

HOUSE BILL NO. 153

INTRODUCED BY BARDANOUVE, NATHE, JERGESON, COBB
BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE HOUSE

JANUARY 13, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
JANUARY 23, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 25, 1993	PRINTING REPORT.
JANUARY 26, 1993	SECOND READING, DO PASS.
JANUARY 27, 1993	ENGROSSING REPORT.
JANUARY 28, 1993	THIRD READING, PASSED. AYES, 99; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 2, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 3, 1993	SECOND READING, CONCURRED IN.
MARCH 4, 1993	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 16, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 153
 2 INTRODUCED BY Barbara NATHAN Larson Cobb
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CONSOLIDATING THE
 6 PAYROLL/PERSONNEL/POSITION CONTROL SYSTEM WITHIN THE
 7 DEPARTMENT OF ADMINISTRATION BY TRANSFERRING THE PAYROLL,
 8 WARRANT WRITING, AND BAD DEBT ADMINISTRATION FUNCTIONS OF
 9 THE STATE AUDITOR TO THE DEPARTMENT OF ADMINISTRATION; AND
 10 AMENDING SECTIONS 2-18-401, 2-18-402, 2-18-403, 2-18-404,
 11 2-18-405, 2-18-411, 17-1-101, 17-1-121, 17-1-122, 17-3-1004,
 12 17-4-101, 17-4-102, 17-4-103, 17-4-104, 17-4-105, 17-4-106,
 13 17-4-107, 17-4-108, 39-3-213, AND 39-51-3207, MCA."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 **Section 1.** Section 2-18-401, MCA, is amended to read:

17 "2-18-401. Central payroll system -- state--auditor
 18 department to provide for inclusion of agencies. The state
 19 auditor department of administration shall install and
 20 operate a uniform state central payroll system for all state
 21 agencies, including units of the Montana university system
 22 and the vocational-technical centers. The auditor department
 23 may provide for the orderly inclusion of state agencies into
 24 such the system and may make exceptions from the operation
 25 thereof of the system for such periods as he it determines

1 necessary."

2 **Section 2.** Section 2-18-402, MCA, is amended to read:

3 "2-18-402. Payroll agency fund -- auditor department to
 4 determine disbursements and transfers. (1) A fund in the
 5 agency fund type of the state treasury is hereby created, to
 6 be known as the state payroll agency fund, which The fund
 7 may be utilized for the payment of compensation to officers
 8 and employees of the state and all amounts withheld
 9 therefrom from compensation, pursuant to law.

10 (2) The amount to be disbursed from the state payroll
 11 agency fund at any time shall must be determined by the
 12 state-auditor department of administration and, on his order
 13 of the department, shall must be transferred forthwith from
 14 the fund, account, and appropriation otherwise properly
 15 chargeable therewith to the state payroll agency fund."

16 **Section 3.** Section 2-18-403, MCA, is amended to read:

17 "2-18-403. Service charges. The state----auditor
 18 department of administration may provide for a system of
 19 charges for services rendered by the state central payroll
 20 system to any department or agency of the state. Funds
 21 collected under this section shall must be deposited to the
 22 credit of a state special revenue fund account and expended
 23 for the purpose of paying the expenses incurred by the state
 24 central payroll system."

25 **Section 4.** Section 2-18-404, MCA, is amended to read:

"2-18-404. Payroll roster -- changes certified by appointing powers. (1) The state--auditor department of administration shall establish and maintain a payroll roster of all persons employed by every state agency and may establish and maintain a roster of all established positions. The payroll roster ~~shall~~ must include exempt employees ~~but---shall---not---necessarily~~ and may include emergency appointees or the equivalent.

(2) Each appointing power shall correctly and promptly certify to the state--auditor department all changes, modifications, additions, and deletions to the payroll roster in compliance with all applicable merit service, fiscal, and other pertinent laws and rules.

(3) The state central payroll system ~~shall~~ must disburse or otherwise act in reliance upon all payroll roster certifications and attendance reports certified to the state-auditor department by the respective appointing powers."

Section 5. Section 2-18-405, MCA, is amended to read:

"2-18-405. Payroll based on actual, end-of-period figures -- pay date -- change of payroll periods. (1) By ~~January-17-1979-att~~ All state payroll systems ~~shall~~ must be based upon actual payroll figures submitted after the end of the payroll period and may not be based upon estimated payroll.

(2) All state payroll systems ~~shall~~ must provide for the fixing of payroll periods and designated days on which salaried employees ~~shall--be~~ are paid for the preceding payroll period. The pay date ~~shall~~ must be uniform for all employees of each state agency employed in the same geographic area, and payroll warrants ~~shall~~ must be distributed or mailed and electronic funds transfers initiated within 10 business days following the close of the payroll period.

(3) The payroll period of employees of a state agency may not be changed by inclusion of the agency into the state payroll system or by any revision or modification of the system unless notice of the proposed change has been given to each employee who will be affected by ~~such~~ the change in the form and manner prescribed by the state--auditor department of administration not less than 60 days prior to the effective date of the change."

Section 6. Section 2-18-411, MCA, is amended to read:

"2-18-411. Lost warrants -- duplicate. (1) Upon receipt of proof satisfactory to the state-auditor department of administration that a payroll warrant issued by the state auditor department has been lost or destroyed prior to its delivery to the employee to whom it is payable, the state auditor department shall, upon certification by the payee's appointing power, issue a duplicate warrant in payment of

the same amount without requiring a bond from the payee, and any loss incurred in connection therewith-~~shall~~ with the warrant must be charged against the account from which the payment was derived.

(2) A payroll warrant ~~shall-be~~ is considered to have been lost if it has been sent to the payee but not received by him the payee within a reasonable time, consistent with the policy of prompt payment of employees, or if it has been sent to a state officer or employee for delivery to the payee or for forwarding to another state officer or employee for such delivery and has not been received within such a reasonable time."

Section 7. Section 17-1-101, MCA, is amended to read:

"17-1-101. Definition of department. Except in chapter 3, part 3, and--~~chapter-4,--part-1,~~ and unless the context requires otherwise, in this title "department" means the department of administration provided for in Title 2, chapter 15, part 10."

Section 8. Section 17-1-121, MCA, is amended to read:

"17-1-121. General fiscal duties of state--~~auditor~~ department. It is the duty of the state--~~auditor~~ department to:

(1) superintend the fiscal concerns of the state;

(2) give information in writing to either house of the legislature relating to the fiscal affairs of the state or

the duties of his-office the department when requested;

(3) suggest plans for the improvement and management of the public revenues revenue;

(4) keep an account of all warrants drawn upon the treasurer and ~~such~~ other account and appropriation records that he the department determines to be essential for the support of the accounting records maintained in the office ~~of-the~~ department ~~of-administration~~;

(5) keep an account between the state and the state treasurer and therein charge the state treasurer with the balance in the treasury when he the treasurer came into office and with all moneys money received by him the treasurer and credit him the treasurer with all warrants drawn on and paid by him the treasurer;

(6) keep a register of warrants, showing the fund upon which they are drawn, the number, in whose favor, and the date issued;

(7) require all persons who have received any moneys money belonging to the state and have not accounted ~~therefor~~ for the money to settle their accounts;

(8) draw warrants on the state treasurer for the payment of moneys money directed by law to be paid out of the treasury, but no a warrant ~~must~~ may not be drawn unless authorized by law;

(9) authenticate with his an official seal all warrants

drawn by him the department and all copies of papers issued from his-office the department;

(10) collect and pay into the state treasury all fees received by him the department; and

(11) perform such other duties as are prescribed by law."

Section 9. Section 17-1-122, MCA, is amended to read:

"17-1-122. Discretionary duties authority of state auditor department. In-his-discretion-it-is-the-duty-of-the state-auditor-to The department may:

(1) inspect the books of any persons charged with the receipt, safekeeping, or disbursement of public moneys money;

(2) require all persons who have received moneys-or securities money or have had the disposition or management of any property of the state of which an account is kept in his the department office to render statements thereof to him the department, and ~~all-such-persons~~ the persons must render statements at such times and in such a form ~~as--he~~ that the department may require;

(3) promulgate rules regarding the distribution and processing of warrants issued; and

(4) ~~establish--under--the--joint--control--of--the department-of-administration-and-the-state-auditor,~~ a system of filing and storage of the original copy of claims paid by

state warrant."

NEW SECTION. Section 10. Authority of state auditor concerning securities. The state auditor may require a person who has received securities of which an account is kept by the auditor to render a statement concerning the securities to the auditor at the time and in the form that the auditor may require.

Section 11. Section 17-3-1004, MCA, is amended to read:

"17-3-1004. Disbursement of funds. (1) The money received by the state treasurer under the provisions of 17-3-1003 ~~shall~~ may be paid out by him the treasurer only on warrant issued by the ~~state-auditor~~ department in payment of claims for expenses actually incurred for the support and maintenance of the institution filing the same claim.

(2) In the payment of claims presented by a state institution entitled to interest and income from land grants or ~~moneys--arising--therefrom~~ money from a land grant, no a warrant ~~shall~~ may not be drawn against the appropriation made by the state out of the general fund for the maintenance of the institution filing the claim until interest and income ~~moneys money~~, ~~insofar--as--they--are~~ available for the payment of the items in the claim, are exhausted."

Section 12. Section 17-4-101, MCA, is amended to read:

"17-4-101. Definitions. In this part, the following

1 definitions apply:

2 (1) The word "department" means the department of
3 revenue administration.

