

SENATE BILL NO. 445

INTRODUCED BY DOHERTY, MAZUREK

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

FEBRUARY 20, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

 FIRST READING.

MARCH 23, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 25, 1991 PRINTING REPORT.

MARCH 26, 1991 SECOND READING, DO PASS.

MARCH 27, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
AYES, 48; NOES, 1.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 27, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

 FIRST READING.

APRIL 13, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 16, 1991 SECOND READING, CONCURRED IN.

APRIL 17, 1991 THIRD READING, CONCURRED IN.
AYES, 100; NOES, 0.

 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 18, 1991 RECEIVED FROM HOUSE.

 SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 19, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

APRIL 23, 1991

REPORTED CORRECTLY ENROLLED.

SIGNED BY PRESIDENT.

APRIL 24, 1991

SIGNED BY SPEAKER.

DELIVERED TO GOVERNOR.

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

APRIL 25, 1991

SECOND READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

APRIL 29, 1991

THIRD READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 29, 1991

SECOND READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

IN THE SENATE

APRIL 29, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *445*
 2 INTRODUCED BY *Dwight M. ...*
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MONTANA
 6 TAXPAYERS WITH A SIMPLE, INEXPENSIVE, AND EFFECTIVE TAX
 7 REVIEW PROCESS FOR TAXES ADMINISTERED BY THE DEPARTMENT OF
 8 REVENUE EXCEPT PROPERTY, INHERITANCE, AND ESTATE TAXES BUT
 9 INCLUDING REVISED ASSESSMENTS OF CENTRALLY ASSESSED PROPERTY
 10 TAXES; CLARIFYING AND LIMITING THE USE OF DECLARATORY
 11 JUDGMENT ACTIONS IN TAX CASES; PROVIDING AUTHORITY TO ENTER
 12 INTO CLOSING AGREEMENTS; AMENDING SECTIONS 15-1-402,
 13 15-1-403, 15-1-406, 15-1-705, 15-2-307, 15-8-601, 15-23-104,
 14 15-25-114, 15-30-148, 15-30-149, 15-31-503, 15-31-532,
 15 15-31-701, 15-35-112, 15-36-105, 15-36-113, 15-37-110,
 16 15-37-114, 15-37-210, 15-38-110, 15-51-109, 15-53-105,
 17 15-55-106, 15-58-110, 15-59-112, 15-59-212, 15-65-115,
 18 69-1-225, AND 69-1-226, MCA; REPEALING SECTION 15-55-107,
 19 MCA; AND PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES."

20
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 22 NEW SECTION. Section 1. Uniform tax review procedure
 23 -- notice -- appeal. (1) The department shall provide a
 24 uniform tax review procedure for all taxpayers, except as
 25 provided in subsection (1)(a).

1 (a) The tax review procedure described in this section
 2 applies to all taxes administered by the department except
 3 inheritance taxes, estate taxes, and property taxes. The
 4 procedure applies to any revised assessment of centrally
 5 assessed property taxed pursuant to chapter 23.

6 (b) The term "taxpayers", as used in this section,
 7 includes all persons determined by the department to have a
 8 potential tax liability.

9 (2) (a) If the department determines that a request for
 10 a refund should be denied in whole or part, it shall notify
 11 the taxpayer of the determination. If the department
 12 determines that a person has failed to pay a sufficient tax,
 13 interest, or penalty, it shall provide the taxpayer with
 14 notice, such as a preliminary assessment or other document
 15 indicating that the tax, including interest and penalty, if
 16 any, is due. The notice stops the running of any applicable
 17 statute of limitations.

18 (b) A notice under this section must clearly state:

19 (i) the reasons for the department's determination that
 20 a refund is not due or that tax plus interest and penalty,
 21 if any, is due;

22 (ii) the taxpayer's right to a review by the department
 23 and his right to appeal after a final department decision;

24 (iii) failure to notify the department within 30 days
 25 will result in a forfeiture of the taxpayer's right to



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1 contest the department's determination;

2 (iv) that the taxpayer has 30 days to either notify the
3 department in writing that he does not agree with an
4 assessment or pay the amount assessed; and

5 (v) that a warrant for distraint placing a lien on the
6 taxpayer's property may be issued unless he notifies the
7 department that he disagrees with an assessment or pays
8 within 30 days.

9 (3) (a) A taxpayer shall notify the department, in
10 writing, that he objects to the determination within 30 days
11 from the date the notice is mailed. The notification by the
12 taxpayer is not required to specify the reasons for the
13 disagreement or be in any particular form. If the taxpayer
14 does not notify the department within 30 days:

15 (i) an assessment becomes final and the assessed tax,
16 plus any interest and penalty, must be paid;

17 (ii) the taxpayer waives any further right to review or
18 appeal; and

19 (iii) a warrant for distraint may be issued without
20 further opportunity to be heard on the assessment.

21 (b) A taxpayer who validly notifies the department that
22 he disagrees with a tax assessment shall present his
23 objections, the reasons for his objections, and any other
24 required information to the administrator of the division
25 that administers the tax or to his designee within 60 days

1 after the notice is mailed. The reasons for objections may
2 be provided in writing, by telephone, or, if requested by
3 the taxpayer, at an informal conference. An informal
4 conference is not subject to the Montana Administrative
5 Procedure Act.

6 (c) Within 30 days after the taxpayer has presented his
7 objections, the administrator or his designee shall issue a
8 written decision addressing the taxpayer's objections and
9 describing the reasons for the determination. The
10 administrator's decision must also clearly set forth the
11 taxpayer's review rights. The administrator's decision must
12 be provided to the taxpayer and the director of revenue.

13 (4) (a) Within 30 days after mailing of the
14 administrator's decision, the taxpayer may object to the
15 administrator's decision with the department or he may
16 appeal to the state tax appeal board as provided in
17 subsection (6). If an objection is not made within 30 days,
18 the administrator's decision and any assessment become
19 final. By failing to object, the taxpayer waives any further
20 right to review and a warrant for distraint may be issued
21 without further opportunity to be heard on the assessment.

22 (b) Except as provided in subsection (6), a taxpayer
23 who validly objects to the administrator's decision shall
24 present his objections, his reasons for the objections, and
25 any other required information to the director of revenue or

1 his designee within 90 days after the notice is mailed. The
 2 director or his designee may consider written information,
 3 hold a telephone conference, or conduct an informal
 4 conference, none of which are subject to the Montana
 5 Administrative Procedure Act.

6 (c) Within 90 days after the taxpayer has presented his
 7 objections, the director or his designee shall issue a
 8 written decision addressing the objections and describing
 9 the reasons for the decision. The director's decision is the
 10 final decision and assessment of the department.

11 (5) The taxpayer shall pay the assessment within 30
 12 days after being mailed a copy of the final decision and
 13 assessment unless an appeal is filed with the state tax
 14 appeal board. If an appeal with the board is filed within 30
 15 days after the final decision is mailed, payment is not due
 16 until final resolution by the board or, if further appeals
 17 are filed, by the appropriate court. However, any interest
 18 required by law shall continue to accrue.

19 (6) (a) A taxpayer who validly objects to the
 20 administrator's decision may elect to file an appeal with
 21 the state tax appeal board. The appeal must be filed within
 22 30 days after mailing an objection to the administrator's
 23 decision.

24 (b) If the director notifies the board within 30 days
 25 after an appeal is filed that he has not had an opportunity

1 to review a final assessment or decision and he believes a
 2 review may be helpful in resolving the controversy, the
 3 board shall stay the appeal for a time the board considers
 4 reasonable. The taxpayer shall provide his objections and
 5 reasons for his objections to the director so that the
 6 director or his designee may review the controversy and
 7 issue a decision within the period of the stay granted by
 8 the board. If the taxpayer is dissatisfied with the
 9 director's decision, the stay must be lifted and the appeal
 10 resumed.

11 (7) The time limits in this section must be applied and
 12 interpreted as provided in the Montana Rules of Civil
 13 Procedure. Any time limit may be extended by mutual consent
 14 of the department and the taxpayer or by order of the
 15 department. The department shall grant all reasonable
 16 requests for extension of deadlines.

17 (8) (a) The director of revenue or his designee is
 18 authorized to enter into an agreement with any taxpayer
 19 relating to the taxpayer's liability with respect to a tax
 20 administered by the department for any taxable period.

21 (b) An agreement under the provisions of subsection
 22 (8)(a) is final and conclusive, and, except upon a showing
 23 of fraud, malfeasance, or misrepresentation of a material
 24 fact:

25 (i) the agreement may not be reopened as to matters

1 agreed upon or be modified by any officer, employee, or
2 agent of this state; and

3 (ii) in any suit, action, or proceeding under the
4 agreement or any determination, assessment, collection,
5 payment, abatement, refund, or credit made in accordance
6 with the agreement, the agreement may not be annulled,
7 modified, set aside, or disregarded.

8 **Section 2.** Section 15-1-402, MCA, is amended to read:

9 "15-1-402. **Payment of taxes under protest -- action to**
10 **recover.** (1) The person upon whom a property tax or license
11 fee collected by a county or municipality is being imposed
12 may proceed under 15-1-406 or may, before the tax or license
13 fee becomes delinquent, pay under written protest that
14 portion of the tax or license fee protested. The payment
15 must:

16 (a) be made to the officer designated and authorized to
17 collect it;

18 (b) specify the grounds of protest; and

19 (c) not exceed the difference between the payment for
20 the immediately preceding tax year and the amount owing in
21 the tax year protested unless a different amount results
22 from the specified grounds of protest, which grounds may
23 include but are not limited to changes in assessment due to
24 reappraisal under 15-7-111.

25 (2) After having exhausted the administrative appeals

1 available under Title 15, chapters 2 and 15, a person or his
2 legal representative may bring an action in any court of
3 competent jurisdiction against the officers to whom said tax
4 or license fee was paid or against the county or
5 municipality in whose behalf the same was collected and the
6 department of revenue.

7 (3) Both the officers to whom the tax or license fee
8 was paid or the county or municipality in whose behalf the
9 same was collected and the department of revenue must be
10 served with timely summons and complaint within the time
11 prescribed.

12 (4) An action instituted to recover any such portions
13 of tax or license fee paid under protest must be commenced
14 and summons timely served within 60 days after the date of
15 the final decision of the state tax appeal board.

16 (5) If a protested tax or license fee is payable in
17 installments, a subsequent installment portion considered
18 unlawful by the state tax appeal board need not be paid and
19 no action or suit need be commenced to recover the
20 subsequent installment. The determination of the action or
21 suit commenced to recover the first installment portion paid
22 under protest determines the right of the party paying such
23 subsequent installment to have the same or any part thereof
24 refunded to him or the right of the taxing authority to
25 collect a subsequent installment not paid by the taxpayer

1 plus interest from the date the subsequent installment was
2 due.

3 (6) All taxes and license fees paid under protest to a
4 county or municipality must be deposited by the treasurer of
5 the county or municipality to the credit of a special fund
6 to be designated as a protest fund and must be retained in
7 the protest fund until the final determination of any action
8 or suit to recover the same unless released at the request
9 of the county, municipality, or other local taxing
10 jurisdiction pursuant to subsection (7). Nothing contained
11 herein prohibits the investment of the money of this fund in
12 the state unified investment program or in any manner
13 provided in Title 7, chapter 6. The provision creating the
14 special protest fund does not apply to any payments made
15 under protest directly to the state.

16 (7) The governing board of a taxing jurisdiction
17 affected by the payment of taxes under protest in the second
18 and subsequent years that a tax protest remains unresolved
19 may demand that the treasurer of the county or municipality
20 pay the requesting taxing jurisdiction all or a portion of
21 the protest payments to which it is entitled, except the
22 amount paid by the taxpayer in the first year of the
23 protest. The decision in a previous year of a taxing
24 jurisdiction to leave protested taxes in the protest fund
25 does not preclude it from demanding in a subsequent year any

1 or all of the payments to which it is entitled, except the
2 first-year protest amount.

3 (8) (a) If no action is commenced within the time
4 herein specified or if such action is commenced and finally
5 determined in favor of the county or municipality or
6 treasurer thereof, the amount of the protested portions of
7 the tax or license fee must be taken from the protest fund
8 and deposited to the credit of the fund or funds to which
9 the same property belongs, less a pro rata deduction for the
10 costs of administration of the protest fund and related
11 expenses charged the local government units.

12 (b) If such action is finally determined adversely to a
13 county or municipality or the treasurer thereof, then the
14 treasurer shall, upon receiving a certified copy of the
15 final judgment in said action from the state tax appeal
16 board, or from the district or supreme court, as
17 appropriate, if the final action of the state tax appeal
18 board is appealed in the time prescribed, refund to the
19 person in whose favor such judgment is rendered the amount
20 of such protested portions of the tax or license fee
21 deposited in the protest fund, and not released pursuant to
22 subsection (7), as the person holding such judgment is
23 entitled to recover, together with interest thereon from the
24 date of payment under protest, at the greater of:

25 (i) the rate of interest generated from the pooled

1 investment fund provided for in 17-6-203 for the applicable
2 period; or

3 (ii) 6% a year.

4 (c) If the amount retained in the protest fund is
5 insufficient to pay all sums due the taxpayer, the treasurer
6 shall apply the available amount first to tax repayment,
7 then interest owed, and lastly to costs.

