

HOUSE BILL NO. 605

INTRODUCED BY GRADY, BENGTSON, GIACOMETTO, RAPP-SVRCEK,  
HAYNE, RASMUSSEN

IN THE HOUSE

FEBRUARY 8, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 9, 1989	ON MOTION, REREFERRED TO COMMITTEE ON STATE ADMINISTRATION.
FEBRUARY 15, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 16, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 93; NOES, 4.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 9, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 14, 1989	SECOND READING, CONCURRED IN.
MARCH 16, 1989	THIRD READING, CONCURRED IN. AYES, 43; NOES, 5.
	RETURNED TO HOUSE.

MARCH 17, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 605  
2 INTRODUCED BY Sen. Benignus Dizon  
3 Rep. Smith Wayne R. ...  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE STATE  
5 DEBT COLLECTION SERVICE FROM THE DEPARTMENT OF REVENUE TO  
6 THE STATE AUDITOR; AMENDING SECTIONS 17-4-103 THROUGH  
7 17-4-108, 17-4-111, AND 39-51-3207, MCA; AND PROVIDING A  
8 DELAYED EFFECTIVE DATE."  
9

10 STATEMENT OF INTENT

11 A statement of intent is required for this bill because  
12 17-4-105 is being amended to require the department of  
13 revenue to adopt rules governing procedures to be used in  
14 conducting a hearing relating to tax offsets for the purpose  
15 of satisfying unpaid child support obligations.  
16

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

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

19 "17-4-103. Collection of claims by state auditor --  
20 department--assistance. (1) In his discretion it is the duty  
21 of the state auditor to examine the collection of moneys due  
22 the state and institute suits in its name for official  
23 delinquencies in relation to the assessment, collection, and  
24 payment of the revenue and against persons who by any means  
25 have become possessed of public money or property and failed

1 to pay over or deliver the same and against debtors of the  
2 state, of which suits the courts of the county in which the  
3 seat of government may be located have jurisdiction, without  
4 regard to the residence of the defendants.

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

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

(4) The department state auditor is hereby authorized to provide a collection service for the general purpose of centralizing the collection of all debts owing to the state."

**Section 2.** Section 17-4-104, MCA, is amended to read:

"17-4-104. Circumstances when department state auditor must assist. Subject to and in accordance with rules adopted by the department state auditor, the department state auditor shall render assistance in the collection of accounts owing to any state agency if all of the following procedures have been completed to the his satisfaction of the department:

(1) A state agency must make all reasonable efforts to collect money owed to it and must determine that the money and any interest or penalties therefor are uncollectible in accordance with criteria for uncollectibility formulated by that agency.

(2) Once a state agency has determined an account owed to it uncollectible, it shall certify to the department state auditor the amount of the money, interest, and penalties, as accurately as can be determined. The department state auditor may require submission by the

agency of all relevant evidence and other information regarding the debt and may examine the records of any other state agency which may be pertinent in determining the uncollectibility of the debt unless examination is specifically prohibited by law.

(3) If the department state auditor finds that the debt is uncollectible in accordance with the criteria for uncollectibility of money due that state agency, the department he shall direct the agency to write off the debt on its accounts and transfer the debt to the department him.

(4) Debts described in 17-4-105(4) need not be determined uncollectible for purposes of this section."

**Section 3.** Section 17-4-105, MCA, is amended to read:

"17-4-105. Authority to collect debt -- offsets. (1) Once a debt of a state agency has been transferred to the department state auditor, the department he shall have the authority to collect it, ~~including the power to offset tax refunds due to individuals against the debt transferred by the state agency to the department provided the department may not exercise this right of offset until the debtor has first been notified by the department and given an opportunity for a hearing.~~ The department state auditor may contract with commercial collection agencies for recovery of debts owed the state.

(2) ~~Upon notification by the department, the~~ The state

1 auditor shall offset any amount due a state agency from a  
 2 person or entity against any amount, including refunds or  
 3 taxes, owing such the person or entity by any state agency,  
 4 provided the state auditor may not exercise this right of  
 5 offset until the debtor has first been notified by the state  
 6 auditor and been given an opportunity for a hearing. No  
 7 offset may be made against any amount paid out as child  
 8 support collected by the department. The state auditor shall  
 9 deduct from the claim and draw his warrants for the amounts  
 10 offset in favor of the respective state agencies to which  
 11 due and for any balance in favor of the claimant. Whenever  
 12 insufficient to offset all amounts due state agencies, the  
 13 amount available shall be applied first to debts owed by  
 14 reason of the nonpayment of child support and then in such  
 15 manner as the state auditor, in his discretion, shall  
 16 determine.

17 (3) (a) The department retains the power to offset tax  
 18 refunds due individuals against taxes owed the state  
 19 provided the department may not exercise this right of  
 20 offset until the taxpayer has been notified by the  
 21 department and been given the opportunity to request a  
 22 review.

23 (b) Within 30 days following mailing of notification,  
 24 the taxpayer may request a review of the asserted liability.  
 25 If a review is requested, the department shall conduct an

1 informal review conference, which is not subject to the  
 2 contested case procedures of the Montana Administrative  
 3 Procedure Act.

4 (c) Appeal from the decision of the department after  
 5 the review conference may be taken to the state tax appeal  
 6 board.

7 (d) A taxpayer is not entitled to a review conference  
 8 for a tax offset if the tax liability has been the subject  
 9 matter of any proceeding conducted for the purpose of  
 10 determining its validity and any decision made as a result  
 11 of that proceeding has become final.

12 (4) (a) A debt resulting from or relating to a child  
 13 support obligation owed to the department or being collected  
 14 by the department on behalf of any person or agency may be  
 15 offset by the state auditor if:

16 (i) the debt is being enforced or collected by the  
 17 department under Title IV-D of the Social Security Act;

18 (ii) the debt is for repayment of child support payments  
 19 retained contrary to the assignment at 53-2-613; or

20 (iii) the debt is for costs of fees under any contract,  
 21 judgment, or administrative order entered in the course of  
 22 child support enforcement by the department.