4 (2) The term "state agency" includes all state offices,
5 departments, divisions, boards, commissions, councils,
6 committees, institutions, university units, and other
7 entities or instrumentalities of state government."

8 **Section 13.** Section 17-4-102, MCA, is amended to read:

9 "17-4-102. Accounts of persons indebted to state. (1)
10 ~~in-his-discretion-it-is-the-duty-of-the-state-auditor-to~~ The
11 department may:

12 (a) examine and settle the accounts of persons indebted
13 to the state, and certify the amount, ~~to-the-treasurer--and,~~
14 ~~upon--presentation--and--filing--of--the-treasurer's-receipt~~
15 ~~therefor,~~ to and give such the person a discharge ~~and-charge~~
16 ~~the-treasurer-therewith;~~

17 (b) require any person presenting an account for
18 settlement to be sworn ~~before-him~~ and to answer, orally or
19 in writing, as to any facts relating to it.

20 (2) The certificate mentioned in subsection (1)(a) must
21 show by whom the payment is to be made, the amount ~~thereof,~~
22 and the fund into which it is to be paid and must be
23 numbered in order, beginning with number 1 at the
24 commencement of each fiscal year."

25 **Section 14.** Section 17-4-103, MCA, is amended to read:

1 "17-4-103. Collection of claims by state--auditor
2 department. (1) ~~in-his-discretion, it-is--the--duty--of--the~~
3 ~~state--auditor--to~~ The department may examine the collection
4 of money due the state and institute suits in its name for
5 official delinquencies in relation to the assessment,
6 collection, and payment of the revenue and against persons
7 who possess public money or property and fail to pay over or
8 deliver the money or property and against debtors of the
9 state. The courts of the county where the seat of government
10 ~~may-be~~ is located have jurisdiction, without regard to the
11 residence of the defendants, over the collection suits
12 authorized by this section.

13 (2) Whenever a person has money or other personal
14 property that belongs to the state by escheat or otherwise
15 or has been entrusted with the collection, management, or
16 disbursement of money, bonds, or interest accruing from the
17 money or bonds, belonging to or held in trust by the state,
18 and fails to render an account of the money or personal
19 property to and make settlement with the ~~state--auditor~~
20 department within the time prescribed by law or, when ~~no a~~
21 particular time is not specified, fails to render an account
22 and make settlement or who fails to pay into the state
23 treasury the money belonging to the state, upon being
24 required to do so by the ~~state-auditor~~ department, within 20
25 days after the requisition, the ~~state--auditor~~ department

shall state an account with that person, charging 25% damages and interest at the rate of 10% a year from the time of the failure. A copy of the account in a suit is prima facie evidence of the things stated in the account, but when the state-auditor department cannot for want of information state an account, he it may in an action brought by him the department aver that fact and allege generally the amount of money or other property due or belonging to the state.

(3) The state--auditor department may assist in the collection of a delinquent account owing to any state agency and may separately charge the state agency that transferred the debt for the cost of assistance. The state-auditor department may designate the percentage of collected proceeds to be retained for the cost of assistance.

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

Section 15. Section 17-4-104, MCA, is amended to read:

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

(1) A state agency must shall make all reasonable

efforts to collect money owed to it and ~~must~~ shall 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 state-auditor department the amount of the money, interest, and penalties, as accurately as can be determined. The state--auditor department 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 state-auditor department finds that the debt is uncollectible in accordance with the criteria for uncollectibility of money due that state agency, he it shall direct the agency to write off the debt on its accounts and transfer the debt to him the department.

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

Section 16. 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 state-auditor department, he ~~shall have the authority to the department~~ may collect it. The state-auditor department may

1 contract with commercial collection agencies for recovery of
2 debts owed the state.

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

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

1 request a review.

2 (b) Within 30 days following mailing of notification,
3 the taxpayer may request a review of the asserted liability.
4 If a review is requested, the department of revenue shall
5 conduct an informal review conference, which is not subject
6 to the contested case procedures of the Montana
7 Administrative Procedure Act.

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

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

16 (4) (a) A debt resulting from or relating to a child
17 support obligation owed to the department of social and
18 rehabilitation services or being collected by the department
19 of social and rehabilitation services on behalf of any
20 person or agency may be offset by the ~~state--auditor~~
21 department if:

22 (i) the debt is being enforced or collected by the
23 department of social and rehabilitation services under Title
24 IV-D of the Social Security Act;

25 (ii) the debt is for repayment of child support payments

retained contrary to the assignment at 53-2-613; or

(iii) the debt is for costs of fees under any contract, judgment, or administrative order entered in the course of child support enforcement by the department of social and rehabilitation services.

(b) The debt need not be determined to be uncollectible as provided for in 17-4-104 before being transferred to the state--auditor department 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 of social and rehabilitation services shall adopt rules necessary to determine the hearing procedures.

(5) If, in the discretion of the state--auditor department, the person or entity refuses or neglects to file his a claim within a reasonable time, the head of the state agency owing the amount shall file the claim on behalf of such the person or entity; if if approved by the department of-administration, it ~~shall have~~ has the same force and effect as though if it were filed by such the person or entity. The amount due any person or entity from the state

or any agency thereof is the net amount otherwise owing such the person or entity after any offset, as provided in this section provided."

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

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

(2) Funds collected under 17-4-103(3) must be deposited in an account in the internal service fund for the cost of assistance of debt collection by the state--auditor department. Funds deposited in excess of the amount appropriated for operation of the debt collection program must be carried forward into the next fiscal year for operation of the debt collection program. Any excess carried forward into the next fiscal year ~~will~~ must be used to reduce the designated percentage of the collected proceeds charged to the various state agencies. At the end of each biennium, any fund balance in excess of \$10,000 must be transferred back to the general fund."

Section 18. Section 17-4-107, MCA, is amended to read:

"17-4-107. Write-off procedures. (1) The state--auditor department may establish procedures for canceling and

writing off accounts receivable carried on the books of the various state agencies which that have been transferred to him the department pursuant to 17-4-104 and which that are uncollectible or the continued pursuance of the collection thereof of the accounts receivable would cost the state more than the amount collected. Such The procedures shall must 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 that are uncollectible or the continued pursuance of the collection would cost the state more than the amount collected. Such The procedures shall must include the reporting, as provided in 5-11-210, of any canceling and writing off of accounts receivable."

Section 19. Section 17-4-108, MCA, is amended to read:

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

Section 20. Section 39-3-213, MCA, is amended to read:

"39-3-213. Disposition of wages. (1) The commissioner of labor and industry shall deposit wages collected ~~by him~~ under parts 2 and 4 of this chapter into the agency fund and

shall attempt to make payment of wages to the entitled person. Wages deposited into the agency fund are not interest bearing. The payment of wages collected may be made by means of state warrants.

(2) Warrants issued pursuant to subsection (1) which that remain unclaimed for more than 1 year from the date of issuance shall must be returned to the ~~state--auditor~~ department of administration for cancellation in accordance with 17-8-303."

Section 21. Section 39-51-3207, MCA, is amended to read:

"39-51-3207. Authority to determine uncollectibility of debts -- transfer of debts for collection -- liability for payment of fees and costs of collection. (1) After making all reasonable efforts to collect unpaid contributions, assessments under 39-51-404(4), and penalties and interest thereon, or overpaid benefits under 39-51-3206 and interest thereon, the department may determine a debt to be uncollectible. Upon determining that a debt is uncollectible, the department may transfer the debt to the ~~state-auditor~~ department of administration for collection as provided in 17-4-104.

(2) Subject to approval by the department, reasonable fees or costs of collection incurred by the ~~state-auditor~~ department of administration may be added to the amount of

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

10 NEW SECTION. **Section 22.** Codification instruction.
11 [Section 10] is intended to be codified as an integral part
12 of Title 17, chapter 1, part 1, and the provisions of Title
13 17, chapter 1, part 1, apply to [section 10].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0153, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act consolidating the payroll/personnel/position control system within the Department of Administration by transferring the payroll, warrant writing, and bad debt administration functions of the State Auditor to the Department of Administration.

ASSUMPTIONS:


1. Payroll, warrant writing and bad debt administration would initially operate similar to the way that currently exists in the Auditor's Office for budgeting purposes.
2. Exempt positions transferred to Administration will be classified to reflect their current salary.
3. The cost allocation method developed for payroll and warrant writing budgets by the State Auditor will be adopted by the Department of Administration.
4. ISD will use the same rate structure currently used for data processing charges for the respective programs.
5. Signature plates will be replaced at the time of the transfer; costs are minor and can be absorbed within current levels. The current inventories of warrant stock and associated titled forms are minimal and therefore replacement would represent no significant increase in costs over current level.
6. Warrant writing and bad debt administration will be moved from their current location within the State Auditor's Office. The cost of moving warrant writing and bad debt administration is estimated at \$175 per FTE.
7. The fiscal impact reflected below is relative to the executive budget recommendations.

FISCAL IMPACT:

No net fiscal impact related to transfer of the state payroll program. Minor one-time costs associated with transfer of the fiscal control and management program of \$2,392, funded from warrant writing charges (state special revenue). Details continued on page 2.

