security. If we don't do some things to handle these kinds of problems, they may have to do that. Highway Patrol Officers are not covered in HB 421 because they have their own cost-of-living provision. Their cost-of-living provision is keyed to active officers' salaries. These salaries have been frozen for the last two years. Right now they will not get any type of increase in their retirement benefits and their health insurance will continue to go up.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. NELSON said that last session they put on fifty cents per vehicle for weeds and we have nicked and dined vehicle registration over the years. It was brought to his attention by the treasurer in Flathead County that every time this is done, that the treasurer's office has to change the whole computer system. Nine times out of ten the administrative costs to the county far outweigh the amount of money actually collected. Rep. Nelson said he has no problem with the principal of the bill, but he said he has wondered about the hidden cost of the taxpayers of the county over and above what is derived for the assessed benefit. Rep. Connelly said she didn't think it would be a problem with the computers that they have nowadays as it is only a matter of knowing what you are doing to change the program.

REP. PHILLIPS said he is concerned by what they may be starting by paying this amount out to the Highway Patrolmen. He said that he has been in the Legislature long enough to know that if you give it to one retirement system, next session the other systems will be wanting it too.

Closing by Sponsor: Rep. Connelly said she would like to make one comment about the \$4 that is presently being collected from motor vehicle registration. Three dollars goes to road maintenance, 50 cents goes to noxious weeds and 50 cents go to junk vehicles. She said that she thinks highway patrolmen and their medical problems certainly deserve 50 cents compared to junk vehicles and noxious weeds. They deserve a little bit for the time and effort that they have put into taking care of us on the highways. Highway patrolmen do retire early because of the stress of their job. Rep. Connelly asked the Committee to give the bill very serious consideration.

ADJOURNMENT

Adjournment At: 10:46 a.m.


REP. JAN BROWN, Chairman

JB/jb

3814.min

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date February 14, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais	✓		
Rep. Janet Moore	✓		
Rep. Angela Russell	✓		
Rep. Carolyn Squires	✓		
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen	✓		
Rep. Bud Campbell	✓		
Rep. Duane Compton	✓		
Rep. Roger DeBruycker	✓		
Rep. Harriet Hayne	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.	✓		

EXHIBIT 1 A
DATE 2-14-89
HB 513

RICE AMENDMENTS TO HB 513

INTRODUCED BILL

1. Page 3, line 10.
Following: "review"
Insert: "and the information provided"

2. Page 4, line 9.
Following: "the"
Strike: "legislature"
Insert: "legislative audit committee"

3. Pages 5 through 7.
Strike: Section 6 in its entirety.
Renumber subsequent sections.

EXHIBIT 1 B
DATE 2-14-89
HB 513

February 13, 1989

AMENDMENTS TO HB 513

Submitted by Representative Rice

HOUSE STATE ADMINISTRATION COMMITTEE

1. Page 2, line 16.

Strike: "This agency is funded by taxpayer money"

Insert: "Help state government save tax dollars."

2. Page 2, line 18.

Strike: "A danger to the public health,"

Following: "wasteful,"

Insert Strike: "or you have a suggestion for more efficient use of state resources,"

JR:elr

EXHIBIT 2
DATE 2-14-89
HB 605

Amendments to House Bill No. 605
First Reading Copy

For the House Committee on State Administration

Prepared by Lois Menzies
February 13, 1989

1. Title, line 6.

Following: ";"

Insert: "CLARIFYING THE DEPARTMENT OF REVENUE'S PROCEDURES
REGARDING TAX OFFSETS;"

TESTIMONY ON HOUSE BILL 605
STATE AUDITOR'S OFFICE
February 14, 1989

EXHIBIT 3
DATE 2-14-89
HB 605

1065

Madam Chairman, members of the committee, for the record, my name is Debbie Van Vliet. I am the Administrator of the Fiscal Management and Control Division in the State Auditor's Office.

When the proposal for House Bill 605 to move the Bad Debts Collection function was brought to our attention, a joint task force was formed to study the recommendation. The copy of the study summarize the efforts of this joint committee. In my testimony, I will touch on the major topics we explored.

The first topic was the current process for administering the Bad Debts Collection function with the Department of Revenue. The Bad Debt Collection function was originally located in the Department of Revenue since it is the state's major collection agency and the program would have the ability to offset against tax refunds. The Bad Debt Collection Section is staffed with three full time employees. Currently, 6,700 accounts are on file representing \$9.6 million in outstanding debt. An additional 20,000 debt accounts are maintained solely for offset against income tax refunds. The largest user of this program is the Child Support Enforcement Bureau. The remainder of users are comprised of other state agencies such as: Employment Security Division benefit overpayments; Defense Student Loan defaults from the University System; and welfare and food stamp fraud from the Department of Social and Rehabilitative Services

The Bad Debt Collection Section provides three basic types of services: a basic collection service for receivables which an agency has actively pursued with either no results or incomplete results, a "tax offset only" collection service for receivables that an agency will continue to actively pursue, and a write-off service for receivables which an agency believes should not be further pursued.

The second topic considered by the joint committee was the offset processing planned in the new warrant system within the state auditor's office and anticipated improvements it will offer to the bad debts collection effort. A new warrant system is scheduled to be installed by the State Auditor's Office mid-1989. Offset processing has been defined as a function of this new system. It is anticipated that the installation of the offset function of the warrant system will substantially improve the total collections of bad debts as the offset would provide access to all state warrants instead of only the tax refunds as is currently the case. It is a well-known fact that offset is the easiest and most effective method of debt collection. Experience from other states indicates that total collections as a result of offset from other sources could be as much as three times greater than from tax refund offset alone.

The purpose of the offset function defined in the new warrant system is to permit interception of payments made through the warrant writing system to payees who have debts which have been filed with the Auditor's Office. The offset function will also serve to locate payees because a large number of warrants, such as Social and Rehabilitation payments and state payroll will still be written outside this system and only placed on the database for tracking and cashing purposes. When such external warrants are placed on the database, a report will be made of the payees who would have been subject to offset had the warrant been written on the system.

The third topic was tax refund confiscation processing to remain as a function of the Department of Revenue's accounts receivable processing. Because of the advanced design, planning, and complexity of this function, the joint committee decided that tax refund confiscation processing should remain within the Department of Revenue accounts receivable system.

The fourth topic was additional costs and/or revenues resulting from the transfer. The State Auditor's Office in 1988 issued approximately \$119 million dollars in all purpose warrants that would be available for the offset program. For the purpose of this analysis, it is assumed that the Bad Debts Collection Section will have access to the current \$119 million for offset. Of this total, \$34 million represents tax refunds which are used for the current Bad Debts processing. This

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Ex #3

would increase the funds available for possible confiscation by \$85 million or 3.5 times the amount currently available to the Bad Debts Collection Section. Assuming that increasing the supply of money available for offset will effect the amount offset in the same manner as increasing the number of debts available for offset, collections from offset purposes would increase from \$200,000 to \$700,000.

The Bad Debt Collection Section currently uses \$13,944 of its budget to account for and properly administer \$216,000 in tax offset collections. The projected collections from the State Auditor's new warrant system represents \$500,000. The Bad Debts Collection Section would need approximately \$42,000 in additional resources to administer this additional volume of offsets correctly. Transferring the Bad Debt Collections section to the State Auditor's Office would not provide the anticipated benefits to the state agencies unless adequately funded. Some benefit would accrue if the Bad Debts Collection section were relocated without additional staff due to the increased collection potential it would provide. To legally, efficiently, and correctly use this increase in collection activity more staff resources would be required.

In consideration of the fact that the necessary function to facilitate this move will not be installed in the Income Tax System until January, 1990, and the fact that the heaviest volume of Income Tax offsets currently occurs between April and July of each year, the committee recommended that the transfer of the Bad Debts Collection Section not take place until December 31, 1989.

The proposed legislation enabling the relocation of the Bad Debts Collection Section from the Department of Revenue to the State Auditor's Office has been drafted to consider all problems that were identified by the joint committee.

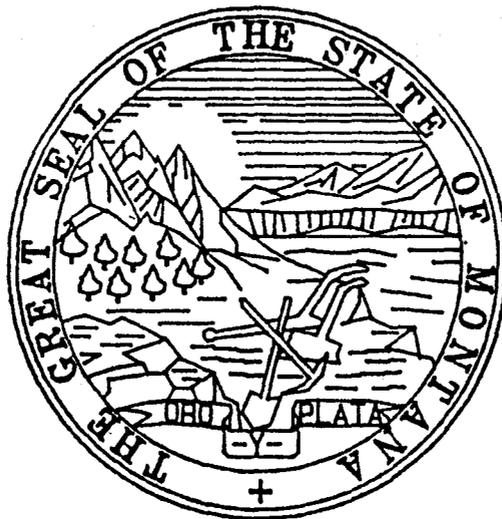
In conclusion the proposed legislation would accomplish three objectives for the State of Montana.

