

SENATE BILL NO. 279

INTRODUCED BY B. BROWN, HARRINGTON, HALLIGAN, TOWE,  
RANEY, LEE, ECK, O'KEEFE, DOHERTY, KOEHNKE, YELLOWTAIL,  
MAZUREK, CRIPPEN, THAYER, HARP, T. BECK, GAGE, KNOX, REAM,  
WANZENRIED, T. NELSON, ELLIOTT, HOFFMAN, FAGG, COHEN, STANG,  
SCHYE, DOLEZAL, SWIFT, FOSTER, BOHARSKI  
BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

FEBRUARY 5, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
  ON TAXATION.

  FIRST READING.

FEBRUARY 15, 1991                   COMMITTEE RECOMMEND BILL  
  DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 16, 1991                   PRINTING REPORT.

  SECOND READING, DO PASS.

FEBRUARY 18, 1991                   ENGROSSING REPORT.

  THIRD READING, PASSED.  
  AYES, 49; NOES, 0.

  TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991                    INTRODUCED AND REFERRED TO COMMITTEE  
  ON TAXATION.

  FIRST READING.

MARCH 22, 1991                    COMMITTEE RECOMMEND BILL BE  
  CONCURRED IN. REPORT ADOPTED.

APRIL 11, 1991                    SECOND READING, CONCURRED IN.

APRIL 12, 1991                    THIRD READING, CONCURRED IN.  
  AYES, 96; NOES, 2.

  RETURNED TO SENATE.

IN THE SENATE

APRIL 13, 1991                    RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate FILE NO. 279  
 2 INTRODUCED BY Bob Brown  
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAXPAYER  
 5 BILL OF RIGHTS; GUARANTEEING TO ALL MONTANA TAXPAYERS  
 6 SPECIFIED PROCEDURAL RIGHTS IN THE ADMINISTRATION AND  
 7 COLLECTION OF TAXES BY THE DEPARTMENT OF REVENUE; AND  
 8 CREATING AN OFFICE OF TAXPAYER ASSISTANCE."

11 WHEREAS, the Legislature finds and declares that the  
 12 administration and collection of taxes is the most sensitive  
 13 point of contact between citizens and their government;

14 WHEREAS, the Legislature further declares that it is the  
 15 intent of the Legislature to ensure that the rights,  
 16 privacy, and property of Montana taxpayers are adequately  
 17 protected during the process of assessment and collection of  
 18 taxes administered or collected by the department of  
 19 revenue.

20 THEREFORE, it is the purpose of this bill to enact a  
 21 Montana taxpayer bill of rights.

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

23 NEW SECTION. Section 1. Short title. [Sections 1  
 24 through 3] may be cited as the "Montana Taxpayer Bill of  
 25

1 Rights".

2 NEW SECTION. Section 2. Taxpayer bill of rights. The  
 3 department of revenue shall in the course of performing its  
 4 duties in the administration and collection of the state's  
 5 taxes ensure that:

6 (1) the taxpayer has the right to record any interview,  
 7 meeting, or conference with auditors or any other  
 8 representatives of the department;

9 (2) the taxpayer has the right to hire a representative  
 10 of the taxpayer's choice to represent the taxpayer's  
 11 interests before the department or any tax appeal board. The  
 12 taxpayer has a right to obtain a representative at any time,  
 13 except that the selection of a representative may not be  
 14 used to unreasonably delay a field audit that is in  
 15 progress. The representative must have written authorization  
 16 from the taxpayer to receive from the department  
 17 confidential information concerning the taxpayer. The  
 18 department shall provide copies to the authorized  
 19 representative of all information sent to the taxpayer and  
 20 shall notify the authorized representative concerning  
 21 contacts with the taxpayer.

22 (3) the taxpayer has the right to obtain tax advice  
 23 from the department. The taxpayer has a right to the waiver  
 24 of penalties and interest, but not taxes, when he has relied  
 25 on written advice provided to him by an employee of the

-2- INTRODUCED BILL  
 SB 279



1 department.

2 (4) at the discretion of the department, the taxpayer  
3 has the right to pay delinquent taxes, interest, and  
4 penalties on an installment basis. This subsection applies  
5 only to taxes collected by the department, provided the  
6 taxpayer meets reasonable criteria.