 1-19-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/19/93

FRANCIS BARDANOUE, PRIMARY SPONSOR DATE

Fiscal Note for HB0153, as introduced

HB 153

FISCAL IMPACT: (continued)

Expenditures:

State Auditor:

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
State Payroll (Pg 02)						
TE	8.00	1.75	(6.25)	8.00	1.75	(6.25)
Personal Services	250,261	55,845	(194,416)	250,820	55,928	(194,892)
Operating Expenses	<u>350,054</u>	<u>0</u>	<u>(350,054)</u>	<u>296,450</u>	<u>0</u>	<u>(296,450)</u>
Total	600,216	55,845	(544,371)	547,270	55,928	(491,342)
Funding:						
General Fund	243,129	55,845	(187,284)	188,458	55,928	(132,530)
Payroll Processing Charges (02)	<u>357,087</u>	<u>0</u>	<u>(357,087)</u>	<u>358,812</u>	<u>0</u>	<u>(358,812)</u>
Total	600,216	55,845	(544,371)	547,270	55,928	(491,342)
Fiscal Control & Management (Pg 10)						
TE	13.67	0.00	(13.67)	13.67	0.00	(13.67)
Personal Services	352,559	0	(352,559)	353,347	0	(353,347)
Operating Expenses	586,909	0	(586,909)	573,162	0	(573,162)
Equipment	<u>21,807</u>	<u>0</u>	<u>(21,807)</u>	<u>0</u>	<u>0</u>	<u>(0)</u>
Total	961,275	0	(961,275)	926,509	0	(926,509)
Funding:						
General Fund	219,978	0	(219,978)	170,683	0	(170,683)
Grant Writing Charges (02)	543,390	0	(543,390)	559,035	0	(559,035)
Bad Debts Administration (06)	<u>197,907</u>	<u>0</u>	<u>(197,907)</u>	<u>196,791</u>	<u>0</u>	<u>(196,791)</u>
Total	961,275	0	(961,275)	926,509	0	(926,509)

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FISCAL IMPACT: (continued)

Department of Administration:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Personnel (Pg 23)						
FTE	39.00	45.25	6.25	39.00	45.25	6.25
Personal Services	1,310,782	1,505,198	194,416	1,314,610	1,509,502	194,892
Operating Expenses	743,126	1,093,180	350,054	395,099	691,549	296,450
Equipment	25,347	25,347	0	18,298	18,298	0
Debt Service	<u>720</u>	<u>720</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	2,079,975	2,624,346	544,371	1,728,007	2,219,349	491,342
Funding:						
General Fund	966,051	1,153,335	187,284	1,000,126	1,132,656	132,530
Payroll Processing Charges (02)	0	357,087	357,087	0	358,812	358,812
Benefits & Training (06)	<u>1,083,924</u>	<u>1,083,924</u>	<u>0</u>	<u>727,881</u>	<u>727,881</u>	<u>0</u>
Total	2,079,975	2,624,346	544,371	1,728,007	2,219,349	491,342
Accounting & Management Support (Pg 03)						
FTE	24.50	38.17	13.67	24.50	38.17	13.67
Personal Services	832,505	1,185,064	352,559	834,956	1,188,303	353,347
Operating Expenses	366,345	955,646	589,301	321,489	894,651	573,162
Equipment	<u>5,563</u>	<u>27,370</u>	<u>21,807</u>	<u>2,944</u>	<u>2,944</u>	<u>0</u>
Total	1,204,413	2,168,080	963,667	1,159,389	2,085,898	926,509
Funding:						
General Fund	1,106,210	1,326,188	219,978	1,061,405	1,232,088	170,683
Warrant Writing Charges (02)	0	543,390	543,390	0	559,035	559,035
Federal Revenue (03)	30,057	30,057	0	30,058	30,058	0
Bad Debts Administration (06)	<u>0</u>	<u>200,299</u>	<u>200,299</u>	<u>0</u>	<u>196,791</u>	<u>196,791</u>
Total	1,204,413	2,168,080	963,667	1,159,389	2,085,898	926,509
NET IMPACT:						
General Fund			\$ 0			\$ 0
Other (warrant writing charges-02)			2,392			0

TECHNICAL NOTES:

The current bill does not specify an effective date. In order for the appropriations to more clearly follow the functions, a July 1, 1993 effective date is suggested. In addition, appropriations in the general appropriations bill should be coordinated with passage and approval of this legislation.

HB 153

Section 4. Section 2-18-404, MCA, is amended to read:

"2-18-404. Payroll roster -- changes certified by appointing powers. (1) The ~~state--auditor~~ department of administration shall establish and maintain a payroll roster of all persons employed by every state agency and may establish and maintain a roster of all established positions. The payroll roster ~~shall~~ must include exempt employees ~~but---shall--not--necessarily~~ and may include emergency appointees or the equivalent.

(2) Each appointing power shall correctly and promptly certify to the ~~state--auditor~~ department all changes, modifications, additions, and deletions to the payroll roster in compliance with all applicable merit service, fiscal, and other pertinent laws and rules.

(3) The state central payroll system ~~shall~~ must disburse or otherwise act in reliance upon all payroll roster certifications and attendance reports certified to the ~~state-auditor~~ department by the respective appointing powers."

Section 5. Section 2-18-405, MCA, is amended to read:

"2-18-405. Payroll based on actual, end-of-period figures -- pay date -- change of payroll periods. (1) By ~~January 17, 1979, all~~ All state payroll systems ~~shall~~ must be based upon actual payroll figures submitted after the end of the payroll period and may not be based upon estimated

payroll.

(2) All state payroll systems ~~shall~~ must provide for the fixing of payroll periods and designated days on which salaried employees ~~shall--be~~ are paid for the preceding payroll period. The pay date ~~shall~~ must be uniform for all employees of each state agency employed in the same geographic area, and payroll warrants ~~shall~~ must be distributed or mailed and electronic funds transfers initiated within 10 business days following the close of the payroll period.

(3) The payroll period of employees of a state agency may not be changed by inclusion of the agency into the state payroll system or by any revision or modification of the system unless notice of the proposed change has been given to each employee who will be affected by such the change in the form and manner prescribed by the ~~state--auditor~~ department of administration not less than 60 days prior to the effective date of the change."

Section 6. ~~Section 2-18-411, MCA, is amended to read:--~~

~~"2-18-411. Lost warrants---duplicate:--(1) Upon receipt of--proof--satisfactory--to--the--state-auditor~~ department of administration that a payroll warrant issued by the state auditor department has been lost or destroyed prior to its delivery to the employee to whom it is payable, the state auditor department shall, upon certification by the payee's

1 appointing power, issue a duplicate warrant in payment of
2 the same amount without requiring a bond from the payee, and
3 any loss incurred in connection therewith shall with the
4 warrant must be charged against the account from which the
5 payment was derived.

6 {2}--A payroll warrant shall be is considered to have
7 been lost if it has been sent to the payee but not received
8 by him the payee within a reasonable time, consistent with
9 the policy of prompt payment of employees, or if it has been
10 sent to a state officer or employee for delivery to the
11 payee or for forwarding to another state officer or employee
12 for such delivery and has not been received within such a
13 reasonable time."

14 **Section 7.**--Section 17-1-101, MCA, is amended to read:--

15 "17-1-101.--Definition of department.--Except in chapter
16 3, part 3, and chapter 4, part 1, and unless the context
17 requires otherwise, in this title "department" means the
18 department of administration provided for in Title 2,
19 chapter 15, part 10."

20 **Section 8.**--Section 17-1-121, MCA, is amended to read:--

21 "17-1-121.--General fiscal duties of state auditor
22 department.--It is the duty of the state auditor department
23 to:

24 {1}--superintend the fiscal concerns of the state;

25 {2}--give information in writing to either house of the

1 legislature relating to the fiscal affairs of the state or
2 the duties of his office the department when requested;

3 {3}--suggest plans for the improvement and management of
4 the public revenues revenue;

5 {4}--keep an account of all warrants drawn upon the
6 treasurer and such other account and appropriation records
7 that he the department determines to be essential for the
8 support of the accounting records maintained in the office
9 of the department of administration;

10 {5}--keep an account between the state and the state
11 treasurer and therein charge the state treasurer with the
12 balance in the treasury when he the treasurer came into
13 office and with all moneys money received by him the
14 treasurer and credit him the treasurer with all warrants
15 drawn on and paid by him the treasurer;

16 {6}--keep a register of warrants, showing the fund upon
17 which they are drawn, the number, in whose favor, and the
18 date issued;

19 {7}--require all persons who have received any moneys
20 money belonging to the state and have not accounted therefor
21 for the money to settle their accounts;

22 {8}--draw warrants on the state treasurer for the
23 payment of moneys money directed by law to be paid out of
24 the treasury but no a warrant must may not be drawn unless
25 authorized by law;

{9}--authenticate-with-his an official seal all warrants drawn-by-him the department and all copies of papers--issued from-his-office the department;

{10}--collect--and--pay--into-the-state-treasury-all-fees received-by-him the department; and

{11}--perform-such-other--duties--as--are--prescribed--by law;"

Section 9.--Section 17-1-122, MCA, is amended to read:--

"17-1-122.--Discretionary--duties authority of--state auditor department;--in-his-discretion-it-is-the-duty-of--the state-auditor-to The department may;

{1}--inspect--the--books-of-any-persons-charged-with-the receipt;--safekeeping;--or--disbursement--of--public--moneys money;

{2}--require-all-persons-who--have--received--moneys--or securities money or-have-had-the-disposition-or-management of-any-property-of-the-state-of-which-an-account-is-kept--in his the department office-to-render-statements-thereof-to him the department;--and-all-such-persons the persons must render--statements--at--such--times-and-in-such a form-as-he that the department may-require;

{3}--promulgate-rules--regarding--the--distribution--and processing-of-warrants-issued; and

{4}--establish;--under--the--joint--control--of--the department-of-administration-and-the-state-auditor;--a-system

of-filing-and-storage-of-the-original-copy-of-claims-paid-by state-warrant."