8 (d) If the protest action is decided adversely to a
9 taxing jurisdiction and the amount retained in the protest
10 fund is insufficient to refund the tax payments and costs to
11 which the taxpayer is entitled and for which local
12 government units are responsible, the treasurer shall bill
13 and the taxing jurisdiction shall refund to the treasurer
14 that portion of the taxpayer refund, including tax payments
15 and costs, for which the taxing jurisdiction is proratably
16 responsible.

17 (e) In satisfying the requirements of subsection
18 (8)(d), the taxing jurisdiction is allowed not more than 1
19 year from the beginning of the fiscal year following a final
20 resolution of the protest. The taxpayer is entitled to
21 interest on the unpaid balance at the greater of the rates
22 referred to in subsections (8)(b)(i) and (8)(b)(ii) from the
23 date of payment under protest until the date of final
24 resolution of the protest and at the combined rate of the
25 federal reserve discount rate quoted from the federal

1 reserve bank in New York, New York, on the date of final
2 resolution, plus four percentage points, from the date of
3 final resolution of the protest until refund is made.

4 (9) A taxing jurisdiction may satisfy the requirements
5 of this section by use of funds from one or more of the
6 following sources:

7 (a) imposition of a property tax to be collected by a
8 special tax protest refund levy;

9 (b) the general fund, except that amount generated by
10 the all-purpose mill levy, or any other funds legally
11 available to the governing body; and

12 (c) proceeds from the sale of bonds issued by a county,
13 city, or school district for the purpose of deriving revenue
14 for the repayment of tax protests lost by the taxing
15 jurisdiction. The governing body of a county, city, or
16 school district is hereby authorized to issue such bonds
17 pursuant to procedures established by law. The bonds may be
18 issued without being submitted to an election. Property
19 taxes may be levied to amortize the bonds."

20 **Section 3.** Section 15-1-403, MCA, is amended to read:

21 "15-1-403. **Assessment for taxation -- increase over**
22 **statement of owner.** (1) Whenever any person has delivered to
23 the department of revenue or its agent a sworn statement of
24 his locally assessed property subject to taxation as now
25 provided by law and giving the estimated value of such

1 property and the department or its agent shall increase such
2 estimated value or add other property to such assessment
3 list, the agent shall, at least 10 days prior to the meeting
4 of the county tax appeal board, give to such person written
5 notice of such change, which notice shall be substantially
6 in the following form:

7 (Date)

8 Mr.:

9 A change has been made in your assessment list as
10 follows:

11 (Set out and describe specifically changes made in
12 list.)

13, Agent
14 Department of Revenue

15 (2) Such person may then appear before the county tax
16 appeal board and contest the same. If the assessment of any
17 such person has been added to or changed, either by the
18 department or by the county tax appeal board, and such
19 person has not been notified thereof and given an
20 opportunity to contest the same before the county tax appeal
21 board, the tax on such increased value or added property
22 shall, upon such facts being established, be adjudged by the
23 state tax appeal board to be void, and such facts and all
24 questions relating thereto, when said tax has been paid
25 under protest, may be heard and determined in the action

1 provided for in 15-1-402."

2 **Section 4.** Section 15-1-406, MCA, is amended to read:

3 "15-1-406. Alternative remedy -- declaratory judgment.

4 (1) An aggrieved taxpayer may, in lieu of proceeding under
5 15-1-402 or [section 1], bring a declaratory judgment action
6 in the district court seeking a declaration that a tax
7 levied by the state or one of its subdivisions was illegally
8 or unlawfully imposed or exceeded the taxing authority of
9 the entity imposing the tax.

10 (2) The action must be brought within 90 days after the
11 taxpayer receives notice of the imposition of the tax. The
12 court shall consolidate all actions brought under subsection
13 (1) which challenge the same tax levy. The decision of the
14 court shall apply to all similarly situated taxpayers except
15 those taxpayers who are excluded under 15-1-407.

16 (3) The taxes that are being challenged under this
17 section must be paid when due as a condition of continuing
18 the action.

19 (4) The court may issue judgment for the party bringing
20 the action only if the pleading, depositions, answers to
21 interrogatories, and admissions on file, together with
22 affidavits, if any, show that there is no genuine issue as
23 to any material fact and the party bringing the action is
24 entitled to a judgment as a matter of law. Section 15-2-307
25 and this section are the exclusive authority for a

1 declaratory judgment that taxes were illegally or unlawfully
 2 imposed or exceed the authority of the entity imposing the
 3 tax."

4 **Section 5.** Section 15-1-705, MCA, is amended to read:

5 "15-1-705. Hearing Review. (1) Except as provided in
 6 15-1-707, a taxpayer has the right to request-a-hearing-on a
 7 review of the matter-of tax liability pursuant to [section
 8 1] prior to execution on a filed warrant for distraint.

9 (2) The department must provide notice of the right to
 10 hearing review to the taxpayer. A-request-for-a-hearing-must
 11 be-made-in-writing-within-30-days-of-the-date-of-the-notice-
 12 This notice may be given prior to the notice referred to in
 13 15-1-702. If a-written-request-for-a-hearing-is-received the
 14 taxpayer notified the department that he disagrees with an
 15 assessment as provided in [section 1], the warrant may not
 16 be executed upon until after the date-the-hearing-is-held
 17 or,-if-the-taxpayer-fails-to-attend-a-scheduled-hearing,-the
 18 date-the-hearing-is-scheduled review process and any appeals
 19 are completed.

20 {3}-The-hearing-is-subject-to-the-contested-case
 21 provisions-of-the-Montana-Administrative-Procedure-Act-
 22 Before-a-decision-may-be-appealed-to-the-district-court,-an
 23 appeal-must-first-be-taken-to-the-state-tax-appeal-board--A
 24 request-for-a-hearing-must-be-in-writing-in-order-to
 25 postpone-execution-on-a-warrant."

1 **Section 6.** Section 15-2-307, MCA, is amended to read:

2 "15-2-307. **Challenge to assessment rules or procedures.**

3 An aggrieved taxpayer may, in lieu of proceeding under Title
 4 15, chapter 15, part 1, bring a declaratory judgment action
 5 pursuant to 15-1-406 in the district court seeking a
 6 declaration that a method or procedure of assessment of
 7 property adopted or utilized by the department of revenue is
 8 illegal or improper."

9 **Section 7.** Section 15-8-601, MCA, is amended to read:

10 "15-8-601. **Assessment revision -- conference for**
 11 **review.** (1) Whenever the department of revenue discovers
 12 that any taxable property of any person has in any year
 13 escaped assessment, been erroneously assessed, or been
 14 omitted from taxation, the department may assess the same
 15 provided the property is under the ownership or control of
 16 the same person who owned or controlled it at the time it
 17 escaped assessment, was erroneously assessed, or was omitted
 18 from taxation. All such revised assessments must be made
 19 within 10 years after the end of the calendar year in which
 20 the original assessment was or should have been made.

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

1 of centrally assessed property are subject to review
 2 pursuant to [section 1].

3 (3) (a) Notice of revised assessment pursuant to this
 4 section shall be made by the department or its agent by
 5 postpaid letter addressed to the person interested within 10
 6 days after the revised assessment has been made. The If the
 7 property is locally assessed, the notice shall include
 8 opportunity for a conference on the matter, at the request
 9 of the person interested, not less than 15 or more than 30
 10 days after notice is given.

11 (b) An assessment revision review conference is not a
 12 contested case as defined in the Montana Administrative
 13 Procedure Act. The department shall keep minutes in writing
 14 of each assessment review conference, which are public
 15 records.

16 (c) Following an assessment review conference or
 17 expiration of opportunity therefor, the department shall
 18 order such assessment as it considers proper. Any party to
 19 the conference aggrieved by the action of the department ~~may~~
 20 ~~appeal-directly-to-the-state-tax-appeal-board-within-30-days~~
 21 ~~or--if--the-property-is-locally-assessed,~~ may appeal to the
 22 county tax appeal board at its next meeting.

23 (4) The department must record in a book to be kept for
 24 that purpose all changes, corrections, and orders made by it
 25 and must direct its agent to enter upon the assessment book

1 all changes and corrections made by it.

2 (5) Immediately upon receipt of a revised assessment,
 3 the county official possessing the assessment roll book
 4 shall enter the revised assessment. If the revised
 5 assessment corrects an original assessment, the previous
 6 entry shall be canceled upon order of the department."

7 **Section 8.** Section 15-23-104, MCA, is amended to read:

8 "15-23-104. Failure to file -- estimate by department
 9 -- penalty. If any person fails to file a report or return
 10 within the time established in 15-23-103 or by such later
 11 date as the department may approve, the department shall
 12 estimate the value of the property to have been reported on
 13 the basis of the best available information. In estimating
 14 the value of the net proceeds of mines, the department shall
 15 proceed under 15-23-506, and in estimating the value of the
 16 gross proceeds of coal mines, the department shall proceed
 17 under 15-35-107. In estimating the value of all other
 18 property subject to assessment under parts 2 through 4 of
 19 this chapter, the department shall proceed under 15-1-303.
 20 In estimating value under this section, the department may
 21 subpoena a person or his agent as specified in 15-1-302. An
 22 assessment pursuant to parts 5 through 8 of this chapter
 23 based on estimated value or imputed value is subject to
 24 review under ~~15-8-601~~ [section 1]. Each month or part of a
 25 month a report is delinquent, the department shall impose

1 and collect a \$25 penalty, the total not to exceed \$200, and
 2 shall deposit such penalty to the credit of the general
 3 fund. The department will also inform its agents in the
 4 counties of the delinquency, and the agents shall assess a
 5 penalty of 1% of the tax due for each month or part of a
 6 month the report is delinquent."

7 **Section 9.** Section 15-25-114, MCA, is amended to read:

8 "15-25-114. Tax appeal review. A person aggrieved by an
 9 assessment pursuant to 15-25-111 or an exemption decision
 10 pursuant to 15-25-112 may appeal seek a review of the
 11 assessment or exemption decision pursuant to Title--157
 12 chapter-27-part-3 [section 1]."

13 **Section 10.** Section 15-30-148, MCA, is amended to read:

14 "15-30-148. Judicial review. (1) The determination of
 15 the state tax appeal board may be reviewed in the district
 16 court for Lewis and Clark County or the county in which the
 17 taxpayer resides or has his principal office or place of
 18 business by a complaint filed by the taxpayer or the
 19 department within 6-months 30 days after the receipt of
 20 notice of the decision--of--the--state--tax--appeal--board
 21 determination. Proceedings for review shall be otherwise as
 22 specified under the Montana Administrative Procedure Act.

23 (2) The remedies provided by this chapter for the
 24 collection of the tax shall be stayed, and no assessment,
 25 distraint, or proceedings in court for collection of the

1 taxes may be made, begun, or prosecuted until 90 days after
 2 such court action is finally determined. From any
 3 determination of such court, an appeal to the supreme court
 4 may be taken by either party."

5 **Section 11.** Section 15-30-149, MCA, is amended to read:

6 "15-30-149. Credits and refunds -- period of
 7 limitations. (1) If the department discovers from the
 8 examination of a return or upon claim duly filed by a
 9 taxpayer or upon final judgment of a court that the amount
 10 of income tax collected is in excess of the amount due or
 11 that any penalty or interest was erroneously or illegally
 12 collected, the amount of the overpayment shall be credited
 13 against any income tax, penalty, or interest then due from
 14 the taxpayer and the balance of such excess shall be
 15 refunded to the taxpayer.

16 (2) (a) A credit or refund under the provisions of this
 17 section may be allowed only if, prior to the expiration of
 18 the period provided by 15-30-145 and by 15-30-146 during
 19 which the department may determine tax liability, the
 20 taxpayer files a claim or the department determines there
 21 has been an overpayment.

22 (b) If an overpayment of tax results from a net
 23 operating loss carryback, the overpayment may be refunded or
 24 credited within the period that expires on the 15th day of
 25 the 40th month following the close of the taxable year of

1 the net operating loss if that period expires later than 5
2 years from the due date of the return for the year to which
3 the net operating loss is carried back.

4 (3) Within 6 months after a claim for refund is filed,
5 the department shall examine said the claim and either
6 approve or disapprove it. If said the claim is approved, the
7 credit or refund ~~shall~~ must be made to the taxpayer within
8 60 days after the claim is approved, if If the claim is
9 disallowed, the department shall so notify the taxpayer and
10 ~~shall grant a hearing thereon upon proper application by the~~
11 ~~taxpayer, if the department disapproves a claim for refund,~~
12 review of the determination of the department may be had
13 pursued as otherwise provided in this chapter [section 1].

14 (4) ~~Except as hereinafter provided for, interest shall~~
15 be Interest is allowed on overpayments at the same rate as
16 ~~is~~ charged on delinquent taxes. due Interest is payable from
17 the due date of the return or from the date of the
18 overpayment, {whichever date is later}, to the date the
19 department approves refunding or crediting of the
20 overpayment. With respect to tax paid by withholding or by
21 estimate, the date of overpayment ~~shall be deemed to be~~ is
22 the date on which the return for the taxable year was due.
23 ~~No interest shall~~ Interest does not accrue on an overpayment
24 if the taxpayer elects to have it applied to his estimated
25 tax for the succeeding taxable year, ~~nor shall interest.~~

1 Interest does not accrue during any period the processing of
2 a claim for refund is delayed more than 30 days by reason of
3 failure of the taxpayer to furnish information requested by
4 the department for the purpose of verifying the amount of
5 the overpayment. ~~No interest shall be~~ Interest is not
6 allowed if:

7 (a) the overpayment is refunded within 6 months from
8 the date the return is due or the date the return is filed,
9 whichever date is later;

10 (b) the overpayment results from the carryback of a net
11 operating loss; or

12 (c) the amount of interest is less than \$1.