7 (5) the taxpayer has the right to a complete and  
8 accurate written description of the basis for any additional  
9 tax assessed by the department;

10 (6) the taxpayer has the right to a review by  
11 management level employees of the department for any  
12 additional taxes assessed by the department;

13 (7) the taxpayer has the right to a full explanation of  
14 the available procedures for review and appeal of additional  
15 tax assessments;

16 (8) the taxpayer, after the exhaustion of all  
17 appropriate administrative remedies or other applicable  
18 appeal procedures, has the right to have the state tax  
19 appeal board, or a court, or both review any final decision  
20 of the department assessing an additional tax. The taxpayer  
21 shall seek a review in a timely manner. A taxpayer is  
22 entitled to collect court costs and attorney fees from the  
23 department for frivolous or bad faith lawsuits as provided  
24 in 25-10-711.

25 (9) the taxpayer has the right to a full explanation of

1 the department's authority to collect delinquent taxes,  
2 including the procedures and notices that are required to  
3 protect the taxpayer;

4 (10) the taxpayer has the right to have certain property  
5 exempt from levy and seizure as provided in Title 25,  
6 chapter 13, part 6, and any other applicable provisions in  
7 Montana law;

8 (11) the taxpayer has the right to the immediate release  
9 of any lien the department has placed on property when the  
10 tax is paid or when the lien is the result of an error by  
11 the department;

12 (12) the taxpayer has the right to assistance from the  
13 department in complying with state and local tax laws that  
14 the department administers; and

15 (13) the taxpayer has the right to be guaranteed that an  
16 employee of the department is not paid, promoted, or in any  
17 way rewarded on the basis of assessments or collections from  
18 taxpayers.

19 NEW SECTION. **Section 3. Office of taxpayer assistance.**

20 (1) The department of revenue shall establish and maintain  
21 an office of taxpayer assistance.

22 (2) The office shall assist taxpayers by:

23 (a) providing easily understandable tax information on  
24 audits and corrections and appeal procedures of the  
25 department;

1 (b) answering questions regarding preparing and filing  
2 returns and reports with the department; and

3 (c) locating documents or payments filed with or  
4 submitted to the department.

5 (3) The office of taxpayer assistance shall also:

6 (a) receive and evaluate complaints related to improper  
7 or abusive behavior or inefficient service provided by  
8 employees of the department and recommend appropriate action  
9 to the director of the department of revenue to resolve the  
10 complaints;

11 (b) compile data on the number and type of taxpayer  
12 complaints received and evaluate the actions taken to  
13 resolve complaints;

14 (c) survey taxpayers to obtain their evaluation of the  
15 quality of service provided by the department;

16 (d) monitor the department's compliance with the  
17 taxpayer bill of rights and report any abuses to the  
18 director of the department;

19 (e) monitor the department's collection activities to:

20 (i) report any abuses in collection activities by the  
21 department to the director;

22 (ii) recommend to the director whether a particular  
23 collection activity should be stopped if the taxpayer has  
24 not had an adequate opportunity to discuss alternative means  
25 of payment; and

1 (f) perform any other functions that the director may  
2 assign to assist taxpayers in complying with Montana's tax  
3 laws.

4 NEW SECTION. **Section 4.** Codification instruction.

5 [Sections 1 through 3] are intended to be codified as an  
6 integral part of Title 15, chapter 1, part 2, and the  
7 provisions of Title 15, chapter 1, part 2, apply to  
8 [sections 1 through 3].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0279, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing a Taxpayer Bill of Rights; guaranteeing to all Montana taxpayers specified procedural rights in the administration and collection of taxes by the Department of Revenue; and creating an office of taxpayer assistance.

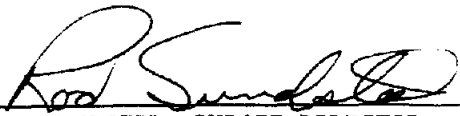
FISCAL IMPACT:


Expenditures:

The office of taxpayer assistance will be provided utilizing existing department resources, provided that the position slated for this office is not eliminated in the current budget process.

Revenues:

There is no impact on revenues.

 2-9-91  
ROD SUNDSTED, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 2/11/91  
ROBERT (BOB) BROWN, PRIMARY SPONSOR      DATE  
Fiscal Note for SB0279, as introduced      **SB 279**

APPROVED BY COMMITTEE  
ON TAXATION

SENATE BILL NO. 279

INTRODUCED BY B. BROWN, HARRINGTON, HALLIGAN, TOWE,  
RANEY, LEE, ECK, O'KEEFE, DOHERTY, KOEHNKE, YELLOWTAIL,  
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BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAXPAYER  
BILL OF RIGHTS; GUARANTEEING TO ALL MONTANA TAXPAYERS  
SPECIFIED PROCEDURAL RIGHTS IN THE ADMINISTRATION AND  
COLLECTION OF TAXES BY THE DEPARTMENT OF REVENUE; AND  
CREATING AN OFFICE OF TAXPAYER ASSISTANCE."