23 (b) The debt need not be determined to be uncollectible  
 24 as provided for in 17-4-104 before being transferred to the  
 25 state auditor for offset. The debt must have accrued through

1 written contract, court judgment, or administrative order.

2 (c) Within 30 days following the notification provided  
 3 in subsection (2), the person owing a debt described in  
 4 subsection (4)(a) may request a hearing. The hearing must be  
 5 conducted by teleconferencing methods and is subject to the  
 6 provisions of the Montana Administrative Procedure Act. The  
 7 department shall adopt rules necessary to determine the  
 8 hearing procedures.

9 ~~(3)(5)~~ If, in the discretion of the state auditor, the  
 10 person or entity refuses or neglects to file his claim  
 11 within a reasonable time, the head of the state agency owing  
 12 the amount shall file the claim on behalf of such person or  
 13 entity; if approved by the department of administration, it  
 14 shall have the same force and effect as though filed by such  
 15 person or entity. The amount due any person or entity from  
 16 the state or any agency thereof is the net amount otherwise  
 17 owing such person or entity after any offset as in this  
 18 section provided.

19 ~~(4)---The---department---may---establish---and---maintain---a~~  
 20 ~~procedure-to-offset-against-a-debtor's-income-tax-refund-any~~  
 21 ~~debt-which-is-assigned-to-the-state-pursuant-to-53-2-613--or~~  
 22 ~~which--the--department-is-attempting-to-collect-on-behalf-of~~  
 23 ~~an-individual-who-has-applied-for--service--under--40-5-203-~~  
 24 ~~Such--debt-must-have-accrued-through-written-contract,-court~~  
 25 ~~judgment,-or-administrative-order-and-be-in-the--form--of--a~~

1 ~~liquidated--sum--due--and--owing--for-the-support-of-a-minor~~  
 2 ~~child:-"~~

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

4 "17-4-106. Agency owed debt to receive all moneys  
 5 collected. All moneys collected by the department state  
 6 auditor on debts transferred to it by the various state  
 7 agencies shall be deposited to the account or fund of the  
 8 agency to which the debt was originally owing."

9 **Section 5.** Section 17-4-107, MCA, is amended to read:

10 "17-4-107. Write-off procedures. (1) The department--of  
 11 revenue state auditor may establish procedures for canceling  
 12 and writing off accounts receivable carried on the books of  
 13 the various state agencies which have been transferred to  
 14 the-department-of-revenue him pursuant to 17-4-104 and which  
 15 are uncollectible or the continued pursuance of the  
 16 collection thereof would cost the state more than the amount  
 17 collected. Such procedures shall be established in  
 18 accordance with subsection (2).

19 (2) The department of administration may establish  
 20 procedures for canceling and writing off accounts receivable  
 21 carried on the books of various state agencies which are  
 22 uncollectible or the continued pursuance of the collection  
 23 would cost the state more than the amount collected. Such  
 24 procedures shall include the reporting of any canceling and  
 25 writing off of accounts receivable to the next session of

1 the legislature."

2 **Section 6.** Section 17-4-108, MCA, is amended to read:

3 "17-4-108. Circumstances under which previously  
4 written-off debt may be collected. If a debt previously  
5 written off under 17-4-107(1) subsequently becomes  
6 collectible, the department state auditor shall proceed to  
7 collect the money due pursuant to 17-4-105(1) and 17-4-106."

8 **Section 7.** Section 17-4-111, MCA, is amended to read:

9 "17-4-111. Right of hearing to aggrieved persons. Any  
10 person aggrieved from a decision or an action taken under  
11 this part shall have the right to present his grievances in  
12 the same manner as provided by law 17-4-105(3) and subject  
13 to the contested case procedures of the Montana  
14 Administrative Procedure Act for taxpayer appeals."

15 **Section 8.** Section 39-51-3207, MCA, is amended to read:

16 "39-51-3207. Authority to determine uncollectibility of  
17 debts -- transfer of debts for collection -- liability for  
18 payment of fees and costs of collection. (1) After making  
19 all reasonable efforts to collect unpaid contributions,  
20 assessments under 39-51-404(4), and penalties and interest  
21 thereon, or overpaid benefits under 39-51-3206 and interest  
22 thereon, the department may determine a debt to be  
23 uncollectible. Upon determining that a debt is  
24 uncollectible, the department may transfer the debt to the  
25 department--of--revenue state auditor for collection as

1 provided in 17-4-104.

2 (2) Subject to approval by the department, reasonable  
3 fees or costs of collection incurred by the department--of  
4 revenue state auditor may be added to the amount of the  
5 debt, including added fees or costs. The debtor is liable  
6 for repayment of the amount of the debt plus fees or costs  
7 added pursuant to this subsection. All money collected must  
8 be returned to the department to be applied to the debt,  
9 except that all fees or costs collected must be retained by  
10 the department--of--revenue state auditor. If less than the  
11 full amount of the debt is collected, the department--of  
12 revenue state auditor shall retain only a proportionate  
13 share of the collection fees or costs."

14 NEW SECTION. **Section 9.** Extension of authority. Any  
15 existing authority to make rules on the subject of the  
16 provisions of [this act] is extended to the provisions of  
17 [this act].

18 NEW SECTION. **Section 10.** Effective date. [This act] is  
19 effective January 1, 1990.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB605, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to transfer the state debt collection service from the Department of Revenue to the State Auditor; amending Sections 17-4-103 through 17-4-108, 17-4-111, and 39-51-3207, MCA; and providing a delayed effective date.

