



AN ACT REQUIRING THAT THE PROCESS ORIENTED INTEGRATED SYSTEM (POINTS) COMPUTER SYSTEM OF THE DEPARTMENT OF REVENUE TO BE REPLACED WITH A DIFFERENT COMPUTER SYSTEM; REQUIRING THAT CURRENT DATA NEEDED FOR THE REPLACEMENT SYSTEM BE CORRECTED; PROVIDING THAT UNEMPLOYMENT INSURANCE TAX COLLECTIONS WILL NOT BE PROCESSED UNDER THE REPLACEMENT SYSTEM BY TERMINATING THE DELEGATION TO THE DEPARTMENT OF REVENUE OF RESPONSIBILITY FOR COLLECTING UNEMPLOYMENT INSURANCE TAXES FOR THE DEPARTMENT OF LABOR AND INDUSTRY; INCREASING THE DEBT LIMIT UNDER THE MUNICIPAL FINANCE CONSOLIDATION ACT; AUTHORIZING A LOAN TO THE DEPARTMENT OF REVENUE FOR THE REPLACEMENT SYSTEM; REQUIRING THE DEPARTMENT OF REVENUE TO IMPOSE AN ADMINISTRATIVE CHARGE FOR TAX COLLECTION SERVICES; REQUIRING THE ADMINISTRATIVE CHARGE TO BE DEPOSITED IN AN ACCOUNT TO BE USED TO PAY THE DEBT SERVICE ON LOANS ISSUED FOR THE REPLACEMENT SYSTEM; APPROPRIATING MONEY FOR DEPARTMENT OF REVENUE'S TRANSITION COSTS AND FOR LOAN REPAYMENT; AMENDING SECTIONS 15-1-501, 17-5-1608, 17-5-2001, 39-51-301, 39-51-1109, 39-51-1301, AND 39-51-2402, MCA; AND PROVIDING EFFECTIVE DATES AND TERMINATION DATES.

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

Section 1. Department of revenue POINTS computer system replacement. (1) The department of revenue, in conjunction with the chief information officer and the department of administration, shall replace the process oriented integrated system (POINTS) computer system. Unemployment insurance collections must be transferred to the department of labor and industry by February 1, 2005. Subject to department of revenue requirements, the replacement system must be phased in to process all other department tax and debt collection functions. Functioning portions of POINTS may continue to be used for departmental processing requirements until the replacement system becomes operational for those processes.

(2) The department of revenue, in conjunction with the chief information officer and the department of labor and industry, shall plan replacement system requirements and, prior to February 1, 2005, have in operation a base component and at least one tax processing component of the replacement system.

(3) None of the departments or agencies involved in the POINTS computer system replacement may expend any funds authorized for the replacement system by the 58th legislature after June 30, 2005, without obtaining spending authority from the 59th legislature.

(4) The chief information officer, in consultation with the director of the department of revenue and the commissioner of labor and industry, shall require that current withholding, combined oil and gas, and unemployment insurance data determined necessary for the replacement system be corrected. The correction must be verified through an independent audit conducted either directly or under contract by the legislative auditor.

Section 2. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes. (1) ~~The~~ Except as provided in subsection (5), the state treasurer shall deposit to the credit of the state general fund in accordance with the provisions of subsection (3) all money received from the collection of:

- (a) income taxes, interest, and penalties collected under chapter 30;
- (b) all taxes, interest, and penalties collected under chapter 31;
- (c) oil and natural gas production taxes distributed to the general fund under 15-36-324;
- (d) electrical energy producer's license taxes under chapter 51;
- (e) the retail telecommunications excise tax collected under Title 15, chapter 53, part 1;
- (f) liquor license taxes under Title 16;
- (g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;
- (h) estate taxes under Title 72, chapter 16; and
- (i) fees based on the value of currency on deposit and tangible personal property held for safekeeping by a foreign capital depository as provided in 15-31-803.

(2) The department shall also deposit to the credit of the state general fund all money received from the collection of license taxes and all net revenue and receipts from all sources, other than certain fees, under the operation of the Montana Alcoholic Beverage Code.

(3) Notwithstanding any other provision of law, the distribution of tax revenue must be made according to the provisions of the law governing allocation of the tax that were in effect for the period in which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department

of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

(4) All refunds of taxes must be attributed to the funds in which the taxes are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded.

(5) The administrative assessment provided for in [section 5] must be deposited in an account in the state special revenue fund to the credit of the department."

