HOUSE BILL NO. 153
INTRODUCED BY BARDANOUVE, NATHE, JERGESON, COBB BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE HOUSE

JANUARY 13, 1993

JANUARY 23, 1993

JANUARY 25, 1993
JANUARY 26, 1993
JANUARY 27, 1993
JANUARY 28, 1993

INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.

FIRST READING.
COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.

PRINTING REPORT.
SECOND READING, DO PASS.
ENGROSSING REPORT.
THIRD READING, PASSED. AYES, 99; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE
INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.

FIRST READING.
COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

SECOND READING, CONCURRED IN.
THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.

RETURNED TO HOUSE.
IN THE HOUSE

RECEIVED FROM SENATE.
SENT TO ENROLLING.
REPORTED CORRECTLY ENROLLED.


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, 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."

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--ataditor 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 sueh 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, f-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 shazz must be determined by the state-auditor department of administration and, on his order of the department, shati 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 shati 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:

[^0](2) All state payroll systems shati must provide for the fixing of payroll periods and designated days on which salaried employees shatz--be are paid for the preceding payroll period. The pay date shati must be uniform for all employees of each state agency employed in the same geographic area, and payroll warrants shałt 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--anditor 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-shatz with the warrant must be charged against the account from which the payment was derived.
(2) A payroll warrant shatz-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:
m17-1-101. Definition of department. Except in chapter 3, part 3, and-Chapter-4;-part-ły 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
the duties of his-offiee the department when requested;
(3) suggest plans for the improvement and management of the public reventes 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 offiee 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 tim 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 moners 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-offiee 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-diacretion-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 moners 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 ati-sueh-persons the persons must render statements at such times and in sueh a form as--he that the department may require;
(3) promulgate rules regarding the distribution and processing of warrants issued; and
(4) establishy--under--the---joint---controx---of---the
department-of-administration-and-the-state-auditort 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 shati 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 shati 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 claimp are exhausted."

Section 12. Section 17-4-101, MCA, is amended to read: -17-4-101. Definitions. In this part, the following
definitions apply:
(1) The word "department" means the department of revenue administration.
(2) The term "state agency" includes all state offices, departments, divisions, boards, commissions, councils committees, institutions, university units, and other entities or instrumentalities of state government."

Section 13. Section 17-4-102, MCA, is amended to read:
n17-4-102. Accounts of persons indebted to state. (1) In-his-diseretion-it-is-the-duty-of-the-state-auditor-to The department may:
(a) examine and settle the accounts of persons indebted to the state, and certify the amount, to-the-treasurer--andy upon--presentation--and--fiłing--of--the-treasurerº-receipt therefory-to and give such the person a discharge and-charge the-treasurer-therewith;
(b) require any person presenting an account for settlement to be sworn before-him and to answer, orally or in writing, as to any facts relating to it.
(2) The certificate mentioned in subsection (1)(a) must show by whom the payment is to be made, the amount thereof, and the fund into which it is to be paid and must be numbered in order, beginning with number 1 at the commencement of each fiscal year."

Section 14. Section 17-4-103, MCA, is amended to read:
"17-4-103. Collection of claims by state--auditor department. (1) in-his-diseretiont-it-is--the--daty--of--the state--auditor--to The department may examine the collection of money due the state and institute suits in its name for official delinquencies in relation to the assessment, collection, and payment of the revenue and against persons who possess public money or property and fail to pay over or deliver the money or property and against debtors of the state. The courts of the county where the seat of government may-be is located have jurisdiction, without regard to the residence of the defendants, over the collection suits authorized by this section.
(2) Whenever a person has money or other personal property that belongs to the state by escheat or otherwise or has been entrusted with the collection, management, or disbursement of money, bonds, or interest accruing from the money or bonds, belonging to or held in trust by the state, and fails to render an account of the money or personal property to and make settlement with the state--auditor department within the time prescribed by law or, when no particular time is not specified, fails to render an account and make settlement or who fails to pay into the state treasury the money belonging to the state, upon being required to do so by the state-auditer 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 108 a year from the $t$ ime 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-atiftor 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---atiditor 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 mest 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-atadtor 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 nim 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-anditor department, he-shati-have-the-authority-to the department may collect it. The state-auditor department may
contract with comercial 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 $\quad$ - -provided-the-state-auditer 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. Ne 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 shałł 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-D 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 entityt. if If approved by the department of-administration, it shati-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 sueh the person or entity after any offset, as provided in this section provided."

Section 17. Section 17-4-106, MCA, is amended to read:
n17-4-106. 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 witz 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 baek 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 whith that are uncollectible or the continued pursuance of the collection thereaf of the accounts receivable would cost the state more than the amount collected. Sueh The procedures shati 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 whith that are uncollectible or the continued pursuance of the collection would cost the state more than the amount collected. Sueh The procedures shatt 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-auditar 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 shałt 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 liable for repayment of the amount of the debt plus fees or costs added pursuant to this subsection. All money collected must be returned to the department to be applied to the debt, except that all fees or costs collected must be retained by the state-auditer department of administration. If less than the full amount of the debt is collected, the state-auditor department of administration shall retain only a proportionate share of the collection fees or costs."

NEW SECTION. Section 22. Codification instruction. [Section 10] is intended to be codified as an integral part of Title 17, chapter 1, part 1, and the provisions of Title 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 HBO153, 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 onetime 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.


Office of Budget and Program planning


Fiscal Note for HB0153, as introduced
113153

## tate Auditor:

## tate Payroll (Pg 02)

TE
ersonal Services
perating Expenses
Total
unding:
eneral Fund
ayroll Processing Charges (02)
Total

| FY 94 |  |  |
| ---: | ---: | ---: |
| Current Law | Proposed Law | Difference |
| 8.00 | 1.75 | $(6.25)$ |
| 250,261 | 55,845 | $(194,416)$ |
| 350,054 |  |  |
| 600,216 | 55,845 | $(550,054)$ |
|  |  |  |
|  |  |  |
| 243,129 | 55,845 | $(187,284)$ |
| 357,087 |  | 0 |
| 600,216 | 55,845 | $(357,087)$ |
|  |  |  |

0.0
13.67

352,559 586,909
21.807

961,275

219,978
543,390
197,907
961,275

| Current Law | Pronosed Lay | Difference |
| :---: | :---: | :---: |
| 8.00 | 1.75 | (6.25) |
| 250,820 | 55,928 | (194.892) |
| 296.450 | $\underline{0}$ | (296,450) |
| 547,270 | 55,928 | (491,342) |
| 188,458 | 55,928 | $(132,530)$ |
| 358,812 | 0 | $(358,812)$ |
| 547,270 | 55,928 | (491, 342) |
| 13.67 | 0.00 | (13.67) |
| 353,347 | 0 | $(353,347)$ |
| 573,162 | 0 | (573, 162) |
| 0 | $\underline{0}$ | (0) |
| 926,509 | 0 | $(926,509)$ |
| 170,683 | 0 | (170,683) |
| 559,035 | 0 | $(559,035)$ |
| 196.791 | 0 | $(196.721)$ |
| 926,509 | 0 | $(926,509)$ |

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Fiscal Note Request, HB0153, as introduced.
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Form ${ }^{\text {BD-15 page } 3}$
(continued)

## FISCAL IMPACT: (continued)

Department of Administration:

Persomel (Pg 23)
FTB

Personal Services
Operating Expenses
Equipment
Debt Service
Total

|  | FY 94 |  |
| ---: | ---: | ---: |
| Current Law | Proposed Law | Difference |
| 39.00 | 45.25 | 6.25 |
| $1,310,782$ | $1,505,198$ | 194,416 |
| 743,126 | $1,093,180$ | 350,054 |
| 25,347 | 25,347 | 0 |
| 720 | $\underline{720}$ | 0 |
| $2,079,975$ | $2,624,346$ | 544,371 |
|  |  |  |
| 966,051 | $1,153,335$ | 187,284 |
| 0 | 357,087 | 357,087 |
| $1,083,924$ | $1,083,924$ | $\underline{0}$ |
| $2,079,975$ | $2,624,346$ | 544,371 |


|  | FY '95 |  |
| ---: | ---: | ---: |
| Current Law | Proposed Law | Difference |
| 39.00 | 45.25 | 6.25 |
| $1,314,610$ | $1,509,502$ | 194,892 |
| 395,099 | 691,549 | 296,450 |
| 18,298 | 18,298 | 0 |
| 0 | $\underline{0}$ | 0 |
| $1,728,007$ | $2,219,349$ | 491,342 |
|  |  |  |
| $1,000,126$ | $1,132,656$ | 132,530 |
| 0 | 358,812 | 358,812 |
|  | $\underline{727,881}$ | 0 |
| $1,728,881$ | $2,219,349$ | 491,342 |