ASSUMPTIONS:


1. Effective January 1, 1990.
2. Bad debt collections for FY88 were \$620,000.
3. The State Auditor's Office estimates collections of \$350,000 in FY90 and \$700,000 in FY91.
4. Bad debt collections will be distributed to accounts within the agencies to which the debts are owed.
5. Three FTE, personal service and operating expense authority will be transferred from the Department of Revenue to the State Auditor's Office.
6. The State Auditor's Office will require an additional 2 FTE grade 7 positions to implement the provisions of this bill.
7. There will be one time expenses of moving staff from the Department of Revenue, and office equipment. Rent expenses will increase with the addition of 5 FTE.

FISCAL IMPACT:

		<u>FY90</u>				<u>FY90</u>	
<u>Department of Revenue</u>		<u>Current</u>	<u>Proposed</u>			<u>Current</u>	<u>Proposed</u>
	<u>Law</u>		<u>Law</u>	<u>Difference</u>		<u>Law</u>	<u>Difference</u>
Revenues:							
Bad Debt Collection	\$620,000		\$310,000	(\$ 310,000)		\$620,000	\$ -0-
Expenditures:							
FTE	3.0		1.5	(1.5)		3.0	-0-
Personal Services	\$ 71,472		\$ 35,736	(\$ 35,736)		\$ 71,471	\$ -0-
Operating Expenses	5,000		2,500	( 2,500)		5,000	-0-
TOTAL	\$ 76,472		\$ 38,236	(\$ 38,236)		\$ 76,471	\$ -0-
Funding: General Fund							

State Auditor's Office

Revenue:							
Bad Debt Collections	\$ -0-		\$350,000	\$ 350,000		\$ -0-	\$700,000
Expenditures:							
FTE	-0-		2.5	2.5		-0-	5.0
Personal Services	\$ -0-		\$ 50,742	\$ 50,742		\$ -0-	\$103,418
Operating Expenses	-0-		7,559	7,559		-0-	13,900
Equipment	-0-		5,267	5,267		-0-	500
TOTAL	\$ -0-		\$ 63,568	\$ 63,568		\$ -0-	\$117,818
Funding: General Fund							

  
 RAY SHACKLEFORD, BUDGET DIRECTOR  
 OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/15/89

  
 EDWARD J. GRADY, PRIMARY SPONSOR

DATE 2/17/89

Fiscal Note for HB605, as introduced

HB 605



APPROVED BY COMMITTEE  
ON TAXATION

HOUSE BILL NO. 605

INTRODUCED BY GRADY, BENGTSON, GIACOMETTO, RAPP-SVRCEK,  
HAYNE, RASMUSSEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE STATE  
DEBT COLLECTION SERVICE FROM THE DEPARTMENT OF REVENUE TO  
THE STATE AUDITOR; CLARIFYING THE DEPARTMENT OF REVENUE'S  
PROCEDURES REGARDING TAX OFFSETS; AMENDING SECTIONS 17-4-103  
THROUGH 17-4-108, 17-4-111, AND 39-51-3207, MCA; AND  
PROVIDING A DELAYED EFFECTIVE DATE."

## STATEMENT OF INTENT

A statement of intent is required for this bill because  
17-4-105 is being amended to require the department of  
revenue to adopt rules governing procedures to be used in  
conducting a hearing relating to tax offsets for the purpose  
of satisfying unpaid child support obligations.

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

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

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~~department-assistance.~~ (1) In his discretion it is the duty  
of the state auditor to examine the collection of moneys due  
the state and institute suits in its name for official  
delinquencies in relation to the assessment, collection, and

payment of the revenue and against persons who by any means  
have become possessed of public money or property and failed  
to pay over or deliver the same and against debtors of the  
state, of which suits the courts of the county in which the  
seat of government may be located have jurisdiction, without  
regard to the residence of the defendants.

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

1 amount of money or other property which is due to or which  
2 belongs to the state.

3 (3) The department state auditor may assist in the  
4 collection of any delinquent account owing to any state  
5 agency.

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

10 **Section 2.** Section 17-4-104, MCA, is amended to read:

11 "17-4-104. Circumstances when department state auditor  
12 must assist. Subject to and in accordance with rules adopted  
13 by the department state auditor, the department state  
14 auditor shall render assistance in the collection of  
15 accounts owing to any state agency if all of the following  
16 procedures have been completed to the his satisfaction of  
17 the-department:

18 (1) A state agency must make all reasonable efforts to  
19 collect money owed to it and must determine that the money  
20 and any interest or penalties therefor are uncollectible in  
21 accordance with criteria for uncollectibility formulated by  
22 that agency.

23 (2) Once a state agency has determined an account owed  
24 to it uncollectible, it shall certify to the department  
25 state auditor the amount of the money, interest, and

1 penalties, as accurately as can be determined. The  
2 department state auditor may require submission by the  
3 agency of all relevant evidence and other information  
4 regarding the debt and may examine the records of any other  
5 state agency which may be pertinent in determining the  
6 uncollectibility of the debt unless examination is  
7 specifically prohibited by law.

8 (3) If the department state auditor finds that the  
9 debt is uncollectible in accordance with the criteria for  
10 uncollectibility of money due that state agency, the  
11 department he shall direct the agency to write off the debt  
12 on its accounts and transfer the debt to the-department him.

13 (4) Debts described in 17-4-105(4) need not be  
14 determined uncollectible for purposes of this section."

15 **Section 3.** Section 17-4-105, MCA, is amended to read:

16 "17-4-105. Authority to collect debt -- offsets. (1)  
17 Once a debt of a state agency has been transferred to the  
18 department state auditor, the-department he shall have the  
19 authority to collect it, ~~including the power to offset tax~~  
20 ~~refunds due to individuals against the debt transferred by~~  
21 ~~the state agency to the department provided the department~~  
22 ~~may not exercise this right of offset until the debtor has~~  
23 ~~first been notified by the department and given an~~  
24 ~~opportunity for a hearing.~~ The department state auditor may  
25 contract with commercial collection agencies for recovery of

1 debts owed the state.