Section 3. Section 17-5-1608, MCA, is amended to read:

"17-5-1608. (Temporary) Limitations on amounts. The board may not issue any bonds or notes that cause the total outstanding indebtedness of the board under this part, except for bonds or notes issued to fund or refund other outstanding bonds or notes or to purchase registered warrants or tax or revenue anticipation notes of a local government as defined in 7-6-1101, to exceed ~~\$80~~ \$120 million. (Terminates June 30, 2011--sec. 9, Ch. 394, L. 2001.)

17-5-1608. (Effective July 1, 2011) Limitations on amounts. The board may not issue any bonds or notes that cause the total outstanding indebtedness of the board under this part, ~~(except for bonds or notes issued to fund or refund other outstanding bonds or notes or to purchase registered warrants or tax or revenue anticipation notes of a local government as defined in 7-6-1101),~~ to exceed ~~\$75~~ \$120 million."

Section 4. Section 17-5-2001, MCA, is amended to read:

"17-5-2001. (Temporary) Loans to state agencies. (1) An agency responsible for the procurement and provision of vehicles, automated systems, and equipment using an enterprise fund or an internal service fund, as described in 17-2-102, is authorized to enter into contracts, loan agreements, or other forms of indebtedness payable over a term not to exceed 7 years for the purpose of financing the cost of the vehicles and equipment and to pledge to the repayment of the indebtedness the revenue of the enterprise fund or internal service fund if:

(a) the term of the indebtedness does not exceed the useful life of the items being financed; and
 (b) at the time that the indebtedness is incurred, the projected revenue of the fund, based on the fees and charges approved by the legislature and other available fund revenue, will be sufficient to repay the indebtedness over the proposed term and to maintain the operation of the enterprise.

(2) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms

of indebtedness with the board of investments for an amount not to exceed \$4.5 million, payable over a term not to exceed 10 years, for financing the cost of an information technology system for the production and maintenance of motor vehicle title and registration records and driver's license records.

(b) For purposes of the financing of the motor vehicle information technology system, loans are payable from the money in the motor vehicle information technology system account as provided in 61-3-550. The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue of the motor vehicle information technology system account, based upon the fees approved by the legislature, must be sufficient to repay the indebtedness over the proposed term.

(3) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$1,120,000, payable over a term not to exceed 7 years, for the acquisition of video gambling automated accounting and reporting system data collection units.

(b) The loan is payable from the department of justice's annual appropriation from the general fund.

(c) The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the department of justice's base budget appropriation from the general fund must be sufficient to repay the indebtedness with respect to the video gambling data collection units over the proposed term of the loan.

(d) The loan is subject to the risk of nonappropriation.

(4) (a) If bonds are not issued for the project authorized in [section 1], the department of revenue is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$17 million, payable over a term not to exceed 7 years, for the acquisition of a replacement system for the process oriented integrated system (POINTS) computer system.

(b) The loan is payable from the department of revenue's appropriation from the administrative assessment provided for in [section 5].

(c) The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue from the administrative assessment provided for in [section 5] must be sufficient to repay the indebtedness with respect to the replacement system over the proposed term of the loan.

(d) The loan is subject to the risk of nonappropriation. (Terminates June 30, 2011--sec. 9, Ch. 394, L. 2001.)

17-5-2001. (Effective July 1, 2011) Loans to state agencies. An agency responsible for the procurement and provision of vehicles and equipment using an enterprise fund or an internal service fund, as described in 17-2-102, is authorized to enter into contracts, loan agreements, or other forms of indebtedness payable over a term not to exceed 7 years for the purpose of financing the cost of the vehicles and equipment and to pledge to the repayment of the indebtedness the revenue of the enterprise fund or internal service fund if:

- (1) the term of the indebtedness does not exceed the useful life of the items being financed; and
- (2) at the time that the indebtedness is incurred, the projected revenue of the fund, based on the fees and charges approved by the legislature and other available fund revenue, will be sufficient to repay the indebtedness over the proposed term and to maintain the operation of the enterprise."

Section 5. Administrative assessment. (1) The department shall establish a fee of up to 0.45% of selected taxes collected by the department in order to recover costs and expenses associated with the POINTS replacement system described in [section 1]. The fee must be set annually to provide revenue equal to the debt service on the bonds authorized in 17-5-1608 or the projected principal and interest payments on the loan provided for in 17-5-2001.

(2) The department shall deposit the fee in an account in the state special revenue fund to the credit of the department.

(3) The department may adopt rules for identifying which taxes the administrative fee applies to and establishing the rate of the fee.