NEW SECTION.--Section 10.--Authority--of--state--auditor-- concerning-securities;--The--state--auditor--may--require--a person--who--has--received-securities-of-which-an-account-is kept-by-the-auditor-to-render--a--statement--concerning--the securities--to--the-auditor-at-the-time-and-in-the-form-that the-auditor-may-require;

Section 11.--Section 17-3-1004, MCA, is amended to read:--

"17-3-1004.--Disbursement--of--funds;--{1}---The---money received--by--the--state--treasurer--under-the-provisions-of 17-3-1003-shall may be-paid-out-by-him the treasurer only-on warrant-issued-by-the-state-auditor department in-payment-of claims-for-expenses-actually-incurred-for--the--support--and maintenance-of-the-institution-filing-the-same claim;

{2}--In--the--payment--of--claims--presented--by-a-state institution-entitled-to-interest-and-income-from-land-grants or-moneys-arising-therefrom money from a land grant;--no a warrant--shall may not be-drawn-against-the-appropriation made--by--the--state--out--of--the--general--fund--for--the maintenance--of--the--institution--filing--the--claim--until interest--and--income--moneys money;--insofar--as--they-are available-for-the-payment-of-the-items--in--the--claim;--are exhausted."

Section 12.--Section 17-4-101, MCA, is amended to read:--

1 ~~"17-4-101--Definitions--in--this--part--the--following~~
2 ~~definitions--apply:~~

3 ~~{1}--The--word--"department"--means--the--department--of~~
4 ~~revenue administration:~~

5 ~~{2}--The--term--"state--agency"--includes--all--state--offices,~~
6 ~~departments,--divisions,--boards,--commissions,--councils,~~
7 ~~committees,--institutions,--university--units,--and--other~~
8 ~~entities--or--instrumentalities--of--state--government;"~~

9 ~~Section 13--Section 17-4-102, MCA, is amended to read:--~~

10 ~~"17-4-102--Accounts--of--persons--indebted--to--state:--{1}~~
11 ~~in--his--discretion--it--is--the--duty--of--the--state--auditor--to The~~
12 ~~department--may:~~

13 ~~{a}--examine--and--settle--the--accounts--of--persons--indebted~~
14 ~~to--the--state, and--certify--the--amount, to--the--treasurer--and,~~
15 ~~upon--presentation--and--filing--of--the--treasurer's--receipt~~
16 ~~therefor, to and give--such the person--a--discharge--and--charge~~
17 ~~the--treasurer--therewith;~~

18 ~~{b}--require--any--person--presenting--an--account--for~~
19 ~~settlement--to--be--sworn--before--him--and--to--answer,--orally--or~~
20 ~~in--writing,--as--to--any--facts--relating--to--it;~~

21 ~~{2}--The--certificate--mentioned--in--subsection--{1}{a}--must~~
22 ~~show--by--whom--the--payment--is--to--be--made, the--amount--thereof,~~
23 ~~and--the--fund--into--which--it--is--to--be--paid--and--must--be~~
24 ~~numbered--in--order,--beginning--with--number--1--at--the~~
25 ~~commencement--of--each--fiscal--year;"~~

1 ~~Section 14--Section 17-4-103, MCA, is amended to read:--~~

2 ~~"17-4-103--Collection--of--claims--by--state--auditor~~
3 ~~department,--{1}--in--his--discretion, it--is--the--duty--of--the~~
4 ~~state--auditor--to The--department--may examine--the--collection~~
5 ~~of--money--due--the--state--and--institute--suits--in--its--name--for~~
6 ~~official--delinquencies--in--relation--to--the--assessment,~~
7 ~~collection,--and--payment--of--the--revenue--and--against--persons~~
8 ~~who--possess--public--money--or--property--and--fail--to--pay--over--or~~
9 ~~deliver--the--money--or--property--and--against--debtors--of--the~~
10 ~~state--The--courts--of--the--county--where--the--seat--of--government~~
11 ~~may--be is located--have--jurisdiction, without--regard--to--the~~
12 ~~residence--of--the--defendants,--over--the--collection--suits~~
13 ~~authorized--by--this--section;~~

14 ~~{2}--Whenever--a--person--has--money--or--other--personal~~
15 ~~property--that--belongs--to--the--state--by--escheat--or--otherwise~~
16 ~~or--has--been--entrusted--with--the--collection, management, or~~
17 ~~disbursement--of--money, bonds, or--interest--accruing--from--the~~
18 ~~money--or--bonds, belonging--to--or--held--in--trust--by--the--state,~~
19 ~~and--fails--to--render--an--account--of--the--money--or--personal~~
20 ~~property--to--and--make--settlement--with--the--state--auditor~~
21 ~~department within--the--time--prescribed--by--law--or, when--no a~~
22 ~~particular--time--is not specified, fails--to--render--an--account~~
23 ~~and--make--settlement--or--who--fails--to--pay--into--the--state~~
24 ~~treasury--the--money--belonging--to--the--state,--upon--being~~
25 ~~required--to--do--so--by--the--state--auditor department, within--20~~

days--after--the--requisition--the-state-auditor department shall state--an--account--with--that--person--charging--25% damages-and-interest-at-the-rate-of-10% a-year-from-the-time of--the--failure--A--copy-of-the-account-in-a-suit-is-prima facie-evidence-of-the-things-stated-in-the-account--but-when the-state-auditor department cannot-for-want-of--information state--an-account--he it may-in-an-action-brought-by-him the department aver-that-fact-and-allege-generally-the-amount-of money-or-other-property-due-or-belonging-to-the-state.

{3}--The-state-auditor department may--assist--in--the collection-of-a-delinquent-account-owing-to-any-state-agency and--may-separately-charge-the-state-agency-that-transferred the-debt-for-the--cost--of--assistance--The--state--auditor department may---designate--the--percentage--of--collected proceeds-to-be-retained-for-the-cost-of-assistance.

{4}--The--state--auditor department may---provide---a collection--service--for-the-general-purpose-of-centralizing the-collection-of-all-debts-owing-to-the-state."

Section 15.--Section 17-4-104, MCA, is amended to read:--

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

{1}--A--state--agency--must shall make--all-reasonable efforts-to-collect-money-owed-to-it-and-must shall 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--state--auditor department the-amount-of-the-money--interest--and-penalties-- as--accurately--as--can--be--determined--The--state-auditor department 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-state-auditor department finds-that-the-debt is--uncollectible--in--accordance--with--the--criteria---for uncollectibility-of-money-due-that-state-agency--he it shall direct--the-agency-to-write-off-the-debt-on-its-accounts-and transfer-the-debt-to-him the department.

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

Section 16.--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 state-auditor department--he-shall-have-the-authority-to the

~~department may collect it. The state auditor department may contract with commercial collection agencies for recovery of debts owed the state.~~

~~{2}--The--state--auditor department shall--offset--any amount due a state agency from a person--or--entity--against any--amount, including refunds or taxes, owing the person or entity by any state agency, provided the state auditor The department may--not exercise this right of offset until the debtor has--first--been--notified--by--the--state--auditor department and--been given an opportunity for a hearing. No An offset may not be made against any--amount--paid--out--as child--support--collected--by--the--department of social and rehabilitation services. The state auditor department shall deduct--from the claim and draw his warrants for the amounts offset in favor of the respective state--agencies--to--which due--and--for any balance in favor of the claimant. Whenever insufficient to offset all amounts due state--agencies,--the amount--available--shall must be applied first to debts owed by reason of the nonpayment of child--support--and--then--in such a manner as that the state auditor department, in his its discretion, shall determine.~~

~~{3}--{a}--The department of revenue retains the power--to offset--tax--refunds--due individuals against taxes owed the state, provided the department of revenue may--not--exercise this right of offset until the taxpayer has been notified by~~

~~the--department of revenue and been given the opportunity to request a review.~~

~~{b}--Within 30 days following mailing--of--notification, the taxpayer may request a review of the asserted liability. If--a--review--is requested, the department of revenue shall conduct an informal review conference, which is not--subject to--the--contested--case--procedures--of--the--Montana Administrative Procedure Act.~~

~~{c}--Appeal from--the--decision--of--the--department of revenue after--the--review--conference--may be taken to the state tax appeal board.~~

~~{d}--A taxpayer is not entitled to a--review--conference for--a--tax offset if the tax liability has been the subject matter of--any--proceeding--conducted--for--the--purpose--of determining--its--validity and any decision made as a result of that proceeding has become final.~~

~~{4}--{a}--A debt resulting from or relating--to--a--child support--obligation--owed--to--the--department of social and rehabilitation services or being collected by the department of social and rehabilitation services on--behalf--of--any person--or--agency--may--be--offset--by--the--state--auditor department if:~~

~~{i}--the--debt--is--being--enforced--or collected by the department of social and rehabilitation services under Title IV-B of the Social Security Act;~~

{ii}-the-debt-is-for-repayment-of-child-support-payments retained-contrary-to-the-assignment-at-53-2-613;-or

{iii}-the-debt-is-for-costs-of-fees-under-any--contract, judgment,--or--administrative-order-entered-in-the-course-of child-support-enforcement-by-the-department--of--social--and rehabilitation-services;

{b}--The-debt-need-not-be-determined-to-be-uncollectible as--provided-for-in-17-4-104-before-being-transferred-to-the state-auditor department 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-of-social-and-rehabilitation-services-shall-adopt rules-necessary-to-determine-the-hearing-procedures;

{5}--If--in--the--discretion--of--the---state---auditor department, the-person-or-entity-refuses-or-neglects-to-file his a claim-within-a-reasonable-time, the-head-of-the-state agency-owing-the-amount-shall-file-the-claim--on--behalf--of such the person-or-entity,--if if approved-by-the-department of--administration,--it--shall--have has the-same-force-and effect-as-though if-it-were filed--by--such the person--or

entity--The--amount-due-any-person-or-entity-from-the-state or-any-agency-thereof-is-the-net-amount-otherwise-owing-such the person-or-entity-after-any-offset, as provided--in--this section-provided."