2       (2) ~~Upon notification by the department, the~~ The state  
3 auditor shall offset any amount due a state agency from a  
4 person or entity against any amount, including refunds or  
5 taxes, owing such the person or entity by any state agency,  
6 provided the state auditor may not exercise this right of  
7 offset until the debtor has first been notified by the state  
8 auditor and been given an opportunity for a hearing. No  
9 offset may be made against any amount paid out as child  
10 support collected by the department. The state auditor shall  
11 deduct from the claim and draw his warrants for the amounts  
12 offset in favor of the respective state agencies to which  
13 due and for any balance in favor of the claimant. Whenever  
14 insufficient to offset all amounts due state agencies, the  
15 amount available shall be applied first to debts owed by  
16 reason of the nonpayment of child support and then in such  
17 manner as the state auditor, in his discretion, shall  
18 determine.

19       (3) (a) The department retains the power to offset tax  
20 refunds due individuals against taxes owed the state  
21 provided the department may not exercise this right of  
22 offset until the taxpayer has been notified by the  
23 department and been given the opportunity to request a  
24 review.

25       (b) Within 30 days following mailing of notification,

1 the taxpayer may request a review of the asserted liability.  
2 If a review is requested, the department shall conduct an  
3 informal review conference, which is not subject to the  
4 contested case procedures of the Montana Administrative  
5 Procedure Act.

6       (c) Appeal from the decision of the department after  
7 the review conference may be taken to the state tax appeal  
8 board.

9       (d) A taxpayer is not entitled to a review conference  
10 for a tax offset if the tax liability has been the subject  
11 matter of any proceeding conducted for the purpose of  
12 determining its validity and any decision made as a result  
13 of that proceeding has become final.

14       (4) (a) A debt resulting from or relating to a child  
15 support obligation owed to the department or being collected  
16 by the department on behalf of any person or agency may be  
17 offset by the state auditor if:

18       (i) the debt is being enforced or collected by the  
19 department under Title IV-D of the Social Security Act;

20       (ii) the debt is for repayment of child support  
21 payments retained contrary to the assignment at 53-2-613; or

22       (iii) the debt is for costs of fees under any contract,  
23 judgment, or administrative order entered in the course of  
24 child support enforcement by the department.

25       (b) The debt need not be determined to be

uncollectible as provided for in 17-4-104 before being transferred to the state auditor for offset. The debt must have accrued through written contract, court judgment, or administrative order.

(c) Within 30 days following the notification provided in subsection (2), the person owing a debt described in subsection (4)(a) may request a hearing. The hearing must be conducted by teleconferencing methods and is subject to the provisions of the Montana Administrative Procedure Act. The department shall adopt rules necessary to determine the hearing procedures.

(3)(5) If, in the discretion of the state auditor, the person or entity refuses or neglects to file his claim within a reasonable time, the head of the state agency owing the amount shall file the claim on behalf of such person or entity; if approved by the department of administration, it shall have the same force and effect as though filed by such person or entity. The amount due any person or entity from the state or any agency thereof is the net amount otherwise owing such person or entity after any offset as in this section provided.

(4) The department may establish and maintain a procedure to offset against a debtor's income tax refund any debt which is assigned to the state pursuant to 53-2-613 or which the department is attempting to collect on behalf of

an individual who has applied for service under 40-5-203. Such debt must have accrued through written contract, court judgment, or administrative order and be in the form of a liquidated sum due and owing for the support of a minor child."

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

"17-4-106. Agency owed debt to receive all moneys collected. All moneys collected by the department state auditor on debts transferred to it by the various state agencies shall be deposited to the account or fund of the agency to which the debt was originally owing."

**Section 5.** Section 17-4-107, MCA, is amended to read:

"17-4-107. Write-off procedures. (1) The department of revenue state auditor may establish procedures for canceling and writing off accounts receivable carried on the books of the various state agencies which have been transferred to the department of revenue him pursuant to 17-4-104 and which are uncollectible or the continued pursuance of the collection thereof would cost the state more than the amount collected. Such procedures shall be established in accordance with subsection (2).

(2) The department of administration may establish procedures for canceling and writing off accounts receivable carried on the books of various state agencies which are uncollectible or the continued pursuance of the collection

1 would cost the state more than the amount collected. Such  
2 procedures shall include the reporting of any canceling and  
3 writing off of accounts receivable to the next session of  
4 the legislature."

5 **Section 6.** Section 17-4-108, MCA, is amended to read:

6 "17-4-108. Circumstances under which previously  
7 written-off debt may be collected. If a debt previously  
8 written off under 17-4-107(1) subsequently becomes  
9 collectible, the department state auditor shall proceed to  
10 collect the money due pursuant to 17-4-105(1) and 17-4-106."

11 **Section 7.** Section 17-4-111, MCA, is amended to read:

12 "17-4-111. Right of hearing to aggrieved persons. Any  
13 person aggrieved from a decision or an action taken under  
14 this part shall have the right to present his grievances in  
15 the same manner as provided by law 17-4-105(3) and subject  
16 to the contested case procedures of the Montana  
17 Administrative Procedure Act for taxpayer appeals."

18 **Section 8.** Section 39-51-3207, MCA, is amended to  
19 read:

20 "39-51-3207. Authority to determine uncollectibility  
21 of debts -- transfer of debts for collection -- liability  
22 for payment of fees and costs of collection. (1) After  
23 making all reasonable efforts to collect unpaid  
24 contributions, assessments under 39-51-404(4), and penalties  
25 and interest thereon, or overpaid benefits under 39-51-3206

1 and interest thereon, the department may determine a debt to  
2 be uncollectible. Upon determining that a debt is  
3 uncollectible, the department may transfer the debt to the  
4 department--of--revenue state auditor for collection as  
5 provided in 17-4-104.