1. It would increase the efficiency of state government by centralizing the state collections process.
2. It would increase collections of the State Debt Collection Service.
3. It would decrease taxpayer confusion.

EXHIBIT 4
DATE 2-14-89
HB 605

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REPORT OF THE
JOINT COMMITTEE
TO STUDY RELOCATION
OF THE BAD DEBTS
COLLECTION FUNCTION
FROM THE DEPARTMENT
OF REVENUE TO THE
STATE AUDITOR'S
OFFICE



JANUARY, 1989

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INTRODUCTION

This report was prepared in response to a proposal by the State Auditor's Office to move the Bad Debts collection function, currently operated within the Department of Revenue, to the Auditor's office to operate in conjunction with the offset processing planned as a function of the new State Warrant System. A joint task force was assembled to study this recommendation, to detail the current and planned processes involved both in the Auditor's offices and the Department of Revenue, to propose solutions to any anticipated problems with the proposed move, to make a joint recommendation and to set up a work plan for implementing the transfer. The members of this task force included:

- Cleo Anderson Paralegal Assistant, Office of Legal Affairs, Department of Revenue
- Brenda Haseman Data Processing Division Administrator, Department of Revenue
- Marsha Jean Manager of the Support Payments Unit, Child Support Enforcement Bureau, Investigations and Enforcement Division, Department of Revenue
- Ken Rudio Collections Section Chief, Centralized Services Division, Department of Revenue
- Debbie Van Vliet Fiscal Management and Control Division Administrator, State Auditor's Office
- Susan Witte Staff Attorney, State Auditor's Office
- Chuck Wowerit Collections Supervisor, Audit Bureau, Income Tax Division, Department of Revenue

The final joint committee recommendation is that the Bad Debts Section be relocated to the State Auditor's Office only if the appropriate level of staffing is approved to properly administer and make use of the expanded offset capability that will be available through the new Warrant System. All tasks to implement this transfer could be completed by December 31, 1989

CURRENT PROCESS FOR ADMINISTERING THE BAD DEBTS FUNCTION WITHIN THE DEPARTMENT OF REVENUE

In 1974, the 43rd Legislature created a Bad Debt Collection Unit within the Department of Revenue. The stated purpose of the enabling legislation was for "...centralizing the collection of

all debts owing to the State of Montana". The function was placed within the Department since it is the State's major collection agency. The Legislature anticipated this collection unit to be a focal point for all collection effort to include any possible offset against tax refunds before an ultimate write-off. The intention was to establish some uniformity in the various State agencies' write-off practices by supplying a "last resort" collection effort for all agencies after their internal collection efforts have failed. It was also anticipated that this collection effort would provide an incentive for agencies to write-off their uncollectible accounts in a more timely manner. Additionally, this program would allow identification of the State's Bad Debt receivables in order to aid the process of estimating future revenues and provide information as to the extent of the State's Bad Debt situation. The Bad Debts Section was given the authority to operate under 17-4-101 through 17-4-111 Montana Codes Annotated (MCA). Management memo 2-1100 in the Information Control Core (I.C.C.) Indexes of the Montana Operations Manual (M.O.M.) defines the policies and procedures for other State agencies to follow to enlist the Bad Debt services.

The Bad Debt Section is staffed with three full time employees: a collection supervisor, a collection specialist, and a collection technician. Currently, 6,700 accounts are on file representing \$9.6 million in outstanding debt. These accounts receive full collection activity, including: generation of a letter series, offset of tax refunds, and referral to private collection agencies for debts over \$100. An additional 20,000 debt accounts are maintained solely for offset against Income Tax refunds. The largest user of this program is the Child Support Enforcement Bureau of the Department of Revenue with approximately 10,000 accounts. The remainder is comprised of other outstanding debts to the State such as: Employment Security Division benefit overpayments; Defense Student Loan defaults from the University System; and welfare and food stamp fraud from the Department of Social and Rehabilitation Services. The Bad Debts Section currently has contracts with five private collection agencies to which approximately \$5 million in debt has been transferred for their action.

Bad Debt processing is currently performed with a microcomputer system written using the Datastar database software package. This system processes all new debts, all payments, all new debt and tax offset letters, and all distribution of funds to State agencies, plus generates five status reports. The system is operated on an IBM-XT model personal computer and requires 15 megabytes of disk for the system files.

The Bad Debt Section performs five basic functions. The percentage of total staff time spent on each is reflected in the following:

16%	Administrative duties (computer processing, personnel training, and the like)
18%	Tax offset of refunds
22%	Referral of accounts to collection agencies (appearances at trials, explaining the files to the private agencies, etc.)
30%	Internal collections
14%	Write-offs
<u>100%</u>	

From FY81 through FY88 these functions produced the following:

FY 1988
BAD DEBT COLLECTION UNIT
SCHEDULE OF DEBTS RECEIVED, WRITTEN OFF
COLLECTED AND COSTS INCURRED

<u>FY</u>	<u>DEBTS TRANSFERRED IN</u>	<u>DEBTS WRITTEN OFF</u>	<u>DEBTS COLLECTED</u>	<u>COST INCURRED</u>	<u>NET ANNUAL GAIN/LOSS</u>
1981	983,938	306,673	186,665	41,823	144,842
1982	1,087,057	265,610	232,532	58,711	173,821
1983	1,481,737	858,938	304,887	70,400	234,487
1984	654,737	1,460,864	226,101	75,672	147,910
1985	1,565,494	288,825	253,470	71,274	182,196
1986	1,500,322	435,467	339,744	65,103	274,640
1987	3,605,398	692,256	405,103	73,440	331,663
1988	3,038,444	943,275	618,891	77,467	541,424

During FY88 the various collection activities produced the following collections and ratio of collections to costs expended:

<u>Activity</u>	<u>Collections</u>	<u>Costs</u>	<u>Ratio of Collections to Costs Incurred</u>
Tax Offset	\$ 216,781	\$ 13,944.06	15.55
Collection Agencies	187,802	23,240.10	8.80
Internal Collections	214,308	10,845.38	19.76
Administrative and Write-Offs		29,437.46	
	<u>\$ 618,891</u>	<u>\$ 77,467.00</u>	<u>7.99</u>

The Bad Debts Section provides three basic types of services: a basic collection service for receivables which an agency has actively pursued with either no results or incomplete results, a

"tax offset only" collection service for receivables that an agency will continue to actively pursue, and a write-off service for receivables which an agency believes should not be further pursued. When an agency has made all reasonable attempts and cannot collect a valid debt, the debt is transferred to the Department of Revenue by submitting the entire debt file, a completed Bad Debt Certification and Transfer Form (DR-AA20), and the appropriately completed SBAS No-Warrant Transfer (232) or Journal Voucher (271) form. The Bad Debt Section reviews the file and accompanying documents for approval. If accepted, the methods available to the Department are used to collect the debt and return any collected money to the originating agency. The SBAS documents submitted with the file are used to record the transfer of the debt to the Department of Revenue and remove the account from the agency's books.

Section 17-4-104, MCA, allows each agency to formulate their own criteria for considering a debt uncollectible taking into account their resources, any applicable statutes, and the time and personnel available for their collection efforts. Information concerning the criteria used to determine uncollectability, all information concerning correspondence and other contacts with the debtor during the agency collection efforts, and any applicable statutes, rules or regulations that explain how the debt originated, are required to be submitted with the debt file so that the Bad Debts Section will know how to approach collection of the account.

If an agency desires to continue collection activities on a particular debt but would like it only offset against tax refunds, they complete an abbreviated "Bad Debt Transfer Form for Tax Offset Only" and remit the form the Bad Debts Section. The only action taken on such a debt is to include it on the Delinquency File within the Individual Income Tax System for identification of any tax refund due the individual from the Department of Revenue. Large volumes of debts, such as those for Child Support, can be transferred without completing a form for each debt. In these cases the Bad Debts Section will accept a computer listing or computer files in the prescribed format for input into the Delinquency File. No receivable is transferred at the time the "Tax Offset Only" form is sent to the Department.

When a possible tax offset is identified by the Bad Debt Collection Section, the appropriate agency will be contacted for information concerning the most current balance on the debt. The debtor is then informed by registered letter that his refund is being offset against this debt and that he is entitled to a hearing. Any disputes or questions on the account will be referred back to the transferring agency. Section 17-4-111, MCA guarantees a hearing if one is requested. A transferring agency must represent itself at the hearing which is held by the Department of Revenue. When the debt has been resolved by the

hearing process or the time to request a hearing has lapsed, the refund or a portion of the refund is confiscated as a collection by the Bad Debts Section and returned to the agency by submitting a No-Warrant Transfer (232) document to SBAS.