Accounting \& Management Support (Pg 03)

| FTE | 24.50 |
| :--- | ---: |
| Personal Services | 832,505 |
| Operating Expenses | 366,345 |
| Equipment | 5,563 |
| $\quad$ Total | $1,204,413$ |
|  |  |
| Funding: |  |
| General Fund | $1,106,210$ |
| Warrant Writing Charges (02) | 0 |
| Federal Revenue (03) | 30,057 |
| Bad Debts Administration (06) | $\underline{0}$ |
| $\quad$ Total | $1,204,413$ |

## kIET TMPACT:

## General Fund

| 38.17 | 13.67 |
| ---: | ---: |
| $1,185,064$ | 352,559 |
| 955,646 | 589,301 |
| 27,370 | 21,807 |
| $2,168,080$ | 963,667 |
|  |  |
|  |  |
| $1,326,188$ | 219,978 |
| 543,390 | 543,390 |
| 30,057 | 0 |
| $\underline{200,299}$ | $\underline{200,299}$ |
| $2,168,080$ | 963,667 |

24.50
834,956
321,489
29,944
$1,159,389$

$1,061,405$
0
30,058
0
$1,159,389$

| 38,17 | 13.67 |
| ---: | ---: |
| $1,188,303$ | 353,347 |
| 894,651 | 573,162 |
| 2,944 | $\underline{0}$ |
| $2,085,898$ | 926,509 |
|  |  |
| $1,232,088$ | 170,683 |
| 559,035 | 559,035 |
| 30,058 | 0 |
| 196,91 | $\underline{196,791}$ |
| $2,085,898$ | 926,509 |

\$ 0
\$ 0
Other (warrant writing charges-02)
2,392
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.
APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

HOUSE BILL NO. 153
INTRODUCED BY BARDANOUVE, NATHE, JERGESON, 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 PAYROLLT
 THE STATE AUDITOR TO THE DEPARTMENT OF ADMINISTRATION: AND AMENDING SECTIONS 2-18-401, 2-18-402, 2-18-403, 2-18-404


 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 inclugion of agencies. The state euditer 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
thereaf 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.t-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 shałt must be determined by the state-auditor department of administration and, on his order of the department, shait must be transferred forthwith from the fund, account, and appropriation otherwise properly chargeable therewtth 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 shatz 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－anditor 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 shati must include exempt employees but－－－shatz－－not－－necessarity 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 ahazt 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 fanuary－まt－i979t－ałt All state payroll systems shati 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 shał̇ must provide for the fixing of payroll periods and designated days on which salaried employees shatz－－be are paid for the preceding payroll period．The pay date shatz must be uniform for all employees of each state agency employed in the same geographic area，and payroll warrants shatz 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－－auditer department of administration not less than 60 days prior to the effective date of the change．＂

Section－6：－Gection－z－i日－4i̇7－MEA7－4s－amended－to－read：－－
nz－ま日－4it：－－Eost－warrants－－－－dupticater－tまt－Epen－reeeipt of－－proof－－satisfactory－－to－－the－state－auditor department－of administration that－a－payroti－warrant－issued－－by－－the－－state auditor department has－been－tost－or－destroyed－prior－to－its detivery－to－the－empzoyee－to－whom－ite－is－－payabtet－－the－－state auditor department shatit－upon－certificetion－by－the－payeess
appotnting－powerf－isaue－a－duptieate－warrant－inn－－payment－－of the－same－amount－without－requiring－a－bond－from－the－payeef and any－－łoss－－inearred－－in－－connection－therewith－shazt with－the warrant－must be－charged－against－the－account－from－－whieh－－the payment－was－derived．
†Yt－－A－－payrotz－－warfant－－shati－be is considered－to－have been－łost－if－it－has－been－sent－to－the－payee－but－not－－received by－him the－payee－within－a－reasonabłe－timer－consistent－with the－poziey－of－prompt－payment－of－empłoyees－or－if－it－has－been sent－to－a－state－officer－or－－employee－－for－－detivery－－to－－the payee－or－for－forwarding－to－another－state－offieer－or－emptoyee for－－such－－dełivery－－and－has－not－been－reeeived－within－sueh a reasonabte－timer ${ }^{n}$

 3т－－part－－3p－－and－－chapter－4f－part－łp－and－untess－the－context requires－otherwisef－in－this－－titze－－ndepartment－－means－－the department－－of－－administration－－provided－－for－－in－－Pitte－－Ẑt


 department－－ft－is－the－duty－of－the－state－－auditor department to：
tさt－－superintend－the－fiscat－concerns－of－the－stater
tzt－－give－－information－in－writing－to－either－house－of－the
zegistature－rełating－to－the－£iscat－affairs－of－the－－state－or the－duties－of－his－office the－department when－requested；
（3チ－－suggest－ptans－for－the－improvement－and－management－of the－pubtic－revenues revenue；
t4t－－keep－－an－－aceount－－of－－ati－－warrants－drawn－upon－the treasurer－and－such－other－aceount－and－－appropriation－－records that－he the－－department－determines－te－be－essentiat－for－the oupport－of－the－accounting－records－maintained－in－－the－－office of－the－department－of－adminigeration；
t5t－－keep－－an－－aceount－－between－－the－state－and－the－state treasurer－and－therein－charge－the－state－－treasurer－－with－－the bazance－－in－－the－－treasury－－when－－he the－treasurer came－into office－and－－with－－ati－－moneys moner－－reeeived－－by－－him the treasurer and－－credit－－him the－treasurer with－ait－warrants drawn－on－and－paid－by－him the－treasurers
t6t－－keep－a－register－of－warrants－showing－the－fund－－upen which－they－－are－－drawn－the－numbery－in－whose－favorf－and－the date－issued；
t7f－－require－ati－persons－who－have－－reeeived－－any－－moneys money betonging－to－the－state－and－have－not－aceounted－therefor for－the－money to－settie－their－aceounts；
f日f－－draw－－warrants－－on－－the－－state－－treasurer－－for－－the payment－－of－－moneys－－money direeted－by－ław－to－be－paid－out－of the－treasuryr－but－no a warrant－must may－not be－drawn－－antess authorized－by－tawi
t9t－－authentieate－with－his an offietat－seat－ait－warrants drawn－by－him the－department and－azt－copies－of－papers－－issued from－his－office the－department．
$t \pm \theta t-c o t z e c t-$ and－－pay－－into－the－state－treasury－ati－fees reeetved－by－him the－department；and
tłti－perform－such－other－－duties－－as－－are－－prescribed－－by taw－＂

Section－9．－Section－¥7－¥－i227－MEA7－is－amended－to－read：－－
n¥7－モージZZ－－Biseretionary－－－duties authority of－－state auditor department－－in－his－diseretion－it－is－the－daty－of－－the state－auditer－to The－department－max：
t¥t－－inspeet－－the－－books－of－any－persons－charged－with－the reeeipty－－safekeepingr－－or－－disbursement－－of－－pubite－－moneys money：
fZ†－－require－ati－persons－who－－have－－received－－maneys－－or seeurities money or－have－had－the－disposition－or－management of－any－property－of－the－state－of－whieh－an－account－is－kept－－in his the－department office－to－render－statements－thereof－to him the－departmentr－and－ałt－sueh－persons the－－persons must render－－statements－－at－－such－－times－and－in－such a form－as－he that the－department may－requires
t3t－－promutgate－rutes－－regarding－－the－－distribution－－and processing－of－warrants－issuty and
t4\}--estabłisht---under---the---joint---controt--of--the department－of－administration－and－the－state－auditort－a－systen
of－fiting－and－storage－of－the－originat－copy－of－etaima－paid－by state－warrant：＊

NEW－SEeqienz－－Seetion－70．－－Authority－－of－state－－auditor－－ concerning－securities－－－The－－state－－auditor－－may－－require－－a peraon－－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－7구：－Section－ $\mathbf{\text { S }}$－3－3－7047－MEA7－is－amended－to－read：－－
 reeeived－－by－－the－－state－－treasurer－－under－the－provisions－of ¥7－3－ł0日3－shati may be－paid－out－by－him the－treasurer onty－on warrant－issaud－by－the－state－audftor department in－payment－of etaims－for－expenses－actuatiy－incurred－for－the－－support－and maintenance－of－the－institution－fiłing－the－same eteim－
$\boldsymbol{\text { Z }}$－－In－～the－－payment－－of－－etaims－－presented－－by－a－state institution－entitzed－to－interest－and－ineome－from－zand－grants or－moneys－arising－therefrom money－from－a－tand－－grantr－－no a warrant－－shati may－－not be－drawn－against－the－appropriation made－－by－the－－state－－out－－of－－the－－generat－－fund－for－－－the atntenarte－－of－－the－－institution－－fiting－－the－－etaim－－untit interest－－and－－incone－－moneys moneyf－－insofar－－as－－they－are avaiłabłe－for－the－payment－of－the－items－－in－－the－－tłaimp－－are exhausted：－

