

HOUSE BILL NO. 513  
INTRODUCED BY SIMPKINS

IN THE HOUSE

FEBRUARY 1, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

                                  FIRST READING.

FEBRUARY 12, 1991                 COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 13, 1991                 PRINTING REPORT.

FEBRUARY 15, 1991                 SECOND READING, DO PASS.

FEBRUARY 16, 1991                 ENGROSSING REPORT.

FEBRUARY 18, 1991                 THIRD READING, PASSED.  
AYES, 96; NOES, 1.

                                  TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 19, 1991                 INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

                                  FIRST READING.

MARCH 27, 1991                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

APRIL 3, 1991                    SECOND READING, CONCURRED IN AS  
AMENDED.

APRIL 4, 1991                    THIRD READING, CONCURRED IN.  
AYES, 50; NOES, 0.

                                  RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991                    RECEIVED FROM SENATE.

                                  SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 10, 1991

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 513  
2 INTRODUCED BY Smplins

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROVISIONS  
5 RELATING TO REFUNDS ON TAXES, INTEREST, PENALTIES, OR COSTS  
6 ILLEGALLY COLLECTED AND ON DUPLICATE TAXES PAID; REQUIRING  
7 THE BOARD OF COUNTY COMMISSIONERS TO ORDER A REFUND ON TAXES  
8 ILLEGALLY COLLECTED OR ON DUPLICATE TAXES PAID; ALLOWING A  
9 TAXPAYER TO FILE A CLAIM FOR A REFUND ON TAXES PAID DURING  
10 THE IMMEDIATELY PRECEDING 10 YEARS; PROVIDING THAT THE  
11 REFUND MAY BE PAID IN ANNUAL INSTALLMENTS FOR A PERIOD NOT  
12 TO EXCEED 10 YEARS; AMENDING SECTION 15-16-601, MCA; AND  
13 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

16 **Section 1.** Section 15-16-601, MCA, is amended to read:

17 "15-16-601. Taxes or penalties illegally collected or  
18 duplicate taxes to be refunded. (1) (a) Any taxpayer is  
19 entitled to a refund on:

20 (i) taxes, interest, penalties, or costs paid more than  
21 once or erroneously or illegally collected;

22 (ii) ~~or any amount of tax~~ the taxes paid for which a  
23 ~~taxpayer is entitled to a refund is allowed~~ under 15-16-612  
24 or 15-16-613; or

25 (iii) ~~any part or the~~ portion of taxes paid which that

1 were mistakenly computed on government bonus or subsidy  
2 received by the taxpayer.

3 (b) may Subject to the provisions in subsections (4)  
4 and (5), the county treasurer shall, by order of the board  
5 of county commissioners, ~~be refunded by the county treasurer~~  
6 pay the refund to the taxpayer.

7 (2) (a) Whenever The refund applies to any payment that  
8 has been made to the state treasurer as provided in 15-1-504  
9 ~~and--it--afterwards--appears--to--the-satisfaction-of~~ if the  
10 board of county commissioners determines that a portion of  
11 the money so paid should be refunded as herein provided, in  
12 this section.

13 (b) the The board of county commissioners may shall  
14 order the county treasurer to refund to the taxpayer the  
15 portion of the taxes, interest, penalties, and costs so paid  
16 to the state treasurer, ;

17 (c) ~~and upon the rendering of the report required by~~  
18 ~~15-1-505--the~~ The county clerk and recorder shall, at the  
19 time for filing the report required by 15-1-505, certify to  
20 the state auditor, in such the form as the state auditor may  
21 prescribe, ~~at~~ the amounts so refunded. In the next  
22 settlement of the county treasurer with the state, the state  
23 auditor shall give the county treasurer credit for the  
24 state's portion of the amounts so refunded.

25 (b)(3) When any a part of the taxes, interest,



1 penalties, or costs hereinbefore referred to in this section  
 2 were levied in behalf of any a school district or municipal  
 3 or other public corporation and collected by the county  
 4 treasurer, the same may taxes must be refunded upon the  
 5 order of the board of county commissioners.

6 ~~f(4)~~ (a) No An order for the refund of any taxes,  
 7 interest, penalties, or costs under this section shall may  
 8 not be made except upon a claim therefor, --verified filed by  
 9 the person taxpayer who has paid the taxes, interest,  
 10 penalties, or costs or his guardian or, in case of his  
 11 death, by his executor or administrator.

