# SENATE BILL NO. 81

# INTRODUCED BY GROSFIELD, GILBERT, HALLIGAN BY REQUEST OF THE DEPARTMENT OF REVENUE

# IN THE SENATE

	IN THE SENATE
JANUARY 14, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
JANUARY 22, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 23, 1991	PRINTING REPORT.
	SECOND READING, DO PASS.
JANUARY 24, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.
	IN THE HOUSE
JANUARY 25, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 7, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 9, 1991	SECOND READING, CONCURRED IN.
FEBRUARY 11, 1991	THIRD READING, CONCURRED IN. AYES, 99; NOES, 1.
	RETURNED TO SENATE.
	IN THE SENATE
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RECEIVED FROM HOUSE.

REPORTED CORRECTLY ENROLLED.

SENT TO ENROLLING.

FEBRUARY 11, 1991

2	INTRODUCED BY Groweld Shirt Hallen
3	BY REQUEST OF THE DEPARTMENT OF REVENUE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
6	DEPARTMENT OF REVENUE'S AUTHORITY TO ISSUE REVISED
7	ASSESSMENTS FOR CENTRALLY ASSESSED PROPERTY TO THE PERSON OR
8	ENTITY THAT OWNED THE PROPERTY AT THE TIME IT ESCAPED
9	ASSESSMENT, WAS ERRONEOUSLY ASSESSED, OR WAS OMITTED FROM
LO	TAXATION; AND AMENDING SECTION 15-8-601, MCA."
11	
L <b>2</b>	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	Section 1. Section 15-8-601, MCA, is amended to read:
14	*15-8-601. Assessment revision conference for
14 15	*15-8-601. Assessment revision conference for review. (1) (a) Whenever Except as provided in subsection
15	review. (1) (a) Whenever Except as provided in subsection
15 16	review. (1) (a) Whenever Except as provided in subsection (1)(b), whenever the department of revenue discovers that
15 16 17	review. (1) (a) Whenever Except as provided in subsection (1)(b), whenever the department of revenue discovers that any taxable property of any person has in any year escaped
15 16 17 18	review. (1) (a) Whenever Except as provided in subsection (1)(b), whenever the department of revenue discovers that any taxable property of any person has in any year escaped assessment, been erroneously assessed, or been omitted from
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15 16 17 18 19	review. (1) (a) Whenever Except as provided in subsection (1)(b), whenever the department of revenue discovers that any taxable property of any person has in any year escaped assessment, been erroneously assessed, or been omitted from taxation, the department may assess the same provided the property is under the ownership or control of the same
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SENATE BILL NO. 81

1	(b) Within the time limits set by 15-23-116, whenever
2	the department discovers property subject to assessment
3	under Title 15, chapter 23, that has escaped assessment,
4	been erroneously assessed, or been omitted from taxation,
5	the department may issue a revised assessment to the person,
6	firm, or corporation who owned the property at the time it
7	escaped assessment, was erroneously assessed, or was omitted
8	from taxation, regardless of the ownership of the property
9	at the time of the department's revised assessment.

- (2) Whenever the department or its agent proposes to increase the valuation of locally assessed property above the value reported by the taxpayer under 15-8-301, the action of the department is subject to the notice and conference provisions of this section.
  - (3) (a) Notice of revised assessment pursuant to this section shall be made by the department or its agent by postpaid letter addressed to the person interested within 10 days after the revised assessment has been made. The notice shall include opportunity for a conference on the matter, at the request of the person interested, not less than 15 or more than 30 days after notice is given.
- (b) An assessment revision review conference is not a contested case as defined in the Montana Administrative Procedure Act. The department shall keep minutes in writing of each assessment review conference, which are public

INTRODUCED BILL

SO 81

1 records.

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- 2 (c) Following an assessment review conference or
  3 expiration of opportunity therefor, the department shall
  4 order such assessment as it considers proper. Any party to
  5 the conference aggrieved by the action of the department may
  6 appeal directly to the state tax appeal board within 30 days
  7 or, if the property is locally assessed, may appeal to the
  8 county tax appeal board at its next meeting.
  - (4) The department must record in a book to be kept for that purpose all changes, corrections, and orders made by it and must direct its agent to enter upon the assessment book all changes and corrections made by it.
- 13 (5) Immediately upon receipt of a revised assessment,
  14 the county official possessing the assessment roll book
  15 shall enter the revised assessment. If the revised
  16 assessment corrects an original assessment, the previous
  17 entry shall be canceled upon order of the department."

# STATE OF MONTANA - FISCAL NOTE

#### Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0081, as introduced.

## DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying the Department of Revenue's authority to issue revised assessments for centrally assessed property to the person or entity that owned the property at the time it escaped assessment, was erroneously assessed, or was omitted from taxation.

### FISCAL IMPACT:

The proposal was originally intended to clarify statutory language. Since then, a recent court ruling has upheld Department of Revenue's interpretation of statute. This legislation is intended to clearly state current law.