6 (2) Subject to approval by the department, reasonable  
7 fees or costs of collection incurred by the department--of  
8 revenue state auditor may be added to the amount of the  
9 debt, including added fees or costs. The debtor is liable  
10 for repayment of the amount of the debt plus fees or costs  
11 added pursuant to this subsection. All money collected must  
12 be returned to the department to be applied to the debt,  
13 except that all fees or costs collected must be retained by  
14 the department--of--revenue state auditor. If less than the  
15 full amount of the debt is collected, the department--of  
16 revenue state auditor shall retain only a proportionate  
17 share of the collection fees or costs."

18 **NEW SECTION. Section 9.** Extension of authority. Any  
19 existing authority to make rules on the subject of the  
20 provisions of [this act] is extended to the provisions of  
21 [this act].

22 **NEW SECTION. Section 10.** Effective date. [This act]  
23 is effective January 1, 1990.

-End-

## 1 HOUSE BILL NO. 605

2 INTRODUCED BY GRADY, BENGTSON, GIACOMETTO, RAPP-SVRCEK,  
3 HAYNE, RASMUSSEN  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE STATE  
6 DEBT COLLECTION SERVICE FROM THE DEPARTMENT OF REVENUE TO  
7 THE STATE AUDITOR; CLARIFYING THE DEPARTMENT OF REVENUE'S  
8 PROCEDURES REGARDING TAX OFFSETS; AMENDING SECTIONS 17-4-103  
9 THROUGH 17-4-108, 17-4-111, AND 39-51-3207, MCA; AND  
10 PROVIDING A DELAYED EFFECTIVE DATE."  
11

## 12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because  
14 17-4-105 is being amended to require the department of  
15 revenue to adopt rules governing procedures to be used in  
16 conducting a hearing relating to tax offsets for the purpose  
17 of satisfying unpaid child support obligations.  
18

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

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

21 "17-4-103. Collection of claims by state auditor --  
22 department-assistance. (1) In his discretion it is the duty  
23 of the state auditor to examine the collection of moneys due  
24 the state and institute suits in its name for official  
25 delinquencies in relation to the assessment, collection, and

1 payment of the revenue and against persons who by any means  
2 have become possessed of public money or property and failed  
3 to pay over or deliver the same and against debtors of the  
4 state, of which suits the courts of the county in which the  
5 seat of government may be located have jurisdiction, without  
6 regard to the residence of the defendants.

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

1 amount of money or other property which is due to or which  
2 belongs to the state.

3 (3) The department state auditor may assist in the  
4 collection of any delinquent account owing to any state  
5 agency.

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

10 **Section 2.** Section 17-4-104, MCA, is amended to read:

11 "17-4-104. Circumstances when department state auditor  
12 must assist. Subject to and in accordance with rules adopted  
13 by the department state auditor, the department state  
14 auditor shall render assistance in the collection of  
15 accounts owing to any state agency if all of the following  
16 procedures have been completed to the his satisfaction of  
17 the-department:

18 (1) A state agency must make all reasonable efforts to  
19 collect money owed to it and must determine that the money  
20 and any interest or penalties therefor are uncollectible in  
21 accordance with criteria for uncollectibility formulated by  
22 that agency.

23 (2) Once a state agency has determined an account owed  
24 to it uncollectible, it shall certify to the department  
25 state auditor the amount of the money, interest, and

1 penalties, as accurately as can be determined. The  
2 department state auditor may require submission by the  
3 agency of all relevant evidence and other information  
4 regarding the debt and may examine the records of any other  
5 state agency which may be pertinent in determining the  
6 uncollectibility of the debt unless examination is  
7 specifically prohibited by law.

8 (3) If the department state auditor finds that the  
9 debt is uncollectible in accordance with the criteria for  
10 uncollectibility of money due that state agency, ~~the~~  
11 department he shall direct the agency to write off the debt  
12 on its accounts and transfer the debt to the-department him.

13 (4) Debts described in 17-4-105(4) need not be  
14 determined uncollectible for purposes of this section."

15 **Section 3.** Section 17-4-105, MCA, is amended to read:

16 "17-4-105. Authority to collect debt -- offsets. (1)  
17 Once a debt of a state agency has been transferred to the  
18 department state auditor, ~~the-department he~~ shall have the  
19 authority to collect it, ~~including the power to--offset--tax~~  
20 ~~refunds due--to--individuals--against--the--debt--transferred--by~~  
21 ~~the--state--agency--to--the--department--provided--the--department~~  
22 ~~may--not--exercise--this--right--of--offset--until--the--debtor--has~~  
23 ~~first--been--notified--by--the--department--and--given--an~~  
24 ~~opportunity--for--a--hearing.~~ The department state auditor may  
25 contract with commercial collection agencies for recovery of

1 debts owed the state.

2       (2) ~~Upon notification by the department, the~~ The state  
3 auditor shall offset any amount due a state agency from a  
4 person or entity against any amount, including refunds or  
5 taxes, owing such the person or entity by any state agency,  
6 provided the state auditor may not exercise this right of  
7 offset until the debtor has first been notified by the state  
8 auditor and been given an opportunity for a hearing. No  
9 offset may be made against any amount paid out as child  
10 support collected by the department. The state auditor shall  
11 deduct from the claim and draw his warrants for the amounts  
12 offset in favor of the respective state agencies to which  
13 due and for any balance in favor of the claimant. Whenever  
14 insufficient to offset all amounts due state agencies, the  
15 amount available shall be applied first to debts owed by  
16 reason of the nonpayment of child support and then in such  
17 manner as the state auditor, in his discretion, shall  
18 determine.