The Bad Debts Section will also accept debts for write-off only. If an agency knows that continued collection activities will be fruitless (usually in the case of bankruptcy of the debtor), or that the debt is not definite in amount because it is very old and there has been no recent contact with the debtor, the remarks section of the Bad Debt Certification and Transfer Form is completed with the words "for write-off only" and a brief explanation of the reason for this status is included. A list is provided to each house of the legislature each session reflecting all debts written entirely off the State's books during the biennium.

OFFSET PROCESSING PLANNED IN THE NEW WARRANT SYSTEM WITHIN THE
STATE AUDITOR'S OFFICE AND ANTICIPATED IMPROVEMENTS IT WILL
OFFER TO THE BAD DEBTS COLLECTION EFFORT

A new Warrant System is scheduled to be installed by the State Auditor's office mid-1989. Offset processing has been defined as a function of this new system. It is anticipated that the installation of the offset function of the Warrant System will substantially improve the total collections of bad debts as the offset would provide access to all State warrants instead of only the tax refunds as is currently the case. It is a well known fact that offset is the easiest and most effective method of debt collection and experience from other states indicates that total collections as a result of offsets from other sources could be as much as three times greater than from tax refund offset alone. The proposal also includes moving the current Bad Debts Section to the State Auditor's Office. This proposal anticipates elimination of duplication and confusion by having a Bad Debts Section in the Department of Revenue and also providing staff to administer the offset functions of the new Warrant System in the State Auditor's Office. It is also anticipated that Bad Debt collection might receive a higher priority in a smaller organization, such as the Auditor's Office, resulting in additional collections.

The purpose of the offset function defined in the new Warrant System is to permit interception of payments made through the warrant writing system to payees who have debts which have been filed with the Auditor's Office. For practical purposes the offset function will probably serve more as a location service than an actual collection service because a large number of warrants, such as AFDC and State payroll, will still be written outside this system and only placed on the database for tracking

and cashing purposes. When such external warrants are placed on the database a report will be made of the payees who would have been subject to offset had the warrant been written on the system. This report can then be made available to creditors.

The offset recipient is the individual or entity which seeks to intercept payments. Each recipient will be given a unique number which identifies the person or entity and indicates the type of debt involved. The following scheme could be used: an alphabetical character which would show the type of recipient (judgement in favor of a private individual, tax debt owed a unit of government, etc.), followed by a four digit number showing the agency, if any, to which the debt was originally owed. This method of identifying the offset recipient is suggested simply because it appears that the State's Bad Debt collection section would probably be the largest user of the offset function, followed by a four digit sequence number.

Offset recipient numbers will be system generated. The Auditor's Office will maintain the offset recipient file adding new recipients as the need arises. The number of offsets maintained in favor of the recipient will be kept as part of the recipient information as well as a status date which will be changed each time an offset is initiated or dropped. When the number has been zero for a specified period (perhaps, one year) the offset recipient will be purged from the database. There will be no online delete function for offset recipients. The Auditor's Office will change information relating to an offset recipient upon receipt of documentation.

When a document is filed at the Auditor's Office showing the existence of a debt, the staff will determine whether the payee is on the payee file. If not, the payee will be added. An offset recipient will be added to the database, if necessary. The recipient and the payee will then be associated through a third entity which will contain information as to the start and stop date for the offset, the total amount of the debt, the amount offset since initiation, and such parameters as how much may be taken from a single warrant and what the minimum residual amount of a warrant must be (although the latter may be a function of the type of warrant being written and, therefore, require manual intervention).

An offset may be removed in two different ways. It may expire at the time the stop date has been passed. There will be a batch report which shows those offsets which are no longer in effect. It will be part of the maintenance function for the Auditor's Office to remove these through an online process. An active offset may be removed at any time through the same online process.

There will be a batch pre-process which will identify warrants which may be subject to offset and change the status on each to held. At the same time, an offset history will be built and stored. This record will show who the recipient of the proposed offset is and how much will be offset. It will also contain a release date. If the payee is subject to offset from more than one recipient, a history record will be built for each one. The history records will be stored in ascending order of offset start date. This will implement a "first-come-first-served" priority system for offsets. Information regarding the warrants being held as a result of a proposed offset will be reported. If no affirmative action is taken by the Auditor's Office to accept the offset before the expiration of a five day waiting period, the warrant will be written as it was put on the system with no offset taken. If this is the case, the offset history record will be deleted. If there is more than one offset for a warrant, all are deleted if no affirmative action is taken; only those offset history records which represent offsets actually taken are left on the database.

The amount of the warrant will be left as it was entered. This amount will be added to the total amount of warrants written. The amount of the offset will be kept on the offset history record and tracked separately.

Offsets will be managed through an online process. The amount taken for a given recipient may be raised, lowered or eliminated entirely. The amount of a warrant may not be reduced to less than zero. If the amount of a warrant is reduced to zero by offset, the status of the warrant is set to offset and the physical warrant is not written. Otherwise, the status will be changed to released and the warrant will be written during the next processing cycle. Likewise, if a warrant is still in held status at the end of the allowable period for action, it will be written at its original value during the next cycle and all evidence of a proposed offset will be deleted from the database.

TAX REFUND CONFISCATION PROCESSING TO REMAIN AS A FUNCTION OF THE DEPARTMENT OF REVENUE'S ACCOUNTS RECEIVABLE PROCESSING

Many tax refund confiscation capabilities are currently planned as functions of the new Departmentwide Accounts Receivable System within the Department of Revenue. This processing is also tied to tax processing systems which currently reside on an integrated Departmentwide Database. It should be noted that although Child Support accounts reside on the Department Database they have not been included in the Accounts Receivable System or the associated confiscation processing since these monies represent debts owed to individuals and not the State. These confiscation functions would remain within the Department's Accounts Receivable System

regardless of the decision as to where the Bad Debts Section is located. A great deal of system processing has been defined to serve the Bad Debts Section within the Accounts Receivable System. The following, however, outlines only those processes that would remain if Bad Debts is ultimately relocated to the State Auditor's Office.

The confiscated refunds processing begins with the building of delinquency records within the Accounts Receivable. All back year refund returns are automatically routed to the Compliance Section of the Income Tax Division where the refund can be confiscated or suspended before the return clears the Income Tax System. Compliance personnel then create a delinquency record through an online process for all taxpayers whose refunds they might need to confiscate. Additionally, the Collections Section of the Income Tax Division creates delinquency records for all Bankruptcy Trustees through this same online process. In the Compliance and Bankruptcy Trustee instances, no amounts due are retained in the delinquency record, since all of a back year refund may be suspended pending a complete audit of the return and all monies due the taxpayer are sent to the Bankruptcy Trustee in those cases. All Accounts Receivable are automatically considered within the delinquency pool for the amounts outstanding on each account for each tax type.

All refunds issued for those taxes on the Departmentwide Database are matched nightly to the delinquency records and a daily Pending Refund Report is generated for all refunds scheduled to be issued to persons on the delinquency list. No matches are recorded for Income Tax refunds under \$5. A set order of priority is maintained when the matching and subsequent confiscation takes place. A delinquency set up by the Compliance section has first priority and only income tax refunds will be matched. If Compliance has not set up a delinquency or has released the refund from further consideration, Accounts Receivable accounts are satisfied next. For Accounts Receivable, the delinquency will first be matched with the refund tax type. For example, Motor Fuels refunds are first used to satisfy Motor Fuels A/R accounts, Withholding refunds to satisfy Withholding A/R, and so on. All refunds will then be used to satisfy Individual Income Tax and then Withholding Tax obligations, followed by the remaining A/R accounts. If there is no A/R account for the taxpayer or A/R technicians have released the refund, the Individual Income Tax and Withholding Tax refunds are matched against those delinquency records set up as Bankruptcy Trustees. For all refunds entering the confiscation process, a second pass is made through the A/R accounts to insure that no further delinquencies have occurred, before the transactions are automatically created to produce a warrant through the State Auditor's Warrant System.

The daily Pending Refund Report is produced by delinquency type (Compliance, A/R, or Bankruptcy) and staff code. This report contains both taxpayer social security numbers with indication of which matched the delinquency list if the refund is for a joint return, the license number or federal identification number if the refund is for a business, and indication if the refund is for an Income Tax short form and therefore should receive priority consideration during the 15 day refund period.