ROD SUNDSTED, BUDGET DIRECTOR

DATE

Office of Budget and Program Planning

LORENTS GROSFIELD, PRIMARY SPONSOR

DATE

Fiscal Note for <u>SB0081</u>, as introduced

SB81

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# APPROVED BY COMMITTEE ON TAXATION

1	SENATE BILL NO. 81
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3	BY REQUEST OF THE DEPARTMENT OF REVENUE
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6	DEPARTMENT OF REVENUE'S AUTHORITY TO ISSUE REVISED
7	ASSESSMENTS FOR CENTRALLY ASSESSED PROPERTY TO THE PERSON OR
8	ENTITY THAT OWNED THE PROPERTY AT THE TIME IT ESCAPED
9	ASSESSMENT, WAS ERRONEOUSLY ASSESSED, OR WAS OMITTED FROM
10	TAXATION; AND AMENDING SECTION 15-8-601, MCA; AND PROVIDING
11	AN IMMEDIATE EFFECT VE DATE AND A RETROACTIVE APPLICABILITY
12	DATE."
13	
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	Section 1. Section 15-8-601, MCA, is amended to read:
16	"15-8-601. Assessment revision conference for
17	review. (1) (a) Whenever Except as provided in subsection
18	(1)(b), whenever the department of revenue discovers that
19	any taxable property of any person has in any year escaped
20	assessment, been erroneously assessed, or been omitted from
21	taxation, the department may assess the same provided the
22	property is under the ownership or control of the same
23	person who owned or controlled it at the time it escaped
24	a messment, was erroneously assessed, or was omitted from
25	taxation. All such revised assessments must be made within

L	10	years	after t	he e	end	of t	the	calen	idar	year	in	which	the
2	ori	ginal	assessment	was	or	shou	uld	have	been	made	÷.		

- 3 (b) Within the time limits set by 15-23-116, whenever 4 the department discovers property subject to assessment under Title 15, chapter 23, that has escaped assessment, 5 been erroneously assessel, or been omitted from taxation, 7 the department may issue a revised assessment to the person, 8 firm, or corporation who owned the property at the time it 9 escaped assessment, was erroneously assessed, or was omitted 10 from taxation, regardless of the ownership of the property at the time of the department's revised assessment. 11
  - (2) Whenever the department or its agent proposes to increase the valuation of locally assessed property above the value reported by the taxpayer under 15-8-301, the action of the department is subject to the notice and conference provisions of this section.
  - (3) (a) Notice of revised assessment pursuant to this section shall be made by the department or its agent by postpaid letter addressed to the person interested within 10 days after the revised assessment has been made. The notice shall include opportunity for a conference on the matter, at the request of the person interested, not less than 15 or more than 30 days after notice is given.
  - (b) An assessment revision review conference is not a contested case as defined in the Montana Administrative

SECOND READING

- Procedure Act. The department shall keep minutes in writing 2 of each assessment review conference, which are public 3 records.
- 4 (c) Following an assessment review conference or 5 expiration of opportunity therefor, the department shall 6 order such assessment as it considers proper. Any party to 7 the conference aggrieved by the action of the department may appeal directly to the state tax appeal board within 30 days 9 or, if the property is locally assessed, may appeal to the 10 county tax appeal board at its next meeting.

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- 11 (4) The department must record in a book to be kept for 12 that purpose all changes, corrections, and orders made by it 13 and must direct its agent to enter upon the assessment book 14 all changes and corrections made by it.
  - (5) Immediately upon receipt of a revised assessment, the county official possessing the assessment roll book shall enter the revised assessment. If the revised assessment corrects an original assessment, the previous entry shall be canceled upon order of the department."
- NEW SECTION. SECTION 2. EFFECTIVE DATE -- RETROACTIVE 20 21 APPLICABILITY. [THIS ACT] IS EFFECTIVE ON PASSAGE AND 22 APPROVAL AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF 23 1-2-109, TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1990.

52nd Legislature SB 0081/02

SENATE RILL NO. 91

SB 0081/02

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taxation. All such revised assessments must be made within

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3 (b) Within the time limits set by 15-23-116, whenever the department discovers property subject to assessment 5 under Title 15, chapter 23, that has escaped assessment, 6 been erroneously assessed, or been omitted from taxation, 7 the department may issue a revised assessment to the person, firm, or corporation who owned the property at the time it 9 escaped assessment, was erroneously assessed, or was omitted 10 from taxation, regardless of the ownership of the property 11 at the time of the department's revised assessment.

original assessment was or should have been made.

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10 years after the end of the calendar year in which the

- (2) Whenever the department or its agent proposes to increase the valuation of locally assessed property above the value reported by the taxpayer under 15-8-301, the action of the department is subject to the notice and conference provisions of this section.

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SENATE BILL NO. 81

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