19       (3) (a) The department retains the power to offset tax  
20 refunds due individuals against taxes owed the state  
21 provided the department may not exercise this right of  
22 offset until the taxpayer has been notified by the  
23 department and been given the opportunity to request a  
24 review.

25       (b) Within 30 days following mailing of notification,

1 the taxpayer may request a review of the asserted liability.  
2 If a review is requested, the department shall conduct an  
3 informal review conference, which is not subject to the  
4 contested case procedures of the Montana Administrative  
5 Procedure Act.

6       (c) Appeal from the decision of the department after  
7 the review conference may be taken to the state tax appeal  
8 board.

9       (d) A taxpayer is not entitled to a review conference  
10 for a tax offset if the tax liability has been the subject  
11 matter of any proceeding conducted for the purpose of  
12 determining its validity and any decision made as a result  
13 of that proceeding has become final.

14       (4) (a) A debt resulting from or relating to a child  
15 support obligation owed to the department or being collected  
16 by the department on behalf of any person or agency may be  
17 offset by the state auditor if:

18       (i) the debt is being enforced or collected by the  
19 department under Title IV-D of the Social Security Act;

20       (ii) the debt is for repayment of child support  
21 payments retained contrary to the assignment at 53-2-613; or

22       (iii) the debt is for costs of fees under any contract,  
23 judgment, or administrative order entered in the course of  
24 child support enforcement by the department.

25       (b) The debt need not be determined to be



uncollectible as provided for in 17-4-104 before being transferred to the state auditor for offset. The debt must have accrued through written contract, court judgment, or administrative order.

(c) Within 30 days following the notification provided in subsection (2), the person owing a debt described in subsection (4)(a) may request a hearing. The hearing must be conducted by teleconferencing methods and is subject to the provisions of the Montana Administrative Procedure Act. The department shall adopt rules necessary to determine the hearing procedures.

(3)(5) If, in the discretion of the state auditor, the person or entity refuses or neglects to file his claim within a reasonable time, the head of the state agency owing the amount shall file the claim on behalf of such person or entity; if approved by the department of administration, it shall have the same force and effect as though filed by such person or entity. The amount due any person or entity from the state or any agency thereof is the net amount otherwise owing such person or entity after any offset as in this section provided.

(4)--The--department--may--establish--and--maintain--a--procedure--to--offset--against--a--debtor's--income--tax--refund--any--debt--which--is--assigned--to--the--state--pursuant--to--53-2-613--or--which--the--department--is--attempting--to--collect--on--behalf--of

an--individual--who--has--applied--for--service--under--40-5-203--Such--debt--must--have--accrued--through--written--contract,--court--judgment,--or--administrative--order--and--be--in--the--form--of--a--liquidated--sum--due--and--owing--for--the--support--of--a--minor--child."

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

**"17-4-106. Agency owed debt to receive all moneys collected.** All moneys collected by the department state auditor on debts transferred to it by the various state agencies shall be deposited to the account or fund of the agency to which the debt was originally owing."

**Section 5.** Section 17-4-107, MCA, is amended to read:

**"17-4-107. Write-off procedures.** (1) The department of revenue state auditor may establish procedures for canceling and writing off accounts receivable carried on the books of the various state agencies which have been transferred to the department of revenue him pursuant to 17-4-104 and which are uncollectible or the continued pursuance of the collection thereof would cost the state more than the amount collected. Such procedures shall be established in accordance with subsection (2).

(2) The department of administration may establish procedures for canceling and writing off accounts receivable carried on the books of various state agencies which are uncollectible or the continued pursuance of the collection

1 would cost the state more than the amount collected. Such  
2 procedures shall include the reporting of any canceling and  
3 writing off of accounts receivable to the next session of  
4 the legislature."

5 **Section 6.** Section 17-4-108, MCA, is amended to read:

6 "17-4-108. Circumstances under which previously  
7 written-off debt may be collected. If a debt previously  
8 written off under 17-4-107(1) subsequently becomes  
9 collectible, the department state auditor shall proceed to  
10 collect the money due pursuant to 17-4-105(1) and 17-4-106."

11 **Section 7.** Section 17-4-111, MCA, is amended to read:

12 "17-4-111. Right of hearing to aggrieved persons. Any  
13 person aggrieved from a decision or an action taken under  
14 this part shall have the right to present his grievances in  
15 the same manner as provided by law 17-4-105(3) and subject  
16 to the contested case procedures of the Montana  
17 Administrative Procedure Act for taxpayer appeals."

18 **Section 8.** Section 39-51-3207, MCA, is amended to

19 read:

20 "39-51-3207. Authority to determine uncollectibility  
21 of debts -- transfer of debts for collection -- liability  
22 for payment of fees and costs of collection. (1) After  
23 making all reasonable efforts to collect unpaid  
24 contributions, assessments under 39-51-404(4), and penalties  
25 and interest thereon, or overpaid benefits under 39-51-3206

1 and interest thereon, the department may determine a debt to  
2 be uncollectible. Upon determining that a debt is  
3 uncollectible, the department may transfer the debt to the  
4 department--of--revenue state auditor for collection as  
5 provided in 17-4-104. .

6 (2) Subject to approval by the department, reasonable  
7 fees or costs of collection incurred by the department--of  
8 revenue state auditor may be added to the amount of the  
9 debt, including added fees or costs. The debtor is liable  
10 for repayment of the amount of the debt plus fees or costs  
11 added pursuant to this subsection. All money collected must  
12 be returned to the department to be applied to the debt,  
13 except that all fees or costs collected must be retained by  
14 the department--of--revenue state auditor. If less than the  
15 full amount of the debt is collected, the department--of  
16 revenue state auditor shall retain only a proportionate  
17 share of the collection fees or costs."