Appropriate sections of the Pending Refund report are routed daily to each of the three areas responsible for each delinquency type where the refund or part of the refund is either confiscated, suspended, or released for further processing. This is accomplished by entry of the appropriate action and amount to be confiscated or suspended into the system through an online process. The system insures that the amount indicated for confiscation or suspension is not greater than the amount owing on the appropriate Accounts Receivable Accounts. Compliance can only confiscate or suspend a portion of the refund if an Income Tax Accounts Receivable exists for the amount of the confiscation or less. When any amount is confiscated for Accounts Receivable Accounts, the system automatically updates the appropriate Accounts Receivable balances, updates the tax processing system to indicate any remaining refund available for further confiscation or issuance to the taxpayer, and creates all necessary transactions to automatically update the Statewide Budgeting and Accounting System to reflect the collection of the debt. Additionally, when the A/R confiscation is made, an indication whether to send a legal notification or to generate a notice of levy must be made along with indication of an appropriate paragraph of text to be sent the taxpayer if the confiscation is of an Income Tax refund. These documents are then automatically created that evening by the system. If certain other letters are scheduled to be sent as a result of processing by the tax systems, the paragraph may be automatically appended to this correspondence, otherwise, a separate piece of correspondence will be issued. If the refund is confiscated by those responsible for Bankruptcy Trustees, the system will insure that a valid code is entered representing the trustee. The warrant will then be issued with the taxpayers name in care of this bankruptcy trustee. The system insures that a refund can only be confiscated and not suspended for a delinquency created for bankruptcy. Again, in this case, the appropriate updating of SBAS accounts is automatically performed by the automated system.

A series of daily, weekly and monthly reports will also be generated by the confiscation processing to report pending and suspended refunds to the appropriate supervisors for their action. Monthly listings will be provided of all delinquencies on file. Online processing then can be used to update these records. Additionally, a monthly report will be provided of the total amounts confiscated by each delinquency type.

Accounts Receivable accounts would automatically be routed to Bad Debts by the nightly processing. If a predetermined amount of time has elapsed for the particular tax type, the account will be flagged as inactive, the account balance offset to zero and all SBAS transactions created to record the transfer of the monies to the Bad Debts Section.

ANTICIPATED PROBLEMS WITH THE TRANSFER AND PROPOSED SOLUTIONS

Are Child Support payments legally available for confiscation by the State for other debts considering they do not represent payment of State funds? If not, will the Auditor's system recognize the warrant as pass through monies and allow the warrants to be mailed?

It is arguable that Child Support payments are not legally available for confiscation. Section 40-5-402, MCA, states that, "The purpose of the (Child Support Enforcement Act) is to ... ensure that the support of children is the highest priority in the allocation of a responsible parent's income." Additionally, Section 25-13-608 specifically exempts maintenance and child support from execution. It can also be argued that any monies issued for child support are technically not the property of the payee (the parent) but belong to the children involved and, therefore, should not be confiscated for a debt of the parent to the State. In the absence of clearer definition in the law regarding such payments, legal staff indicate that it would be difficult to argue that satisfaction of a State debt should take precedence over maintenance payments for a child. It is suggested that clear language be included in the law that does not allow Child Support Payments to be used for offset.

In any event the proposed offset process in the State Auditor's Warrant System will allow warrants that should not be matched for offset to be released from the system.

Are the Child Support confidentiality requirements breached by any information that would be released to the State Auditor's Office? What restrictions would the Auditor need to observe in the use of this data?

The concern here appears to focus on the release of confidential information to third party creditors. Federal regulations on confidentiality and safeguarding of information on public benefits were provided by the Child Support Enforcement Bureau to the State Auditor's Office. The regulations allow limited disclosure of information about applicants or recipients of Child Support services for proceedings in connection with the administration of Child Support programs. Section 53-2-504,

MCA, also prohibits disclosure of information obtained by the Department of Revenue during investigations of public assistance and vendor payments.

The confidentiality requirements are not breached by release of information to the State Auditor's office for collection of Child Support debts because that information consists of the debtor's name, address and social security number. Sections 53-2-503 and 504 of the Montana Code provide for the dissemination of certain information pertinent to investigations and enforcement actions by the Department of Revenue, which consists of the above mentioned information which is necessary to execute on wages or withhold income tax refunds. One of the statutes to be amended also prohibits release of information where that information is "specifically prohibited by law" (Section 17-4-104(2), MCA).

In short, the confidentiality requirements are not breached and any restrictions currently observed by the Department of Revenue on collections of Child Support debts will be observed by the State Auditor.

Would the Child Support claims continue to have priority over other State claims within the Bad Debts processing?

Section 40-5-310, MCA, provides that deduction of income for the payment of delinquent Child Support payments is to take precedence over a number of other claims. Section 40-5-402, MCA, states that support of children is the highest priority in the allocation of a responsible parent's income. Read in conjunction with Section 40-5-308, MCA, it could be argued that priority of payment would occur only where a wage order is directed to the employer by the district court.

In short, the State Auditor hopes to handle such deductions in a manner similar to that currently in place within the Department of Revenue.

Will there be an automated process whereby volume delinquencies such as Child Support can be loaded and updated on a monthly basis?

Although it is not currently included as a requirement, it is anticipated that an automated process will be included in the offset portion of the new State Auditor's Warrant System to allow mass updating of information on the delinquency file.

Would other Department claims continue to have priority over other State claims within the Bad Debts processing?

Debts would maintain the same priority or order they now have.

Are the Income Tax confidentiality requirements breached by any information that would be released to the State Auditor's Office? What restrictions would the Auditor need to observe in the use of this, and other tax information and data?

The information must remain confidential within the agency. The same guidelines currently used by the Department of Revenue would apply to the State Auditor's use of such information.

Will the offset processing in the State Auditor's office impact the Department of Revenue's commitment to 15 day refund processing for short forms filed before April 1 of each year? Will these refunds be identified such that they receive the appropriate priority processing?

Although it is not currently outlined as a requirement of the offset processing of the new Warrant System, it is now the intention to include an indication on the warrant file that the particular warrant is for a 15 day refund such that any offset activity can be expedited for those warrants. This would operate in a manner similar to the current process in the Department of Revenue.

What is the potential for delaying all warrants as a result of intercepting a relatively small number of warrants written?

Since the processing outlined for the offset function within the Auditor's Warrant System would hold individual warrants only there would be no possibility of delaying other warrants.

Will the Divisions of the Department be informed timely that a refund has been held such that they can answer taxpayer inquiries? How will they be able to quickly determine this? Will the Auditor's office respond to calls from taxpayer's whose refunds have cleared the Department of Revenue's systems but are delayed in their office?

Processing outlined for installation in the Individual Income Tax System in January of 1990 would include a function whereby actual warrant numbers and warrant amounts would be retrieved from the Auditor's Warrant System and recorded with the appropriate Income Tax return on the Individual Income Tax System. If this processing is in place, Income Tax staff would

be able to determine that no warrant had been issued even though the refund had cleared the Income Tax System, by the absence of this information when they made their online inquiry into the return. This absence would indicate that the warrant was being held in the Auditor's Office for potential offset or that the refund had been entirely confiscated. In a similar manner, if the warrant had been issued (a warrant number displayed) and the warrant amount is less than the refund amount for the return, this would indicate that the Auditor's Office had confiscated part of the refund. In these situations, Income Tax Division staff would refer the taxpayer to the Auditor's Office who would be responsible for answering the taxpayer inquiry.

Would the State Auditor's Office continue to provide the necessary notifications and due process (30 day period required for the taxpayer to request a hearing) required of the Income Tax statutes?

Yes, under the Department of Revenue's amendment to the legislation. The regulation set forth at 42.5.105, ARM, will, along with other relevant regulations, reflect the transfer of this duty to the State Auditor's office.

Will the Income Tax Division receive timely notification and a copy, as they do now, of the letter sent to the taxpayer advising that the refund will be confiscated if a hearing is not requested within 30 days?

The State Auditor's office will send a copy of the offset letter to the Income Tax Division for the taxpayer's file as the Bad Debts Section does now.

Will the taxpayer continue to receive adequate notification of the particulars of the offset made from his tax refund?

The State Auditor's office would use the same offset letters and perform the same processes as the Bad Debts' Section does now.

Will the State Auditor's system handle the particulars of a bankruptcy situation? Will they be responsible for filing all claims and taking all appropriate legal actions in these bankruptcy cases?

Yes.

Will the State Auditor's system account for the fact that a refund could, in the case of a joint return, offset debts by two different taxpayers? Will the process account for the fact that one of these taxpayers could later file an "Injured Spouse" return to reclaim their personal share of the return that was taken to satisfy a debt owed only by the joint filer?