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

"17-4-106.---Agency---owed---debt---to---receive---all---money collected---exception--{1} All-money-collected-by-the-state auditor department on-debts-transferred-to--him it by--the various---state---agencies,--except--funds--collected--under 17-4-103{3}, must-be-deposited-to-the-account-or-fund-of-the agency-to-which-the-debt-was-originally-owing;

{2}--Funds-collected-under-17-4-103{3} must-be-deposited in-an-account-in-the-internal-service-fund-for-the--cost--of assistance---of---debt---collection--by--the--state--auditor department,--Funds--deposited--in--excess--of---the---amount appropriated--for--operation--of-the-debt-collection-program must-be-carried--forward--into--the--next--fiscal--year--for operation-of-the-debt-collection-program--Any-excess-carried forward--into--the--next--fiscal--year--will must be-used-to reduce-the-designated-percentage-of-the--collected--proceeds charged--to--the--various-state-agencies--At-the-end-of-each biennium, any-fund-balance-in--excess--of--\$10,000--must--be transferred-back-to-the-general-fund."

Section-18.--Section-17-4-107, MCA, is-amended-to-read:--

"17-4-107.---Write-off-procedures--{1} The-state-auditor

department may establish procedures for canceling and writing off accounts receivable carried on the books of the various state agencies which that have been transferred to him the department pursuant to 17-4-104 and which that are uncollectible or the continued pursuance of the collection thereof of the accounts receivable would cost the state more than the amount collected. Such ~~The~~ procedures shall must 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 that are uncollectible or the continued pursuance of the collection would cost the state more than the amount collected. Such ~~The~~ procedures shall must include the reporting as provided in 5-11-210 of any canceling and writing off of accounts receivable."

Section 19. Section 17-4-108, MCA, is amended to read:

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

Section 20. Section 39-3-213, MCA, is amended to read:

"39-3-213. Disposition of wages. (1) The commissioner of labor and industry shall deposit wages collected by him

under parts 2 and 4 of this chapter into the agency fund and shall attempt to make payment of wages to the entitled person. Wages deposited into the agency fund are not interest bearing. The payment of wages collected may be made by means of state warrants.

(2) Warrants issued pursuant to subsection (1) which that remain unclaimed for more than 1 year from the date of issuance shall must be returned to the state auditor department of administration for cancellation in accordance with 17-8-303."

Section 21. Section 39-51-3207, MCA, is amended to

read:

"39-51-3207. Authority to determine uncollectibility of debts. Transfer of debts for collection. Liability for payment of fees and costs of collection. (1) After making all reasonable efforts to collect unpaid contributions, assessments under 39-51-404(4), and penalties and interest thereon, or overpaid benefits under 39-51-3206 and interest thereon, the department may determine a debt to be uncollectible. Upon determining that a debt is uncollectible, the department may transfer the debt to the state auditor department of administration for collection as provided in 17-4-104.

(2) Subject to approval by the department, reasonable fees or costs of collection incurred by the state auditor

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

11 ~~NEW SECTION. Section 22. Codification instruction.~~
 12 ~~{Section 10} is intended to be codified as an integral part~~
 13 ~~of Title 17, chapter 17, part 1, and the provisions of Title~~
 14 ~~17, chapter 17, part 1, apply to {section 10}.~~

15 ~~NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS~~
 16 ~~EFFECTIVE JULY 1, 1993.~~

-End-

HOUSE BILL NO. 153

INTRODUCED BY BARDANOUVE, NATHE, JERGSON, COBB

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CONSOLIDATING THE PAYROLL/PERSONNEL/POSITION CONTROL SYSTEM WITHIN THE DEPARTMENT OF ADMINISTRATION BY TRANSFERRING THE PAYROLL, WARRANT-WRITING, AND BAD-DEBT--ADMINISTRATION FUNCTIONS OF THE STATE AUDITOR TO THE DEPARTMENT OF ADMINISTRATION; AND AMENDING SECTIONS 2-18-401, 2-18-402, 2-18-403, 2-18-404, AND 2-18-405, ---2-18-411,--17-1-101,--17-1-121,--17-1-122, 17-3-1004, 17-4-101, 17-4-102, 17-4-103, 17-4-104, 17-4-105, 17-4-106, 17-4-107, 17-4-108, 39-3-213, AND 39-51-3207, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 2-18-401, MCA, is amended to read:

"2-18-401. Central payroll system -- state--auditor department to provide for inclusion of agencies. The state auditor department of administration shall install and operate a uniform state central payroll system for all state agencies, including units of the Montana university system and the vocational-technical centers. The auditor department may provide for the orderly inclusion of state agencies into such the system and may make exceptions from the operation

thereof of the system for such periods as ~~he~~ it determines necessary."

Section 2. Section 2-18-402, MCA, is amended to read:

"2-18-402. Payroll agency fund -- auditor department to determine disbursements and transfers. (1) A fund in the agency fund type of the state treasury is hereby created, to be known as the state payroll agency fund, ~~which~~ The fund may be utilized for the payment of compensation to officers and employees of the state and all amounts withheld ~~therefrom~~ from compensation, pursuant to law.

(2) The amount to be disbursed from the state payroll agency fund at any time ~~shall~~ must be determined by the ~~state-auditor~~ department of administration and, on his order of the department, ~~shall~~ must be transferred forthwith from the fund, account, and appropriation otherwise properly chargeable therewith to the state payroll agency fund."

Section 3. Section 2-18-403, MCA, is amended to read:

"2-18-403. Service charges. The state---auditor department of administration may provide for a system of charges for services rendered by the state central payroll system to any department or agency of the state. Funds collected under this section ~~shall~~ must be deposited to the credit of a state special revenue fund account and expended for the purpose of paying the expenses incurred by the state central payroll system."

Section 4. Section 2-18-404, MCA, is amended to read:

"2-18-404. Payroll roster -- changes certified by appointing powers. (1) The state--auditor department of administration shall establish and maintain a payroll roster of all persons employed by every state agency and may establish and maintain a roster of all established positions. The payroll roster shall must include exempt employees ~~but---shall---not---necessarily~~ and may include emergency appointees or the equivalent.

(2) Each appointing power shall correctly and promptly certify to the state--auditor department all changes, modifications, additions, and deletions to the payroll roster in compliance with all applicable merit service, fiscal, and other pertinent laws and rules.

(3) The state central payroll system shall must disburse or otherwise act in reliance upon all payroll roster certifications and attendance reports certified to the state-auditor department by the respective appointing powers."

Section 5. Section 2-18-405, MCA, is amended to read:

"2-18-405. Payroll based on actual, end-of-period figures -- pay date -- change of payroll periods. (1) By ~~January 1, 1999~~ all All state payroll systems shall must be based upon actual payroll figures submitted after the end of the payroll period and may not be based upon estimated

payroll.

(2) All state payroll systems shall must provide for the fixing of payroll periods and designated days on which salaried employees shall--be are paid for the preceding payroll period. The pay date shall must be uniform for all employees of each state agency employed in the same geographic area, and payroll warrants shall must be distributed or mailed and electronic funds transfers initiated within 10 business days following the close of the payroll period.

(3) The payroll period of employees of a state agency may not be changed by inclusion of the agency into the state payroll system or by any revision or modification of the system unless notice of the proposed change has been given to each employee who will be affected by such the change in the form and manner prescribed by the state--auditor department of administration not less than 60 days prior to the effective date of the change."

Section 6. ~~Section 2-18-411, MCA, is amended to read:--~~

~~"2-18-411. --lost warrants---duplicate--(1)--Upon receipt of--proof--satisfactory--to--the--state--auditor department of administration that a payroll warrant issued--by--the--state auditor department has been lost or destroyed prior to its delivery to the employee to whom it is--payable,--the--state auditor department shall, upon certification by the payee's~~

1 appointing power, issue a duplicate warrant in payment of
2 the same amount without requiring a bond from the payee, and
3 any loss incurred in connection therewith shall with the
4 warrant must be charged against the account from which the
5 payment was derived.

6 {2} A payroll warrant shall be is considered to have
7 been lost if it has been sent to the payee but not received
8 by him the payee within a reasonable time, consistent with
9 the policy of prompt payment of employees, or if it has been
10 sent to a state officer or employee for delivery to the
11 payee or for forwarding to another state officer or employee
12 for such delivery and has not been received within such a
13 reasonable time."

14 **Section 7.** Section 17-1-101, MEA, is amended to read:--

15 "17-1-101. Definition of department. Except in chapter
16 3, part 3, and chapter 4, part 1, and unless the context
17 requires otherwise, in this title "department" means the
18 department of administration provided for in Title 2,
19 chapter 15, part 10."