18 **NEW SECTION. Section 9.** Extension of authority. Any  
19 existing authority to make rules on the subject of the  
20 provisions of [this act] is extended to the provisions of  
21 [this act].

22 **NEW SECTION. Section 10.** Effective date. [This act]  
23 is effective January 1, 1990.

-End-

## HOUSE BILL NO. 605

INTRODUCED BY GRADY, BENGTSON, GIACOMETTO, RAPP-SVRCEK,  
HAYNE, RASMUSSEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE STATE  
DEBT COLLECTION SERVICE FROM THE DEPARTMENT OF REVENUE TO  
THE STATE AUDITOR; CLARIFYING THE DEPARTMENT OF REVENUE'S  
PROCEDURES REGARDING TAX OFFSETS; AMENDING SECTIONS 17-4-103  
THROUGH 17-4-108, 17-4-111, AND 39-51-3207, MCA; AND  
PROVIDING A DELAYED EFFECTIVE DATE."

## STATEMENT OF INTENT

A statement of intent is required for this bill because  
17-4-105 is being amended to require the department of  
revenue to adopt rules governing procedures to be used in  
conducting a hearing relating to tax offsets for the purpose  
of satisfying unpaid child support obligations.

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

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

"17-4-103. Collection of claims by state auditor --  
department-assistance. (1) In his discretion it is the duty  
of the state auditor to examine the collection of moneys due  
the state and institute suits in its name for official  
delinquencies in relation to the assessment, collection, and

payment of the revenue and against persons who by any means  
have become possessed of public money or property and failed  
to pay over or deliver the same and against debtors of the  
state, of which suits the courts of the county in which the  
seat of government may be located have jurisdiction, without  
regard to the residence of the defendants.

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

1 amount of money or other property which is due to or which  
2 belongs to the state.

3 (3) The department state auditor may assist in the  
4 collection of any delinquent account owing to any state  
5 agency.

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

10 **Section 2.** Section 17-4-104, MCA, is amended to read:

11 "17-4-104. Circumstances when department state auditor  
12 must assist. Subject to and in accordance with rules adopted  
13 by the department state auditor, the department state  
14 auditor shall render assistance in the collection of  
15 accounts owing to any state agency if all of the following  
16 procedures have been completed to the his satisfaction of  
17 the department:

18 (1) A state agency must make all reasonable efforts to  
19 collect money owed to it and must determine that the money  
20 and any interest or penalties therefor are uncollectible in  
21 accordance with criteria for uncollectibility formulated by  
22 that agency.

23 (2) Once a state agency has determined an account owed  
24 to it uncollectible, it shall certify to the department  
25 state auditor the amount of the money, interest, and

1 penalties, as accurately as can be determined. The  
2 department state auditor may require submission by the  
3 agency of all relevant evidence and other information  
4 regarding the debt and may examine the records of any other  
5 state agency which may be pertinent in determining the  
6 uncollectibility of the debt unless examination is  
7 specifically prohibited by law.

8 (3) If the department state auditor finds that the  
9 debt is uncollectible in accordance with the criteria for  
10 uncollectibility of money due that state agency, the  
11 department he shall direct the agency to write off the debt  
12 on its accounts and transfer the debt to the department him.

13 (4) Debts described in 17-4-105(4) need not be  
14 determined uncollectible for purposes of this section."

15 **Section 3.** Section 17-4-105, MCA, is amended to read:

16 "17-4-105. Authority to collect debt -- offsets. (1)  
17 Once a debt of a state agency has been transferred to the  
18 department state auditor, the department he shall have the  
19 authority to collect it, including the power to offset tax  
20 refunds due to individuals against the debt transferred by  
21 the state agency to the department provided the department  
22 may not exercise this right of offset until the debtor has  
23 first been notified by the department and given an  
24 opportunity for a hearing. The department state auditor may  
25 contract with commercial collection agencies for recovery of

1 debts owed the state.

2       (2) ~~Upon notification by the department, the~~ The state  
3 auditor shall offset any amount due a state agency from a  
4 person or entity against any amount, including refunds or  
5 taxes, owing such the person or entity by any state agency,  
6 provided the state auditor may not exercise this right of  
7 offset until the debtor has first been notified by the state  
8 auditor and been given an opportunity for a hearing. No  
9 offset may be made against any amount paid out as child  
10 support collected by the department. The state auditor shall  
11 deduct from the claim and draw his warrants for the amounts  
12 offset in favor of the respective state agencies to which  
13 due and for any balance in favor of the claimant. Whenever  
14 insufficient to offset all amounts due state agencies, the  
15 amount available shall be applied first to debts owed by  
16 reason of the nonpayment of child support and then in such  
17 manner as the state auditor, in his discretion, shall  
18 determine.

19       (3) (a) The department retains the power to offset tax  
20 refunds due individuals against taxes owed the state  
21 provided the department may not exercise this right of  
22 offset until the taxpayer has been notified by the  
23 department and been given the opportunity to request a  
24 review.

25       (b) Within 30 days following mailing of notification,

1 the taxpayer may request a review of the asserted liability.  
2 If a review is requested, the department shall conduct an  
3 informal review conference, which is not subject to the  
4 contested case procedures of the Montana Administrative  
5 Procedure Act.

6       (c) Appeal from the decision of the department after  
7 the review conference may be taken to the state tax appeal  
8 board.

9       (d) A taxpayer is not entitled to a review conference  
10 for a tax offset if the tax liability has been the subject  
11 matter of any proceeding conducted for the purpose of  
12 determining its validity and any decision made as a result  
13 of that proceeding has become final.