Although it is not currently within the requirements definition for the offset function of the new Auditor's Warrant System, it is now intended that both Social Security Numbers from a joint return be included in the warrant file to be used to match the warrant for possible offset.

The State Auditor's office, upon notification by the debtor or the Income Tax Division within the 30 day period, will transfer back to the Income Tax Division the refund confiscated. The Child Support Enforcement Bureau holds all refunds involving "injured spouse" returns or returns where this situation may arise for a period of time after the 30 day period. This takes care of most of the "injured spouse" returns.

Will the State Auditor's Office be as effective at collections considering that this is one of the Department of Revenue's major functions and that many taxpayers will be more likely to satisfy a debt with this Department rather than get involved in a dispute with a tax collection agency?

Experience of the Bad Debts Collection Section indicates that the Department of Revenue would likely be more effective. Taxpayers have a basic fear that if the debt is not satisfied, their Income Tax returns will be audited. There is also a great deal of confusion with the Internal Revenue Service. On many occasions, agencies have sent numerous letters to the debtor only to have one letter from the Department of Revenue result in satisfaction of the debt. It very well could be that the word "auditor" may have a similar impact if the function is in the State Auditor's Office. It also may be that more registered letters are accepted by debtors when they are sent in a State Auditor's envelope. Currently, a number of debtors reject correspondence that is received from the Department of Revenue.

It is anticipated, however, that the benefits of the new Warrant Writing Offset System would outweigh these effects. If the Bad Debt program is moved to the State Auditor's Office, the base of warrants to be offset would broaden significantly. Broadening the base of warrants to be offset would substantially increase debt collection. A transfer of the program would also eliminate duplication of the offset process and may decrease debtor confusion.

Will the close involvement and cooperation that currently exists and is required between the tax collection Divisions and the Bad Debts section continue if the Bad Debts function is relocated to the State Auditor's office?

Absolutely yes. The State Auditor's Office and specifically the Fiscal Management and Control Division where the Bad Debts program would be placed works daily with all agencies and the University System. Coordinating efforts and cooperating with agencies is not new to this Division.

Will the State Auditor's Office be responsible for all hearings related to Bad Debts collection?

Yes.

Since the system proposed by the State Auditor will increase the collection activity beyond the resources currently allocated to the Bad Debts function, will the additional staffing be provided to handle the additional volume?

This question will be addressed in the State Auditor's fiscal note and will require additional study by the budget staff.

Will the current Bad Debts system written in Datastar operate on the State Auditor's Wang computer system?

No. Since the microcomputer equipment on which the Bad Debts System currently operates is shared with other functions within the Department of Revenue, it would not be transferred to the State Auditor's Office if the Bad Debts Section is relocated. It is the intention to request the needed equipment in the State Auditor's fiscal note.

ADDITIONAL COSTS AND/OR REVENUES RESULTING FROM THE TRANSFER

The new Warrant System currently being developed by the State Auditor's Office will give State agencies the opportunity to offset all State warrants and apply them to debts owed to those agencies. The Bad Debt Collection Section has been offsetting State income tax refunds against debts to the State since 1975. In 1983, the Bad Debt Section contacted all State agencies encouraging them take advantage of this collection activity. Collections can be increased from this type of offset activity by one of two methods: increasing the amount of debts available for offset or increasing the amount of funds or monies available for offset. Through this effort in 1983, the Section increased

the number of debts available for offset from 4,000 to 20,000 accounts.

The following page contains a graph comparing dollars offset to the debts available to the Section from 1980 to 1988. Three key points should be noted.

1. Monies collected from offset activity increased at a ratio of 1 to 5 or \$40,000 to \$200,000 for 1983 through 1988.
2. From 1983 through 1988 the debts available remained constant, indicating that most all State agencies are using the Bad Debts service and this source no longer has potential for increasing debt collections.
3. The average dollar of refunds available for offset from 1980 through 1988 was \$34 million.

The State Auditor's Office in 1988 issued approximately 119 million dollars in all purpose warrants that would be available for the offset program. The new Warrant System being developed should increase this figure considerably as the University System and additional Workers Compensation warrants are anticipated to be generated through the system. For the purpose of this analysis, it is assumed that the Bad Debts Section will have access to the current \$119 million for offset. Of this total, \$34 million represents tax refunds which are used for the current Bad Debts processing. This would increase the funds available for possible confiscation by \$85 million or 3.5 times the amount currently available to the Section. Assuming that increasing the supply of money available for offset will effect the amount offset in the same manner as increasing the number of debts available for offset, collections from offset purposes would increase from \$200,000 to \$700,000.

Using this collection information, three alternatives were considered in the cost/benefit analysis:

Alternative 1

The Bad Debts Section is transferred to the State Auditor's Office with two additional employees to support the new system.

Costs:

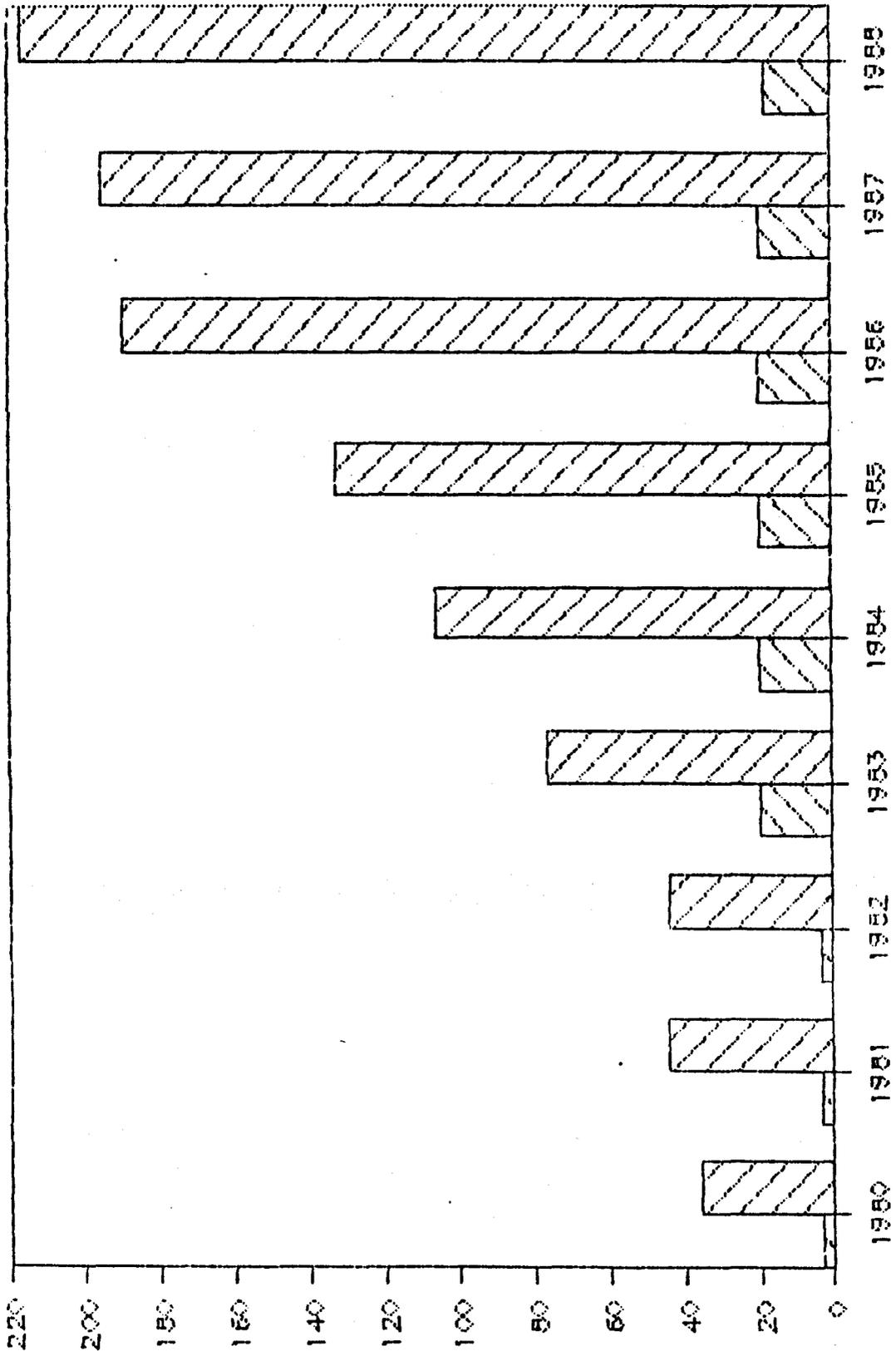
2 grade seven Administrative Clerks	\$ 31,156
Computer system & development	3,155
Moving expenses (telephones, equipment, etc.)	8,566
Total	\$ 42,877

Benefits:

1. Increase in collections from offsets by \$500,000 or a net increase of \$457,123.

BAD DEBTS COLLECTION UNIT

#DEBTS TO #OFFSETS COLLECTED



#DEBTS AVAILABLE

#OFFSETS COLLECTED

YEARS

(Thousands)

2. Increase in locate service. The new Warrant System will flag accounts on the offset list for which special series warrants (AFDC and State payroll) have been issued and provide a new address or current address to the Bad Debts Section to aid in locating debtors.
3. Centralization of the offset function. Child Support, for example, is currently offset through the Department of Revenue for Income Tax refunds and Workers Compensation for workers compensation benefits. These offsets would be combined in one location.