20 **Section 8.** Section 17-1-121, MEA, is amended to read:--

21 "17-1-121. General fiscal duties of state auditor
22 department. It is the duty of the state auditor department
23 to:

24 {1} superintend the fiscal concerns of the state;

25 {2} give information in writing to either house of the

1 legislature relating to the fiscal affairs of the state or
2 the duties of his office the department when requested;

3 {3} suggest plans for the improvement and management of
4 the public revenues revenue;

5 {4} keep an account of all warrants drawn upon the
6 treasurer and such other account and appropriation records
7 that the department determines to be essential for the
8 support of the accounting records maintained in the office
9 of the department of administration;

10 {5} keep an account between the state and the state
11 treasurer and therein charge the state treasurer with the
12 balance in the treasury when he the treasurer came into
13 office and with all moneys money received by him the
14 treasurer and credit him the treasurer with all warrants
15 drawn on and paid by him the treasurer;

16 {6} keep a register of warrants, showing the fund upon
17 which they are drawn, the number, in whose favor, and the
18 date issued;

19 {7} require all persons who have received any moneys
20 money belonging to the state and have not accounted therefor
21 for the money to settle their accounts;

22 {8} draw warrants on the state treasurer for the
23 payment of moneys money directed by law to be paid out of
24 the treasury, but no a warrant must may not be drawn unless
25 authorized by law;

(9)--authenticate-with-his an official sent all warrants drawn-by-him the department and all copies of papers--issued from-his-office the department;

(10)--collect--and--pay--into-the-state-treasury-all-fees received-by-him the department; and

(11)--perform-such-other--duties--as--are--prescribed--by law;"

Section 9.--Section 17-1-122, MCA, is amended to read:--

"17-1-122.--Discretionary--duties authority of--state auditor department.--In-his-discretion-it-is-the-duty-of--the state-auditor-to The department may:

(1)--inspect--the--books-of-any-persons-charged-with-the receipt,--safekeeping,--or--disbursement--of--public--moneys money;

(2)--require-all-persons-who--have--received--moneys--or securities money or-have-had-the-disposition-or-management of-any-property-of-the-state-of-which-an-account-is-kept--in his the--department office-to-render-statements-thereof-to him the department, and all such persons the persons must render--statements--at--such--times-and-in-such a form-as-he that the department may require;

(3)--promulgate-rules--regarding--the--distribution--and processing-of-warrants-issued; and

(4)--establish,--under--the--joint--control--of--the department-of-administration-and-the-state-auditor, a system

of-filing-and-storage-of-the-original-copy-of-claims-paid-by state-warrant;"

NEW SECTION.--**Section 10.**--Authority--of--state--auditor--concerning-securities.--The--state--auditor--may--require--a person--who--has--received-securities-of-which-an-account-is kept-by-the-auditor-to-render--a--statement--concerning--the securities--to--the-auditor-at-the-time-and-in-the-form-that the-auditor-may-require;

Section 11.--Section 17-3-1004, MCA, is amended to read:--

"17-3-1004.--Disbursement--of--funds:--(1)--The--money received--by--the--state--treasurer--under-the-provisions-of 17-3-1003-shall may be-paid-out-by-him the treasurer only-on warrant-issued-by-the-state-auditor department in-payment-of claims-for-expenses-actually-incurred-for--the--support--and maintenance-of-the-institution-filing-the-same claim;

(2)--In--the--payment--of--claims--presented--by-a-state institution-entitled-to-interest-and-income-from-land-grants or-moneys-arising-therefrom money from a land grant,--no a warrant--shall may not be-drawn-against-the-appropriation made--by--the--state--out--of--the--general--fund--for--the maintenance--of--the--institution--filing--the--claim--until interest--and--income--moneys money,--insofar--as--they-are available-for-the-payment-of-the-items--in--the--claim,--are exhausted;"

Section 12.--Section 17-4-101, MCA, is amended to read:--

1 "17-4-101--Definitions--in--this--part--the--following
2 definitions apply:

3 (1)--The--word--"department"--means--the--department--of
4 revenue administration:

5 (2)--The--term--"state-agency"--includes--all--state--offices,
6 departments--divisions--boards--commissions--councils,
7 committees--institutions--university--units--and--other
8 entities--or--instrumentalities--of--state--government."

9 **Section 13.**--Section-17-4-102, MCA, is amended to read:--

10 "17-4-102--Accounts-of-persons-indebted-to--state--(1)
11 in-his-discretion-it-is-the-duty-of-the-state-auditor-to The
12 department may:

13 (a)--examine-and-settle-the-accounts-of-persons-indebted
14 to--the--state, and-certify-the-amount, to-the-treasurer-and,
15 upon-presentation-and--filing--of--the--treasurer's--receipt
16 therefor, to and give-such the person-a-discharge-and-charge
17 the-treasurer-therewith;

18 (b)--require--any--person--presenting--an--account--for
19 settlement-to-be-sworn-before-him-and-to-answer--orally--or
20 in-writing, as-to-any-facts-relating-to-it;

21 (2)--The-certificate-mentioned-in-subsection-(1)(a)-must
22 show--by-whom-the-payment-is-to-be-made, the-amount-thereof,
23 and-the-fund-into-which--it--is--to--be-paid--and--must--be
24 numbered--in--order,--beginning--with--number--1--at--the
25 commencement-of-each-fiscal-year."

1 **Section 14.**--Section-17-4-103, MCA, is amended to read:--

2 "17-4-103--Collection-of-claims-by--state--auditor
3 department--(1)--in-his-discretion, it-is-the-duty-of-the
4 state-auditor-to The department may examine--the--collection
5 of--money--due-the-state-and-institute-suits-in-its-name-for
6 official--delinquencies--in--relation--to--the--assessment,
7 collection,--and--payment-of-the-revenue-and-against-persons
8 who-possess-public-money-or-property-and-fail-to-pay-over-or
9 deliver-the-money-or-property-and--against--debtors--of--the
10 state--The-courts-of-the-county-where-the-seat-of-government
11 may--be is located-have-jurisdiction, without-regard-to-the
12 residence-of--the--defendants,--over--the--collection--suits
13 authorized-by-this-section;

14 (2)--Whenever--a--person--has--money--or--other-personal
15 property-that-belongs-to-the-state-by-escheat--or--otherwise
16 or--has--been--entrusted-with-the-collection, management, or
17 disbursement-of-money, bonds, or interest accruing from--the
18 money--or bonds, belonging-to-or-held-in-trust-by-the-state,
19 and-fails-to-render-an-account--of--the--money--or--personal
20 property--to--and--make--settlement--with--the-state-auditor
21 department within-the-time-prescribed-by-law-or, when--no a
22 particular-time-is not specified, fails-to-render-an-account
23 and--make--settlement--or--who--fails--to-pay-into-the-state
24 treasury-the--money--belonging--to--the--state,--upon--being
25 required-to-do-so-by-the-state-auditor department, within-20

days--after--the--requisition,--the--state--auditor department shall--state--an--account--with--that--person,--charging--25% damages--and--interest--at--the--rate--of--10%--a--year--from--the--time of--the--failure. A--copy--of--the--account--in--a--suit--is--prima facie--evidence--of--the--things--stated--in--the--account,--but--when the--state--auditor department cannot--for--want--of--information state--an--account,--he it may--in--an--action--brought--by--him the department aver--that--fact--and--allege--generally--the--amount--of money--or--other--property--due--or--belonging--to--the--state.

{3}--The--state--auditor department may--assist--in--the collection--of--a--delinquent--account--owing--to--any--state--agency and--may--separately--charge--the--state--agency--that--transferred the--debt--for--the--cost--of--assistance. The--state--auditor department may--designate--the--percentage--of--collected proceeds--to--be--retained--for--the--cost--of--assistance.

{4}--The--state--auditor department may--provide--a collection--service--for--the--general--purpose--of--centralizing the--collection--of--all--debts--owing--to--the--state."

Section 15.--Section 17-4-104, MCA, is amended to read:--

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

{1}--A--state--agency--must shall make--all--reasonable efforts--to--collect--money--owed--to--it--and--must shall 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--state--auditor department the--amount--of--the--money,--interest,--and--penalties, as--accurately--as--can--be--determined. The--state--auditor department 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--state--auditor department finds--that--the--debt is--uncollectible--in--accordance--with--the--criteria--for uncollectibility--of--money--due--that--state--agency,--he it shall direct--the--agency--to--write--off--the--debt--on--its--accounts--and transfer--the--debt--to--him the--department.

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

Section 16.--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 state--auditor department,--he--shall--have--the--authority--to the

1 ~~department--may collect it--The state auditor department may~~
 2 ~~contract with commercial collection agencies for recovery of~~
 3 ~~debts owed the state.~~

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

22 {3}--(a) The department of revenue retains the power to
 23 offset--tax--refunds--due--individuals--against--taxes--owed--the
 24 state, provided the department of revenue may--not--exercise
 25 this right of offset until the taxpayer has been notified by

1 the--department of revenue and been given the opportunity to
 2 request a review.

3 {b}--Within 30 days following mailing of notification,
 4 the taxpayer may request a review of the asserted liability.
 5 If a review is requested, the department of revenue shall
 6 conduct an informal review conference, which is not subject
 7 to the contested case procedures of the Montana
 8 Administrative Procedure Act.

9 {c}--Appeal from the decision of the department of
 10 revenue after the review conference may be taken to the
 11 state tax appeal board.

12 {d}--A taxpayer is not entitled to a review conference
 13 for a tax offset if the tax liability has been the subject
 14 matter of any proceeding conducted for the purpose of
 15 determining its validity and any decision made as a result
 16 of that proceeding has become final.