12 (b) which A taxpayer may file a claim must--be--filed  
 13 within for taxes, interest, penalties, or costs paid during  
 14 the immediately preceding 10 years after the date when the  
 15 second half of such the taxes would have become delinquent  
 16 if the same taxes had not been paid.

17 (c) Except as provided in subsection (5), the board of  
 18 county commissioners shall order a refund for taxes  
 19 illegally collected or for any duplicate taxes paid during  
 20 the immediately preceding 10 years regardless of when the  
 21 taxes were first illegally collected or when the duplicate  
 22 taxes were first paid.

23 (5) (a) In the order to refund taxes as provided in  
 24 subsection (4)(c), the board of county commissioners shall  
 25 determine the method of repayment. The board may:

1 (i) refund the entire amount due the taxpayer within 60  
 2 days after the date of the order; or

3 (ii) refund the amount due the taxpayer in annual  
 4 installments, for a period not to exceed 10 years.

5 (b) If the refund is made in annual installments as  
 6 provided in subsection (5)(a)(ii), the taxpayer is entitled  
 7 to interest on the unpaid balance at the greatest interest  
 8 rate in effect on January 1 of each year of the installment  
 9 period received on public money invested by the county as  
 10 provided in Title 7, chapter 6, part 2; Title 7, chapter 6,  
 11 part 27; or 17-6-204.

12 (c) In satisfying the requirements of subsection  
 13 (5)(a)(ii), the first annual installment must be paid within  
 14 60 days after the date of the order by the board of county  
 15 commissioners. Subsequent annual installments must be paid  
 16 on the first business day following January 1 of the year  
 17 the installment is due.

18 (d) The treasurer shall bill and the taxing  
 19 jurisdiction shall refund to the treasurer that portion of  
 20 the annual installment of the taxpayer refund and costs for  
 21 which the taxing jurisdiction is proratably responsible.

22 ~~f(6)~~ All refunds ordered to be paid by the board of  
 23 county commissioners must be paid by the county treasurer  
 24 out of the general fund of the county, and the county  
 25 treasurer shall then make such transfers from other county

LC 0615/01

1 funds and from state, school district, and other public  
2 corporation funds in his possession as may be necessary to  
3 reimburse the county general fund for payments made  
4 therefrom from the fund.

5 {2}{7} Upon the entering of judgment under 15-2-306,  
6 the county commissioners of the affected county shall order  
7 a refund of ~~such~~ the portion of the taxes ~~as~~ that the state  
8 tax appeal board has judged should be refunded."

9 NEW SECTION. Section 2. Effective date. [This act] is  
10 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15


In compliance with a written request, there is hereby submitted a Fiscal Note for HB0513, as introduced.


DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the provisions relating to refunds on taxes, interest, penalties, or costs illegally collected and on duplicate taxes paid; requiring the board of county commissioners to order a refund on taxes illegally collected or on duplicate taxes paid; allowing a taxpayer to file a claim for a refund on taxes paid during the immediately preceding 10 years; providing that the refund may be paid in annual installments for a period not to exceed 10 years; and providing an immediate effective date.

FISCAL IMPACT:

The proposal will allow the board of county commissioners the option of repaying a refund amount due to a taxpayer under 15-16-601, MCA, in annual installments for a period not to exceed 10 years. The proposal will have negligible fiscal impact.

 2-4-71  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR                      DATE  
Office of Budget and Program Planning

  
\_\_\_\_\_  
RICHARD D. SIMPKINS, PRIMARY SPONSOR                      DATE  
Fiscal Note for HB0513, as introduced