Alternative 2

The Bad Debts Section remains within the Department of Revenue.

Costs:

Employees	\$ 0
Computer cost (charge for Bad Debts processing in new Accounts Receivable System)	5,000
Total	\$ 5,000

Benefits:

1. The new Accounts Receivable System will automate the Income Tax and other refund offset functions. This would increase collections as Motor Fuels and other taxes are included and would decrease manual steps in the process. Benefits from this automation are difficult to quantify in dollar terms.

Alternative 3

The Bad Debts Section is transferred to the State Auditor's Office without the additional staff support.

Costs:

Employees	\$ 0
Computer System & Development	3,155
Moving Expenses	8,566
Total	\$ 11,721

Benefits:

1. Some benefit would accrue if the Bad Debts Collection Section was relocated without additional staff due to the increased collection potential it would provide. However, in order to

legally, efficiently, and correctly use this increase in collection activity of three and one half times that would be experienced in the Auditor's Office more staff resources would be required. Write offs and other administrative duties are abandoned from January through August. Additionally, the Office of Legal Affairs has transferred the offset hearing duties to this Section. The number of hearings, injured spouse returns, phone calls, etc. would be overwhelming at the current level of funding and the anticipated increase in offset activity. It is very likely that eventually someone would be denied due process or a confidentiality statute would be breached due to the lack of attention to each offset account. Undoubtedly, limits would have to be set to determine which offsets are pursued in order to keep the workload within the available resources. This would significantly reduce the benefit of the offset process in the new Warrant System.

Conclusion:

The Bad Debt Section currently uses \$13,944 of its budget to account for and properly administer \$216,000 in tax offset collections (reference tables presented in the section of this document titled Current Process for Administering the Bad Debts Function). The projected collections from the State Auditor's new Warrant System represents \$500,000. The Bad Debts Section would need \$42,877 in additional resources to correctly administer this additional volume of offsets. Transferring the Section to the Auditor's Office would not provide the anticipated benefits to the State agencies unless funded properly.

SCHEDULE FOR IMPLEMENTATION OF THE TRANSFER FROM THE DEPARTMENT OF REVENUE TO THE STATE AUDITOR'S OFFICE

The following is an anticipated schedule for the major tasks that would be required to move the Bad Debts Section and functions to the State Auditor's Office. Due to the fact that necessary modifications to the Individual Income Tax System that would allow Income Tax staff to have information to indicate whether a refund had been held or confiscated by the Auditor's Office are scheduled to be installed in January, 1990 and the fact that the large volume of refunds with which the Bad Debts Section must deal are still being processed in the June time frame making a July implementation, the Committee recommends that the transfer not be made until the end of the 1989 calendar year.

<u>MAJOR TASKS</u>	<u>TIME TO COMPLETE</u>
1. Begin to adopt administrative rules.	July 1
2. Order all required personal computer hardware.	Oct. 1
3. Design a cash receipts system at the Auditor's Office which includes establishing accounting entity or revolving fund in SBAS to track receipts and expenditures.	Oct. 1 - Oct. 31
4. Notify State agencies of the change and have them submit all outstanding SBAS documents.	Oct. 1 - Dec. 31
5. Notify collection agencies of the change and modify any legal agreements.	Oct. 1 - Dec. 31
6. Notify all debtors on repayment agreements of the change and where to send their payments.	Nov. 1 - Dec. 31
7. Transfer computer program to the Auditor's Office.	Dec. 15 - Dec. 31
8. Transfer all office equipment (desks, chairs but not including personal computer equipment) and fixtures to the Auditor's Office.	Dec. 15 - Dec. 31
9. Make all SBAS entries which will transfer cash & receivables to accounting entity or revolving fund set up in the Auditor's Office.	Dec. 25 - Dec. 31
10. Make sure personnel and payroll records are transferred to the Auditor's Office.	Dec. 25 - Dec. 31

JOINT RECOMMENDATION OF THE COMMITTEE

The committee found no insurmountable problems with relocating the Bad Debts Section from the Department of Revenue to the State Auditor's Office to operate in conjunction with the offset function of the new Warrant System. It is anticipated that collections from offset could increase from \$200,000 to \$700,000 annually due to the broader base of warrants which would be offset within the new system. The committee, therefore, recommends that the Bad Debts Section be relocated only if the additional staffing necessary to administer the expanded offset provided by the new system is approved. Without this increased staffing level, the potential of the new system will not be realized and additional problems will likely result.

In consideration of the fact that necessary function to facilitate this move will not be installed in the Individual Income Tax System until January, 1990, and the fact that the heaviest volume of Income Tax offsets currently occurs between April and July of each year, the committee further recommends that the transfer of the Bad Debts Section not take place until December 31, 1989.

PROPOSED LEGISLATION

The following pages contain a draft of the proposed legislation enabling the relocation of the Bad Debts Section from the Department of Revenue to the State Auditor's Office. This language has been drafted to consider all problems that were identified by the committee that required consideration in the law.



THE MONTANA UNIVERSITY SYSTEM

33 SOUTH LAST CHANCE GULCH
HELENA, MONTANA 59620-2602

(406) 444-6570

EXHIBIT 5
DATE 2-14-88
HB 632

COMMISSIONER OF HIGHER EDUCATION

	<u>Current</u>		<u>Proposed - 632</u>	
	<u>TRS</u>	<u>ORP</u>	<u>TRS</u>	<u>ORP</u>
Employee	7.044%	7.044%	8.599%	7.044%
Employer	7.428	2.956	8.983	2.956
Total	<u>14.472%</u>	<u>10.000%</u>	<u>17.582%</u>	<u>10.000%</u>
Additional Employer Contribution to TRS	<u>0</u>	<u>4.472%</u>	<u>0</u>	<u>7.582%</u>
Total	14.472%	14.472%	17.582%	17.582%

2
~~Current Rates~~

~~Employee 1
 Employee 2
 Proposed Rates~~

~~Employee 3
 Employee 4
 Employee 5
 Proposed Rates~~

HB 632 1/50
 Estimated Annual Salaries

	FY 90	FY 91
State	\$3,388,000	\$3,455,700
University	\$48,795,000	\$51,235,000
School Districts	\$335,900,000	\$352,700,000
TOTAL	\$388,083,000	\$407,390,700

EMPLOYEE CONTRIBUTIONS

GROUP	FY 90			FY 91		
	CURRENT LAW	PROPOSED LAW	DIFFERENCE	CURRENT LAW	PROPOSED LAW	DIFFERENCE
State	\$238,651	\$291,334	\$52,683	\$243,420	\$297,156	\$53,736
University	\$3,437,120	\$4,195,882	\$758,762	\$3,608,993	\$4,405,698	\$796,704
School Districts	\$23,660,796	\$28,884,041	\$5,223,245	\$24,844,188	\$30,328,673	\$5,484,485
Total	\$27,336,567	\$33,371,257	\$6,034,691	\$28,696,601	\$35,031,526	\$6,334,925

EMPLOYER CONTRIBUTIONS

GROUP	FY 90			FY 91		
	CURRENT LAW	PROPOSED LAW	DIFFERENCE	CURRENT LAW	PROPOSED LAW	DIFFERENCE
State	\$251,661	\$304,344	\$52,683	\$256,689	\$310,426	\$53,736
University	\$3,624,493	\$4,383,255	\$758,762	\$3,805,736	\$4,602,440	\$796,704
School Districts	\$24,950,652	\$30,173,897	\$5,223,245	\$26,198,556	\$31,683,041	\$5,484,485
Total	\$28,826,805	\$34,861,496	\$6,034,691	\$30,260,981	\$36,595,907	\$6,334,925

#90
 3/28

Current Rates

	FY 90	FY 91
Employee Employer	\$3,388,000	\$3,455,700
State University	\$48,795,000	\$51,235,000
School Districts	\$335,900,000	\$352,700,000
TOTAL	\$388,083,000	\$407,390,700