17 {4}--(a) A debt resulting from or relating to a child
 18 support obligation owed to the department of social and
 19 rehabilitation services or being collected by the department
 20 of social and rehabilitation services on behalf of any
 21 person or agency may be offset by the state auditor
 22 department if:

23 {i}--the debt is being enforced or collected by the
 24 department of social and rehabilitation services under Title
 25 IV-B of the Social Security Act;

{ii} the debt is for repayment of child support payments retained contrary to the assignment at 53-2-613; or

{iii} the debt is for costs of fees under any contract, judgment, or administrative order entered in the course of child support enforcement by the department of social and rehabilitation services.

{b} The debt need not be determined to be uncollectible as provided for in 17-4-104 before being transferred to the state auditor department 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 of social and rehabilitation services shall adopt rules necessary to determine the hearing procedures.

{5} If, in the discretion of the state auditor department, the person or entity refuses or neglects to file his a claim within a reasonable time, the head of the state agency owing the amount shall file the claim on behalf of such the person or entity, if if approved by the department of administration, it shall have has the same force and effect as though if it were filed by such the person or

entity. The amount due any person or entity from the state or any agency thereof is the net amount otherwise owing such the person or entity after any offset, as provided in this section provided."

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

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

(2) Funds collected under 17-4-103(3) must be deposited in an account in the internal service fund for the cost of assistance of debt collection by the state auditor department. Funds deposited in excess of the amount appropriated for operation of the debt collection program must be carried forward into the next fiscal year for operation of the debt collection program. Any excess carried forward into the next fiscal year will must be used to reduce the designated percentage of the collected proceeds charged to the various state agencies. At the end of each biennium, any fund balance in excess of \$10,000 must be transferred back to the general fund."

Section 18. Section 17-4-107, MCA, is amended to read:

"17-4-107. Write-off procedures. (1) The state auditor

department may establish procedures for canceling and writing off accounts receivable carried on the books of the various state agencies which that have been transferred to him the department pursuant to 17-4-104 and which that are uncollectible or the continued pursuance of the collection thereof of the accounts receivable would cost the state more than the amount collected. Such The procedures shall must 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 that are uncollectible or the continued pursuance of the collection would cost the state more than the amount collected. Such The procedures shall must include the reporting, as provided in 5-11-210, of any canceling and writing off of accounts receivable.

Section 19. Section 17-4-106, MCA, is amended to read:

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

Section 20. Section 39-3-213, MCA, is amended to read:

"39-3-213. Disposition of wages. (1) The commissioner of labor and industry shall deposit wages collected by him

under parts 2 and 4 of this chapter into the agency fund and shall attempt to make payment of wages to the entitled person. Wages deposited into the agency fund are not interest bearing. The payment of wages collected may be made by means of state warrants.

(2) Warrants issued pursuant to subsection (1) which that remain unclaimed for more than 1 year from the date of issuance shall must be returned to the state auditor department of administration for cancellation in accordance with 17-8-303."

Section 21. Section 39-51-3207, MCA, is amended to read:

"39-51-3207. Authority to determine uncollectibility of debts. Transfer of debts for collection. Liability for payment of fees and costs of collection. (1) After making all reasonable efforts to collect unpaid contributions, assessments under 39-51-404(4), and penalties and interest thereon, or overpaid benefits under 39-51-3206 and interest thereon, the department may determine a debt to be uncollectible. Upon determining that a debt is uncollectible, the department may transfer the debt to the state auditor department of administration for collection as provided in 17-4-104.

(2) Subject to approval by the department, reasonable fees or costs of collection incurred by the state auditor

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

11 ~~NEW SECTION. Section 22.~~ Codification instruction--
 12 {Section 10} is intended to be codified as an integral part
 13 of Title 17, chapter 17, part 1, and the provisions of Title
 14 17, chapter 17, part 1, apply to {section 10}.

15 NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS
 16 EFFECTIVE JULY 1, 1993.

-End-

1 SENATE BILL NO. 153

2 INTRODUCED BY DOHERTY, J. RICE

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MANDATORY
6 MOTOR VEHICLE REGISTRATION AND LIABILITY PROTECTION LAWS;
7 PROVIDING THAT THE SENTENCE FOR DRIVING WITHOUT INSURANCE
8 MAY NOT BE DEFERRED; ABOLISHING THE REQUIREMENT THAT A MOTOR
9 VEHICLE REGISTRATION RECEIPT AND PROOF OF INSURANCE
10 CERTIFICATE BE SIGNED BY THE OWNER; REVISING THE PROOF OF
11 INSURANCE REQUIREMENTS; INCREASING THE PENALTY FOR DRIVING
12 WITHOUT INSURANCE; ADDING ADDITIONAL PENALTIES; AND AMENDING
13 SECTIONS 46-18-201, 61-3-322, 61-3-535, 61-6-302, 61-6-304,
14 61-11-203, AND 61-13-104, MCA."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:17 **Section 1.** Section 46-18-201, MCA, is amended to read:

18 "46-18-201. Sentences that may be imposed. (1) Whenever
19 a person has been found guilty of an offense upon a verdict
20 or a plea of guilty, the court may:

21 (a) defer imposition of sentence, except as provided in
22 61-8-714 and 61-8-722 for sentences for driving under the
23 influence of alcohol or drugs or as provided in 61-6-304,
24 for a period, except as otherwise provided, not exceeding 1
25 year for any misdemeanor or for a period not exceeding 3

1 years for any felony. The sentencing judge may impose upon
2 the defendant any reasonable restrictions or conditions
3 during the period of the deferred imposition. Reasonable
4 restrictions or conditions may include:

- 5 (i) jail base release;
6 (ii) jail time not exceeding 180 days;
7 (iii) conditions for probation;
8 (iv) restitution;
9 (v) payment of the costs of confinement;
10 (vi) payment of a fine as provided in 46-18-231;
11 (vii) payment of costs as provided in 46-18-232 and
12 46-18-233;
13 (viii) payment of costs of court-appointed counsel as
14 provided in 46-8-113;
15 (ix) with the approval of the facility or program, order
16 the offender to be placed in a community corrections
17 facility or program as provided in 53-30-321;
18 (x) community service;
19 (xi) home arrest as provided in Title 46, chapter 18,
20 part 10;
21 (xii) any other reasonable conditions considered
22 necessary for rehabilitation or for the protection of
23 society; or
24 (xiii) any combination of the above.
25 (b) suspend execution of sentence up to the maximum

1 sentence allowed for each particular offense. The sentencing
2 judge may impose on the defendant any reasonable
3 restrictions or conditions during the period of suspended
4 sentence. Reasonable restrictions or conditions may include
5 any of those listed in subsection (1)(a).

6 (c) impose a fine as provided by law for the offense;

7 (d) require payment of costs as provided in 46-18-232
8 or payment of costs of court-appointed counsel as provided
9 in 46-8-113;

10 (e) commit the defendant to a correctional institution,
11 with or without a fine as provided by law for the offense;

12 (f) with the approval of the facility or program, order
13 the offender to be placed in a community corrections
14 facility or program as provided in 53-30-321;

15 (g) impose any combination of subsections (1)(b)
16 through (1)(f).

17 (2) If a financial obligation is imposed as a condition
18 under subsection (1)(a), sentence may be deferred for a
19 period not exceeding 2 years for a misdemeanor or for a
20 period not exceeding 6 years for a felony, regardless of
21 whether any other conditions are imposed.

22 (3) If any restrictions or conditions imposed under
23 subsection (1)(a) or (1)(b) are violated, the court shall
24 consider any elapsed time and either expressly allow part or
25 all of it as a credit against the sentence or reject all or

1 part as a credit and state its reasons in the order. Credit,
2 however, must be allowed for jail or home arrest time
3 already served.

4 (4) Except as provided in 45-9-202 and 46-18-222, the
5 imposition or execution of the first 2 years of a sentence
6 of imprisonment imposed under the following sections may not
7 be deferred or suspended: 45-5-103, 45-5-202(3) relating to
8 aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2),
9 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and
10 (5)(d), 45-9-102(4), and 45-9-103(2).

11 (5) Except as provided in 46-18-222, the imposition or
12 execution of the first 10 years of a sentence of
13 imprisonment imposed under 45-5-102 may not be deferred or
14 suspended.

15 (6) Except as provided in 46-18-222, imposition of
16 sentence in a felony case may not be deferred in the case of
17 a defendant who has been convicted of a felony on a prior
18 occasion, whether or not the sentence was imposed,
19 imposition of the sentence was deferred, or execution of the
20 sentence was suspended.

21 (7) If the victim was less than 16 years old, the
22 imposition or execution of the first 30 days of a sentence
23 of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505,
24 or 45-5-507 may not be deferred or suspended. Section
25 46-18-222 does not apply to the first 30 days of the

1 imprisonment.

2 (8) In imposing a sentence on a defendant convicted of
3 a sexual offense as defined in 46-23-502, the court may not
4 waive the registration requirement provided in 46-18-254,
5 46-18-255, and Title 46, chapter 23, part 5.

6 (9) A person convicted of a sexual offense, as defined
7 in 46-23-502, and sentenced to imprisonment in the state
8 prison shall enroll in the educational phase of the prison's
9 sexual offender program.

10 (10) In sentencing a nonviolent felony offender, the
11 court shall first consider alternatives to imprisonment of
12 the offender in the state prison, including placement of the
13 offender in a community corrections facility or program. In
14 considering alternatives to imprisonment, the court shall
15 examine the sentencing criteria contained in 46-18-225. If
16 the offender is subsequently sentenced to the state prison
17 or a women's correctional facility, the court shall state
18 its reasons why alternatives to imprisonment were not
19 selected, based on the criteria contained in 46-18-225."

20 **Section 2.** Section 61-3-322, MCA, is amended to read:

21 "61-3-322. Certificates of registration -- issuance.