Section－72：－Section－77－4－10z7－MEA，－is－amended－to－reed－－－
 definitions－appty：
t士t－－The－－word－－${ }^{\text {departmentr－－means－－the－－department－－of }}$ revenue administration：
 departmentsp－－divisionst－－boardst－－－commissionst－－－councitsj comatetesp－－－institutionsp－－－university－－unitsp－－and－－other entities－or－instrumentaitties－of－state－governmentin

Section－43：－Seetion－ $77-4-7 \theta z_{7}-$ Ment－is－amended－to－read：－－
－$¥ 7-4-4 \theta z=-$ Mceounts－of－persons－indebted－to－－stater－－t士t In－his－discretion－it－is－the－duty－of－the－state－auditor－to the department－may：
tat－－examine－and－settte－the－accounts－of－persons－indebted to－－the－stateg and－certify－the－amounty to－the－treasurer－and； upon－presentation－and－－fiłing－－of－－the－－treasurer＇s－－receipt thereforg－to and give－such the person－a－discharge－and－charge the－treasurer－therewithy
tbf－－requitre－－－any－－person－－presenting－－an－－aceount－－for setttement－to－be－sworn－before－him－and－to－answert－－orazty－or in－writingt－as－to－any－facts－retating－to－iti
tZサー－ゆhe－eertificate－mentioned－in－subsection－tまftat－must show－－by－whom－the－payment－is－to－be－mader－the－amount－thereoft and－the－fund－into－which－－it－－is－－to－－be－－paid－－and－－mast－－be numbered－－－in－－－ordery－－－beginning－－with－－number－－ま－－at－－the comencement－of－each－fiseat－year－${ }^{(1}$

Section－74－－section－ $77-4-703_{7}-$ MeA $_{7}-i s$－amended－to－read；－－
－¥7－4－ұ03：－－Cotiection－－of－－ełaims－－by－－－state－－－auditor department：－ーナキナー－In－－his－－discretiont－itt－is－the－duty－of－the state－auditor－to The－department－may examine－－the－－cotzection of－－money－－due－the－state－and－institute－suits－in－its－name－for offieiat－－dełinquencies－－in－－retation－－to－－the－－－assessmentit cottectiont－－and－－payment－of－the－revenue－and－against－persons who－possess－pubtic－money－or－property－and－fait－to－pay－over－or detiver－the－money－or－property－and－－against－－debtors－－of－－the state－The－courts－of－the－county－where－the－seat－of－government may－－be is tocated－have－jurisdietiony－without－regard－to－the residence－of－－the－－defendantsr－－over－－the－－eotteetion－－suits authorized－by－this－sectiont
tzt－－Whenever－－a－－person－－has－－money－－or－－other－personaz property－that－betongs－to－the－state－by－escheat－－or－－otherwise or－－has－－been－－entrusted－with－the－cotłeetiont－managementy－or disbursement－of－moneyf－bondsf－or－interest－aceruing－from－－the money－－or－bondst－betonging－to－or－hełd－in－trust－by－the－state； and－faizs－to－render－an－aceount－－of－－the－－money－－or－－personaz property－－to－－and－－make－－settzement－－with－－the－state－auditor department within－the－time－preseribed－by－taw－orf－when－－me a particuiar－time－ts not specifiedp－faits－to－render－an－aecount and－－make－－settzement－－or－－who－－faitg－－to－pay－into－the－state treasury－the－－money－－betonging－－to－－the－－statep－－upon－－being required－te－do－so－by－the－state－auditor departmentr－within－ze
days--after--the--requisitiont--the-state-auditor department shałt-state--an--aceount--with--thet--persont--eharging--z54 damages-and-interest-at-the-rate-of-i日t-a-year-fram-the-time of--the-faiturer--A--copy-of-the-account-in-a-suit-is-pitma faeie-evidence-of-the-things-stated-in-the-aceounty-but-when the-state-auditor department eannot-for-want-of--information state--an-aceountr-he it may-in-an-action-brought-by-him the department aver-that-faet-and-atłege-generatiy-the-amount-of money-or-other-property-due-or-bekonging-to-the-state-
f $\boldsymbol{H}_{\boldsymbol{f}}$ - Phe-state-auditor $^{\text {department may--assist--in--the }}$ cołzection-of-a-detinguent-account-owing-to-any-state-agency and--may-separateły-charge-the-state-agency-that-transferred the-debt-for-the--eost--of--assistance:--The--state--auditer department may---designate--the--percentage--of--cołteeted proceeds-to-be-retained-for-the-cost-of-assistance-
tht--The--state--auditer department may---provide---a cołtection--service--for-the-generat-purpose-of-centrazizing the-cotzection-of-ait-debts-owing-to-the-stater"
Section-45--Seetion- $47-4-7$ A $_{7}-$ MeA7-is-amended-to-read---*y7-4-7047--eireunatances-when-state-auditor department mast-assist--Subject-to-and-in-accordance-with-ruies-adopted by--the-state-auditor iter-the-state-auditor department shati render-assistance-in-the-cołłection-of-aceounts-owing-to-any state-agency-if-ałt-of-the-fołtowing--procedures--have--been conpleted-to-his its-satiofaction:
$\boldsymbol{t y - A - - s t a t e - - a g e n c y - m u s t ~ s h a t y ~ m a k e - - a t i - r e a s o n a b ł e ~}$ efforta-to-cołzeet-money-owed-to-it-and-mast shati determine that-the-moner-and-any-interest-or--penazties--therefor--are uncołłeetibłe----in----accordanee----with----criteria----for uncołzectibizity-formułated-by-that-agency-
(Y)--Once--a-state-ageney-has-determined-an-aceount-owed to-it-uncozteetibzef-it-shatz-certify-to-the--state--auditor department the-amount-of-the-moneyj-interest,-and-penaitiesp as--aceurateły--as--can--be--determined---The--state-auditer department may-requite--submission--by--the--agency--of-atiz rełevant--evidenee--and-other-information-regarding-the-debe and-may-examine-the-records-of-any-other-state-agency--whith may--be-pertinent-in-determining-the-uncołłectibiłity-of-the debt-untess-examination-is-speeificatiy-prohibited-by-ławt
 is--uncotłeetibie--in--aceordanee--with--the--eriteria---for uncozłectibitity-of-money-due-that-state-ageneyt-he it shałz direet--the-ageney-to-write-off-the-debt-on-its-accounts-and transfer-the-debt-to-him the-department:
t4t--Bebts--described--in-- $\mathbf{7 7 - 4 - 1 0 5 t 4 t - - - n e e d - - - n o t - - - b e ~}$ determined-uncoztectibte-for-purposes-of-this-section-"