**HB 513**

APPROVED BY COMMITTEE  
ON TAXATION

HOUSE BILL NO. 513

INTRODUCED BY SIMPKINS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ~~THE PROVISIONS~~  
~~RELATING TO REFUNDS ON TAXES, INTEREST, PENALTIES, OR COSTS~~  
~~ILLEGALLY COLLECTED AND ON DUPLICATE TAXES PAID~~; REQUIRING  
THE BOARD OF COUNTY COMMISSIONERS TO ORDER A REFUND ~~ON~~ OF  
CERTAIN TAXES ILLEGALLY COLLECTED OR ON DUPLICATE TAXES  
PAID; ALLOWING A TAXPAYER TO FILE A CLAIM FOR A REFUND ON  
TAXES PAID DURING THE IMMEDIATELY PRECEDING 10 YEARS;  
PROVIDING THAT THE REFUND MAY BE PAID IN ANNUAL INSTALLMENTS  
FOR A PERIOD NOT TO EXCEED 10 YEARS; AMENDING SECTION  
15-16-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 15-16-601, MCA, is amended to read:

"15-16-601. Taxes or penalties illegally collected or  
duplicate taxes to be refunded. (1) (a) Any A taxpayer is  
MAY BE entitled to a refund on:

(i) taxes, interest, penalties, or costs paid more than  
once or erroneously or illegally collected;

(ii) ~~or any amount of tax~~ the taxes paid for which a  
~~taxpayer is entitled to a refund is allowed~~ under 15-16-612  
or 15-16-613; or

(iii) ~~any part or the~~ portion of taxes paid which that  
were mistakenly computed on government bonus or subsidy  
received by the taxpayer.

(b) ~~may~~ Subject to the provisions in subsections (4)  
and (5), the county treasurer ~~shall~~ MAY, by order of the  
board of county commissioners, ~~be refunded by the county~~  
treasurer pay the refund to the taxpayer.

(2) (a) ~~Whenever~~ The refund applies to any payment that  
has been made to the state treasurer as provided in 15-1-504  
~~and it afterwards appears to the satisfaction of~~ if the  
board of county commissioners determines that a portion of  
the money ~~so~~ paid should be refunded as herein provided, in  
this section.

(b) ~~the~~ The board of county commissioners may shall MAY  
order the county treasurer to refund to the taxpayer the  
portion of the taxes, interest, penalties, and costs ~~so~~ paid  
to the state treasurer.

(c) ~~and upon the rendering of the report required by~~  
~~15-1-505 the~~ The county clerk and recorder shall, at the  
time for filing the report required by 15-1-505, certify to  
the state auditor, in such the form as the state auditor may  
prescribe, ~~all~~ the amounts ~~so~~ refunded. In the next  
settlement of the county treasurer with the state, the state  
auditor shall give the county treasurer credit for the  
state's portion of the amounts ~~so~~ refunded.

SECOND READING

1 ~~(b)~~(3) When any a part of the taxes, interest,  
 2 penalties, or costs hereinbefore referred to in this section  
 3 were levied in behalf of any a school district or municipal  
 4 or other public corporation and collected by the county  
 5 treasurer, the same-may taxes must be refunded upon the  
 6 order of the board of county commissioners.

7 ~~(c)~~(4) (a) No An order for the refund of any taxes,  
 8 interest, penalties, or costs under this section shall may  
 9 not be made except upon a claim therefor,--verified filed by  
 10 the person taxpayer who has paid the taxes, interest,  
 11 penalties, or costs or his guardian or, in case of his  
 12 death, by his executor or administrator,.

13 (b) which A taxpayer may file a claim must--be--filed  
 14 within for taxes, interest, penalties, or costs paid during  
 15 the immediately preceding 10 years after the date when the  
 16 second half of such the taxes would have become delinquent  
 17 if the same taxes had not been paid.

18 (c) Except as provided in subsection (5), the board of  
 19 county commissioners shall order a refund for taxes  
 20 illegally collected or for any duplicate taxes paid during  
 21 the immediately preceding 10 years regardless of when the  
 22 taxes were first illegally collected or when the duplicate  
 23 taxes were first paid.

24 (5) (a) In the order to refund taxes as provided in  
 25 subsection (4)(c), the board of county commissioners shall

1 determine the method of repayment. The board may:

2 (i) refund the entire amount due the taxpayer within 60  
 3 days after the date of the order; or

4 (ii) refund the amount due the taxpayer in annual  
 5 installments, for a period not to exceed 10 years.

6 (b) If the refund is made in annual installments as  
 7 provided in subsection (5)(a)(ii), the taxpayer is entitled  
 8 to interest on the unpaid balance at the greatest interest  
 9 rate in effect on January OCTOBER 1 of each year of the  
 10 installment period received on public money invested by the  
 11 county as provided in Title 7, chapter 6, part 2; Title 7,  
 12 chapter 6, part 27; or 17-6-204.