22 (1) Upon completion of the application for registration on
23 forms furnished by the department, the county treasurer
24 shall file one copy in his the treasurer's office and issue
25 to the applicant two copies of the application marked

1 "Owner's Certificate of Registration and Payment Receipt",
2 one of which shall must be marked "file copy".

3 (2) The certificate of registration shall must contain
4 upon the face thereof of the certificate the information
5 described in 61-3-202(2).

6 (3) ~~Every owner, upon receiving a registration receipt,~~
7 ~~shall write his signature on the receipt with pen and ink in~~
8 ~~the space provided.~~ The registration receipt, a photostatic
9 copy of the receipt acknowledged by the county treasurer or
10 a deputy county treasurer, a notarized photostatic copy, or
11 a duplicate furnished by the department shall must at all
12 times be carried in the vehicle to which it refers or shall
13 must be carried by the person driving or in control of the
14 vehicle, who shall display it upon demand of a police
15 officer or any officer or employee of the department or the
16 transportation department.

17 (4) The county treasurer shall daily forward to the
18 department one copy of all applications for registration
19 received that day.

20 (5) It is not necessary for the county treasurer to
21 segregate the amount of taxes or fees for state, county,
22 school district, and municipal purposes in the receipt."

23 **Section 3.** Section 61-3-535, MCA, is amended to read:

24 "61-3-535. Vehicle reregistration by mail -- renewal
25 cards and reregistration notice by mail. (1) Except as

provided in subsection (2), an owner of the following types of motor vehicles may reregister by mail:

(a) light vehicles, motorcycles, quadricycles, and other vehicles subject to tax under 61-3-504(2); and

(b) travel trailers, campers, and motor homes subject to a fee in lieu of tax under 61-3-521.

(2) The option to reregister by mail need only be made available for vehicles, motor homes, and travel trailers registered at the close of the expiring registration period in the name of the applicant for reregistration and only if the value, age, length, or other criteria used to determine the tax or fee is available to the department.

(3) The department shall develop a procedure to facilitate the reregistration by mail of the vehicles listed in subsection (1). The mail reregistration procedure developed by the department must include a procedure to facilitate automated handling of mail reregistration or recertification.

~~{4}--in-the-case-of--light--vehicles,--the--form--to--be returned--to-the-county-treasurer-by-the-applicant,--with-the appropriate-tax-and-fees,--is-to-contain-a-statement-that-the applicant-is-in--compliance--with--the--financial--liability requirements-of-61-6-301.~~

{5}{4} The procedure implemented by the department to permit reregistration or camper decal application by mail

~~shall~~ must provide for a written reminder notice by mail to a vehicle owner of the requirement to reregister his the owner's vehicle with the county treasurer or to apply for the annual camper decal.

~~{6}{5}~~ The department shall adopt rules to implement the mail reregistration and decal application procedure."

Section 4. Section 61-6-302, MCA, is amended to read:

"61-6-302. Proof of compliance. (1) ~~Except-as-provided in-subsection-{2},--before-any-applicant-required-to-register his-motor-vehicle-may-do-so,--the-applicant-must--certify--to the---county---treasurer---that--he--possesses--an--automobile liability-insurance-policy,--a-certificate-of-self-insurance, or-a-posted-indemnity-bond-or-that-he--is--eligible--for--an exemption--under--61-6-303--covering--the-motor-vehicle. The certification--shall--be--on--a--form--prescribed---by---the department.---The--department--may--immediately--cancel--the registration--and--license--plates--of--the---vehicle---upon notification---that--the--insurance--certification--was--not correctly-represented. Any-person-who-intentionally-provides false-information-on-an-insurance-certification-is-guilty-of unsworn-falsification-to-authorities,--punishable-as-provided in-45-7-203.~~ The registration receipt required by 61-3-322 must contain a statement that unless the vehicle is eligible for an exemption under 61-6-303 it is unlawful to operate the vehicle without a valid motor vehicle liability

insurance policy, a certificate of self-insurance, or a posted indemnity bond, as required in 61-6-301.

~~{2}--An applicant for registration of a motor vehicle who wishes to register the vehicle by mail must sign a statement on the application stating that the applicant is in compliance with the financial liability requirements of 61-6-301.~~

{3}{2} An owner of a motor vehicle who ceases to maintain the insurance or bond required or whose certificate of self-insurance is canceled or whose vehicle ceases to be exempt shall immediately surrender the registration and license plates for the vehicle to the county treasurer for delivery to the department and may not operate or permit operation of the vehicle in Montana until insurance has again been furnished as required and the vehicle is again registered and licensed.

{4}{3} Every person shall carry in a motor vehicle being operated by him the person an insurance card approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy or inspector of the department. However, no a person charged with violating this subsection may not be convicted if he

the person produces in court or the office of the arresting officer proof of insurance valid at the time of his arrest."

Section 5. Section 61-6-304, MCA, is amended to read:

*61-6-304. Penalties. (1) It is unlawful for any person to operate a motor vehicle upon ways of this state open to the public without a valid policy of liability insurance in effect in an amount not less than that provided in 61-6-301 or unless such the person has been issued a certificate of self-insurance pursuant to 61-6-143 or has previously posted an indemnity bond with the department as provided by 61-6-301 or is operating a vehicle exempt under 61-6-303.

(2) A violation of Conviction of a first offense under 61-6-301 through 61-6-304 is a misdemeanor punishable by a fine of not less than \$250 NOT LESS THAN \$250 OR MORE THAN \$500 and not to exceed \$500 or by imprisonment in the county jail for not more than 10 days, or both. A second conviction is punishable by a fine of \$350 \$750 \$350 or by imprisonment in the county jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of \$500 \$1,000 \$500 or by imprisonment in the county jail for not more than 10 30 10 days, or both.

(3) Upon a second or subsequent conviction, the sentencing court shall order the surrender of the vehicle registration certificate, registration receipt, and license plates for the vehicle operated at the time of the offense

~~unless the vehicle was not registered to the offender and the offender was using it without permission of the person to whom it was registered~~ IF THAT VEHICLE WAS OPERATED BY THE REGISTERED OWNER OR A MEMBER OF THE REGISTERED OWNER'S IMMEDIATE FAMILY OR BY A PERSON WHOSE OPERATION OF THAT VEHICLE WAS AUTHORIZED BY THE REGISTERED OWNER. The court shall send the certificate, receipt, and plates, along with a copy of the complaint and dispositional order, to the department, which shall immediately suspend the certificate, receipt, and plates for a period of 90 days from the date of a second conviction or 180 days from the date of a third or subsequent conviction. The certificate, receipt, and plates may not be reinstated until the expiration of that period, but if the vehicle is transferred to a new owner, the new owner is entitled to register the vehicle.

~~{4}--Upon a second or subsequent conviction, the offender is ineligible to register and obtain license plates for any motor vehicle during the period of suspension under subsection {3}.~~

{5}(4) The court may suspend a required fine only upon a determination that the offender is or will be unable to pay the fine.

{6}(5) A court may not defer imposition of penalties provided by this section."

Section 6. Section 61-11-203, MCA, is amended to read:

"61-11-203. Definitions. As used in this part, the following definitions apply:

(1) "Conviction" means a finding of guilt by duly constituted judicial authority, a plea of guilty, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any offense relating to the use or operation of a motor vehicle which is prohibited by law, ordinance, or administrative order.

(2) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or more conviction points according to the schedule specified in this subsection:

(a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;

(b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 12 points;

(c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points;

(d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, 10 points;

1 (e) operating a motor vehicle while his license to do
2 so has been suspended or revoked, 6 points;

3 (f) failure of the driver of a motor vehicle involved
4 in an accident resulting in death or injury to any person to
5 stop at the scene of the accident and give the required
6 information and assistance, as defined in 61-7-105, 8
7 points;

8 (g) willful failure of the driver involved in an
9 accident resulting in property damage of \$250 to stop at the
10 scene of the accident and give the required information or
11 to otherwise fail to report an accident in violation of the
12 law, 4 points;

13 (h) reckless driving, 5 points;

14 (i) illegal drag racing or engaging in a speed contest
15 in violation of the law, 5 points;

16 (j) a mandatory motor vehicle liability protection
17 offense under 61-6-304, 5 points;

18 (k) operating a motor vehicle without a license to
19 do so, 2 points (this subsection (k) does not apply to
20 operating a motor vehicle within a period of 180 days from
21 the date the license expired);

22 (l) speeding, 3 points;

23 (m) all other moving violations, 2 points.

24 (3) There shall be no multiple application of
25 cumulative points when two or more charges are filed

1 involving a single occurrence. If there are two or more
2 convictions involving a single occurrence, only the number
3 of points for the specific conviction carrying the highest
4 points shall be chargeable against that defendant.

5 (4) "License" means any type of license or permit to
6 operate a motor vehicle."

7 **Section 7.** Section 61-13-104, MCA, is amended to read:

8 "61-13-104. Penalty -- no record permitted. (1) A
9 driver who violates 61-13-103 must be fined \$20, but the
10 violation is not a misdemeanor pursuant to 45-2-101,
11 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103
12 may not be counted as a moving violation for purposes of
13 suspending a driver's license under 61-11-203(2)(m).
14 Bond for this offense is \$20, and no jail sentence may be
15 imposed.

16 (2) No violation of 61-13-103 may be recorded or
17 charged against the driver's record of a person violating
18 61-13-103, and no insurance company shall hold a violation
19 of 61-13-103 against the insured, and there may be no
20 increase in premiums due to a violation of 61-13-103."

-End-