Section-76:-Seetion- $\mathbf{\text { S7-4-7857-MCAt-is-amended-to-read-- }}$
 Oree-a-debt-of-a-state-agency-has-been--transferred--to--the state-auditor departmentr-he-shatt-have-the-authority-to the
department－－may cołłect－it－－The－state－auditor department may contract－with－commerciat－cotzection－agencies－for－reeovery－of debts－owed－the－state．
fZ†－－The－－state－－auditor department shati－－offset－－any amount－due－a－state－agency－from－a－person－－or－－entity－－against any－－amount－intiuding－refunds－or－taxesp－owing－the－person－or entity－by－any－state－agencẏт－provided－the－state－auditor The department may－not－exereise－this－right－of－offset－untit－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－－amaunt－－paid－－out－as chitd－－support－－eołłeeted－－by－－the－－department－of－sociat－and rehabiłitation－services－－The－state－auditor department shałt deduet－－from－the－etaim－and－draw－his－warrants－for－the－amounta offset－in－favor－of－the－respeetive－state－－ageneites－－to－which due－－and－for－any－batance－in－favor－of－the－ełatmant－－Whenever tnsufficitent－to－offset－ałt－amounts－due－state－－agencirsp－－the amount－－avaiłabte－－shałi must－be－appifed－first－to－debts－owed by－reason－of－the－nonpayment－of－chitid－－suppart－－and－－then－－in such a manner－as that the－atate－auditor departmentr－in－his its discretiont－shatz－determines
f3t－－tat－qhe－department of－revenue retains－the－power－－to offset－－tax－－refunds－due－individuats－against－taxes－owed－the stater－provided－the－department of－revenue may－not－－exercise this－right－of－offaet－untiz－the－taxpayer－has－been－notified－by
the－－department of－revenue－and－been－given－the－opportunity－to request－a－review
tbt－－Within－30－days－fołłowing－matiting－－of－－notifiteationj the－taxpayer－may－request－a－review－of－the－asserted－ifabitity－任－－a－－review－－is－requested；－the－department of－revenue shati conduct－an－informat－review－conference；－which－is－not－－subject to－－－the－－－contested－－－case－－－procedures－－－of－－－the－－Montana Administrative－Procedure－Act－
tet－－Appeat－from－－the－－decision－－of－－the－－department of revenue after－－the－－review－－conference－－may－be－taken－to－the state－tax－appeat－board－
tdit－A－taxpayer－is－not－entitted－to－a－－review－－conferenee for－－a－tax－offset－if－the－tax－ifabiłity－has－been－the－subjeet matter－of－－any－－proceeding－－conducted－－for－－the－－purpose－－of determining－－its－－vatidity－and－any－decision－made－as－a－resułt of－that－proceeding－has－become－finat－
t\＆t－－tat－h－debt－resutting－from－or－retating－－to－－a－－chited support－－obigigation－－owed－－to－－the－－department－of－sociat－and rehabititeation－services－or－being－cołteeted－by－the－department of－soeiaz－and－－rehabititation－－serviees－－on－－behatf－－of－－any person－－or－－agency－－may－－be－－offset－－by－－the－－state－－auditor department ift
tit－－the－－debt－－is－－being－－enforeed－－or－cotzeeted－by－the department－of－sociat－and－rehabititation－serviees－under－Pitze ま甘－B－of－the－Gociat－Seeurity－Act；
fixit－the－debt－is－for－repayment－of－chiti－support－payments retained－contrary－to－the－assignment－at－53－z－6ı3；－or
tifit－the－debt－is－for－costs－of－fees－under－any－－contracty judgmentr－－or－－administrative－order－entered－in－the－course－of ehitd－support－enforcement－by－the－department－－of－－soeiat－－and rehabititetion－services：
tbt－－The－debt－need－not－be－determined－to－be－uncozłeetibie as－－provided－for－in－ $\mathbf{7 7 - 4 - \mathbf { 4 \theta } \text {－before－being－transferred－to－the }}$ state－auditor department for－－offset：－－The－－debt－－must－－have acerued－－－through－－－written－－contractr－－court－－judgmentr－－or administrative－order．
tef－－Within－30－days－fotzowing－the－notification－－provided tn－－subsection－－tzłT－－the－－person－－owing－a－debt－deseribed－in subsection－t4ftat－ar－request－a－hearing－－The－hearing－must－be conducted－by－teteconferencing－methods－and－is－subjeet－to－the provisions－－of－the－Montana－Administrative－Procedure－Aet－－The department－of－sociat－and－rehabititation－services－shati－adopt rułes－neeessary－to－determine－the－hearing－procedures．
t5t－－iff－－in－－the－－diseretion－－of－－the－－－state－－－auditor departmentr－the－person－or－entity－refuses－or－negzects－to－fite his a etaim－within－a－reasonabze－timep－the－head－of－the－state agency－owing－the－amount－shati－fize－the－etaim－on－－behazf－－of sueh the person－or－entityriz－if $\underline{\text { 玉 }}$ approved－by－the－department of－－adminiserationt－－it－－shami－－have has the－same－force－and effect－as－though if－it－were fited－－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－offsetg as provided－－in－－this section－provided：－

Section－77．－－section－$\ddagger 7-4-7667$－MeAT－is－amended－to－read：－－
uy7－4－士日6т－－Agency－－－owed－－debt－－to－receive－－ati－－money eotzected－－－－exception＝－$\ddagger$ t + －Atz－money－cotzeeted－by－the－state auditor department on－debts－transferred－to－him it by－－the various－－－atate－－－agenetest－－except－－funds－－cotłeeted－－under 47－4－703t37t－must－be－deposited－to－the－aceount－or－fund－of－the agency－to－which－the－debt－was－originałły－owing－
 in－an－account－in－the－internaz－Berviee－fund－for－the－－cost－of asaistance－－－of－－－debt－－－cołłection－－by－－the－－state－－auditor department：－－Punda－－deposited－－in－－excess－－of－－－the－－－amount appropriated－－for－－operation－－of－the－debt－cotieetion－program must－be－carried－－forward－－into－－the－－next－－fiseat－－year－－for operation－of－the－debt－cotiection－program－Any－excess－carizied forvard－－into－－the－－next－－fiseat－－year－－wiłt must be－used－to reduce－the－designated－percentage－of－the－－eołteeted－proeeeds charged－－to－－the－－various－atate－agencies－At－the－end－of－each
 transferred－back－to－the－generat－fund－a
 ＊土7－4－土日7＝－Write－off－－procedures－－tシf－Yhe－state－anditer
department may--estabiish--proeedures--for--canceiting---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-i7-4-104-and-which that are
uncottectibte-or-the-continued-pursuance-of--the--cotzection
thereof of-the-aceounts-receivabte woutd-cost-the-state-more
than-the-amount-cotzected--Such qhe procedures-shati must be
estabitshed-in-accordance-with-subsection-tzto
$\boldsymbol{f Z}_{\boldsymbol{Z}}^{\boldsymbol{f}--\Psi h e--d e p a r t m e n t--o f--a d m i n i s t r a t i o n--m a y--e s t a b i t i s h ~}$
procedures-for-canceting-and-writing-off-accounts-receivabie
earried--on--the--books-of-various-state-ageneites-which that
are--uncotiectibte--or--the--continued--pursuance---of---the
colzeetion--woutd--cogt--the--state--more--than--the--amount
cotieeted:--Such the procedures--shati must--inetude--the
reportingt--as--provided--in--5-łま-zł日f-of-any-eaneeting-and
writing-off-of-accounts-receivabter"


wriften-off--debt--may--be--cotłeeted---玉f-a-debe-previous $\ddagger$ y

cotieetibzer-the-state-auditor department shatt--proceed--to

Section-20.--section-39-3-2437-MeA7-is-amended-to-read=--

of-łabor-and-industry-shałł-deposit-wages-cołłeeted-by--him
department may－－estabłish－－proeedures－－for－－canceting－－－and writing－－off－accounts－receivabie－carried－on－the－books－of－the various－state－agencies－whieh that have－been－－transferred－－to him the－－department pursuant－to－¥7－4－i04－and－which that are uncottectible－or－the－continued－pursuance－of－－the－－cotzeetion thereof of－the－aceounts－receivabte woutd－cost－the－state－more than－the－amount－cotzected－－Such وhe procedures－shałi must be estabitshed－in－accordance－with－subsection－tztT
（Ż）－－The－－department－－of－－administration－－may－－estabitsh procedures－for－canceting－and－writing－off－accounts－receivabie earried－－on－－the－－books－of－various－state－ageneies－which that are－－uncotiectibte－－or－－the－－continued－－pursuance－－－of－－－the cotłection－－woutd－－cost－－the－－state－－more－－than－－the－－amount cotieeted：－－Such the procedures－－shałi must－－inetude－－the
 writing－off－of－accounts－receivabter＂

nı7－4－7日 $=--$ eifreumstances－－－under－－－－which－－－－previousty written－off－－debt－－may－－be－－cołteeted－－－玉f－a－debe－previous $\ddagger$ y
 cotłectibter－the－state－auditor department shatt－－proceed－－to eotzeet－the－money－due－pursuant－to－ $47-4-\ddagger \theta 5 t \pm t-$ and－ $47-4- \pm 067^{4}$

Section－20－－Section－39－3－2137－MeA7－is－amended－to－read：－－
 of－łabor－and－industry－shałł－deposit－wages－cołłeeted－－by－－him
under－parts－z－and－4－of－this－chapter－into－the－ageney－fund－and shatt－－attempt－－to－－make－－payment－－of－－wages－to－the－entitted person：－－Wages－－deposited－－into－－the－－ageney－－fund－－are－－not interest－bearing：－The－payment－of－wages－cołłected－may－be－made by－means－of－state－warrants－
†モナ－－Warfants－issued－pursuant－to－－subsection－－tモナー－which that remain－unełaimed－for－more－than－i－year－from－the－date－of issuance－－shati must be－－returned－－to－－the－－state－－auditor department－of－administration－for－conceztation－in－－accordance with－ま7－8－303－i＂