13 (c) In satisfying the requirements of subsection  
 14 (5)(a)(ii), the first annual installment must be paid within  
 15 60 days after the date of the order by the board of county  
 16 commissioners. Subsequent annual installments must be paid  
 17 on the first business day following January OCTOBER 1 of the  
 18 year the installment is due.

19 (d) The treasurer shall bill and the taxing  
 20 jurisdiction shall refund to the treasurer that portion of  
 21 the annual installment of the taxpayer refund and costs for  
 22 which the taxing jurisdiction is proratably responsible.

23 (6) THE BOARD OF COUNTY COMMISSIONERS SHALL REFUND ANY  
 24 TAX, PENALTY, OR INTEREST COLLECTED AS A RESULT OF AN ERROR  
 25 IN THE DESCRIPTION OR LOCATION OF REAL PROPERTY OR



1 IMPROVEMENTS AS DETERMINED BY THE DEPARTMENT OF REVENUE. THE  
 2 REFUND IS SUBJECT TO THE PROVISIONS OF SUBSECTIONS (4) AND  
 3 (5).

4 (7) THE BOARD OF COUNTY COMMISSIONERS SHALL REFUND ANY  
 5 NET OR GROSS PROCEEDS TAX, PENALTY, OR INTEREST WHEN THE  
 6 DEPARTMENT OF REVENUE NOTIFIES THE BOARD THAT AN OVERPAYMENT  
 7 OCCURRED. THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF  
 8 OVERPAYMENT. THE REFUND IS SUBJECT TO THE PROVISIONS OF  
 9 SUBSECTIONS (4) AND (5), BUT NO REFUND MAY BE GRANTED FOR  
 10 ANY TAXES PAID MORE THAN 5 YEARS PRIOR TO THE DATE THE CLAIM  
 11 WAS RECEIVED.

12 ~~(d)~~~~(6)~~(8) All refunds ordered to be paid by the board  
 13 of county commissioners must be paid by the county treasurer  
 14 out of the general fund of the county, and the county  
 15 treasurer shall then make such transfers from other county  
 16 funds and from state, school district, and other public  
 17 corporation funds in his possession as may be necessary to  
 18 reimburse the county general fund for payments made  
 19 ~~therefrom~~ from the fund.

20 ~~(2)~~~~(7)~~(9) Upon the entering of judgment under 15-2-306,  
 21 the county commissioners of the affected county shall order  
 22 a refund of ~~such~~ the portion of the taxes ~~as~~ that the state  
 23 tax appeal board has judged should be refunded."

24 NEW SECTION. Section 2. Effective date ---  
 25 APPLICABILITY. [This act] is effective on passage and

1 approval AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF  
 2 1-2-109, TO TAXES PAID FOR THE 1990 TAX YEAR.

-End-

## HOUSE BILL NO. 513

INTRODUCED BY SIMPKINS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROVISIONS RELATING TO REFUNDS ON TAXES, INTEREST, PENALTIES, OR COSTS ILLEGALLY COLLECTED AND ON DUPLICATE TAXES PAID; REQUIRING THE BOARD OF COUNTY COMMISSIONERS TO ORDER A REFUND ON OF CERTAIN TAXES ILLEGALLY COLLECTED OR ON DUPLICATE TAXES PAID; ALLOWING A TAXPAYER TO FILE A CLAIM FOR A REFUND ON TAXES PAID DURING THE IMMEDIATELY PRECEDING 10 YEARS; PROVIDING THAT THE REFUND MAY BE PAID IN ANNUAL INSTALLMENTS FOR A PERIOD NOT TO EXCEED 10 YEARS; AMENDING SECTION 15-16-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 15-16-601, MCA, is amended to read:

"15-16-601. Taxes or penalties illegally collected or duplicate taxes to be refunded. (1) (a) Any A taxpayer is MAY BE entitled to a refund on:

(i) taxes, interest, penalties, or costs paid more than once or erroneously or illegally collected;

(ii) or any amount of tax the taxes paid for which a taxpayer is entitled to a refund is allowed under 15-16-612 or 15-16-613; or

(iii) any part or the portion of taxes paid which that were mistakenly computed on government bonus or subsidy received by the taxpayer.