13 (5) An overpayment not made incident to a bona fide and
14 orderly discharge of an actual income tax liability or one
15 reasonably assumed to be imposed by this law ~~shall~~ is not be
16 considered an overpayment with respect to which interest is
17 allowable."

18 **Section 12.** Section 15-31-503, MCA, is amended to read:

19 "15-31-503. Deficiency assessment -- hearing notice --
20 interest. (1) If the department of revenue determines that
21 the amount of tax due is greater than the amount disclosed
22 by the return, it shall mail to the taxpayer a notice,
23 pursuant to [section 1], of the additional tax proposed to
24 be assessed. The taxpayer may seek review of the
25 determination pursuant to [section 1]. Within 30 days after

1 the mailing of the notice, the taxpayer may file with the
 2 department a written protest against the proposed additional
 3 tax, setting forth the grounds upon which the protest is
 4 based, and may request in its protest an oral hearing or an
 5 opportunity to present additional evidence relating to its
 6 tax liability. If no protest is filed, the amount of the
 7 additional tax proposed to be assessed becomes final upon
 8 the expiration of the 30-day period. If such protest is
 9 filed, the department shall reconsider the proposed
 10 assessment and if the taxpayer has so requested, shall
 11 grant the taxpayer an oral hearing. After consideration of
 12 the protest and the evidence presented in the event of an
 13 oral hearing, the department's action upon the protest is
 14 final when it mails notice of its action to the taxpayer.

15 (2) When a deficiency is determined and the tax becomes
 16 final, the department shall mail notice and demand to the
 17 taxpayer for the payment thereof, and the tax shall be due
 18 and payable at the expiration of 10 days from the date of
 19 such notice and demand. Interest on any deficiency
 20 assessment shall bear interest from the date specified in
 21 15-31-502 for payment of the tax. A certificate by the
 22 department of the mailing of the notices specified in this
 23 subsection shall be prima facie evidence of the computation
 24 and levy of the deficiency in tax and of the giving of the
 25 notices."

1 **Section 13.** Section 15-31-532, MCA, is amended to read:
 2 "15-31-532. Application for refund -- appeal from
 3 denial. If the department of revenue disallows any claim for
 4 refund, it shall notify the taxpayer accordingly. At the
 5 expiration of 30 days from the mailing of the notice, the
 6 department's action shall become final unless within the
 7 30-day period the taxpayer appeals in writing from the
 8 action of said department to the state tax appeal board. If
 9 such appeal is made, the board shall grant the taxpayer an
 10 oral hearing. After consideration of the appeal and evidence
 11 presented, the board shall forthwith mail notice to the
 12 taxpayer of its determination. The board's determination is
 13 final when it mails notice of its action to the taxpayer as
 14 provided in [section 1]. The taxpayer may seek review of the
 15 decision pursuant to [section 1]."

16 **Section 14.** Section 15-31-701, MCA, is amended to read:
 17 "15-31-701. Department of revenue -- special duties for
 18 transmitting corporation license tax revenues collected from
 19 banks or savings and loan associations to counties. (1)
 20 Within 30 days after receiving corporation license tax
 21 returns and payments from banks or savings and loan
 22 associations, the department of revenue shall transmit to
 23 the county treasurer of the county in which the business is
 24 located the revenues calculated under 15-31-702(1)(b).

25 (2) If the department of revenue determines, under the

1 provisions of 15-31-503 and 15-31-531, that a bank or
 2 savings and loan association owes more taxes than shown on
 3 the original return or has paid more than the tax, penalty,
 4 or interest due in any year, it shall notify the bank or
 5 savings and loan association pursuant to [section 1].
 6 ~~Additional payment is due within 10 days after receipt of~~
 7 ~~the final determination of taxes due. Review may be sought~~
 8 pursuant to [section 1]. County treasurers shall issue
 9 warrants for their portion of the overpayment received and
 10 interest, as provided in 15-31-531.

11 (3) The department shall continue to exercise all its
 12 duties and powers outlined in this title with respect to
 13 auditing returns and enforcing payment of the corporation
 14 license taxes owed by banks and savings and loan
 15 associations. Any delinquent taxes collected from the sale
 16 of property of a bank or savings and loan association under
 17 the provisions of 15-31-525 shall be transmitted to the
 18 county in which the corporation owing the delinquent taxes
 19 is located. The only duties of the county treasurers in this
 20 regard are issuing refunds and distributing the taxes to
 21 local taxing jurisdictions."

22 **Section 15.** Section 15-35-112, MCA, is amended to read:

23 "15-35-112. Deficiency assessment -- hearing review --
 24 interest. (1) When the department of revenue determines that
 25 the amount of tax due is greater than the amount disclosed

1 by a return, it shall mail to the taxpayer a notice,
 2 pursuant to [section 1], of the additional tax proposed to
 3 be assessed. ~~Within 30 days after mailing of the notice, the~~
 4 ~~taxpayer may file with the department a written protest~~
 5 ~~against the proposed additional tax, setting forth the~~
 6 ~~grounds upon which the protest is based, and may request in~~
 7 ~~his protest an oral hearing or an opportunity to present~~
 8 ~~additional evidence relating to his tax liability; if no~~
 9 ~~protest is filed, the amount of the additional tax proposed~~
 10 ~~to be assessed becomes final upon the expiration of the~~
 11 ~~30-day period; if a protest is filed, the department must~~
 12 ~~reconsider the proposed assessment and, if the taxpayer has~~
 13 ~~so requested, must grant the taxpayer an oral hearing. After~~
 14 ~~consideration of the protest and the evidence presented at~~
 15 ~~any oral hearing, the department's action upon the protest~~
 16 ~~is final when it mails notice of its action to the taxpayer~~
 17 The taxpayer may seek review of the determination pursuant
 18 to [section 1].

19 (2) ~~When a deficiency is determined and the tax becomes~~
 20 ~~final, the department shall mail a notice and demand for~~
 21 ~~payment to the taxpayer. The tax is due and payable at the~~
 22 ~~expiration of 10 days from the date of such notice and~~
 23 ~~demand. Interest on any deficiency assessment shall bear~~
 24 ~~interest until paid at the rate of 1% a month or fraction~~
 25 ~~thereof, computed from the original due date of the return."~~

1 **Section 16.** Section 15-36-105, MCA, is amended to read:

2 "15-36-105. Statement to accompany payment -- records
3 -- collection of tax -- refunds. (1) Each person shall,
4 within 60 days after the end of each following quarter,
5 complete on forms prescribed by the department of revenue a
6 statement showing the total number of barrels of
7 merchantable or marketable petroleum and other mineral or
8 crude oil or cubic feet of natural gas produced or extracted
9 by the person in the state during each month of the quarter
10 and during the whole quarter, the average value of the
11 production during each month, and the total value of the
12 production for the whole quarter, together with the total
13 amount due to the state as severance taxes and local
14 government severance taxes for the quarter, and shall within
15 such 60 days deliver the statement and, except as provided
16 in 15-36-102(2) and 15-36-121, pay to the department the
17 amount of the taxes shown by the statement to be due to the
18 state for the quarter for which the statement is made. The
19 statement must be signed by the individual or the president,
20 vice-president, treasurer, assistant treasurer, or managing
21 agent in this state of the association, corporation,
22 joint-stock company, or syndicate making the statement. Any
23 person engaged in carrying on business at more than one
24 place in this state or owning, leasing, controlling, or
25 operating more than one oil or gas well in this state may

1 include all operations in one statement. The department
2 shall receive and file all statements and collect and
3 receive from the person making and filing a statement the
4 amount of tax payable by the person, if any, as appears in
5 the statement.

6 (2) It is the duty of the department to examine each of
7 the statements and compute the taxes thereon, and the amount
8 computed by the department is the tax imposed, assessed
9 against, and payable by the taxpayer making the statement
10 for the quarter for which the statement is filed. If the tax
11 found to be due is greater than the amount paid, the excess
12 must be paid by the taxpayer to the department ~~within 10~~
13 days after written notice of the amount of the deficiency is
14 mailed by the department to the taxpayer pursuant to
15 [section 1]. The taxpayer may seek review of the
16 department's determination pursuant to [section 1]. If the
17 tax imposed is less than the amount paid, the difference
18 must be applied as a credit against tax liability for
19 subsequent quarters or refunded if there is no subsequent
20 tax liability.

21 (3) If the tax is not paid on or before the due date,
22 there must be assessed a penalty of 10% of the amount of the
23 tax, unless it is shown that the failure was due to
24 reasonable cause and not due to neglect. If any tax under
25 this chapter is not paid when due, interest must be added to

1 the tax at the rate of 1% a month or fraction thereof,
2 computed on the total amount of severance tax and penalty
3 from the due date until paid."

4 **Section 17.** Section 15-36-113, MCA, is amended to read:

5 "15-36-113. Deficiency assessment -- hearing review --
6 interest. (1) When the department of revenue determines that
7 the amount of tax due is greater than the amount disclosed
8 by a return, it shall mail to the taxpayer a notice,
9 pursuant to [section 1], of the additional tax proposed to
10 be assessed. Within 30 days after mailing of the notice, the
11 taxpayer may file with the department a written protest
12 against the proposed additional tax, setting forth the
13 grounds upon which the protest is based, and may request in
14 his protest an oral hearing or an opportunity to present
15 additional evidence relating to his tax liability. If no
16 protest is filed, the amount of the additional tax proposed
17 to be assessed becomes final upon the expiration of the
18 30-day period. If a protest is filed, the department must
19 reconsider the proposed assessment and, if the taxpayer has
20 so requested, must grant the taxpayer an oral hearing. After
21 consideration of the protest and the evidence presented at
22 any oral hearing, the department's action upon the protest
23 is final when it mails notice of its action to the taxpayer.
24 The taxpayer may seek review of the determination pursuant
25 to [section 1].

1 (2) ~~When a deficiency is determined and the tax becomes~~
2 ~~final, the department shall mail a notice and demand for~~
3 ~~payment to the taxpayer. The tax is due and payable at the~~
4 ~~expiration of 10 days from the date of such notice and~~
5 ~~demand. Interest on any deficiency assessment shall bear~~
6 ~~interest until paid at the rate of 1% a month or fraction~~
7 ~~thereof, computed from the original due date of the return."~~

8 **Section 18.** Section 15-37-110, MCA, is amended to read:

9 "15-37-110. Hearing on Review of determination of gross
10 value of product or amount of tax. Every person whose
11 license tax has been determined and assessed by the
12 department of revenue under any of the provisions of this
13 part who feels aggrieved by the determination and assessment
14 of the department as to the amount of gross value of product
15 or as to the amount of the license tax may seek review
16 pursuant to [section 1], at any time within 10 days after
17 the receipt of the required notice of such determination and
18 assessment, file with the state tax appeal board a petition
19 for a hearing, in which petition must be stated the grounds
20 and reasons therefor and the manner in which the amount of
21 the gross value of product or the amount of the license tax,
22 or both, should be changed or corrected. Upon the filing of
23 such petition, if it appears to the satisfaction of the
24 state tax appeal board therefrom that the department has
25 erred in any manner in ascertaining and determining the

1 amount-of-the-gross-value-of-product-or-the--amount--of--the
 2 license--tax, or--both, the board shall immediately correct
 3 such--error--or--errors,--and--if--such--correction--is--in
 4 conformity--with-the-request-contained-in-the-petition-for-a
 5 hearing, the board shall take no further steps in connection
 6 with-such-petition-other-than-to-notify--the--department--of
 7 the--correct--amount-of-the-license-tax-due-from-such-person
 8 after-the-making--of--such--correction--and--notifying--such
 9 person--thereof, if-from-such-examination-it-does-not-appear
 10 to-the-satisfaction-of-the-state-tax-appeal-board--that--the
 11 department--has--erred--in-any-manner, the board shall grant
 12 the-hearing, fix-a-day-when-the-board-will-take-up-and--hear
 13 such--matter, and-give-notice-to-such-person-of-such-date-of
 14 hearing-as-the-board-considers-reasonable. At-the-hearing-of
 15 such-petition, any-taxpayer-interested--and--the--department
 16 may--introduce--witnesses--and--present--testimony--on--any
 17 material-matters-connected-with-such-return-and-license-tax,
 18 and-after-considering-such-evidence-the-board-shall-fix--and
 19 determine-the-gross-value-of-product-and-reassess-the-amount
 20 of-the-license-tax-to-be-paid-by-such-person-and-give-notice
 21 thereof-to-such-person-and-the-department."