Section－24：－Section－－39－5ұ－32077－－MCAT－－is－－amended－－to－－ read：

139－5t－3ze7t－－Authority－to－determine－uneozzeetibizity－of debts－－－－－－transfer－of－debts－for－cołtection－－－－tiabitity－fer payment－of－fees－and－costs－of－cotzeetion－－－tzf－－After－－making atł－－reasonabte－－efforts－－to－－eozłeet－－unpaid－contributions assessments－under－39－5t－404t4ty－and－penatties－and－－interest thereont－－or－overpaid－benefitg－under－39－5i－3ze6－and－interest thereonf－－the－－department－－may－－determine－－a－－debt－－－to－－－be ancotłectibier－－－－Hpon－－－－determining－－－that－－－a－－－debt－－－is uncotzeetibter－the－department－may－transfer－the－debt－－to－－the state－anditor department－of－administration for－eołzection－as provided－in－77－4－704＝
fzf－－Subject－－to－－approvat－by－the－departmenty－reasonabte fees－or－costs－of－cottection－incurred－by－－the－－state－－auditor

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## hOUSE BILL NO. 153

introduced by bardanouve, nathe, jergeson, 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 ADMINLSTRATION BY TRANSFERRING THE PAYROLLT WARRANT-WRモP¥NG\%-ANB-BAB-BEBT--ABMINESTRAP¥EN FUNCTIONS OF THE STATE AUDITOR TO THE DEPARTMENT OF ADMINISTRATION; AND AMENDING SECTIONS 2-18-401, 2-18-402, 2-18-403, 2-18-4047
 £7-3-さ 0 -
 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 audifer department of administration shall ingtall 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, $\mathrm{f}^{-w h i t h}$ The fund may be utilized for the payment of compensation to officers and employees of the state and all amounts withheld eherefrom from compensation, pursuant to law.
(2) The amount to be disbursed from the state payroll agency fund at any time shatt must be determined by the state-auditor department of administration and, on his order of the department, shałz 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----auditer 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 shałt 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--anditor 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 shałz must include exempt employees but---shetit--not--neeessarity 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 shati 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 danuery-tr- $\mathbf{4 9 7 9 7 - a ł \ddagger}$ All state payroll systems shałt must be based upon actual payroll figures subritted after the end of the payroll period and may not be based upon estimated
payroll.
(2) All state payroll systems shałt must provide for the fixing of payroll periods and designated days on which salaried employees shatt--be are paid for the preceding payroll period. The pay date shati must be uniform for all employees of each state agency employed in the same geographic area, and payroll warrants shatt 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-aaditor department of administration not less than 60 days prior to the effective date of the change."

Section-6.--Section-2-78-4ity-MEA7-is-anended-to-read:--
 of--proof--satisfactory--to--the-state-auditor department-of adminimeration that-a-payroti-warrant-issued--by--the--state auditor department has-been-tost-or-destroyed-prior-to-ites detivery-to-the-empłoyee-to-whom-it-is--payablef--the--state auditar department shałt-upen-eertification-by-the-payeels


#### Abstract

appointing-powerf-issue-a-duptieate-warrant--in--payment--of the-same-amount-withant-requiring-a-bond-from-the-payeei and any--zoss-ineurred--in--connection-therewith-shati with-the warrant-must be-charged-against-the-account-from--which--the payment-was-derived: tzt--A--payroti--warrant--shatz-be is eonsidered-to-have been-tost-if-it-has-been-sent-to-the-payee-but-not--received by-him the-paree-within-a-reasonable-timef-consistent-with the-potiey-of-prompt-payment-of-emptoyees-or-if-it-has-been sent-to-a-state-officef-or--emptoyee--for--detivery--to--the payee-or-for-forwarding-to-another-state-offieer-or-emptoyee for--such--detivery--and-has-not-been-reeeived-within-sueh a reasonabte-time:"

Section-7:-Seetion- $\mathbf{- 7 - 7 - 7 \theta \pm t - M e A _ { 7 } - i s - a m e n d e d - t o - r e a d : - - ~}$  37--part--37--and--chapter-4y-part-ty-and-untess-the-context requires-otherwiser-in-this--titze--udepartmentu--means--the department--of--administration--provided--for--in--Iitte--zt   my-t-łzł:--Generat---fiseat--duties--of--state--auditor department:-ft-is-the-duty-of-the-state-anditor department to: t¥t--superintend-the-fiseat-concerns-of-the-state; fZt--give--information-in-writing-to-either-house-of-the


H8 153

Zegistature-retating-to-the-fiscat-affairs-of-the-state--or the-duties-of-his-office the-department when-requestedy
t3t-suggest-płans-for-the-improvement-and-management-of the-pubtic-revenues revenues
t4\}--keep--an--aecount--of--ati--warrants-drawn-upon-the treasurer-and-sueh-other-account-and--appropriation--recerds that--he the--depertment-determines-to-be-essentiat-for-the support-of-the-accounting-records-mainteined-in--the--office of-the-department-of-administration:
t5t--keep--an--aceount--between--the-state-and-the-state treasurer-and-therein-charge-the-state-treasurer--with--the batance--in--the--treasury--when--he the-treasurer came-into office-and--with--ati--moneys money--reeeived--by--hin the treasurer and--credit--him the-treasurer with-azi-warrants drawn-on-and-paid-by-him the-treasurer;
t6t--keep-a-register-of-warrantst-showing-the-fund--upon whieh--they--are--drawnt-the-numbert-in-whose-favort-and-the date-issued:
t7t--requife-ati-persons-who-have--received-any--moneys money betonging-to-the-state-and-have-not-accounted-therefor for-the-money to-settie-their-accounts;
f8f--draw--warrants--on--the--state--treasurer--for--the payment--of-moneys--money direeted-by-zaw-to-be-paid-out-of the-treasuryt-but-no a warrant-must may-not be-drawn--untess authorized-by-taw;
f9f－－authentscate－with－his an officiat－seat－att－warrants drawn－by－him the－department and－ati－copies－of－papers－－issued from－his－office the－department；
t $\ddagger \theta+-c o t t e e t--a n d--p a y--i n t o-t h e-s t a t e-t r e a s u r y-a t i-f e e s ~$ received－by－him the－department，and
ttit－perform－sueh－other－－duties－－as－－are－－prescribed－－by ław․․

Section－9－－Section－¥7－i－iz2；－MEA；－is－amended－to－read：－－
m¥゙ーシーまそも：－－Biscretionary－－－duties authority of－－state auditor department：－In－his－diseretion－it－is－the－duty－of－－the state－auditor－to Ihe－department－may：
tモt－－inspect－the－books－of－any－persons－charged－with－the reeeiptr－－safekeepingt－－or－－disbursement－－of－－pubitie－－moneys money；
（Z）－－require－ati－persons－who－－have－－received－－moneys－－or securities money or－have－had－the－disposition－or－management of－any－property－of－the－state－of－whieh－an－account－is－kept－－in his the－department office－to－render－statements－thereof－to him the－departmenti－and－ati－sueh－persons the－－persans must render－－statements－－at－－such－－times－and－in－such a form－as－he that the－department may－reguiref
tЭf－－pronutgate－rułes－－regarding－－the－－distribution－－and processing－of－warrants－issued；and
t4f－－estabigshт－－－under－－－the－－－joint－－－eontrot－－of－－the department－of－administration－and－the－state－auditory－a－system
of－fiting－and－atorage－of－the－originat－copy－of－ełaima－paid－by state－warrantin
 concerntng－securities：－－The－－state－－auditor－－mar－－require－－a person－－who－－has－－received－seeurities－of－which－an－account－is kept－by－the－auditor－to－render－－a－statement－－concerning－－the securities－－to－－the－anditor－at－the－time－and－in－the－form－that the－auditor－may－require－

Section－早军－－＇Section－¥7－3－ $\mathbf{1 0 0 4 7 - M E A p - i s - a m e n d e d - t o - r e a d - - - ~}$
 reeeired－－by－－the－－state－－treasurer－－under－the－provisions－of 17－3－1003－shati may be－paid－out－by－him the－treasurer onty－on warrant－issurd－by－the－state－auditor department in－payment－of etaims－for－expenses－aetuatiy－incurred－for－－the－－support－－and maintenance－of－the－institution－fiting－the－same etoim：
tzt－－In－－the－－payment－－of－－etaims－－presented－－by－a－state institution－entitted－to－interest－and－income－from－iand－grants or－moneys－arising－therefrom money－from－a－tand－－granti－－no a warrant－－shati may－－not be－drawn－against－the－appropriation made－－by－－the－－state－－out－－of－－the－－generat－－fund－－for－－－the maintenance－－of－－the－－institution－－fiting－－the－－ełaim－－untíi interest－－and－－income－－moneys moneyr－－insofar－－as－－they－are avaiłabłe－for－the－payment－of－the－items－－in－－the－－cłaims－－are exhausted：＂