(b) Subject to the provisions in subsections (4) and (5), the county treasurer shall MAY, by order of the board of county commissioners, be refunded by the county treasurer pay the refund to the taxpayer.

(2) (a) Whenever The refund applies to any payment that has been made to the state treasurer as provided in 15-1-504 and it afterwards appears to the satisfaction of if the board of county commissioners determines that a portion of the money so paid should be refunded as herein provided, in this section.

(b) the The board of county commissioners may shall MAY order the county treasurer to refund to the taxpayer the portion of the taxes, interest, penalties, and costs so paid to the state treasurer.

(c) and upon the rendering of the report required by 15-1-505 the The county clerk and recorder shall, at the time for filing the report required by 15-1-505, certify to the state auditor, in such the form as the state auditor may prescribe, all the amounts so refunded. In the next settlement of the county treasurer with the state, the state auditor shall give the county treasurer credit for the state's portion of the amounts so refunded.

THIRD READING

1       **(b)(3)** When any a part of the taxes, interest,  
 2 penalties, or costs hereinbefore referred to in this section  
 3 were levied in behalf of any a school district or municipal  
 4 or other public corporation and collected by the county  
 5 treasurer, the ~~same~~ may taxes must be refunded upon the  
 6 order of the board of county commissioners.

7       **(c)(4)** (a) No An order for the refund of any taxes,  
 8 interest, penalties, or costs under this section ~~shall~~ may  
 9 not be made except upon a claim therefor, ~~verified~~ filed by  
 10 the person taxpayer who has paid the taxes, interest,  
 11 penalties, or costs or his guardian or, in case of his  
 12 death, by his executor or administrator, .

13       **(b)** which A taxpayer may file a claim must--be--filed  
 14 within for taxes, interest, penalties, or costs paid during  
 15 the immediately preceding 10 years after the date when the  
 16 second half of such the taxes would have become delinquent  
 17 if the same taxes had not been paid.

18       **(c)** Except as provided in subsection (5), the board of  
 19 county commissioners shall order a refund for taxes  
 20 illegally collected or for any duplicate taxes paid during  
 21 the immediately preceding 10 years regardless of when the  
 22 taxes were first illegally collected or when the duplicate  
 23 taxes were first paid.

24       **(5)** (a) In the order to refund taxes as provided in  
 25 subsection (4)(c), the board of county commissioners shall

1 determine the method of repayment. The board may:

2       **(i)** refund the entire amount due the taxpayer within 60  
 3 days after the date of the order; or

4       **(ii)** refund the amount due the taxpayer in annual  
 5 installments, for a period not to exceed 10 years.

6       **(b)** If the refund is made in annual installments as  
 7 provided in subsection (5)(a)(ii), the taxpayer is entitled  
 8 to interest on the unpaid balance at the greatest interest  
 9 rate in effect on January OCTOBER 1 of each year of the  
 10 installment period received on public money invested by the  
 11 county as provided in Title 7, chapter 6, part 2; Title 7,  
 12 chapter 6, part 27; or 17-6-204.

13       **(c)** In satisfying the requirements of subsection  
 14 (5)(a)(ii), the first annual installment must be paid within  
 15 60 days after the date of the order by the board of county  
 16 commissioners. Subsequent annual installments must be paid  
 17 on the first business day following January OCTOBER 1 of the  
 18 year the installment is due.

19       **(d)** The treasurer shall bill and the taxing  
 20 jurisdiction shall refund to the treasurer that portion of  
 21 the annual installment of the taxpayer refund and costs for  
 22 which the taxing jurisdiction is proratably responsible.

23       **(6)** THE BOARD OF COUNTY COMMISSIONERS SHALL REFUND ANY  
 24 TAX, PENALTY, OR INTEREST COLLECTED AS A RESULT OF AN ERROR  
 25 IN THE DESCRIPTION OR LOCATION OF REAL PROPERTY OR

1 IMPROVEMENTS AS DETERMINED BY THE DEPARTMENT OF REVENUE. THE  
2 REFUND IS SUBJECT TO THE PROVISIONS OF SUBSECTIONS (4) AND  
3 (5).