Section 6. Section 39-51-301, MCA, is amended to read:

"39-51-301. Administration -- duties and powers of department. (1) It is the duty of the department to administer this chapter and it may adopt, amend, or rescind rules; to employ persons, make expenditures, require reports, make investigations, and take action as it considers necessary or suitable in administering this chapter.

(2) The department shall determine its own organization and methods of procedure in accordance with the provisions of this chapter and ~~shall~~ must have an official seal, which is judicially noticed.

(3) Whenever the department believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly inform the governor and the legislature and make

recommendations with respect to the change.

(4) The department and the board may issue subpoenas and compel testimony and the production of evidence, including books and records, in regard to any investigation or proceeding under this chapter.

(5) The department ~~shall delegate to the department of revenue~~ may delegate to the department of revenue all duties associated with the administration of unemployment insurance contributions and the employment security account, ~~so long as the~~ The duties ~~are~~ must be carried out in conformity with the requirements of the program budget plan with the United States department of labor. The department of revenue must receive funds from the department for the performance of the delegated duties. The department of revenue has rulemaking authority with respect to any function or duty delegated to the department of revenue pursuant to this section. The delegated duties do not include oversight duties such as revenue quality control, risk management, and trust fund management. The department of revenue must receive funds from the department for the performance of the delegated duties. The department of revenue has rulemaking authority with respect to any function or duty delegated to the department of revenue pursuant to this section.

(6) The department may revoke its delegation to the department of revenue at any time.

~~(6)(7)~~ (7) Employees transferring from the department of revenue to the department ~~of revenue~~ as a result of a the termination of the delegation of duties in subsection (5) are entitled to all rights, including those under 2-15-131, possessed as a state officer or employee before transferring, including rights to tenure in office and of rank or grade, rights to vacation and sick pay and leave, rights under any retirement or personnel plan or labor union contract, rights to compensatory time earned, and any other rights under any law or administrative policy including the State Employee Protection Act. Employees transferring must be considered internal applicants by the department for recruitment purposes for ~~the period from July 1, 1997, through June 30, 1998~~ 1 year from the date of the termination of the delegation of duties in subsection (5).

~~(7)(8)~~ (8) The department ~~of revenue~~ shall succeed the department of revenue in its rights to property relating to the termination of the delegation of duties in subsection (5) to the extent that is consistent with federal property transfer policy. The property includes real property, records, office equipment, forms, supplies, and contracts other than the program budget plan with the United States department of labor.

~~(8)(9)~~ (9) (a) The termination of the delegation of duties in subsection (5) does not affect the validity of any pending judicial or administrative proceeding.

~~(b) Appeals that were filed with the board of labor appeals or the department's hearings bureau before July 1, 1997, must follow the procedures and processes in effect when the appeal was first taken. An appeal~~

that is filed on or after July 1, 1997, must be taken in accordance with the procedures and processes in effect on the date the appeal is filed.

(b) All appeals that have not been heard prior to the termination of the delegation of duties in subsection (5) must be made in accordance with the procedures identified in 39-51-1109.

(c) The department ~~of revenue~~ must be substituted for the department of revenue and succeed to all audits, determinations, and other actions ~~that have not been appealed to the board of labor appeals or the department's hearings bureau prior to following July 1, 1997~~ the date of the termination of the delegation of duties in subsection (5).

~~(9)(10)~~ The rights, privileges, and duties of the holders of bonds and other obligations issued and of the parties to contracts, leases, indentures, and other transactions entered into before the termination of the delegation of duties in subsection (5) remain in effect, and none of those rights, privileges, duties, covenants, or agreements are impaired or diminished by reason of the delegation of duties. The department ~~of revenue~~ is substituted for the department of revenue and, subject to the provisions of subsection (5), succeeds to the rights and duties under the provisions of those bonds, contracts, leases, indentures, and other transactions. The provisions of this subsection ~~(9) (10)~~ do not apply to the program budget plan agreement between the department and the United States department of labor."

Section 7. Section 39-51-1109, MCA, is amended to read:

"39-51-1109. Tax appeals -- procedure. ~~(4)(1)~~ A decision, determination, or redetermination of the department involving contribution liability, contribution rate, application for a refund, an employer-employee relationship, or the charging of benefit payments to employers is final unless an interested party entitled to notification submits a written appeal of the decision, determination, or redetermination. The appeal must be made in the same manner as provided in 39-71-415.