Section－72－－Seetion－ 17 －4－ $48 \pm$－MEAT－is－amended－to－read：－－
n¥7－4－¥日ま－－－Befinitionst－－fn－－this－－party－－the－fotzowing definitions－appty：
fit－－The－－word－－m departmentㅍ－－means－－the－－departmene－－of revenue administration：
 departmentsp－－divisionst－－beardst－－－commissionst－－－councitst committeesp－－－institutionsi－－－university－－unitsj－－and－－other entities－or－instrumentatities－of－state－government－＂

4צ7－4－士日z：－－Aceounts－af－persons－indebted－to－－state＝－－tt In－his－discretion－it－is－the－duty－of－the－state－auditor－to qhe department－may：
tat－－examine－and－settite－the－aceounts－of－persons－indebted te－the－stateg and－certify－the－amounty to－the－treasurer－andt upon－presentation－and－－fiting－－of－－the－－treasureris－－receipt therefort－to and give－such the person－a－discharge－and－charge the－treasurer－therewith；
fbt－－require－－－any－－person－－presenting－－an－－aceount－－for settłement－to－be－sworn－before－him－and－to－answert－－oratiy－－or in－writingy－as－to－any－facts－retating－to－ity
$\dagger z \dagger-$ The－certifficate－mentioned－in－subsection－tyttat－must show－－by－whom－the－payment－is－to－be－mader－the－amount－thereofy and－the－fund－into－whieh－－it－－is－－to－－be－－paid－－and－－must－－be numbered－－－in－－－ordery－－－beginning－－with－－number－－i－at－－the comencement－of－each－fiscaz－year－M

Saction－74－－Section－ $\mathbf{t 7 - 4 - 7 0 3 7 - M E A 7 - i s - a m e n d e d - t o - r e a d : - - ~}$
＝x7－4－103：－－eottection－－of－－etaims－－by－－－atate－－－auditor department：－－tty－－In－－his－－discretiont－it－is－the－daty－of－the state－auditor－to qine－department－may examine－－the－－cottection of－－money－－due－the－state－and－institute－suits－in－its－name－for offietat－－detinquencies－－in－－retation－－to－－the－－－assessment eozteetiont－－and－－payment－of－the－revenue－and－against－persons who－possess－pubtic－money－or－property－and－fait－to－pay－over－or detiver－the－money－or－property－and－－against－debtors－－of－－the state－－qhe－courts－of－the－county－where－the－seat－of－government mar－－be is tocated－have－jurisdietiont－wthout－regard－to－the residence－of－－the－－defendantsp－－over－－the－－cotitection－－suits authorized－by－this－section－
（Z）－－Whenever－－a－－person－－has－－money－－or－－other－personat property－that－betongs－to－the－state－by－escheat－or－otherwise or－－has－－been－－entrusted－with－the－eotzeetionf－management－－or disbursement－of－moneyt－bondst－or－interest－aceruing－from－－the money－－or－bondsi－bełenging－to－or－hełd－in－trust－by－the－statef and－faits－to－render－an－aceount－－of－－the－－money－－or－－personaz property－－to－－and－－make－－settitment－－with－－the－state－auditor department within－the－time－preseribed－by－taw－ort－when－－no a partieutar－time－is not speeifiedj－faits－to－render－an－aeeant and－－make－－setttement－－or－－who－－faits－－to－pay－into－the－state treasury－the－－money－－betonging－－to－－the－－stater－－upon－－being required－te－do－so－by－the－state－auditor departmentr－within－ze
days--after--the--requisitiont--the-state-auditar department shazz-state--an--aceount--with--that--persont--charging-~25k damages-and-interest-at-the-rate-of-itet-a-year-from-the-time of--the--faituref--A--eopy-of-the-aceount-in-a-suit-is-prima facte-evidence-of-the-things-stated-in-the-accountr-but-when the-state-auditor department cannot-for-want-of--information state--an-accountr-he it may-in-an-action-brought-by-him the department aver-that-fact-and-aztege-generatty-the-amount-of money-or-other-property-dae-or-betonging-to-the-state-
f3t--The-state-auditor department may-assist--in--the cotłection-of-a-dełinquent-aceount-owing-to-any-state-ageney and--may-separatety-charge-the-state-ageney-that-transferfed the-debt-for-the--cost--of--assistance---The--state--auditor department may---designate--the--percentage--of--cottected proceeds-to-be-retained-for-the-cost-of-assistance-
(4t--She--state--auditor department may---provide---a cotiection--service--for-the-generat-purpose-of-centratizing the-cotiection-of-ati-debts-owing-to-the-stater:

Section-45:-Seetion- $47-4-1047$-ment-is-amended-to-read---
 must-assist--Subject-to-and-in-accordance-with-rutes-adopted by--the-state-auditor itt-the-state-auditor department shazł render-assistance-in-the-eotzection-of-aceounts-owing-to-any state-agency-if-ati-of-the-fotłowing--procedores--have--been eompleted-to-his its-satisfaction:
 efforts-to-cotzeet-money-owed-to-it-and-must shatz determine that-the-money-and-any-interest-or--penaities--therefor--are uncotzeetibte----in----accordance----with----eriteria----for uncoztectibitity-formutated-by-that-ageneyT
(Z)--Once--a-state-agency-has-determined-an-account-owed to-it-uncotlectibler-it-shati-certify-to-the--state-auditor department the-amount-of-the-moneyf-interestr-and-penazties $\bar{y}$ as--aceurate $\ddagger$--as--can--be--determined---The--state-auditor department may-require--submiasion--by--the--ageney--of-ait rezevant--evidence--and-other-information-regarding-the-debt and-may-eramine-the-records-of-any-other-state-ageney--which may--be-pertinent-in-determining-the-uncotiectibitity-of-the debt-untess-examination-is-speeificatiy-prohibited-by-taw-
 is--uneottectibłe--in--accordance--with--the--eriteria---for uncotieetibitity-of-money-due-that-state-ageneyp-he it shait direet--the-agency-to-write-off-the-debt-on-its-accounts-and transfer-the-debt-to-him the-department.
t4i--Bebts--described--in--17-4-i05t4t---need---not---be determined-uncotteetibte-for-purposes-of-this-section-u