4 (7) THE BOARD OF COUNTY COMMISSIONERS SHALL REFUND ANY  
5 NET OR GROSS PROCEEDS TAX, PENALTY, OR INTEREST WHEN THE  
6 DEPARTMENT OF REVENUE NOTIFIES THE BOARD THAT AN OVERPAYMENT  
7 OCCURRED. THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF  
8 OVERPAYMENT. THE REFUND IS SUBJECT TO THE PROVISIONS OF  
9 SUBSECTIONS (4) AND (5), BUT NO REFUND MAY BE GRANTED FOR  
10 ANY TAXES PAID MORE THAN 5 YEARS PRIOR TO THE DATE THE CLAIM  
11 WAS RECEIVED.

12 (d)(6)(B) All refunds ordered to be paid by the board  
13 of county commissioners must be paid by the county treasurer  
14 out of the general fund of the county, and the county  
15 treasurer shall then make such transfers from other county  
16 funds and from state, school district, and other public  
17 corporation funds in his possession as may be necessary to  
18 reimburse the county general fund for payments made  
19 therefrom from the fund.

20 (2)(7)(9) Upon the entering of judgment under 15-2-306,  
21 the county commissioners of the affected county shall order  
22 a refund of such the portion of the taxes as that the state  
23 tax appeal board has judged should be refunded."

24 NEW SECTION. Section 2. Effective date --  
25 APPLICABILITY. [This act] is effective on passage and

1 approval AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF  
2 1-2-109, TO TAXES PAID FOR THE 1990 TAX YEAR.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 27, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 513 (third reading copy -- blue), respectfully report that House Bill No. 513 be amended and as so amended be concurred in:

1. Title, line 14.

Strike: "A"

Strike: "DATE"

Insert: "DATES"

2. Page 1, line 20.

Strike: "MAY BE"

Insert: "is"

3. Page 3, line 18.

Strike: "subsection (5)"

Insert: "subsections (6) and (7)"

4. Page 5, line 1.

Following: "IMPROVEMENTS"

Insert: "or for any duplicate taxes paid"

5. Page 5, line 25.

Following: "APPLICABILITY."

Insert: "(1)"

6. Page 6, line 1.

Following: "AND"

Insert: ", except as provided in subsections (2) and (3),"

7. Page 6.

Following: line 2

Insert: "(2) [Section 1(6)] applies retroactively, within the meaning of 1-2-109, to taxes erroneously paid and any duplicate taxes paid beginning with the 1981 tax year.

(3) [Section 1(7)] applies retroactively, within the mean of 1-2-109, to an overpayment of net or gross proceeds taxes beginning with the 1986 tax year."

Signed: 

Mike Halligan, Chairman

ML 3-27-91  
Amd. Coord.

YS 3-27 12:30  
Sec. of Senate

SENATE  
HB 513

SENATE COMMITTEE OF THE WHOLE AMENDMENT

April 1, 1991 2:35 pm

Mr. Chairman: I move to amend House Bill No. 513 (third reading copy -- blue) as follows:

1. Page 1, line 22.

Following: "collected"

Insert: "if an appeal pursuant to 15-1-402 was not available"

2. Page 3, line 18.

Following: "subsections (6) and (7)" [see senate amendment #3 of the standing committee report dated March 27, 1991]

Insert: "if a refund pursuant to subsection (1) is ordered"

3. Page 6, line 2.

Strike: "TAXES PAID FOR THE 1990 TAX YEAR"

Insert: "any claim for a refund that was timely filed on or before [the effective date of this act]"

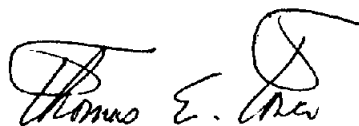
Amend Senate Committee on Taxation amendments dated March 27, 1991, as follows:

Strike: Amendment 1 and amendments 5 through 7 in their entirety

ADOPT

REJECT

Signed:



Senator Towe

~~MA~~ 4/3-91  
Asst. Coord.