22 **Section 19.** Section 15-37-114, MCA, is amended to read:

23 "15-37-114. Deficiency assessment -- hearing review --
 24 interest. (1) When the department of revenue determines that
 25 the amount of tax due is greater than the amount disclosed

1 by a return, it shall mail to the taxpayer a notice,
 2 pursuant to [section 1], of the additional tax proposed to
 3 be assessed. Within 30 days after mailing of the notice, the
 4 taxpayer may file with the department a written protest
 5 against the proposed additional tax, setting forth the
 6 grounds upon which the protest is based, and may request in
 7 his protest an oral hearing or an opportunity to present
 8 additional evidence relating to his tax liability. If no
 9 protest is filed, the amount of the additional tax proposed
 10 to be assessed becomes final upon the expiration of the
 11 30-day period. If a protest is filed, the department must
 12 reconsider the proposed assessment and, if the taxpayer has
 13 so requested, must grant the taxpayer an oral hearing. After
 14 consideration of the protest and the evidence presented at
 15 any oral hearing, the department's action upon the protest
 16 is final when it mails notice of its action to the taxpayer.
 17 The taxpayer may seek review of the determination pursuant
 18 to [section 1].

19 (2) When a deficiency is determined and the tax becomes
 20 final, the department shall mail a notice and demand for
 21 payment to the taxpayer. The tax is due and payable at the
 22 expiration of 10 days from the date of such notice and
 23 demand. Interest on any deficiency assessment shall bear
 24 interest until paid at the rate of 1% a month or fraction
 25 thereof, computed from the original due date of the return."

1 **Section 20.** Section 15-37-210, MCA, is amended to read:

2 "15-37-210. Deficiency assessment -- hearing review --
3 interest. (1) When the department of revenue determines that
4 the amount of tax due is greater than the amount disclosed
5 by a return, it shall mail to the taxpayer a notice,
6 pursuant to [section 1], of the additional tax proposed to
7 be assessed. ~~Within 30 days after mailing of the notice, the~~
8 ~~taxpayer may file with the department a written protest~~
9 ~~against the proposed additional tax, setting forth the~~
10 ~~grounds upon which the protest is based, and may request in~~
11 ~~his protest an oral hearing or an opportunity to present~~
12 ~~additional evidence relating to his tax liability. If no~~
13 ~~protest is filed, the amount of the additional tax proposed~~
14 ~~to be assessed becomes final upon the expiration of the~~
15 ~~30-day period. If a protest is filed, the department must~~
16 ~~reconsider the proposed assessment and, if the taxpayer has~~
17 ~~so requested, must grant the taxpayer an oral hearing. After~~
18 ~~consideration of the protest and the evidence presented at~~
19 ~~any oral hearing, the department's action upon the protest~~
20 ~~is final when it mails notice of its action to the taxpayer~~
21 The taxpayer may seek review of the determination pursuant
22 to [section 1].

23 (2) ~~When a deficiency is determined and the tax becomes~~
24 ~~final, the department shall mail a notice and demand for~~
25 ~~payment to the taxpayer. The tax is due and payable at the~~

1 ~~expiration of 10 days from the date of such notice and~~
2 ~~demand. Interest on any deficiency assessment shall bear~~
3 ~~interest until paid at the rate of 1% a month or fraction~~
4 ~~thereof, computed from the original due date of the return."~~

5 **Section 21.** Section 15-38-110, MCA, is amended to read:

6 "15-38-110. Deficiency assessment -- hearing review --
7 interest. (1) When the department of revenue determines that
8 the amount of tax due is greater than the amount disclosed
9 by a return, it shall mail to the taxpayer a notice,
10 pursuant to [section 1], of the additional tax proposed to
11 be assessed. ~~Within 30 days after mailing of the notice, the~~
12 ~~taxpayer may file with the department a written protest~~
13 ~~against the proposed additional tax, setting forth the~~
14 ~~grounds upon which the protest is based, and may request in~~
15 ~~his protest an oral hearing or an opportunity to present~~
16 ~~additional evidence relating to his tax liability. If no~~
17 ~~protest is filed, the amount of the additional tax proposed~~
18 ~~to be assessed becomes final upon the expiration of the~~
19 ~~30-day period. If a protest is filed, the department must~~
20 ~~reconsider the proposed assessment and, if the taxpayer has~~
21 ~~so requested, must grant the taxpayer an oral hearing. After~~
22 ~~consideration of the protest and the evidence presented at~~
23 ~~any oral hearing, the department's action upon the protest~~
24 ~~is final when it mails notice of its action to the taxpayer~~
25 The taxpayer may seek review of the determination pursuant

1 to [section 1].

2 (2) When a deficiency is determined and the tax becomes
3 final, the department shall mail a notice and demand for
4 payment to the taxpayer. The tax is due and payable at the
5 expiration of 10 days from the date of such notice and
6 demand. Interest on any deficiency assessment shall bear
7 interest until paid at the rate of 1% a month or fraction
8 thereof, computed from the original due date of the return."

9 **Section 22.** Section 15-51-109, MCA, is amended to read:

10 "15-51-109. Deficiency assessment -- hearing review --
11 interest. (1) When the department of revenue determines that
12 the amount of tax due is greater than the amount disclosed
13 by a return, it shall mail to the taxpayer a notice,
14 pursuant to [section 1], of the additional tax proposed to
15 be assessed. Within 30 days after mailing of the notice, the
16 taxpayer may file with the department a written protest
17 against the proposed additional tax, setting forth the
18 grounds upon which the protest is based, and may request in
19 his protest an oral hearing or an opportunity to present
20 additional evidence relating to his tax liability. If no
21 protest is filed, the amount of the additional tax proposed
22 to be assessed becomes final upon the expiration of the
23 30-day period. If a protest is filed, the department must
24 reconsider the proposed assessment and, if the taxpayer has
25 so requested, must grant the taxpayer an oral hearing. After

1 consideration of the protest and the evidence presented at
2 any oral hearing, the department's action upon the protest
3 is final when it mails notice of its action to the taxpayer.
4 The taxpayer may seek review of the determination pursuant
5 to [section 1].

6 (2) When a deficiency is determined and the tax becomes
7 final, the department shall mail a notice and demand for
8 payment to the taxpayer. The tax is due and payable at the
9 expiration of 10 days from the date of such notice and
10 demand. Interest on any deficiency assessment shall bear
11 interest until paid at the rate of 1% a month or fraction
12 thereof, computed from the original due date of the return."

13 **Section 23.** Section 15-53-105, MCA, is amended to read:

14 "15-53-105. Deficiency assessment -- hearing review --
15 interest. (1) When the department of revenue determines that
16 the amount of tax due is greater than the amount disclosed
17 by a return, it shall mail to the taxpayer a notice,
18 pursuant to [section 1], of the additional tax proposed to
19 be assessed. Within 30 days after mailing of the notice, the
20 taxpayer may file with the department a written protest
21 against the proposed additional tax, setting forth the
22 grounds upon which the protest is based, and may request in
23 his protest an oral hearing or an opportunity to present
24 additional evidence relating to his tax liability. If no
25 protest is filed, the amount of the additional tax proposed

1 to be assessed becomes final upon the expiration of the
 2 30-day period; if a protest is filed, the department must
 3 reconsider the proposed assessment and, if the taxpayer has
 4 so requested, must grant the taxpayer an oral hearing. After
 5 consideration of the protest and the evidence presented at
 6 any oral hearing, the department's action upon the protest
 7 is final when it mails notice of its action to the taxpayer.
 8 The taxpayer may seek review of the determination pursuant
 9 to [section 1].

10 (2) When a deficiency is determined and the tax becomes
 11 final, the department shall mail a notice and demand for
 12 payment to the taxpayer. The tax is due and payable at the
 13 expiration of 10 days from the date of such notice and
 14 demand. Interest on any deficiency assessment shall bear
 15 interest until paid at the rate of 1% a month or fraction
 16 thereof, computed from the original due date of the return."

17 **Section 24.** Section 15-55-106, MCA, is amended to read:
 18 *15-55-106. **Appeals Review and refunds.** (1) Any such a
 19 freight line company or railroad company, on or before June
 20 1 of the year in which the tax herein imposed has been paid,
 21 may file written complaint with the state tax appeal board
 22 seek review pursuant to [section 1] concerning the
 23 correctness of the rate used or the correctness of the
 24 amount of the tax imposed or any other matter affecting the
 25 complainant under the provisions of this chapter.

1 {2} Upon filing such complaint, the state tax appeal
 2 board shall set the same for hearing and shall give written
 3 notice thereof to the complainant at least 10 days before
 4 the date set for hearing thereon. Upon the hearing of any
 5 such complaint, the state tax appeal board shall take
 6 testimony to determine whether the amount of the tax, as
 7 computed and determined by the department of revenue, is
 8 greater than the general ad valorem tax for all purposes
 9 would be on the cars of such freight line company subject to
 10 taxation in Montana if assessed and taxed on an ad valorem
 11 basis. In such cases the state tax appeal board shall have
 12 the power and it shall be its duty to lower or raise the
 13 rates herein specified to conform to the facts disclosed at
 14 such hearing and to make the amount of the tax due
 15 equivalent to such ad valorem tax. If the state tax appeal
 16 board shall then determine that the amount of the tax
 17 imposed and collected was excessive, the claimant shall be
 18 entitled to a refund to the extent of such excess.

19 {3} Within 6 months after such determination, the
 20 claimant may present to the department a sworn claim for
 21 such refund, setting forth the amount thereof. The state
 22 auditor shall draw his warrant upon the state treasurer for
 23 the amount of such claim, and the same shall be paid in the
 24 same manner as other claims against the state are paid.

25 {4} (2) In order to determine the amount of tax such a

1 freight line company would pay, the department may value all
 2 cars of any such the company as a unit and allocate to
 3 Montana that proportion of the total value which the Montana
 4 car mileage bears to the total car mileage of the cars of
 5 any such the freight line company during the 12-month period
 6 ending December 31 of the preceding year and may then apply
 7 to such that value the average total rate of all general
 8 property taxes levied for the preceding year by the taxing
 9 authorities of the state, counties, school districts,
 10 municipalities, and other taxing subdivisions for state,
 11 county, school and municipal, and other purposes."

12 **Section 25.** Section 15-58-110, MCA, is amended to read:
 13 "15-58-110. Deficiency assessment -- hearing review --
 14 interest. (1) When the department of revenue determines that
 15 the amount of tax due is greater than the amount disclosed
 16 by a return, it shall mail to the taxpayer a notice,
 17 pursuant to [section 1], of the additional tax proposed to
 18 be assessed. ~~Within 30 days after mailing of the notice, the~~
 19 ~~taxpayer may file with the department a written protest~~
 20 ~~against the proposed additional tax, setting forth the~~
 21 ~~grounds upon which the protest is based, and may request in~~
 22 ~~his protest an oral hearing or an opportunity to present~~
 23 ~~additional evidence relating to his tax liability, if no~~
 24 ~~protest is filed, the amount of the additional tax proposed~~
 25 ~~to be assessed becomes final upon the expiration of the~~

1 ~~30-day period. If a protest is filed, the department must~~
 2 ~~reconsider the proposed assessment and, if the taxpayer has~~
 3 ~~so requested, must grant the taxpayer an oral hearing. After~~
 4 ~~consideration of the protest and the evidence presented at~~
 5 ~~any oral hearing, the department's action upon the protest~~
 6 ~~is final when it mails notice of its action to the taxpayer~~
 7 The taxpayer may seek review of the determination pursuant
 8 to [section 1].

9 (2) ~~When a deficiency is determined and the tax becomes~~
 10 ~~final, the department shall mail a notice and demand for~~
 11 ~~payment to the taxpayer. The tax is due and payable at the~~
 12 ~~expiration of 10 days from the date of such notice and~~
 13 ~~demand. Interest on any deficiency assessment shall bear~~
 14 ~~interest until paid at the rate of 1% a month or fraction~~
 15 ~~thereof, computed from the original due date of the return."~~

16 **Section 26.** Section 15-59-112, MCA, is amended to read:
 17 "15-59-112. Deficiency assessment -- hearing review --
 18 interest. (1) When the department of revenue determines that
 19 the amount of tax due is greater than the amount disclosed
 20 by a return, it shall mail to the taxpayer a notice, as
 21 provided in [section 1], of the additional tax proposed to
 22 be assessed. ~~Within 30 days after mailing of the notice, the~~
 23 ~~taxpayer may file with the department a written protest~~
 24 ~~against the proposed additional tax, setting forth the~~
 25 ~~grounds upon which the protest is based, and may request in~~

1 his--protest--an--oral--hearing-or-an-opportunity-to-present
 2 additional-evidence-relating-to-his--tax--liability,--if--no
 3 protest--is--filed,--the-amount-of-the-additional-tax-proposed
 4 to-be-assessed-becomes-final--upon--the--expiration--of--the
 5 30-day--period,--if--a-protest-is-filed,--the-department-must
 6 reconsider-the-proposed-assessment-and,--if-the-taxpayer--has
 7 so-requested,--must-grant-the-taxpayer-an-oral-hearing,--After
 8 consideration--of--the-protest-and-the-evidence-presented-at
 9 any-oral-hearing,--the-department's-action-upon--the--protest
 10 is--final-when-it-mails-notice-of-its-action-to-the-taxpayer
 11 The taxpayer may seek review of the determination pursuant
 12 to [section 1].

13 (2) When-a-deficiency-is-determined-and-the-tax-becomes
 14 final,--the--department--shall--mail-a-notice-and-demand-for
 15 payment-to-the-taxpayer,--The-tax-is-due-and-payable--at--the
 16 expiration--of--10--days--from--the--date-of-such-notice-and
 17 demand, Interest on any deficiency assessment shall bear
 18 interest until paid at the rate of 1% a month or fraction
 19 thereof, computed from the original due date of the return."