 Өnce-a-debt-of-a-state-agency-has-been--transferred--to--the state-auditor department;-he-shazt-have-the-authority-to the
department--may cołłeet-it=-Ine-state-auditor department may contraet-with-comeretat-coltection-ageneifes-for-reeovery-of debts-owed-the-state:
tzt--The--state--auditor department shatz--offset--any amount-due-a-state-agency-from-a-person--or--entity--against any--amount;-incłuding-refunds-or-taxesf-owing-the-person-or entity-by-any-state-ageneyさr-provided-the-state-auditor she department may--not-exereise-this-right-of-offset-untit-the debtor--has--first--been--notified--by--the--state---anditor department and--been-given-an-opportunity-for-a-hearing--No An offset-may not be-made-against-any--amount--paid--out-as chitd--support--eotifeeted--by--the--department-of-soefat-and rehabititation-services:-The-stete-auditor department shałt deduct--from-the-etaim-and-drav-his-warrants-for-the-amounts offset-in-favor-of-the-respective-state--agencies--to--which due--and--for-any-batance-in-favor-of-the-etaimant--Whenever insuffieifent-to-offset-ałt-anounts-due-state--ageneiest--the amount--avaitabte--shatz must-be-appifed-first-to-debes-owed by-reason-of-the-nonpayment-of-chitid--support--and--then-in such a manner-as that the-state-anditor departmentotin-his its diseretiont-shati-determine
t3t--tat-The-department of-revenue retains-the-power--to offset--tax--refunds--due-individuats-againgt-taxes-owed-the statef-provided-the-department of-revenue may--not-exereise this-right-of-offset-untit-the-taxpayer-has-been-notified-by
the--department of-revenue-and-been-given-the-opportunity-to
request-a-review. request-a-review:
tbt--Within-30-daym-fotzowing-maiting--of--notificationt the-taxpayer-may-request-a-review-of-the-asserted-亡iabítity ff--a--review--is-requestedr-the-department of-revenue shazi conduct-an-informat-review-conferencer-which-is-not--subjeet to---the---contested---case---procedures---of---the--Montana Administrative-procedure-Act.
tet--Appeat-from--the--deeision--of--the--department of revenue after--the--reviev--conference--may-be-taken-to-the state-tax-appeat-board.
tdt--A-taxpayer-is-not-entitied-to-a--review-eonference for--a-tax-offset-if-the-tax-ifabitity-has-been-the-subject matter-of--any--proceeding--conducted--for--the--purpose--of determining--its--vaifdity-and-any-decision-made-as-a-resutt of-that-proeeeding-hes-become-finaz:
tht--tat-A-debt-resutting-from-or-retating--te--a--ehita support--obitigation--owed--to--the--department-of-sociat-and rehabititation-services-or-being-cotzected-by-the-department of-sociat-and--rehabititation--serviees--on--behatf--of--any person--or--agency--may--be--offset--by--the--state--auditor department if:
tif--the--debt--is--being--enforced--or-cotłected-by-the department-of-sociat-and-rehabizitation-services-under-Pitye fy-B-of-the-Sociat-Gecurity-Act;
tift－the－debt－is－for－repayment－of－ehiłd－support－payments retained－contrary－to－the－asaignment－at－53－z－613；－or
tixit－the－debt－ia－for－costs－of－fees－under－any－－contraety judgmentr－－or－－administrative－order－entered－in－the－course－of ehitd－support－enforcement－by－the－department－－of－－sociat－－and rehabititution－services＝
tbt－－The－debt－need－not－be－determined－to－be－uncoltectible as－－provided－for－in－77－4－7日4－before－being－transferred－to－the state－anditor department for－－offset－－－The－－debt－－must－－heve acerued－－－through－－－written－－contractr－－court－－judgnentr－－or adainistrative－orders
tet－－Within－30－days－fotzowing－the－notification－－provided in－－subsection－－tモチェ－－the－－person－－owing－a－debe－deseribed－in subsection－t4ttat－may－request－a－hearing－－The－hearing－must－be conducted－by－teteconfereneing－methods－and－is－subjeet－to－－the provisions－－of－the－Montana－Adminigtrative－Procedure－Aet．－The department－of－sociat－and－rehabititation－serviees－shatz－adopt rutes－necessary－to－determine－the－hearing－procedures－
t5t－－ify－－in－－the－－diseretion－－af－－the－－－state－－－auditor departmentr－the－person－or－entity－refuses－or－negieets－to－fite his a etaim－within－a－reasonable－timer－the－head－of－the－state agency－owing－the－amount－shati－fize－the－etaim－－on－behazf－－of such the person－or－entityr－if $\ddagger \underline{f}$ approved－by－the－department of－－adiministrationt－－it－－shati－－have has the－same－force－and effect－as－though if－it－were fized－－by－－such the person－－or
entitys－－The－－amount－due－any－perizon－or－entity－from－the－state or－any－agency－thereof－is－the－net－amount－otherwise－owing－such the person－or－entity－after－any－offseti as provided－－in－this section－providedin

Seetion－77－－Seetion－ $47-4-4067-$ MeA7－is－amended－to－read：－－ ェュ7－4－ま06：－－Agency－－－owed－－debt－－to－－receive－－atz－－money
 auditor department on－debts－transferred－to－－him itw by－the various－－－state－－－agenciesp－－except－－funds－－eołłeeted－－under 17－4－ $\mathbf{4 0 3 t 3 t r - m u s t - b e - d e p o s i t e d - t o - t h e - a c e o u n t - o r - f u n d - o f - t h e ~}$ agency－to－whieh－the－debt－was－originałły－owingy
 in－an－account－in－the－internat－service－fund－for－the－－cost－of assistance－－－of－－－debt－－－eołłection－－by－－the－－state－－auditor department：－－Punds－－deposited－－in－－excess－－of－－－the－－－amount appropriated－－for－－operation－－of－the－debt－cołtection－program must－be－carrifed－－forward－－into－－the－－next－－fiseat－－year－－for operation－of－the－debt－cottection－program－Any－exeess－earifed forward－－into－－the－－next－－fiscai－－year－－witi must be－used－to reduee－the－designated－percentage－of－the－－coztected－－proceeds charged－－to－－the－－various－state－ageneies－－At－the－end－of－each bienniump－any－fund－bałance－in－－ereess－－of－－stititen－must－－be trangferred－baek－to－the－generat－fundra

Section－18．－－Section－i7－4－107，－MEAy－is－amended－to－read：－－

department mar－－estabisish－－procedures－－for－－canceting－－－and writing－－off－accounts－receivable－carifed－on－the－books－of－the various－state－ageneies－whieh that have－been－－transferred－－to him the－－department pursuant－to－¥7－4－104－and－which that are uncotteetibte－or－the－continued－pursuance－of－－the－－coztection thereof of－the－accounts－receivabie would－cost－the－state－more than－the－amount－cottected－－Sueh The procedures－shatit must be established－in－accordance－with－subsection－tzi＝
tZt－－Ihe－－department－－of－－administration－－may－－estabtish procedures－for－cancełing－and－witing－off－accounts－receivabte carried－－on－－the－－backs－of－various－state－agencies－whieh that are－－uncozzectibte－－or－－the－－continued－－pursuance－－－of－－－the eałteetion－－woutd－－cost－－the－－state－－more－－than－－the－－amount cotłected：－Such the procedures－－shati must－inełude－－the
 writing－off－of－accounts－receivabter ${ }^{n}$

Section－49．－Section－ $47-4-7 \theta 8_{7}-M E A_{7}-i$－in－anended－to－read－－－
47－4－ұ日日：－－eireumstances－－－under－－－－which－－－－previousiy written－off－－debt－－may－－be－－eotzected？－－¥f－e－debt－previousiy
 collectiblef－the－state－auditor department shałt－proceed－－to


Section－20－－Section－39－3－Ż37－MeA7－is－amended－to－read：－－
 of－tabor－and－industry－shati－deposit－wages－cotzected－－by－－him
under－parts－z－and－4－of－this－chapter－into－the－ageney－fund－and ．shati－－attempt－－to－－make－－payment－－of－－wages－to－the－entitied person－－－Wages－－deposited－－into－－the－－ageney－fund－－are－－not interest－bearing－－The－payment－of－wages－eotłeeted－may－be－made by－means－of－state－warrants－
†Zt－－Warrants－issued－pursuant－to－－subsection－－ṫf－－which that remain－uncłaimed－for－more－than－i－year－from－the－date－of issuance－－shati mast be－－returned－－to－－the－－state－－auditor department－of－administration－for－cancełłation－in－－accordanee


Section－2年：－Section－－39－51－32077－－MEAt－－is－－amended－－to－－ read：
－39－5y－3207：－－Authority－to－determine－uncotzectibitity－of debts－－－－－transfer－of－debts－for－cołłection－－－－łiabizity－for payment－of－fees－and－costs－of－cotzeetion＝－－tzf－－After－－making Atz－－reasonable－－efforts－－to－－cotzect－－unpaid－contributionst assessments－under－39－5z－404t4f－and－penatties－－and－－interest thereont－－or－overpatd－benefits－under－39－5ı－3z日G－and－interest thereonf－－the－－department－－may－－determine－－a－－debt－－－to－－－be uneołłectibter－－－－Epon－－－－determining－－－that－－－a－－－debt－－－is uneotłeetibłef－the－department－may－transfer－the－debt－－to－the state－auditor department－of－administration for－cotłection－as provided－in－17－4－104：
（zt－－Subject－－to－－approvat－by－the－department－－reasonabte fees－or－costs－of－coltection－incurred－by－－the－－state－－auditor
department--of--adinnigtration may-be-added-to-the-amount-of the-debtr-inełuding-added--fees--or--costar--The--debtor--is tiabze-for-repayment-of-the-amount-of-the-debt-ptus-fees-or eosts-added-pursuant-to-this-subsection-Ati-money-cozteeted must-be-retarned-to-the-departanent--to-be--appzied--to--the debtr--except--that--ałt--fees--or--eosts--eotzected-mast-be retained-by-the-gtate-auditor department-of--administration: ff--łems--than-the-futz-amount-of-the-debt-is-cozłectedr-the state-auditor department-of-administration shatz-retain-onty - proportionate-share-of-the-eołłection-fees-or-costs-"

NEW-BBEPION:--Section-22---Eodification-----instruetiont--fSection-10ł-is-intended-to-be-codified-as-an-integraz--part of--9itte-k7t-chapter-łt-part-łt-and-the-provisions-of-甲itłe


NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 1993.
-End-

SENATE BILL NO. 153
INTRODUCED BY DOHERTY, J. RICE
by Request of the department of Justice