SB 4/3 3:30  
Sec. of Senate

SENATE  
HB 513

HOUSE BILL NO. 513  
INTRODUCED BY SIMPKINS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING-~~THE-PROVISIONS~~  
~~RELATING-TO-REFUNDS-ON-TAXES,-INTEREST,-PENALTIES,-OR--COSTS~~  
~~ILLEGALLY--COLLECTED--AND-ON-DUPLICATE-TAXES-PAID,~~ REQUIRING  
THE BOARD OF COUNTY COMMISSIONERS TO ORDER A REFUND ~~ON OF~~  
CERTAIN TAXES ILLEGALLY--COLLECTED--OR--ON-DUPLICATE-TAXES  
PAID; ALLOWING A TAXPAYER TO FILE A CLAIM FOR A REFUND ON  
TAXES PAID DURING THE IMMEDIATELY PRECEDING 10 YEARS;  
PROVIDING THAT THE REFUND MAY BE PAID IN ANNUAL INSTALLMENTS  
FOR A PERIOD NOT TO EXCEED 10 YEARS; AMENDING SECTION  
15-16-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
AND A A RETROACTIVE APPLICABILITY DATE DATES DATE."

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

**Section 1.** Section 15-16-601, MCA, is amended to read:

"15-16-601. Taxes or penalties illegally collected or  
duplicate taxes to be refunded. (1) (a) Any A taxpayer is  
MAY-BE IS entitled to a refund on:

(i) taxes, interest, penalties, or costs paid more than  
once or erroneously or illegally collected IF AN APPEAL  
PURSUANT TO 15-1-402 WAS NOT AVAILABLE;

(ii) or any-amount of-tax the taxes paid for which a  
taxpayer--is-entitled-to a refund is allowed under 15-16-612

or 15-16-613; or

(iii) any-part-or the portion of taxes paid which that  
were mistakenly computed on government bonus or subsidy  
received by the taxpayer.

(b) may Subject to the provisions in subsections (4)  
and (5), the county treasurer shall MAY, by order of the  
board of county commissioners, be--refunded--by--the--county  
treasurer pay the refund to the taxpayer.

(2) (a) Whenever The refund applies to any payment that  
has been made to the state treasurer as provided in 15-1-504  
and--it--afterwards--appears--to--the-satisfaction-of if the  
board of county commissioners determines that a portion of  
the money so paid should be refunded as herein provided, in  
this section.

(b) the The board of county commissioners may shall MAY  
order the county treasurer to refund to the taxpayer the  
portion of the taxes, interest, penalties, and costs so paid  
to the state treasurer,.

(c) and--upon--the--rendering-of-the-report-required-by  
15-1-505-the The county clerk and recorder shall, at the  
time for filing the report required by 15-1-505, certify to  
the state auditor, in such the form as the state auditor may  
prescribe, all the amounts so refunded. In the next  
settlement of the county treasurer with the state, the state  
auditor shall give the county treasurer credit for the



1 state's portion of the amounts so refunded.

2 ~~(b)~~(3) When any a part of the taxes, interest,  
3 penalties, or costs hereinbefore referred to in this section  
4 were levied in behalf of any a school district or municipal  
5 or other public corporation and collected by the county  
6 treasurer, the same--may taxes must be refunded upon the  
7 order of the board of county commissioners.

8 ~~(c)~~(4) (a) No An order for the refund of any taxes,  
9 interest, penalties, or costs under this section shall may  
10 not be made except upon a claim therefor,--verified filed by  
11 the person taxpayer who has paid the taxes, interest,  
12 penalties, or costs or his guardian or, in case of his  
13 death, by his executor or administrator,.

14 (b) which A taxpayer may file a claim must-be-filed  
15 within for taxes, interest, penalties, or costs paid during  
16 the immediately preceding 10 years after the date when the  
17 second half of such the taxes would have become delinquent  
18 if the same taxes had not been paid.

19 (c) Except as provided in subsection--(5) SUBSECTIONS  
20 (6) AND (7), IF A REFUND PURSUANT TO SUBSECTION (1) IS  
21 ORDERED, the board of county commissioners shall order a  
22 refund for taxes illegally collected or for any duplicate  
23 taxes paid during the immediately preceding 10 years  
24 regardless of when the taxes were first illegally collected  
25 or when the duplicate taxes were first paid.