HB 632 1/54
 Estimated Annual Salaries

Proposed Rates	0.863%
Employee Employer	7.907%
Employer	8.292%

EMPLOYEE CONTRIBUTIONS

	FY 90	FY 91
CURRENT LAW	7.044%	7.907%
PROPOSED LAW	7.907%	7.907%
DIFFERENCE	0.863%	0.863%
CURRENT LAW	\$238,651	\$273,242
PROPOSED LAW	\$3,437,120	\$4,051,151
DIFFERENCE	\$421,101	\$442,158
CURRENT LAW	\$23,660,796	\$27,887,989
PROPOSED LAW	\$26,559,613	\$27,887,989
DIFFERENCE	\$2,898,817	\$3,043,801
CURRENT LAW	\$27,336,567	\$32,212,383
PROPOSED LAW	\$30,685,723	\$32,212,383
DIFFERENCE	\$3,349,156	\$3,515,782

EMPLOYER CONTRIBUTIONS

	FY 90	FY 91
CURRENT LAW	7.428%	8.292%
PROPOSED LAW	8.292%	8.292%
DIFFERENCE	0.864%	0.864%
CURRENT LAW	\$251,661	\$286,547
PROPOSED LAW	\$3,624,493	\$4,248,406
DIFFERENCE	\$421,589	\$442,670
CURRENT LAW	\$24,950,652	\$29,245,884
PROPOSED LAW	\$27,852,828	\$29,245,884
DIFFERENCE	\$2,902,176	\$3,047,328
CURRENT LAW	\$28,826,805	\$33,780,837
PROPOSED LAW	\$32,179,842	\$33,780,837
DIFFERENCE	\$3,353,037	\$3,519,856

Amendments to House Bill No. 632
First Reading Copy

Requested by Representative Daily
For the House Committee on State Administration

Prepared by Lois Menzies
February 13, 1989

1. Page 1, line 21.
Strike: "8.599%"
Insert: "7.907%"

2. Page 4, line 2.
Strike: "8.983%"
Insert: "8.292%"

3. Page 5, line 10.
Strike: "one-fifthieth"
Insert: "one fifty-fourth"

4. Page 6, line 13.
Strike: "one-fifthieth"
Insert: "one fifty-fourth"

5. Page 6, line 20.
Strike: "one-fifthieth"
Insert: "one fifty-fourth"



HB 632
2/14/89

One South Montana Ave.
Helena, Montana 59601
Telephone: 406/442-2180

Robert L. Anderson, Executive Director

MONTANA SCHOOL BOARDS ASSOCIATION

OFFICERS:

PRESIDENT

Storrs Bishop
P.O. Box 667
Ennis, MT 59729

February 17, 1989

VICE PRESIDENT

Mignon Waterman
530 Hazelgreen Place
Helena, MT 59601

IMMEDIATE

PAST PRESIDENT

Don Hamilton
P.O. Box 2269
Great Falls, MT 59403

TO: Jan Brown, Chair
House State Administration Committee

RE: HB632

DISTRICT DIRECTORS:

- 1 MARION HOLDEN
Box 298
Martin City, MT 59926
- 2 LINDA VAUGHY
1616 Juniper Dr.
Havre, MT 59501
- 3 SALLY LISTERUD
Box 937
Wolf Point, MT 59201
- 4 MARGARET BASTA
R. 2, Box 68
Lindsay, MT 59339
- 5 PAULA BOHN
Box 87
Winnett, MT 59087
- 6 PENNY JOHNSON
11575 Chumrau Loop
Missoula, MT 59802
- 7 STORRS BISHOP
P.O. Box 667
Ennis, MT 59729
- 8 GARY GRIFFITH
82 Lower Rainbow Rd.
Bozeman, MT 59715
- 9 GARY FORRESTER
2527 Gardiner, Rt. 6
Billings, MT 59101
- 10 GARY WADE
Box 301
Baker, MT 59313

FROM: Bruce W. Moerer, Staff Attorney *B*

Madame Chair and members of the committee:

This letter is to register the objection of the Montana School Boards Association to HB632. With I-105 capping county retirement levies, future funding for retirement uncertain, and general fund budgets severely stretched the last several years, we cannot afford these increases which will probably have to come out of our general operating budget.

I was unable to attend the hearing on the bill because of other hearing conflicts. Thank you for your consideration.

MUNICIPAL DIRECTORS:

BILLINGS

CONRAD STROEBE
512 N. 29th Street
Billings, MT 59101

BUTTE

ROBERT MOODRY
1921 Adams
Butte, MT 59701

GREAT FALLS

DON HAMILTON
Box 2269
Great Falls, MT 59403

HELENA

MIGNON WATERMAN
530 Hazelgreen Place
Helena, MT 59601

MISSOULA

DON HJELMSETH
3220 Queen
Missoula, MT 59801

SECRETARY OF STATE
STATE OF MONTANA

EXHIBIT 8
DATE 2-14-89
HB 620
102

Mike Cooney
Secretary of State



Montana State Capitol
Helena, Montana 59620

Testimony in Support of HB 620
Presented by Garth Jacobson
Representing the Secretary of State's Office
Before the House Committee on State Administration
February 14, 1989

Chairman Brown and members of the committee, for the record I am Garth Jacobson, representing the Secretary of State's office. I am here today to testify in support of HB 620.

HB 620 is a simple bill that protects the integrity of the electoral process from mischief that can occur when someone intentionally tries to misinform the public or presents information in such a way as to lead the public to believe it is official election information when it is not.

Specificly HB 620 prohibits disseminating incorrect or misleading information about election procedures. This bill would preclude people from using misinformation to disrupt the electoral process.

During the 1988 election the Secretary of State's office received many complaints about a pamphlet distributed to certain voters indicating they could vote in the privacy of their own homes. The item was stamped "official voter document enclosed". Some people believed they had to mail in their absentee ballot application in order to be able to vote. It was not spelled out that absentee voting is only for those people who can not vote in the normal manor because of absence from the precinct or county or due to physical incapacity or illness. Absentee voting is not merely for the convenience of a person to vote in the privacy of his home.

The mailing resulted in a flood of absentee voter applications being sent in to the clerk and recorders. The election officials spent a lot of time having to explain to people about the absentee voter process. It caused a lot of unnecessary work and expense to the election officials.

HB 620 would prevent this from happening again.

EXHIBIT 8
DATE 2-14-89
HB 620

202

A short baseball story best illustrates the reason for HB 620.

A few years ago a catcher on a minor league professional baseball team tried to perform an interesting trick play. There was a baserunner on third base. The catcher threw a potato over the head of the third baseman. The baserunning thinking that there was an error on the play ran to home plate. When the runner neared home, the catcher pulled out the real baseball and tagged the runner out. During the argument that followed the play, the catcher argued that because there was no rule that said he could not do what he did, therefore play was legal. Clearly the potato play was improper and contrary to the what we would consider fair play.

HB 620 prevents a "potato play" type event from happening in the electoral process. I therefore urge you give HB 620 a due pass recommendation.

Sue Bartlett



EXHIBIT 9

DATE 2-14-89
City-County Building

HB O. Box 1721 620
Helena, Montana 59624
Telephone 406/443-1010

1 of 4

LEWIS AND CLARK COUNTY

Office of Clerk and Recorder

House Bill 620, House State Administration Committee, February 14, 1989

TESTIMONY OF SUE BARTLETT FOR THE MONTANA ASSOCIATION OF COUNTY CLERKS
AND RECORDERS

Madam Chairwoman and members of the committee, I am Sue Bartlett, the Clerk and Recorder of Lewis and Clark County. I am speaking in support of House Bill 620 on behalf of the Clerk and Recorders Association.

We recognize and support the right of candidates and political parties to develop campaign methods which encourage and assist people to vote. That is, after all, the name of the game.

But it is essential for campaign materials to give accurate information on registration and voting procedures and to be clearly identified as campaign materials, not as official election documents.

We support House Bill 620 because we believe it will help to prevent a recurrence of the voter confusion which resulted from the misleading material on absentee voting mailed to thousands of voters across Montana in October 1988. Here are some examples of the confusion created when that mailing reached voters:

- . On October 18, 1988, Lewis and Clark County received 63 absentee ballot requests which used the card included in the mass mailing. I attempted to call all 63 voters and was successful in reaching 56 of them. Of those 56, four had already received their absentee ballots. They had sent in a second request because they thought that card was the official document they had to use. Another six were able and planning to go to the polls to vote. So 18% of the 56 people I reached had no need to use the card from the mass

2084
Ex #9

mailing but did so because they believed it was the official document that entitled them to vote. On another day, we received two cards from an older woman in a nursing home. Clearly, she believed she was to send both the cards that were included in the mass mailing.