20 **Section 27.** Section 15-59-212, MCA, is amended to read:
 21 "15-59-212. Deficiency assessment -- hearing review --
 22 interest. (1) When the department of revenue determines that
 23 the amount of tax due is greater than the amount disclosed
 24 by a return, it shall mail to the taxpayer a notice,
 25 pursuant to [section 1], of the additional tax proposed to

1 be assessed. Within 30 days after mailing of the notice, the
 2 taxpayer may file with the department a written protest
 3 against the proposed additional tax, setting forth the
 4 grounds upon which the protest is based, and may request in
 5 his--protest--an--oral--hearing-or-an-opportunity-to-present
 6 additional-evidence-relating-to-his--tax--liability,--if--no
 7 protest--is--filed,--the-amount-of-the-additional-tax-proposed
 8 to-be-assessed-becomes-final--upon--the--expiration--of--the
 9 30-day--period,--if--a-protest-is-filed,--the-department-must
 10 reconsider-the-proposed-assessment-and,--if-the-taxpayer--has
 11 so-requested,--must-grant-the-taxpayer-an-oral-hearing,--After
 12 consideration--of--the-protest-and-the-evidence-presented-at
 13 any-oral-hearing,--the-department's-action-upon--the--protest
 14 is--final-when-it-mails-notice-of-its-action-to-the-taxpayer
 15 The taxpayer may seek review of the determination pursuant
 16 to [section 1].

17 (2) When-a-deficiency-is-determined-and-the-tax-becomes
 18 final,--the--department--shall--mail-a-notice-and-demand-for
 19 payment-to-the-taxpayer,--The-tax-is-due-and-payable--at--the
 20 expiration--of--10--days--from--the--date-of-such-notice-and
 21 demand, Interest on any deficiency assessment shall bear
 22 interest until paid at the rate of 1% a month or fraction
 23 thereof, computed from the original due date of the return."

24 **Section 28.** Section 15-65-115, MCA, is amended to read:
 25 "15-65-115. Failure to pay or file -- penalty -- review

1 -- interest. (1) An owner or operator of a facility who
2 fails to file the report as required by 15-65-112 must be
3 assessed a penalty of 2% of the tax that should have been
4 collected during the calendar quarter. Upon a showing of
5 good cause, the department of revenue may waive the penalty.

6 (2) An owner or operator of a facility who fails to
7 make payment or fails to report and make payment as required
8 by 15-65-112 must be assessed a penalty of 2% of the amount
9 that was not paid. Upon a showing of good cause, the
10 department may waive the penalty.

11 (3) If an owner or operator of a facility fails to file
12 the report required by 15-65-112 or if the department of
13 revenue determines that the report understates the amount of
14 tax due, the department may determine the amount of the tax
15 due and assess that amount against the owner or operator.
16 The provisions of [section 1] apply to any assessment by the
17 department of revenue. The taxpayer may seek review of the
18 assessment pursuant to [section 1].

19 (4) The amount required to be paid under 15-65-112
20 accrues interest at the rate of 1% a month or part thereof
21 from delinquency until paid."

22 **Section 29.** Section 69-1-225, MCA, is amended to read:

23 "69-1-225. Computation and collection of fee in absence
24 of statement -- penalty and interest. (1) If a regulated
25 company or an officer or employee of a regulated company

1 fails, neglects, or refuses to file the statement required
2 by 69-1-223(2), the department of revenue may after the time
3 for filing has expired proceed to inform itself, as best it
4 may, regarding the regulated company's gross operating
5 revenue from all activities regulated by the commission
6 within the state for the calendar quarter, quarters, or
7 portion thereof and may determine and fix the amount of the
8 consumer counsel fee due.

9 (2) The department may add to the amount of the fee
10 computed under subsection (1), in addition to any other
11 penalty provided by law, a penalty of 10% thereof plus
12 interest at the rate of 1% per month or fraction of month
13 computed on the total amount of fee and penalty. Interest is
14 computed from the date the fee is due to the date of
15 payment.

16 (3) The department of revenue shall mail to the
17 regulated company a letter notice, pursuant to [section 1],
18 setting forth the amount of the fee, penalty, and interest
19 and notifying the company that payment of the full amount of
20 the fee, penalty, and interest must-be--remitted--within--15
21 days--of--the--regulated--company's--receipt--of--the--letter;
22 otherwise-a-lien-may-be-filed. The taxpayer may seek review
23 of the department's action pursuant to [section 1].

24 (4) The 10% penalty may be waived by the department of
25 revenue if reasonable cause for failure and neglect to file

1 the statement is provided to the department."

2 **Section 30.** Section 69-1-226, MCA, is amended to read:

3 *69-1-226. Failure to pay fee -- penalty and interest
4 -- collection of fee. (1) If a regulated company or an
5 officer or employee of a regulated company files the
6 statement required by 69-1-223(2) but fails, neglects, or
7 refuses to pay the fee due within the time required, the
8 department of revenue may after the time for payment has
9 expired add to the fee due, in addition to any other penalty
10 provided by law, a penalty of 10% thereof plus interest at
11 the rate of 1% per month or fraction of month computed on
12 the total amount of the fee and penalty. Interest is
13 computed from the date the fee is due to the date of
14 payment.

15 (2) The department of revenue shall mail to the
16 regulated company a letter notice, pursuant to [section 1],
17 setting forth the amount of the fee, penalty, and interest
18 and notifying the company that payment of the full amount of
19 the fee, penalty, and interest ~~must be remitted within 15~~
20 ~~days of the regulated company's receipt of the letter,~~
21 ~~otherwise a warrant for distraint may be filed.~~ The taxpayer
22 may seek review of the department's action pursuant to
23 [section 1].

24 (3) The 10% penalty may be waived by the department of
25 revenue if reasonable cause for failure and neglect to make

1 payment is provided to the department."

2 **NEW SECTION. Section 31. Repealer.** Section 15-55-107,
3 MCA, is repealed.

4 **NEW SECTION. Section 32. Codification instruction.**
5 [Section 1] is intended to be codified as an integral part
6 of Title 15, and the provisions of Title 15 apply to
7 [section 1].

8 **NEW SECTION. Section 33. Applicability.** (1) [This act]
9 applies to requests for refunds received by and the
10 preliminary assessments issued by the department of revenue
11 pursuant to [section 1] after December 31, 1991.

12 (2) [Section 4] applies to court actions filed on or
13 after October 1, 1991.

14 **NEW SECTION. Section 34. Effective dates.** (1) For the
15 purposes of promulgating administrative rules to administer
16 [this act, subsection (16) of section 1] is effective on
17 passage and approval.

18 (2) The remainder of [this act] is effective October 1,
19 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15


In compliance with a written request, there is hereby submitted a Fiscal Note for SB0445, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act providing Montana taxpayers with a simple, inexpensive, and effective tax review process for taxes administered by the Department of Revenue except property, inheritance, and estate taxes but including revised assessments of centrally assessed property taxes; clarifying and limiting the use of declaratory judgement actions in tax cases; providing authority to enter into closing agreements; and providing effective dates and applicability dates.

FISCAL IMPACT:

There is no impact on revenues or expenditures under the proposed legislation.



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning 3-22-91



STEVE DOHERTY, PRIMARY SPONSOR DATE
Fiscal Note for SB0445, as introduced 2/25/91
SB 445

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 445

INTRODUCED BY DOHERTY, MAZUREK
BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MONTANA
TAXPAYERS WITH A SIMPLE, INEXPENSIVE, AND EFFECTIVE TAX
REVIEW PROCESS FOR TAXES ADMINISTERED BY THE DEPARTMENT OF
REVENUE EXCEPT PROPERTY, INHERITANCE, AND ESTATE TAXES BUT
INCLUDING REVISED ASSESSMENTS OF CENTRALLY ASSESSED PROPERTY
TAXES; ~~CLARIFYING--AND--LIMITING--THE--USE--OF--DECLARATORY~~
~~JUDGMENT-ACTIONS-IN-TAX-CASES;~~ PROVIDING AUTHORITY TO ENTER
INTO CLOSING AGREEMENTS; AMENDING SECTIONS ~~15-1-402,~~
15-1-403, 15-1-406, 15-1-705, ~~15-2-307,~~ 15-8-601, 15-23-104,
15-25-114, 15-30-148, 15-30-149, 15-31-503, 15-31-532,
15-31-701, 15-35-112, 15-36-105, 15-36-113, 15-37-110,
15-37-114, 15-37-210, 15-38-110, 15-51-109, 15-53-105,
15-55-106, 15-58-110, 15-59-112, 15-59-212, 15-65-115,
69-1-225, AND 69-1-226, MCA; REPEALING SECTION 15-55-107,
MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY
DATES DATE."

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

NEW SECTION. **Section 1.** Uniform tax review procedure
-- notice -- appeal. (1) The department shall provide a
uniform tax review procedure for all taxpayers, except as

provided in subsection (1)(a).

(a) The tax review procedure described in this section
applies to all taxes administered by the department except
inheritance taxes, estate taxes, and property taxes. The
procedure applies to any revised assessment of centrally
assessed property taxed pursuant to chapter 23.

(b) The term "taxpayers", as used in this section,
includes all persons determined by the department to have a
potential tax liability.

(2) (a) If the department determines that a request for
a refund should be denied in whole or part, it shall notify
the taxpayer of the determination. If the department
determines that a person has failed to pay a sufficient tax,
interest, or penalty, it shall provide the taxpayer with
notice, ~~such as a preliminary assessment or other document~~
~~indicating that the tax, including interest and penalty, if~~
~~any, is due.~~ The notice stops the running of any applicable
statute of limitations REGARDING THE ASSESSMENT OF THE TAX.

(b) A notice under this section must clearly state:
(i) the reasons for the department's determination that
a refund is not due or that tax plus interest and penalty,
if any, is due;
(ii) the taxpayer's right to a review by the department
and his right to appeal after a final department decision;
(iii) failure to notify the department within 30 days

1 will result in a forfeiture of the taxpayer's right to
 2 contest the department's determination UNDER THIS SECTION OR
 3 TO FILE AN APPEAL WITH THE STATE TAX APPEAL BOARD;

4 (iv) that the taxpayer has 30 days to either notify the
 5 department in writing that he does not agree with an
 6 assessment or pay the amount assessed; and

7 (v) that a warrant for distraint placing a lien on the
 8 taxpayer's property may be issued unless he notifies the
 9 department that he disagrees with an assessment or pays
 10 within 30 days; AND

11 (VI) THAT THE NOTICE STOPS THE RUNNING OF THE STATUTE
 12 OF LIMITATIONS REGARDING THE ASSESSMENT OF THE TAX.

13 (3) (a) A taxpayer shall notify the department, in
 14 writing, that he objects to the determination within 30 days
 15 from the date the notice is mailed. The notification by the
 16 taxpayer is not required to specify the reasons for the
 17 disagreement or be in any particular form. If the taxpayer
 18 does not notify the department within 30 days:

19 (i) an assessment becomes final and the assessed tax,
 20 plus any interest and penalty, must be paid;

21 (ii) the taxpayer waives any further right to review
 22 UNDER THIS SECTION or TO appeal TO THE STATE TAX APPEAL
 23 BOARD; and

24 (iii) a warrant for distraint may be issued without
 25 further opportunity to be heard on the assessment.

1 (b) A taxpayer who ~~validly~~ notifies the department
 2 PURSUANT TO SUBSECTION (3)(A) that he disagrees with a tax
 3 assessment shall present his objections, the reasons for his
 4 objections, and any other ~~required~~ information to the
 5 administrator of the division that administers the tax or to
 6 his designee within 60 days after the notice REFERRED TO IN
 7 SUBSECTION (3)(A) is mailed. The reasons for objections may
 8 be provided in writing, by telephone, or, if requested by
 9 the taxpayer, at an informal conference. An informal
 10 conference is not subject to the Montana Administrative
 11 Procedure Act.

12 (c) Within ~~30~~ 60 days after the taxpayer has presented
 13 his objections, AS PROVIDED IN SUBSECTION (3)(B), the
 14 administrator or his designee shall issue a written decision
 15 addressing the taxpayer's objections and describing the
 16 reasons for the determination. The administrator's decision
 17 must also clearly set forth the taxpayer's review rights.
 18 The administrator's decision must be provided to the
 19 taxpayer and the director of revenue.

20 (4) (a) ~~Within---30---days---after---mailing---of---the~~
 21 ~~administrator's---decision,---the---taxpayer---may---object---to---the~~
 22 ~~administrator's---decision---with---the---department~~ A TAXPAYER
 23 SHALL NOTIFY THE DEPARTMENT IN WRITING THAT HE OBJECTS TO
 24 THE ADMINISTRATOR'S DECISION WITHIN 30 DAYS FROM THE DATE
 25 THAT THE DECISION IS MAILED, or he may appeal to the state

1 tax appeal board as provided in subsection (6). If an
 2 objection is not made within 30 days, the administrator's
 3 decision and any assessment become final. By failing to
 4 object, the taxpayer waives any further right to review OR
 5 APPEAL and a warrant for distraint may be issued without
 6 further opportunity to be heard on the assessment.