1 (5) (a) In the order to refund taxes as provided in  
2 subsection (4)(c), the board of county commissioners shall  
3 determine the method of repayment. The board may:

4 (i) refund the entire amount due the taxpayer within 60  
5 days after the date of the order; or

6 (ii) refund the amount due the taxpayer in annual  
7 installments, for a period not to exceed 10 years.

8 (b) If the refund is made in annual installments as  
9 provided in subsection (5)(a)(ii), the taxpayer is entitled  
10 to interest on the unpaid balance at the greatest interest  
11 rate in effect on January OCTOBER 1 of each year of the  
12 installment period received on public money invested by the  
13 county as provided in Title 7, chapter 6, part 2; Title 7,  
14 chapter 6, part 27; or 17-6-204.

15 (c) In satisfying the requirements of subsection  
16 (5)(a)(ii), the first annual installment must be paid within  
17 60 days after the date of the order by the board of county  
18 commissioners. Subsequent annual installments must be paid  
19 on the first business day following January OCTOBER 1 of the  
20 year the installment is due.

21 (d) The treasurer shall bill and the taxing  
22 jurisdiction shall refund to the treasurer that portion of  
23 the annual installment of the taxpayer refund and costs for  
24 which the taxing jurisdiction is proratably responsible.

25 (6) THE BOARD OF COUNTY COMMISSIONERS SHALL REFUND ANY



1 TAX, PENALTY, OR INTEREST COLLECTED AS A RESULT OF AN ERROR  
 2 IN THE DESCRIPTION OR LOCATION OF REAL PROPERTY OR  
 3 IMPROVEMENTS OR FOR ANY DUPLICATE TAXES PAID AS DETERMINED  
 4 BY THE DEPARTMENT OF REVENUE. THE REFUND IS SUBJECT TO THE  
 5 PROVISIONS OF SUBSECTIONS (4) AND (5).

6 (7) THE BOARD OF COUNTY COMMISSIONERS SHALL REFUND ANY  
 7 NET OR GROSS PROCEEDS TAX, PENALTY, OR INTEREST WHEN THE  
 8 DEPARTMENT OF REVENUE NOTIFIES THE BOARD THAT AN OVERPAYMENT  
 9 OCCURRED. THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF  
 10 OVERPAYMENT. THE REFUND IS SUBJECT TO THE PROVISIONS OF  
 11 SUBSECTIONS (4) AND (5), BUT NO REFUND MAY BE GRANTED FOR  
 12 ANY TAXES PAID MORE THAN 5 YEARS PRIOR TO THE DATE THE CLAIM  
 13 WAS RECEIVED.

14 ~~(d)~~(6)(8) All refunds ordered to be paid by the board  
 15 of county commissioners must be paid by the county treasurer  
 16 out of the general fund of the county, and the county  
 17 treasurer shall then make such transfers from other county  
 18 funds and from state, school district, and other public  
 19 corporation funds in his possession as may be necessary to  
 20 reimburse the county general fund for payments made  
 21 therefrom from the fund.

22 ~~(2)~~(7)(9) Upon the entering of judgment under 15-2-306,  
 23 the county commissioners of the affected county shall order  
 24 a refund of such the portion of the taxes as that the state  
 25 tax appeal board has judged should be refunded."

1 NEW SECTION. Section 2. Effective date --  
 2 APPLICABILITY. (1) [This act] is effective on passage and  
 3 approval AND, EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3),  
 4 APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO  
 5 TAXES PAID FOR THE 1990 TAX YEAR ANY CLAIM FOR A REFUND THAT  
 6 WAS TIMELY FILED ON OR BEFORE [THE EFFECTIVE DATE OF THIS  
 7 ACT].  
 8 ~~(2) -- (SECTION 1(6)) APPLIES RETROACTIVELY, WITHIN THE~~  
 9 ~~MEANING OF 1-2-109, TO TAXES ERRONEOUSLY PAID AND ANY~~  
 10 ~~DUPLICATE TAXES PAID BEGINNING WITH THE 1981 TAX YEAR.~~  
 11 ~~(3) -- (SECTION 1(7)) APPLIES RETROACTIVELY, WITHIN THE~~  
 12 ~~MEANING OF 1-2-109, TO AN OVERPAYMENT OF NET OR GROSS~~  
 13 ~~PROCEEDS TAXES BEGINNING WITH THE 1986 TAX YEAR.~~

-End-