~~(2) A decision, determination, or redetermination involving contribution liability, contribution rate, application for refund, subject wages, or other tax-related issues must be issued by the department of revenue as provided in Title 15, chapter 1, part 2, and 15-30-257, if applicable. The decision is final unless an interested party entitled to notification follows the uniform dispute review procedures as prescribed in 15-1-211 and 15-30-257, if applicable.~~

(2) A decision, determination, or redetermination involving contribution liability, contribution rate, application for refund, subject wages, or other tax-related issues must be issued by the department of revenue

as provided in Title 15, chapter 1, part 2, and 15-30-257, if applicable. The decision is final unless an interested party entitled to notification follows the uniform dispute review procedures as prescribed in 15-1-211 and 15-30-257, if applicable."

Section 8. Section 39-51-1109, MCA, is amended to read:

"39-51-1109. Tax appeals -- procedure. (1) A decision, determination, or redetermination of the department involving an employer-employee relationship or the charging of benefit payments to employers is final unless an interested party entitled to notification submits a written appeal of the decision, determination, or redetermination. The appeal must be made in the same manner as provided in 39-71-415.

(2) A decision, determination, or redetermination involving contribution liability, contribution rate, application for refund, subject wages, or other ~~tax-related~~ contribution-related issues must be issued by the department of revenue as provided in Title 15, chapter 1, part 2, and 15-30-257, if applicable. ~~The decision and is final unless an interested party entitled to notification follows the uniform dispute review procedures as prescribed in 15-1-211 and 15-30-257, if applicable~~ submits a written appeal of the decision, determination, or redetermination. An appeal must be made in the same manner as provided in 39-51-2402 for the appeal of a decision relating to a claim for unemployment insurance benefits. Statutory rules of evidence and civil procedure do not apply to a hearing on the appeal. A hearing may be conducted by telephone or by video conference. The decision of the appeals referee and any subsequent appeal must be made in the same manner as provided in 39-51-2403 through 39-51-2410."

Section 9. Section 39-51-1301, MCA, is amended to read:

"39-51-1301. Penalty and interest on past-due reports and taxes. (1) Failure to file reports and payments in a timely manner, as required under 39-51-603, 39-51-1103, and 39-51-1125, may subject an employer to penalty and interest, as provided by 15-1-216.

(2) There is an account in the federal special revenue fund. Penalties and interest collected for unemployment insurance obligations ~~are distributed as provided in 15-30-250 and~~ must be deposited in that account. Money deposited in that account and appropriated to the department or transferred by the department to its delegate, pursuant to 39-51-301(5), may only be used by the department or its delegate to administer this chapter, including the detection and collection of unpaid taxes and overpayments of benefits to the extent that federal grant revenue is less than amounts appropriated for this purpose. Money in the account not appropriated

for these purposes must be transferred by the department to the unemployment insurance trust fund at the end of each fiscal year.

(3) All money accruing to the unemployment insurance trust fund from interest and penalties collected on past-due unemployment insurance taxes must be used solely for the payment of unemployment insurance benefits and may not be used for any other purpose."

Section 10. Section 39-51-2402, MCA, is amended to read:

"39-51-2402. Initial determination -- redetermination. (1) A representative designated by the department and referred to as a deputy shall promptly examine the claim and, on the basis of the facts the deputy has found, the deputy shall determine whether or not the claim is valid. If the claim is valid, the deputy will determine the week the benefits commence, the weekly benefit amount payable, and the maximum benefit amount. The deputy may refer the claim or any question involved in the claim to an appeals referee who shall make the decision on the claim in accordance with the procedure prescribed in 39-51-2403. With respect to a determination, redetermination, or appeal by a claimant involving wages, the issue must be resolved in accordance with procedures for unemployment insurance benefit claimant appeals, as prescribed in 15-2-302 and 15-30-257 during the time that the department delegated the duties associated with the administration of unemployment insurance contributions to the department of revenue pursuant to 39-51-301. The deputy shall promptly notify the claimant and any other interested party of the decision and the reasons for reaching the decision.

(2) The deputy may for good cause reconsider the decision and shall promptly notify the claimant and other interested parties of the amended decision and the reasons for the decision.

(3) A determination or redetermination of an initial or additional claim may not be made under this section unless 5 days' notice of the time and place of the claimant's interview for examination of the claim is mailed to each interested party.

(4) A determination or redetermination is final unless an interested party entitled to notice of the decision applies for reconsideration of the determination or appeals the decision within 10 days after the notification was mailed to the interested party's last-known address. The 10-day period may be extended for good cause.

(5) Except as provided in subsection (6), a redetermination of a claim for benefits may not be made after 2 years from the date of the initial determination.