7 (b) Except as provided in subsection (6), a taxpayer
 8 who validly objects to the administrator's decision PURSUANT
 9 TO SUBSECTION (4)(A) shall present his objections, his
 10 reasons for the objections, and any other required
 11 information to the director of revenue or his designee
 12 within 90 60 days after the notice is mailed. The director
 13 or his designee may consider written information, hold a
 14 telephone conference, or conduct an informal conference,
 15 none of which are subject to the Montana Administrative
 16 Procedure Act.

17 (c) Within 90 60 days after the taxpayer has presented
 18 his objections, the director or his designee shall issue a
 19 written decision addressing the objections and describing
 20 the reasons for the decision. The director's decision is the
 21 final decision and assessment of the department.

22 (5) The taxpayer shall pay the assessment within 30
 23 days after being mailed a copy of the final decision and
 24 assessment unless an appeal is filed with the state tax
 25 appeal board. If an appeal with the board is filed within 30

1 days after the final decision is mailed, payment is not due
 2 until final resolution by the board or, if further appeals
 3 are filed, by the appropriate court. However, any interest
 4 required by law shall continue to accrue.

5 (6) (a) A taxpayer who validly objects to the
 6 administrator's decision may elect to file an appeal with
 7 the state tax appeal board. The appeal must be filed within
 8 30 days after mailing an objection to the administrator's
 9 decision. IF AN APPEAL IS FILED, THE ADMINISTRATOR'S
 10 DECISION IS THE FINAL DECISION OF THE DEPARTMENT.

11 (b) If the director notifies the board within 30 days
 12 after an appeal is filed that he has not had an opportunity
 13 to review ~~a final assessment~~ or THE ADMINISTRATOR'S decision
 14 and he believes a review may be helpful in resolving the
 15 controversy, the board shall stay the appeal for a time the
 16 board considers reasonable. The taxpayer shall provide his
 17 objections and reasons for his objections to the director so
 18 that the director or his designee may review the controversy
 19 and issue a decision within the period of the stay granted
 20 by the board. If the taxpayer is dissatisfied with the
 21 director's decision, the stay must be lifted and the appeal
 22 resumed.

23 (7) The time limits in this section must be applied and
 24 interpreted as provided in RULE 6 OF the Montana Rules of
 25 Civil Procedure. Any time limit may be extended by mutual

consent of the department and the taxpayer ~~or by order of the department~~. The department shall grant CONSENT TO all reasonable requests, NOT TO EXCEED 90 DAYS EXCEPT BY THE MUTUAL CONSENT OF BOTH PARTIES, for extension of deadlines.

(8) (a) The director of revenue or his designee is authorized to enter into an agreement with any taxpayer relating to the taxpayer's liability with respect to a tax administered by the department for any taxable period.

(b) An agreement under the provisions of subsection (8)(a) is final and conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

(i) the agreement may not be reopened as to matters agreed upon or be modified by any officer, employee, or agent of this state; and

(ii) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded.

Section 2. ~~Section 15-1-402, MCA, is amended to read:~~

~~"15-1-402. Payment of taxes under protest --- action to recover. --- (1) The person upon whom a property tax or license fee collected by a county or municipality is being imposed may proceed under 15-1-406 or may, before the tax or license~~

~~fee becomes delinquent, pay under written protest that portion of the tax or license fee protested. The payment must:~~

~~(a) be made to the officer designated and authorized to collect it;~~

~~(b) specify the grounds of protest; and~~

~~(c) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which grounds may include but are not limited to changes in assessment due to reappraisal under 15-7-111.~~

~~(2) After having exhausted the administrative appeals available under Title 15, chapters 2 and 15, a person or his legal representative may bring an action in any court of competent jurisdiction against the officers to whom said tax or license fee was paid or against the county or municipality in whose behalf the same was collected and the department of revenue.~~

~~(3) Both the officers to whom the tax or license fee was paid or the county or municipality in whose behalf the same was collected and the department of revenue must be served with timely summons and complaint within the time prescribed.~~

~~(4) An action instituted to recover any such portions~~

1 of--tax--or--license--fee--paid--under--protest--must--be--commenced
2 and--summons--timely--served--within--60--days--after--the--date--of
3 the--final--decision--of--the--state--tax--appeal--board;

4 (5)--if--a--protested--tax--or--license--fee--is--payable--in
5 installments, a subsequent--installment--portion--considered
6 unlawful--by--the--state--tax--appeal--board--need--not--be--paid--and
7 no--action--or--suit--need--be--commenced--to--recover--the
8 subsequent--installment;--The--determination--of--the--action--or
9 suit--commenced--to--recover--the--first--installment--portion--paid
10 under--protest--determines--the--right--of--the--party--paying--such
11 subsequent--installment--to--have--the--same--or--any--part--thereof
12 refunded--to--him--or--the--right--of--the--taxing--authority--to
13 collect--a--subsequent--installment--not--paid--by--the--taxpayer
14 plus--interest--from--the--date--the--subsequent--installment--was
15 due;

16 (6)--All--taxes--and--license--fees--paid--under--protest--to--a
17 county--or--municipality--must--be--deposited--by--the--treasurer--of
18 the--county--or--municipality--to--the--credit--of--a--special--fund
19 to--be--designated--as--a--protest--fund--and--must--be--retained--in
20 the--protest--fund--until--the--final--determination--of--any--action
21 or--suit--to--recover--the--same--unless--released--at--the--request
22 of--the--county,--municipality,--or--other--local--taxing
23 jurisdiction--pursuant--to--subsection--(7);--Nothing--contained
24 herein--prohibits--the--investment--of--the--money--of--this--fund--in
25 the--state--unified--investment--program--or--in--any--manner

1 provided--in--Title--7,--chapter--6;--The--provision--creating--the
2 special--protest--fund--does--not--apply--to--any--payments--made
3 under--protest--directly--to--the--state;

4 (7)--The--governing--board--of--a--taxing--jurisdiction
5 affected--by--the--payment--of--taxes--under--protest--in--the--second
6 and--subsequent--years--that--a--tax--protest--remains--unresolved
7 may--demand--that--the--treasurer--of--the--county--or--municipality
8 pay--the--requesting--taxing--jurisdiction--all--or--a--portion--of
9 the--protest--payments--to--which--it--is--entitled,--except--the
10 amount--paid--by--the--taxpayer--in--the--first--year--of--the
11 protest;--The--decision--in--a--previous--year--of--a--taxing
12 jurisdiction--to--leave--protested--taxes--in--the--protest--fund
13 does--not--preclude--it--from--demanding--in--a--subsequent--year--any
14 or--all--of--the--payments--to--which--it--is--entitled,--except--the
15 first--year--protest--amount;

16 (8)--(a)--if--no--action--is--commenced--within--the--time
17 herein--specified--or--if--such--action--is--commenced--and--finally
18 determined--in--favor--of--the--county--or--municipality--or
19 treasurer--thereof,--the--amount--of--the--protested--portions--of
20 the--tax--or--license--fee--must--be--taken--from--the--protest--fund
21 and--deposited--to--the--credit--of--the--fund--or--funds--to--which
22 the--same--property--belongs,--less--a--pro--rata--deduction--for--the
23 costs--of--administration--of--the--protest--fund--and--related
24 expenses--charged--the--local--government--units;

25 (b)--If--such--action--is--finally--determined--adversely--to--a

1 county--or--municipality--or--the--treasurer--thereof,--then--the
 2 treasurer--shall,--upon--receiving--a--certified--copy--of--the
 3 final--judgment--in--said--action--from--the--state--tax--appeal
 4 board,--or--from--the--district--or--supreme--court,--as
 5 appropriate,--if--the--final--action--of--the--state--tax--appeal
 6 board--is--appealed--in--the--time--prescribed,--refund--to--the
 7 person--in--whose--favor--such--judgment--is--rendered--the--amount
 8 of--such--protested--portions--of--the--tax--or--license--fee
 9 deposited--in--the--protest--fund,--and--not--released--pursuant--to
 10 subsection--(7),--as--the--person--holding--such--judgment--is
 11 entitled--to--recover,--together--with--interest--thereon--from--the
 12 date--of--payment--under--protest,--at--the--greater--of:

13 (i)--the--rate--of--interest--generated--from--the--pooled
 14 investment--fund--provided--for--in--17-6-203--for--the--applicable
 15 period,--or

16 (ii)--6%--a--year;

17 (c)--If--the--amount--retained--in--the--protest--fund--is
 18 insufficient--to--pay--all--sums--due--the--taxpayer,--the--treasurer
 19 shall--apply--the--available--amount--first--to--tax--repayment,
 20 then--interest--owed,--and--lastly--to--costs;

21 (d)--if--the--protest--action--is--decided--adversely--to--a
 22 taxing--jurisdiction--and--the--amount--retained--in--the--protest
 23 fund--is--insufficient--to--refund--the--tax--payments--and--costs--to
 24 which--the--taxpayer--is--entitled--and--for--which--local
 25 government--units--are--responsible,--the--treasurer--shall--bill

1 and--the--taxing--jurisdiction--shall--refund--to--the--treasurer
 2 that--portion--of--the--taxpayer--refund,--including--tax--payments
 3 and--costs,--for--which--the--taxing--jurisdiction--is--proportionately
 4 responsible;

5 (e)--In--satisfying--the--requirements--of--subsection
 6 (8)(d),--the--taxing--jurisdiction--is--allowed--not--more--than--1
 7 year--from--the--beginning--of--the--fiscal--year--following--a--final
 8 resolution--of--the--protest.--The--taxpayer--is--entitled--to
 9 interest--on--the--unpaid--balance--at--the--greater--of--the--rates
 10 referred--to--in--subsections--(8)(b)(i)--and--(8)(b)(ii)--from--the
 11 date--of--payment--under--protest--until--the--date--of--final
 12 resolution--of--the--protest--and--at--the--combined--rate--of--the
 13 federal--reserve--discount--rate--quoted--from--the--federal
 14 reserve--bank--in--New--York,--New--York,--on--the--date--of--final
 15 resolution,--plus--four--percentage--points,--from--the--date--of
 16 final--resolution--of--the--protest--until--refund--is--made;

17 (9)--A--taxing--jurisdiction--may--satisfy--the--requirements
 18 of--this--section--by--use--of--funds--from--one--or--more--of--the
 19 following--sources:

20 (a)--imposition--of--a--property--tax--to--be--collected--by--a
 21 special--tax--protest--refund--levy;

22 (b)--the--general--fund,--except--that--amount--generated--by
 23 the--all--purpose--mill--levy,--or--any--other--funds--legally
 24 available--to--the--governing--body;--and

25 (c)--proceeds--from--the--sale--of--bonds--issued--by--a--county;

1 city, or school district for the purpose of deriving revenue
2 for the repayment of tax protests lost by the taxing
3 jurisdiction. The governing body of a county, city, or
4 school district is hereby authorized to issue such bonds
5 pursuant to procedures established by law. The bonds may be
6 issued without being submitted to an election. Property
7 taxes may be levied to amortize the bonds."

8 **Section 2.** Section 15-1-403, MCA, is amended to read:

9 "15-1-403. Assessment for taxation -- increase over
10 statement of owner. (1) Whenever any person has delivered to
11 the department of revenue or its agent a sworn statement of
12 his locally assessed property subject to taxation as now
13 provided by law and giving the estimated value of such
14 property and the department or its agent shall increase such
15 estimated value or add other property to such assessment
16 list, the agent shall, at least 10 days prior to the meeting
17 of the county tax appeal board, give to such person written
18 notice of such change, which notice shall be substantially
19 in the following form:

(Date)

21 Mr.:

22 A change has been made in your assessment list as
23 follows:

24 (Set out and describe specifically changes made in
25 list.)

1 , Agent
2 Department of Revenue

3 (2) Such person may then appear before the county tax
4 appeal board and contest the same. If the assessment of any
5 such person has been added to or changed, either by the
6 department or by the county tax appeal board, and such
7 person has not been notified thereof and given an
8 opportunity to contest the same before the county tax appeal
9 board, the tax on such increased value or added property
10 shall, upon such facts being established, be adjudged by the
11 state tax appeal board to be void, and such facts and all
12 questions relating thereto, when said tax has been paid
13 under protest, may be heard and determined in the action
14 provided for in 15-1-402."

15 **Section 3.** Section 15-1-406, MCA, is amended to read:

16 "15-1-406. Alternative remedy -- declaratory judgment.

17 (1) An aggrieved taxpayer may, in lieu of proceeding under
18 15-1-402 or [section 1], bring a declaratory judgment action
19 in the district court seeking a declaration that a tax
20 levied by the state or one of its subdivisions was illegally
21 or unlawfully imposed or exceeded the taxing authority of
22 the entity imposing the tax.

23 (2) The action must be brought within 90 days after the
24 taxpayer receives notice of the imposition of the tax. The
25 court shall consolidate all actions brought under subsection

1 (1) which challenge the same tax levy. The decision of the
2 court shall apply to all similarly situated taxpayers except
3 those taxpayers who are excluded under 15-1-407.

4 (3) The taxes that are being challenged under this
5 section must be paid when due as a condition of continuing
6 the action.