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

## be it enacted by the legislature of the state of montana:

Section 1. Section 46-18-201, MCA, is amended to read:
-46-18-201. Sentences that may be imposed. (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:
(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3
years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Reasonable restrictions or conditions may include:
(i) jail base release;
(ii) jail time not exceeding 180 days;
(iii) conditions for probation;
(iv) restitution;
(v) payment of the costs of confinement;
(vi) payment of a fine as provided in 46-18-231;
(vii) payment of costs as provided in 46-18-232 and 46-18-233;
(viii) payment of costs of court-appointed counsel as provided in 46-8-113;
(ix) with the approval of the facility or program, order the offender to be placed in a community corrections facility or program as provided in 53-30-321;
( $x$ ) community service;
(xi) home arrest as provided in Title 46, chapter 18 , part 10;
(xii) any other reasonable conditions considered necessary for rehabilitation or for the protection of society; or
(xiii) any combination of the above.
(b) suspend execution of sentence up to the maximum
sentence allowed for each particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable restrictions or conditions may include any of those listed in subsection (1)(a).
(c) impose a fine as provided by law for the offense;
(d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed counsel as provided in 46-8-113;
(e) commit the defendant to a correctional institution, with or without a fine as provided by law for the offense;
(f) with the approval of the facility or program, order the offender to be placed in a community corrections facility or program as provided in 53-30-321;
(g) impose any combination of subsections (l)(b) through (1)(f).
(2) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony, regardless of whether any other conditions are imposed.
(3) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court shall consider any. elapsed time and either expressly allow part or all of it as a credit against the sentence or reject all or
part as a credit and state its reasons in the order. Credit, however, must be allowed for jail or home arrest time already served.
(4) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment iraposed under the following sections may not be deferred or suspended: 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).
(5) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102 may not be deferred or suspended.
(6). Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.
(7) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred or suspended. Section 46-18-222 does not apply to the first 30 days of the
imprisonment.
(8) In imposing a sentence on a defendant convicted of a sexual offense as defined in 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and Title 46, chapter 23 , part 5.
(9) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender program.
(10) In sentencing a nonviolent felony offender, the court shall first consider alternatives to imprisonment of the offender in the state prison, including placement of the offender in a community corrections facility or program. In considering alternatives to imprisonment, the court shall examine the sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison or a women's correctional facility, the court shall state its reasons why alternatives to imprisonment were not selected, based on the criteria contained in 46-18-225."

Section 2. Section 61-3-322, MCA, is amended to read:
-61-3-322. Certificates of registration -- issuance. (1) Upon completion of the application for registration on forms furnished by the department, the county treasurer shall file one copy in his the treasurer's office and issue to the applicant two copies of the application marked
"Owner's Certificate of Registration and Payment Receipt", one of which shazt must be marked "file copy".
(2) The certificate of registration shati must contain upon the face thereof of the certificate the information described in 61-3-202(2).
(3) Every-ownerf-upon-receiving-a-registration-receipty shałt-write-his-signature-on-the-receipt-with-pen-and-ink-in the-space-provided. The registration receipt, a photostatic copy of the receipt acknowledged by the county treasurer or a deputy county treasurer, a notarized photostatic copy, or a duplicate furnished by the department shałt must at all times be carried in the vehicle to which it refers or shati must be carried by the person driving or in control of the vehicle, who shall display it upon demand of a police officer or any officer or employee of the department or the transportation department.
(4) The county treasurer shall daily forward to the department one copy of all applications for registration received that day.
(5) It is not necessary for the county treasurer to segregate the amount of taxes or fees for state, county, school district, and municipal purposes in the receipt."

Section 3. Section 61-3-535, MCA, is amended to read:
*61-3-535. Vehicle reregistration by mail -- renewal cards and reregistration notice by mail. (l) 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.
t4t--in-the-case-of--tight--vehictest--the--form--te--be returned--to-the-county-treasurer-by-the-appitcant-with-the appropriate-tax-and-feest-is-to-contain-a-statement-that-the appiticant-is-in--comptiance--with--the--finaneiat--tiabitity requitrements-of-6t-6-3日ts
(5)(4) The procedure implemented by the department to permit reregistration or camper decal application by mail
shał 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-tzft-before-any-appitcant-required-to-register his-motor-vehiete-may-do-sor-the-appifeant-must--certify--to the---county--treasurer--that--he--possesses--an--automobite łiabiłity-insurance-połieyp-a-certificate-of-setf-insurancef or-a-posted-indemnity-bond-or-that-he--is--etigibte--for--an exemption-under--6t-6-3日3--covering--the-motor-vehicte--The eertification--shazt--be--on--a--form--preseribed---by---the departmentr---The--department--may--immediately--cancet--the registration--and--łicense--płates--of--the---vehiełe---upon notifieation--that--the--insurance--certification--was--not correetzy-representedr-Any-person-who-intentionatiy-provides fatse-information-on-an-insurance-certification-is-guizty-of unsworn-falsification-to-authoritiest-punishabte-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.
†Zサ-An-appłicant-for-registration-of--a--motor--venicte who--wishes--te--register--the--vehicte--by-mait-must-sign-a statement-on-the-appifeation-stating-that-the--apptieant--is in--comptiance--with-the-finanetat-łiabiłity-requirements-of 64-6-367=
t3t(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.
t4t(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 the
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-viotation-of Conviction of a first offense under 61-6-301 through 61-6-304 is e-misdemeanor punishable by a fine of not-łess-than- $\$ 250$ NOT LESS THAN $\$ 250$ OR MORE THAN $\$ 500$ and-net-te-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 $\$ 35 \theta$ \$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 \$50日 $\$$ not more than $\pm \theta$ $3 \theta 10$ days, or both.
13) Upon a second or subsequent
conviction, $\qquad$ sentencing court shall order the surrender of the vehicle registration-eertificater regigtration receipty and license plates for the vehicle operated at the time of the offense

"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 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;
$(e)$ operating a motor vehicle while his license to do so has been suspended or revoked, 6 points;
(f) failure of the driver of motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance, as defined in 61-7-105, 8 points;
(g) willful failure of the driver involved in an accident resulting in property damage of $\$ 250$ to stop at the scene of the accident and give the required information or to otherwise fail to report an accident in violation of the law, 4 points:
(h) reckless driving, 5 points;
(i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;
(i) a mandatory motor vehicle liability protection offense under 61-6-304, 5 points;
$t j t(k)$ operating a motor vehicle without a license to do so, 2 points (this subsection $t j \not(k)$ does not apply to operating a motor vehicle within a period of 180 days from the date the license expired);
thet(1) speeding, 3 points;
$t \neq \dagger(m)$ all other moving violations, 2 points.
(3) There shall be no multiple application of cumulative points when two or more charges are filed
involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points shall be chargeable against that defendant.
(4) "License" means any type of license or permit to operate a motor vehicle."

Section 7. Section 61-13-104, MCA, is amended to read:
"61-13-104. Penalty -- no record permitted. (1) A driver who violates 61-13-103 must be fined $\$ 20$, but the violation is not a misdemeanor pursuant to 45-2-101, 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103 may not be counted as a moving violation for purposes of suspending a driver's license under 61-11-203tz+t¥t(2)(m). Bond for this offense is $\$ 20$, and no jail sentence may be imposed.
(2) No violation of 61-13-103 may be recorded or charged againgt the driver's record of a person violating 61-13-103, and no insurance company shall hold a violation of 61-13-103 against the insured, and there may be no increase in premiums due to a violation of 61-13-103."
-End-


[^0]:    "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 shati must include exempt employees but---shati--not--neeessarity 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 shatz 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 $2-18-405, \mathrm{MCA}$, is amended to read:
    -2-18-405. Payroll based on actual, end-of-period figures -- pay date -- change of payroll periods. (1) By
     based upon actual payroll figures submitted after the end of the payroll period and may not be based upon estimated payroll.

[^1]:    department－－of－administration may－be－added－to－the－amount－of the－debtr－inctuding－added－－fees－－or－－costs：－－She－－debtor－－is tiabte－－for－repaynent－of－the－amount－of－the－debt－ptus－fees－or eosts－added－pursuant－to－this－subsection－Att－money－eomiected must－be－returned－to－the－department－－to－－be－－appited－－to－－the debtr－－except－－that－－ałt－－fees－－or－－easts－－eotłected－mast－be retained－by－the－state－auditor department－of－－administration－
     state－auditor department－of－administration shati－retain－onty a－proportionate－share－of－the－cołłeetion－fees－or－costs：u NEW－SZe甲时：－－Section－22．－－Eodification－－－－－instruetionz－－ fSection－i日t－is－intended－to－be－codified－as－an－integraz－－part of－－Titze－¥7t－Chapter－¥t－part－¥t－and－the－provisions－of－titze
    

    NEW SECTION．SECTION 6．EFPECTIVE DATE．［THIS ACT］IS EFFECTIVE JULY 1， 1993.
    －End－