- . Yellowstone County received 603 requests from the mass mailing. Only eight of those voters specified that the ballot was to be sent to an address different from their home address. The Election Administrator of Yellowstone County believes that many of these voters could and should have voted at the polls. She estimates that staff time, supplies and postage to process these 600 requests cost \$1600.

Despite checking for duplicate requests, the Yellowstone County Election Administrator found after the election that one voter had voted twice as a direct result of the mass mailing. In addition, the mailing caused confusion among election judges who received it. (Election judges may be assigned to work in a polling place that is different from the one in which they vote and, by law, they cannot leave the polling place during the election. In these cases, the judges are permitted by law to vote absentee.) When the mailing arrived, some judges, believing it came from the election administrator, thought that the polling place in which they were assigned to work had been changed and would necessitate their voting absentee. That was not, of course, the case.

- . In Missoula County, many people who received the mailing called the election office to ask if they had to sign that card in order to vote. Others who received absentee ballots as a result of the mailing called to ask why; they had planned and wanted to vote at the polls. These people then had to return the absentee ballot to the Election Administrator to be voided and had to sign an affidavit that they would only vote once. Also in Missoula County, an individual candidate sent an accurately worded and clearly identified mailing on absentee voting. That mailing caused no confusion among the voters who received it.
- . In Jefferson County, some voters thought they were being told to vote absentee because they believed the mailing had come from the Election Administrator.
- . In at least five counties, the wrong county name and the address for the wrong county Election Administrator were printed on some of the absentee request cards. In all of these counties, angry voters called the Election Administrator demanding to know why they were registered to vote in another

3 of 4
EX #9

county and not the county they lived in. Less irate but equally confused voters called simply to ask if they were really registered in the other county and, if so, where they should go to vote.

In Jefferson County, the error was made on the cards mailed to Whitehall. Adding injury to insult, those voters incurred the cost of long-distance charges when they called the Election Administrator in Boulder to see just where they were registered.

In Hill County, the error was made on all cards sent to Havre residents. The flood of phone calls that resulted caused one elections staff person to spend an entire day simply answering those calls and directly delayed the mailing of the voter information pamphlet in that county.

Members of the committee, neither Montana's voters nor the election process is well served by election materials which create this kind of confusion. We would appreciate your support for House Bill 620. Thank you.

3 of 4
HB 620
Ex. 9
2/14/89

Montana Republican
State Central Committee
1425 Helena Ave.
Helena, MT 59601

Ex. #9
HB 620 2/14/89

Non-Profit Org.
U.S. Postage
PAID
Permit No. 186
Billings, MT

Postmaster — Please deliver promptly to:

CAR-RT SORT ** CR 05

Jean Baucus
528 Power
Helena, MT 59601

**OFFICIAL VOTER DOCUMENT
ENCLOSED**

NOTICE:

This document contains an official application to vote in the privacy of your home. Please read, sign and return within 48 hours.

EXHIBIT 10
DATE 2-14-89
HB 543

Amendments to House Bill No.543
First Reading Copy

Requested by Representative Connelly
For the House Committee on State Administration

Prepared by Lois Menzies
February 14, 1989

3. Page 6, line 5.

Strike: "\$4"

Insert: "\$3.50"

4. Page 6, line 11.

Strike: "25%" through "revenue"

Insert: "50 cents"

Strike: "this"

Insert: "each"

Following: "fee"

Insert: "collected"



Association of Montana Highway Patrolmen and Association of Retired Montana Highway Patrol Officers



President — Michael G. Davis
 Vice-President — Cal Wylie
 Secretary-Treasurer — K. Scott Wyckman

President — Buck Baldry
 Vice-President — Robert Pike
 Secretary-Treasurer — Frank Willems
 Legislative Committee — Gene Miller

The information in the following cap sheet makes it necessary for us to address the health needs of retired Highway Patrol Officers and their widows.

MONTHLY COST EXPENSE COMPARISON OF 1973 AND 1988

<u>ITEM</u>	<u>1973</u>	<u>1988</u>
Health Insurance	\$ 24.00/mo.	\$164.00/mo. (for one person)
Mandatory Car Insurance	12.58	35.50
Car License	2.85	8.12
Home Taxes (47 yrs. old)	33.14	82.82
Home Insurance (47 yrs. old)	16.41	33.11
Electricity	14.64	69.17
Heating	18.90	57.50
Water	7.21	24.80
Telephone	8.40	16.25
Total	\$138.13	\$491.27
Pension	484.00	604.00
	- <u>138.13</u>	- <u>491.27</u>
Monthly Balance After Expenses	\$345.87	\$112.73

Additional Comparison of Expenses:

<u>ITEM</u>	<u>1973</u>	<u>1988</u>	<u>PERCENTAGE DIFFERENCE</u>
**Hospital Room	20.00 (day)	225.50 (day)	1,028%
**Doctor Visit	5.00	29.00	480%
**Dentist Visit	4.00	34.00	750%

MONTANA HIGHWAY PATROL SUMMARY OF RETIREES

Number of Members in the Various Age Groups and Average Monthly Benefits

<u>Under 55</u>	<u>55-59</u>	<u>60-64</u>	<u>65-69</u>	<u>70-74</u>	<u>75-79</u>	<u>80-84</u>	<u>Over 84</u>	<u>Total</u>
38	37	17	14	8	14	10	1	139
\$856	\$861	\$944	\$640	\$518	\$489	\$519	\$373	\$762 (Average)

VISITORS' REGISTER
STATE ADMINISTRATION COMMITTEE

BILL NO. HB 543

DATE February 14, 1989

SPONSOR REP. CONNELLY

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
<i>Al Pierson</i>	<i>Mont Highway Patrol</i>	<i>yes</i>	
<i>Howard W. Gub</i>	<i>" " "</i>	<i>✓</i>	
<i>Paul Jensen</i>	<i>" " "</i>	<i>✓</i>	
<i>Mary Anderson</i>	<i>" " "</i>	<i>✓</i>	
<i>Gene E. Miller</i>	<i>MHP</i>	<i>✓</i>	
<i>Buck Baldry</i>	<i>MHP</i>	<i>✓</i>	
<i>Elaine Baldry</i>	<i>MHP</i>	<i>✓</i>	
<i>Justin K. Gray</i>	<i>" " "</i>	<i>✓</i>	
<i>Von Sanford</i>	<i>MHP</i>	<i>✓</i>	
<i>Mary Sanford</i>	<i>wife</i>	<i>✓</i>	
<i>Tom Schuder</i>	<i>MPEA</i>	<i>✓</i>	
<i>Bobby Vancura</i>	<i>mis. TN H.P.</i>	<i>✓</i>	
<i>REP. ROBERT CLARK</i>	<i>H.D. 31</i>	<i>✓</i>	
<i>FRANK E. WILKINS</i>	<i>MHP</i>	<i>✓</i>	
<i>CLAIR A. HEDCOX</i>	<i>MHP</i>	<i>✓</i>	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

STATE ADMINISTRATION

COMMITTEE

DATE 2-14-87 BILL NO. HB 518 NUMBER 1

NAME	AYE	NAY
Jan Brown	✓	
Bud Campbell		✓
Vicki Cocchiarella	✓	
Duane Compton		✓
Ervin Davis	✓	
Roger DeBruycker		✓
Floyd "Bob" Gervais	✓	
Harriet Hayne		✓
Janet Moore	✓	
Richard Nelson	✓	
Helen O'Connell	✓	
John Phillips		✓
Rande Roth		✓
Angela Russell	✓	
Wilbur Spring, Jr.		✓
Carolyn Squires	✓	
Vernon Westlake	✓	
Timothy Whalen		✓

TALLY

10 8

Judy Burgzoff
Secretary

Jan Brown
Chairman

MOTION: To table the bill.

ROLL CALL VOTE

STATE ADMINISTRATION

COMMITTEE

DATE 2-14-89 BILL NO # B474 NUMBER 1

NAME	AYE	NAY
Jan Brown	✓	
Bud Campbell	✓	
Vicki Cocchiarella		✓
Duane Compton	✓	
Ervin Davis	✓	
Roger DeBruycker	✓	
Floyd "Bob" Gervais		✓
Harriet Hayne	✓	
Janet Moore	✓	
Richard Nelson	✓	
Helen O'Connell	✓	
John Phillips	✓	
Rande Roth	✓	
Angela Russell		✓
Wilbur Spring, Jr.	✓	
Carolyn Squires		✓
Vernon Westlake	✓	
Timothy Whalen		✓

TALLY

13 5

Judy Burggraf
Secretary

Jan Brown
Chairman

MOTION: Table the bill