7 ~~{4}--The court may issue judgment for the party bringing
8 the action only if the pleading, depositions, answers to
9 interrogatories, and admissions on file, together with
10 affidavits, if any, show that there is no genuine issue as
11 to any material fact and the party bringing the action is
12 entitled to a judgment as a matter of law. Section 15-2-307
13 and this section are the exclusive authority for a
14 declaratory judgment that taxes were illegally or unlawfully
15 imposed or exceed the authority of the entity imposing the
16 tax."~~

17 **Section 4.** Section 15-1-705, MCA, is amended to read:

18 "15-1-705. Hearing Review. (1) Except as provided in
19 15-1-707, a taxpayer has the right to request a hearing on a
20 review of the matter of tax liability pursuant to [section
21 1] prior to execution on a filed warrant for distraint.

22 (2) The department must provide notice of the right to
23 hearing review to the taxpayer. A request for a hearing must
24 be made in writing within 30 days of the date of the notice.
25 This notice may be given prior to the notice referred to in

1 15-1-702. If a written request for a hearing is received the
2 taxpayer notified the department that he disagrees with an
3 assessment as provided in [section 1], the warrant may not
4 be executed upon until after the date the hearing is held
5 or, if the taxpayer fails to attend a scheduled hearing, the
6 date the hearing is scheduled review process and any appeals
7 are completed.

8 {3}--The hearing is subject to the contested case
9 provisions of the Montana Administrative Procedure Act.
10 Before a decision may be appealed to the district court, an
11 appeal must first be taken to the state tax appeal board. A
12 request for a hearing must be in writing in order to
13 postpone execution on a warrant."

14 **Section 6.** Section 15-2-307, MCA, is amended to read:

15 "15-2-307. Challenge to assessment rules or procedures.
16 An aggrieved taxpayer may, in lieu of proceeding under Title
17 15, chapter 15, part 17, bring a declaratory judgment action
18 pursuant to 15-1-406 in the district court seeking a
19 declaration that a method or procedure of assessment of
20 property adopted or utilized by the department of revenue is
21 illegal or improper."

22 **Section 5.** Section 15-8-601, MCA, is amended to read:

23 "15-8-601. Assessment revision -- conference for
24 review. (1) Whenever the department of revenue discovers
25 that any taxable property of any person has in any year

1 escaped assessment, been erroneously assessed, or been
 2 omitted from taxation, the department may assess the same
 3 provided the property is under the ownership or control of
 4 the same person who owned or controlled it at the time it
 5 escaped assessment, was erroneously assessed, or was omitted
 6 from taxation. All such revised assessments must be made
 7 within 10 years after the end of the calendar year in which
 8 the original assessment was or should have been made.

9 (2) Whenever the department or its agent proposes to
 10 increase the valuation of locally assessed property above
 11 the value reported by the taxpayer under 15-8-301, the
 12 action of the department is subject to the notice and
 13 conference provisions of this section. Revised assessments
 14 of centrally assessed property are subject to review
 15 pursuant to [section 1].

16 (3) (a) Notice of revised assessment pursuant to this
 17 section shall be made by the department or its agent by
 18 postpaid letter addressed to the person interested within 10
 19 days after the revised assessment has been made. The If the
 20 property is locally assessed, the notice shall include
 21 opportunity for a conference on the matter, at the request
 22 of the person interested, not less than 15 or more than 30
 23 days after notice is given.

24 (b) An assessment revision review conference is not a
 25 contested case as defined in the Montana Administrative

1 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
 8 ~~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.

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.

15 (5) Immediately upon receipt of a revised assessment,
 16 the county official possessing the assessment roll book
 17 shall enter the revised assessment. If the revised
 18 assessment corrects an original assessment, the previous
 19 entry shall be canceled upon order of the department."

20 **Section 6.** Section 15-23-104, MCA, is amended to read:
 21 "15-23-104. Failure to file -- estimate by department
 22 -- penalty. If any person fails to file a report or return
 23 within the time established in 15-23-103 or by such later
 24 date as the department may approve, the department shall
 25 estimate the value of the property to have been reported on

1 the basis of the best available information. In estimating
 2 the value of the net proceeds of mines, the department shall
 3 proceed under 15-23-506, and in estimating the value of the
 4 gross proceeds of coal mines, the department shall proceed
 5 under 15-35-107. In estimating the value of all other
 6 property subject to assessment under parts 2 through 4 of
 7 this chapter, the department shall proceed under 15-1-303.
 8 In estimating value under this section, the department may
 9 subpoena a person or his agent as specified in 15-1-302. An
 10 assessment pursuant to parts 5 through 8 of this chapter
 11 based on estimated value or imputed value is subject to
 12 review under ~~15-8-601~~ [section 1]. Each month or part of a
 13 month a report is delinquent, the department shall impose
 14 and collect a \$25 penalty, the total not to exceed \$200, and
 15 shall deposit such penalty to the credit of the general
 16 fund. The department will also inform its agents in the
 17 counties of the delinquency, and the agents shall assess a
 18 penalty of 1% of the tax due for each month or part of a
 19 month the report is delinquent."

20 **Section 7.** Section 15-25-114, MCA, is amended to read:

21 "15-25-114. **Tax appeal review.** A person aggrieved by an
 22 assessment pursuant to 15-25-111 or an exemption decision
 23 pursuant to 15-25-112 may ~~appeal~~ seek a review of the
 24 assessment or exemption decision pursuant to ~~Title 15,~~
 25 ~~chapter 27, part 3~~ [section 1]."

1 **Section 8.** Section 15-30-148, MCA, is amended to read:

2 "15-30-148. **Judicial review.** (1) The determination of
 3 the state tax appeal board may be reviewed in the district
 4 court for Lewis and Clark County or the county in which the
 5 taxpayer resides or has his principal office or place of
 6 business by a complaint filed by the taxpayer or the
 7 department within ~~6--months~~ 30 days after the receipt of
 8 notice of the ~~decision--of--the--state--tax--appeal--board~~
 9 determination. Proceedings for review shall be otherwise as
 10 specified under the Montana Administrative Procedure Act.

11 (2) The remedies provided by this chapter for the
 12 collection of the tax shall be stayed, and no assessment,
 13 distraint, or proceedings in court for collection of the
 14 taxes may be made, begun, or prosecuted until 90 days after
 15 such court action is finally determined. From any
 16 determination of such court, an appeal to the supreme court
 17 may be taken by either party."

18 **Section 9.** Section 15-30-149, MCA, is amended to read:

19 "15-30-149. **Credits and refunds -- period of**
 20 **limitations.** (1) If the department discovers from the
 21 examination of a return or upon claim duly filed by a
 22 taxpayer or upon final judgment of a court that the amount
 23 of income tax collected is in excess of the amount due or
 24 that any penalty or interest was erroneously or illegally
 25 collected, the amount of the overpayment shall be credited

1 against any income tax, penalty, or interest then due from
2 the taxpayer and the balance of such excess shall be
3 refunded to the taxpayer.

4 (2) (a) A credit or refund under the provisions of this
5 section may be allowed only if, prior to the expiration of
6 the period provided by 15-30-145 and by 15-30-146 during
7 which the department may determine tax liability, the
8 taxpayer files a claim or the department determines there
9 has been an overpayment.

10 (b) If an overpayment of tax results from a net
11 operating loss carryback, the overpayment may be refunded or
12 credited within the period that expires on the 15th day of
13 the 40th month following the close of the taxable year of
14 the net operating loss if that period expires later than 5
15 years from the due date of the return for the year to which
16 the net operating loss is carried back.

17 (3) Within 6 months after a claim for refund is filed,
18 the department shall examine ~~said~~ the claim and either
19 approve or disapprove it. If ~~said~~ the claim is approved, the
20 credit or refund ~~shall~~ must be made to the taxpayer within
21 60 days after the claim is approved, ~~if~~ If the claim is
22 disallowed, the department shall so notify the taxpayer and
23 ~~shall grant a hearing thereon upon proper application by the~~
24 ~~taxpayer; if the department disapproves a claim for refund,~~
25 review of the determination of the department may be had

1 ~~pursued as otherwise provided in this chapter~~ [section 1].

2 (4) ~~Except as hereinafter provided for, interest shall~~
3 ~~be~~ Interest is allowed on overpayments at the same rate as
4 ~~is~~ charged on delinquent taxes. ~~due~~ Interest is payable from
5 the due date of the return or from the date of the
6 overpayment, ~~{whichever date is later},~~ to the date the
7 department approves refunding or crediting of the
8 overpayment. With respect to tax paid by withholding or by
9 estimate, the date of overpayment ~~shall be deemed to be~~ is
10 the date on which the return for the taxable year was due.
11 ~~No interest shall~~ Interest does not accrue on an overpayment
12 if the taxpayer elects to have it applied to his estimated
13 tax for the succeeding taxable year, ~~nor shall interest,~~
14 Interest does not accrue during any period the processing of
15 a claim for refund is delayed more than 30 days by reason of
16 failure of the taxpayer to furnish information requested by
17 the department for the purpose of verifying the amount of
18 the overpayment. ~~No interest shall be~~ Interest is not
19 allowed if:

20 (a) the overpayment is refunded within 6 months from
21 the date the return is due or the date the return is filed,
22 whichever date is later;

23 (b) the overpayment results from the carryback of a net
24 operating loss; or

25 (c) the amount of interest is less than \$1.

(5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability or one reasonably assumed to be imposed by this law shall is not be considered an overpayment with respect to which interest is allowable."

Section 10. Section 15-31-503, MCA, is amended to read:

"15-31-503. **Deficiency assessment -- hearing notice -- interest.** (1) If the department of revenue determines that the amount of tax due is greater than the amount disclosed by the return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to [section 1]. ~~Within 30 days after the mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its tax liability; if no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period; if such protest is filed, the department shall reconsider the proposed assessment and, if the taxpayer has so requested, shall grant the taxpayer an oral hearing; After consideration of the protest and the evidence presented in the event of an~~

~~oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer.~~

(2) ~~When a deficiency is determined and the tax becomes final, the department shall mail notice and demand to the taxpayer for the payment thereof, and the tax shall be due and payable at the expiration of 10 days from the date of such notice and demand.~~ Interest on any deficiency assessment shall bear interest from the date specified in 15-31-502 for payment of the tax. A certificate by the department of the mailing of the notices specified in this subsection shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of the notices."

Section 11. Section 15-31-532, MCA, is amended to read:

"15-31-532. **Application for refund -- appeal from denial.** If the department of revenue disallows any claim for refund, it shall notify the taxpayer accordingly. ~~At the expiration of 30 days from the mailing of the notice, the department's action shall become final unless within the 30-day period the taxpayer appeals in writing from the action of said department to the state tax appeal board; if such appeal is made, the board shall grant the taxpayer an oral hearing; After consideration of the appeal and evidence presented, the board shall forthwith mail notice to the taxpayer of its determination. The board's determination is~~

~~final when it mails notice of its action to the taxpayer as provided in [section 1]. The taxpayer may seek review of the decision pursuant to [section 1]."~~

Section 12. Section 15-31-701, MCA, is amended to read:

"15-31-701. Department of revenue -- special duties for transmitting corporation license tax revenues collected from banks or savings and loan associations to counties. (1) Within 30 days after receiving corporation license tax returns and payments from banks or savings and loan associations, the department of revenue shall transmit to the county treasurer of the county in which the business is located the revenues calculated under 15-31-702(1)(b).

(2) If the department of revenue determines, under the provisions of 15-31-503 and 15-31-531, that a bank or savings and loan association owes more taxes than shown on the original return or has paid more than the tax, penalty, or interest due in any year, it shall notify the bank or savings and loan association pursuant to [section 1]. ~~Additional payment is due within 10 days after receipt of the final determination of taxes due. Review may be sought pursuant to [section 1].~~ County treasurers shall issue warrants for their portion of the overpayment received and interest, as provided in 15-31-531.

(3) The department shall continue to exercise all its duties and powers outlined in this title with respect to

auditing returns and enforcing payment of the corporation license taxes owed by banks and savings and loan associations. Any delinquent taxes collected from the sale of property of a bank or savings and loan association under the provisions of 15-31-525 shall be transmitted to the county in which the corporation owing the delinquent taxes is located. The only duties of the county treasurers in this regard are issuing refunds and distributing the taxes to local taxing jurisdictions."

Section 13. Section 15-35-112, MCA, is amended to read:

"15-35-112. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. ~~Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has~~

1 ~~so requested, must grant the taxpayer an oral hearing. After~~
 2 ~~consideration of the protest and the evidence presented at~~
 3 ~~any oral hearing, the department's action upon the protest~~
 4 ~~is final when it mails notice of its action to the taxpayer~~
 5 The taxpayer may seek review of the determination pursuant
 6 to [section 1].