14       (4) (a) A debt resulting from or relating to a child  
15 support obligation owed to the department or being collected  
16 by the department on behalf of any person or agency may be  
17 offset by the state auditor if:

18       (i) the debt is being enforced or collected by the  
19 department under Title IV-D of the Social Security Act;

20       (ii) the debt is for repayment of child support  
21 payments retained contrary to the assignment at 53-2-613; or

22       (iii) the debt is for costs of fees under any contract,  
23 judgment, or administrative order entered in the course of  
24 child support enforcement by the department.

25       (b) The debt need not be determined to be

1 uncollectible as provided for in 17-4-104 before being  
 2 transferred to the state auditor for offset. The debt must  
 3 have accrued through written contract, court judgment, or  
 4 administrative order.

5 (c) Within 30 days following the notification provided  
 6 in subsection (2), the person owing a debt described in  
 7 subsection (4)(a) may request a hearing. The hearing must be  
 8 conducted by teleconferencing methods and is subject to the  
 9 provisions of the Montana Administrative Procedure Act. The  
 10 department shall adopt rules necessary to determine the  
 11 hearing procedures.

12 ~~{3}{5}~~ If, in the discretion of the state auditor, the  
 13 person or entity refuses or neglects to file his claim  
 14 within a reasonable time, the head of the state agency owing  
 15 the amount shall file the claim on behalf of such person or  
 16 entity; if approved by the department of administration, it  
 17 shall have the same force and effect as though filed by such  
 18 person or entity. The amount due any person or entity from  
 19 the state or any agency thereof is the net amount otherwise  
 20 owing such person or entity after any offset as in this  
 21 section provided.

22 ~~{4}--The--department--may--establish--and--maintain--a~~  
 23 ~~procedure-to-offset-against-a-debtor's-income-tax-refund-any~~  
 24 ~~debt--which-is-assigned-to-the-state-pursuant-to-53-2-613-or~~  
 25 ~~which-the-department-is-attempting-to-collect-on--behalf--of~~

1 ~~an--individual--who--has--applied--for--service--under--40-5-203--~~  
 2 ~~Such-debt-must-have-accrued-through-written-contract;--court~~  
 3 ~~judgment;--or--administrative--order-and-be-in-the-form-of-a~~  
 4 ~~liquidated-sum-due-and-owing-for--the--support--of--a--minor~~  
 5 ~~child;--"~~

6 **Section 4.** Section 17-4-106, MCA, is amended to read:  
 7 "17-4-106. Agency owed debt to receive all moneys  
 8 collected. All moneys collected by the department state  
 9 auditor on debts transferred to it by the various state  
 10 agencies shall be deposited to the account or fund of the  
 11 agency to which the debt was originally owing."

12 **Section 5.** Section 17-4-107, MCA, is amended to read:  
 13 "17-4-107. Write-off procedures. (1) The department-of-  
 14 revenue state auditor may establish procedures for canceling  
 15 and writing off accounts receivable carried on the books of  
 16 the various state agencies which have been transferred to  
 17 the-department-of-revenue him pursuant to 17-4-104 and which  
 18 are uncollectible or the continued pursuance of the  
 19 collection thereof would cost the state more than the amount  
 20 collected. Such procedures shall be established in  
 21 accordance with subsection (2).

22 (2) The department of administration may establish  
 23 procedures for canceling and writing off accounts receivable  
 24 carried on the books of various state agencies which are  
 25 uncollectible or the continued pursuance of the collection

1 would cost the state more than the amount collected. Such  
2 procedures shall include the reporting of any canceling and  
3 writing off of accounts receivable to the next session of  
4 the legislature."

5 **Section 6.** Section 17-4-108, MCA, is amended to read:

6 "17-4-108. Circumstances under which previously  
7 written-off debt may be collected. If a debt previously  
8 written off under 17-4-107(1) subsequently becomes  
9 collectible, the department state auditor shall proceed to  
10 collect the money due pursuant to 17-4-105(1) and 17-4-106."

11 **Section 7.** Section 17-4-111, MCA, is amended to read:

12 "17-4-111. Right of hearing to aggrieved persons. Any  
13 person aggrieved from a decision or an action taken under  
14 this part shall have the right to present his grievances in  
15 the same manner as provided by law 17-4-105(3) and subject  
16 to the contested case procedures of the Montana  
17 Administrative Procedure Act for taxpayer appeals."

18 **Section 8.** Section 39-51-3207, MCA, is amended to  
19 read:

20 "39-51-3207. Authority to determine uncollectibility  
21 of debts -- transfer of debts for collection -- liability  
22 for payment of fees and costs of collection. (1) After  
23 making all reasonable efforts to collect unpaid  
24 contributions, assessments under 39-51-404(4), and penalties  
25 and interest thereon, or overpaid benefits under 39-51-3206

1 and interest thereon, the department may determine a debt to  
2 be uncollectible. Upon determining that a debt is  
3 uncollectible, the department may transfer the debt to the  
4 department--of--revenue state auditor for collection as  
5 provided in 17-4-104.

6 (2) Subject to approval by the department, reasonable  
7 fees or costs of collection incurred by the department--of  
8 revenue state auditor may be added to the amount of the  
9 debt, including added fees or costs. The debtor is liable  
10 for repayment of the amount of the debt plus fees or costs  
11 added pursuant to this subsection. All money collected must  
12 be returned to the department to be applied to the debt,  
13 except that all fees or costs collected must be retained by  
14 the department--of--revenue state auditor. If less than the  
15 full amount of the debt is collected, the department--of  
16 revenue state auditor shall retain only a proportionate  
17 share of the collection fees or costs."

18 NEW SECTION. **Section 9.** Extension of authority. Any  
19 existing authority to make rules on the subject of the  
20 provisions of [this act] is extended to the provisions of  
21 [this act].

22 NEW SECTION. **Section 10.** Effective date. [This act]  
23 is effective January 1, 1990.

-End-