WHEREAS, the Legislature finds and declares that the  
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WHEREAS, the Legislature further declares that it is the  
intent of the Legislature to ensure that the rights,  
privacy, and property of Montana taxpayers are adequately  
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taxes administered or collected by the department of  
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THEREFORE, it is the purpose of this bill to enact a  
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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through 3] may be cited as the "Montana Taxpayer Bill of  
Rights".

NEW SECTION. **Section 2.** Taxpayer bill of rights. The  
department of revenue shall in the course of performing its  
duties in the administration and collection of the state's  
taxes ensure that:

(1) the taxpayer has the right to record any interview,  
meeting, or conference with auditors or any other  
representatives of the department;

(2) the taxpayer has the right to hire a representative  
of the taxpayer's choice to represent the taxpayer's  
interests before the department or any tax appeal board. The  
taxpayer has a right to obtain a representative at any time,  
except that the selection of a representative may not be  
used to unreasonably delay a field audit that is in  
progress. The representative must have written authorization  
from the taxpayer to receive from the department  
confidential information concerning the taxpayer. The  
department shall provide copies to the authorized  
representative of all information sent to the taxpayer and  
shall notify the authorized representative concerning  
contacts with the taxpayer.

**SECOND READING**



1 (3) the taxpayer has the right to obtain tax advice  
2 from the department. The taxpayer has a right to the waiver  
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4 on written advice provided to him by an employee of the  
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15 management level employees of the department for any  
16 additional taxes assessed by the department;

17 (7) the taxpayer has the right to a full explanation of  
18 the available procedures for review and appeal of additional  
19 tax assessments;

20 (8) the taxpayer, after the exhaustion of all  
21 appropriate administrative remedies ~~or--other--applicable~~  
22 ~~appeal--procedures~~, has the right to have the state tax  
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24 of the department assessing an additional tax. The taxpayer  
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2 department for frivolous or bad faith lawsuits as provided  
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18 the department administers; and

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23 **NEW SECTION. Section 3. Office of taxpayer assistance.**

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4 department;

5 (B) PROVIDING EASILY UNDERSTANDABLE INFORMATION ON  
6 APPEAL PROCEDURES;

7 ~~(b)~~(C) answering questions regarding preparing and  
8 filing returns and reports with the department; and

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10 submitted to the department.

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17 (b) compile data on the number and type of taxpayer  
18 complaints received and evaluate the actions taken to  
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20 (c) survey taxpayers to obtain their evaluation of the  
21 quality of service provided by the department;

22 (d) monitor the department's compliance with the  
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25 (e) monitor the department's collection activities to:

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4 collection activity should be stopped if the taxpayer has  
5 not had an adequate opportunity to discuss alternative means  
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11 [Sections 1 through 3] are intended to be codified as an  
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14 [sections 1 through 3].

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7                   BY REQUEST OF THE DEPARTMENT OF REVENUE

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11 SPECIFIED PROCEDURAL RIGHTS IN THE ADMINISTRATION AND

12 COLLECTION OF TAXES BY THE DEPARTMENT OF REVENUE; AND

13 CREATING AN OFFICE OF TAXPAYER ASSISTANCE."

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15       WHEREAS, the Legislature finds and declares that the

16 administration and collection of taxes is the most sensitive

17 point of contact between citizens and their government;

18       WHEREAS, the Legislature further declares that it is the

19 intent of the Legislature to ensure that the rights,

20 privacy, and property of Montana taxpayers are adequately

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22 taxes administered or collected by the department of

23 revenue.

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4 through 3] may be cited as the "Montana Taxpayer Bill of

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12 representatives of the department;

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17 except that the selection of a representative may not be

18 used to unreasonably delay a field audit that is in

19 progress. The representative must have written authorization

20 from the taxpayer to receive from the department

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23 representative of all information sent to the taxpayer and

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25 contacts with the taxpayer.

THIRD READING



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REFERENCE BILL



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25 (e) monitor the department's collection activities to:

1 (i) report any abuses in collection activities by the

2 department to the director;

3 (ii) recommend to the director whether a particular

4 collection activity should be stopped if the taxpayer has

5 not had an adequate opportunity to discuss alternative means

6 of payment; and

7 (F) perform any other functions that the director may

8 assign to assist taxpayers in complying with Montana's tax

9 laws.

10 NEW SECTION. Section 4. Codification instruction.

11 [Sections 1 through 3] are intended to be codified as an

12 integral part of Title 15, chapter 1, part 2, and the

13 provisions of Title 15, chapter 1, part 2, apply to

14 [sections 1 through 3].

-End-