(6) A redetermination may be made within 3 years from the date of the initial determination of a claim

if the initial determination was based on a false claim, misrepresentation, or failure to disclose a material fact by the claimant or the employer."

Section 11. Deposit of loan proceeds -- capital projects appropriation. (1) The proceeds of any loan from the board of investments to the department of revenue for replacement of the POINTS computer system must be deposited in the capital projects fund.

(2) There is appropriated from the capital projects fund to the department of administration up to \$17 million for the replacement system described in [section 1].

(3) The department of revenue and the department of administration are prohibited from using any of the proceeds from the loan for the replacement system authorized by [section 1] for agency current level operating expenses. Loan proceeds appropriated under this section may be expended for project administration and implementation, including software and required hardware, software licensing, and extraordinary personal and contracted services.

(4) The appropriation continues until June 30, 2005.

Section 12. Appropriation. (1) There is appropriated from the general fund to the department of revenue \$2,391,385 for the biennium ending June 30, 2005. This appropriation is to provide for the replacement of POINTS and the transfer of responsibility for unemployment insurance collections to the department of labor and industry. The department of revenue may use the appropriated funds for expenses necessary to ensure the smooth transition of existing POINTS data and systems to the replacement systems, including expenses for training, personal and contracted services, data and software cleanup, clearing backlog, correcting and realigning tax and collection data, preparing and executing conversion strategies, maintaining currency, and converting historic data.

(2) There is appropriated \$1.9 million from the state special revenue account for administrative assessments provided for in [section 5] to the department of revenue for the biennium ending June 30, 2005, for the payment of debt service on the bonds authorized in 17-5-1608 or the projected principal and interest payments on the loan provided for in 17-5-2001.

Section 13. Codification instruction. [Sections 1 and 5] are intended to be codified as an integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [sections 1 and 5].

Section 14. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 15. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 16. Effective dates -- contingency. (1) Except as provided in subsections (2) and (3), [this act] is effective on passage and approval.

(2) [Sections 8 through 10] are effective on the date that the commissioner of labor and industry certifies to the governor that the delegation of duties in 39-51-301 is terminated.

(3) [Sections 2, 5, and 12] are effective July 1, 2003.

Section 17. Contingent termination. (1) [Section 7] terminates on the date that the commissioner of labor and industry certifies to the governor that the delegation of duties in 39-51-301 is terminated.

(2) The commissioner of labor and industry shall transmit a copy of the certification of the termination of duties to the code commissioner.

Section 18. Termination. [Sections 1, 4, and 5] terminate June 30, 2011.

- END -

I hereby certify that the within bill,
SB 0271, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 271
INTRODUCED BY STAPLETON

AN ACT REQUIRING THAT THE PROCESS ORIENTED INTEGRATED SYSTEM (POINTS) COMPUTER SYSTEM OF THE DEPARTMENT OF REVENUE TO BE REPLACED WITH A DIFFERENT COMPUTER SYSTEM; REQUIRING THAT CURRENT DATA NEEDED FOR THE REPLACEMENT SYSTEM BE CORRECTED; PROVIDING THAT UNEMPLOYMENT INSURANCE TAX COLLECTIONS WILL NOT BE PROCESSED UNDER THE REPLACEMENT SYSTEM BY TERMINATING THE DELEGATION TO THE DEPARTMENT OF REVENUE OF RESPONSIBILITY FOR COLLECTING UNEMPLOYMENT INSURANCE TAXES FOR THE DEPARTMENT OF LABOR AND INDUSTRY; INCREASING THE DEBT LIMIT UNDER THE MUNICIPAL FINANCE CONSOLIDATION ACT; AUTHORIZING A LOAN TO THE DEPARTMENT OF REVENUE FOR THE REPLACEMENT SYSTEM; REQUIRING THE DEPARTMENT OF REVENUE TO IMPOSE AN ADMINISTRATIVE CHARGE FOR TAX COLLECTION SERVICES; REQUIRING THE ADMINISTRATIVE CHARGE TO BE DEPOSITED IN AN ACCOUNT TO BE USED TO PAY THE DEBT SERVICE ON LOANS ISSUED FOR THE REPLACEMENT SYSTEM; APPROPRIATING MONEY FOR DEPARTMENT OF REVENUE'S TRANSITION COSTS AND FOR LOAN REPAYMENT; AMENDING SECTIONS 15-1-501, 17-5-1608, 17-5-2001, 39-51-301 39-51-1109, 39-51-1301, AND 39-51-2402, MCA; AND PROVIDING EFFECTIVE DATES AND TERMINATION DATES.