7 (2) ~~When a deficiency is determined and the tax becomes~~
 8 ~~final, the department shall mail a notice and demand for~~
 9 ~~payment to the taxpayer. The tax is due and payable at the~~
 10 ~~expiration of 10 days from the date of such notice and~~
 11 ~~demand. Interest on any deficiency assessment shall bear~~
 12 ~~interest until paid at the rate of 1% a month or fraction~~
 13 ~~thereof, computed from the original due date of the return."~~

14 **Section 14.** Section 15-36-105, MCA, is amended to read:
 15 **"15-36-105. Statement to accompany payment -- records**
 16 **-- collection of tax -- refunds.** (1) Each person shall,
 17 within 60 days after the end of each following quarter,
 18 complete on forms prescribed by the department of revenue a
 19 statement showing the total number of barrels of
 20 merchantable or marketable petroleum and other mineral or
 21 crude oil or cubic feet of natural gas produced or extracted
 22 by the person in the state during each month of the quarter
 23 and during the whole quarter, the average value of the
 24 production during each month, and the total value of the
 25 production for the whole quarter, together with the total

1 amount due to the state as severance taxes and local
 2 government severance taxes for the quarter, and shall within
 3 such 60 days deliver the statement and, except as provided
 4 in 15-36-102(2) and 15-36-121, pay to the department the
 5 amount of the taxes shown by the statement to be due to the
 6 state for the quarter for which the statement is made. The
 7 statement must be signed by the individual or the president,
 8 vice-president, treasurer, assistant treasurer, or managing
 9 agent in this state of the association, corporation,
 10 joint-stock company, or syndicate making the statement. Any
 11 person engaged in carrying on business at more than one
 12 place in this state or owning, leasing, controlling, or
 13 operating more than one oil or gas well in this state may
 14 include all operations in one statement. The department
 15 shall receive and file all statements and collect and
 16 receive from the person making and filing a statement the
 17 amount of tax payable by the person, if any, as appears in
 18 the statement.

19 (2) It is the duty of the department to examine each of
 20 the statements and compute the taxes thereon, and the amount
 21 computed by the department is the tax imposed, assessed
 22 against, and payable by the taxpayer making the statement
 23 for the quarter for which the statement is filed. If the tax
 24 found to be due is greater than the amount paid, the excess
 25 must be paid by the taxpayer to the department ~~within 10~~

1 days after written notice of the amount of the deficiency is
 2 mailed by the department to the taxpayer pursuant to
 3 [section 1]. The taxpayer may seek review of the
 4 department's determination pursuant to [section 1]. If the
 5 tax imposed is less than the amount paid, the difference
 6 must be applied as a credit against tax liability for
 7 subsequent quarters or refunded if there is no subsequent
 8 tax liability.

9 (3) If the tax is not paid on or before the due date,
 10 there must be assessed a penalty of 10% of the amount of the
 11 tax, unless it is shown that the failure was due to
 12 reasonable cause and not due to neglect. If any tax under
 13 this chapter is not paid when due, interest must be added to
 14 the tax at the rate of 1% a month or fraction thereof,
 15 computed on the total amount of severance tax and penalty
 16 from the due date until paid."

17 **Section 15.** Section 15-36-113, MCA, is amended to read:

18 "15-36-113. Deficiency assessment -- hearing review --
 19 interest. (1) When the department of revenue determines that
 20 the amount of tax due is greater than the amount disclosed
 21 by a return, it shall mail to the taxpayer a notice,
 22 pursuant to [section 1], of the additional tax proposed to
 23 be assessed. ~~Within 30 days after mailing of the notice, the~~
 24 ~~taxpayer may file with the department a written protest~~
 25 ~~against the proposed additional tax, setting forth the~~

1 grounds upon which the protest is based, and may request in
 2 his protest an oral hearing or an opportunity to present
 3 additional evidence relating to his tax liability. If no
 4 protest is filed, the amount of the additional tax proposed
 5 to be assessed becomes final upon the expiration of the
 6 30-day period. If a protest is filed, the department must
 7 reconsider the proposed assessment and, if the taxpayer has
 8 so requested, must grant the taxpayer an oral hearing. After
 9 consideration of the protest and the evidence presented at
 10 any oral hearing, the department's action upon the protest
 11 is final when it mails notice of its action to the taxpayer.
 12 The taxpayer may seek review of the determination pursuant
 13 to [section 1].

14 (2) ~~When a deficiency is determined and the tax becomes~~
 15 ~~final, the department shall mail a notice and demand for~~
 16 ~~payment to the taxpayer. The tax is due and payable at the~~
 17 ~~expiration of 10 days from the date of such notice and~~
 18 ~~demand. Interest on any deficiency assessment shall bear~~
 19 ~~interest until paid at the rate of 1% a month or fraction~~
 20 ~~thereof, computed from the original due date of the return."~~

21 **Section 16.** Section 15-37-110, MCA, is amended to read:

22 "15-37-110. Hearing on Review of determination of gross
 23 value of product or amount of tax. Every person whose
 24 license tax has been determined and assessed by the
 25 department of revenue under any of the provisions of this

1 part who feels aggrieved by the determination and assessment
 2 of the department as to the amount of gross value of product
 3 or as to the amount of the license tax may seek review
 4 pursuant to [section 1]. ~~7-at-any-time-within-10-days-after~~
 5 ~~the-receipt-of-the-required-notice-of-such-determination-and~~
 6 ~~assessment,7-file-with-the-state-tax-appeal-board-a-petition~~
 7 ~~for-a-hearing,7-in-which-petition-must-be-stated-the-grounds~~
 8 ~~and-reasons-therefor-and-the-manner-in-which-the--amount--of~~
 9 ~~the-gross-value-of-product-or-the-amount-of-the-license-tax,7~~
 10 ~~or--both,7-should-be-changed-or-corrected,7-Upon-the-filing-of~~
 11 ~~such-petition,7-if-it-appears--to--the--satisfaction--of--the~~
 12 ~~state--tax--appeal--board--therefrom-that-the-department-has~~
 13 ~~erred-in-any-manner--in--ascertaining--and--determining--the~~
 14 ~~amount--of--the--gross-value-of-product-or-the-amount-of-the~~
 15 ~~license-tax,7-or-both,7-the-board--shall--immediately--correct~~
 16 ~~such---error--or--errors,7--and--if--such--correction--is--in~~
 17 ~~conformity-with-the-request-contained-in-the-petition-for--a~~
 18 ~~hearing,7-the-board-shall-take-no-further-steps-in-connection~~
 19 ~~with--such--petition--other-than-to-notify-the-department-of~~
 20 ~~the-correct-amount-of-the-license-tax-due-from--such--person~~
 21 ~~after--the--making--of--such--correction--and-notifying-such~~
 22 ~~person-thereof,7-if-from-such-examination-it-does-not--appear~~
 23 ~~to--the--satisfaction-of-the-state-tax-appeal-board-that-the~~
 24 ~~department-has-erred-in-any-manner,7-the--board--shall--grant~~
 25 ~~the--hearing,7-fix-a-day-when-the-board-will-take-up-and-hear~~

1 ~~such-matter,7-and-give-notice-to-such-person-of-such-date--of~~
 2 ~~hearing-as-the-board-considers-reasonable,7-At-the-hearing-of~~
 3 ~~such--petition,7--any--taxpayer-interested-and-the-department~~
 4 ~~may--introduce--witnesses--and--present--testimony--on--any~~
 5 ~~material-matters-connected-with-such-return-and-license-tax,7~~
 6 ~~and--after-considering-such-evidence-the-board-shall-fix-and~~
 7 ~~determine-the-gross-value-of-product-and-reassess-the-amount~~
 8 ~~of-the-license-tax-to-be-paid-by-such-person-and-give-notice~~
 9 ~~thereof-to-such-person-and-the-department."~~

10 **Section 17.** Section 15-37-114, MCA, is amended to read:

11 "15-37-114. Deficiency assessment -- hearing review --
 12 interest. (1) When the department of revenue determines that
 13 the amount of tax due is greater than the amount disclosed
 14 by a return, it shall mail to the taxpayer a notice,
 15 pursuant to [section 1], of the additional tax proposed to
 16 be assessed. ~~Within-30-days-after-mailing-of-the-notice,7-the~~
 17 ~~taxpayer-may-file-with--the--department--a--written--protest~~
 18 ~~against--the--proposed--additional--tax,7--setting--forth-the~~
 19 ~~grounds-upon-which-the-protest-is-based,7-and-may-request--in~~
 20 ~~his--protest--an--oral--hearing-or-an-opportunity-to-present~~
 21 ~~additional-evidence-relating-to-his--tax--liability,7--if--no~~
 22 ~~protest--is-filed,7-the-amount-of-the-additional-tax-proposed~~
 23 ~~to-be-assessed-becomes-final-upon--the--expiration--of--the~~
 24 ~~30-day--period,7--if--a-protest-is-filed,7-the-department-must~~
 25 ~~reconsider-the-proposed-assessment-and,7-if-the-taxpayer--has~~

1 so requested, must grant the taxpayer an oral hearing. After
 2 consideration of the protest and the evidence presented at
 3 any oral hearing, the department's action upon the protest
 4 is final when it mails notice of its action to the taxpayer.
 5 The taxpayer may seek review of the determination pursuant
 6 to [section 1].

7 (2) When a deficiency is determined and the tax becomes
 8 final, the department shall mail a notice and demand for
 9 payment to the taxpayer. The tax is due and payable at the
 10 expiration of 10 days from the date of such notice and
 11 demand. Interest on any deficiency assessment shall bear
 12 interest until paid at the rate of 1% a month or fraction
 13 thereof, computed from the original due date of the return."

14 **Section 18.** Section 15-37-210, MCA, is amended to read:

15 "15-37-210. Deficiency assessment -- hearing review --
 16 interest. (1) When the department of revenue determines that
 17 the amount of tax due is greater than the amount disclosed
 18 by a return, it shall mail to the taxpayer a notice,
 19 pursuant to [section 1], of the additional tax proposed to
 20 be assessed. Within 30 days after mailing of the notice, the
 21 taxpayer may file with the department a written protest
 22 against the proposed additional tax, setting forth the
 23 grounds upon which the protest is based, and may request in
 24 his protest an oral hearing or an opportunity to present
 25 additional evidence relating to his tax liability, if no

1 protest is filed, the amount of the additional tax proposed
 2 to be assessed becomes final upon the expiration of the
 3 30-day period. If a protest is filed, the department must
 4 reconsider the proposed assessment and, if the taxpayer has
 5 so requested, must grant the taxpayer an oral hearing. After
 6 consideration of the protest and the evidence presented at
 7 any oral hearing, the department's action upon the protest
 8 is final when it mails notice of its action to the taxpayer.
 9 The taxpayer may seek review of the determination pursuant
 10 to [section 1].

11 (2) When a deficiency is determined and the tax becomes
 12 final, the department shall mail a notice and demand for
 13 payment to the taxpayer. The tax is due and payable at the
 14 expiration of 10 days from the date of such notice and
 15 demand. Interest on any deficiency assessment shall bear
 16 interest until paid at the rate of 1% a month or fraction
 17 thereof, computed from the original due date of the return."

18 **Section 19.** Section 15-38-110, MCA, is amended to read:

19 "15-38-110. Deficiency assessment -- hearing review --
 20 interest. (1) When the department of revenue determines that
 21 the amount of tax due is greater than the amount disclosed
 22 by a return, it shall mail to the taxpayer a notice,
 23 pursuant to [section 1], of the additional tax proposed to
 24 be assessed. Within 30 days after mailing of the notice, the
 25 taxpayer may file with the department a written protest

1 ~~against the proposed additional tax, setting forth the~~
 2 ~~grounds upon which the protest is based, and may request in~~
 3 ~~his protest an oral hearing or an opportunity to present~~
 4 ~~additional evidence relating to his tax liability. If no~~
 5 ~~protest is filed, the amount of the additional tax proposed~~
 6 ~~to be assessed becomes final upon the expiration of the~~
 7 ~~30-day period. If a protest is filed, the department must~~
 8 ~~reconsider the proposed assessment and, if the taxpayer has~~
 9 ~~so requested, must grant the taxpayer an oral hearing. After~~
 10 ~~consideration of the protest and the evidence presented at~~
 11 ~~any oral hearing, the department's action upon the protest~~
 12 ~~is final when it mails notice of its action to the taxpayer~~
 13 The taxpayer may seek review of the determination pursuant
 14 to [section 1].

15 (2) ~~When a deficiency is determined and the tax becomes~~
 16 ~~final, the department shall mail a notice and demand for~~
 17 ~~payment to the taxpayer. The tax is due and payable at the~~
 18 ~~expiration of 10 days from the date of such notice and~~
 19 ~~demand. Interest on any deficiency assessment shall bear~~
 20 ~~interest until paid at the rate of 1% a month or fraction~~
 21 ~~thereof, computed from the original due date of the return."~~

22 **Section 20.** Section 15-51-109, MCA, is amended to read:

23 "15-51-109. Deficiency assessment -- hearing review --
 24 interest. (1) When the department of revenue determines that
 25 the amount of tax due is greater than the amount disclosed

1 by a return, it shall mail to the taxpayer a notice,
 2 pursuant to [section 1], of the additional tax proposed to
 3 be assessed. Within 30 days after mailing of the notice, the
 4 taxpayer may file with the department a written protest
 5 against the proposed additional tax, setting forth the
 6 grounds upon which the protest is based, and may request in
 7 his protest an oral hearing or an opportunity to present
 8 additional evidence relating to his tax liability. If no
 9 protest is filed, the amount of the additional tax proposed
 10 to be assessed becomes final upon the expiration of the
 11 30-day period. If a protest is filed, the department must
 12 reconsider the proposed assessment and, if the taxpayer has
 13 so requested, must grant the taxpayer an oral hearing. After
 14 consideration of the protest and the evidence presented at
 15 any oral hearing, the department's action upon the protest
 16 is final when it mails notice of its action to the taxpayer
 17 The taxpayer may seek review of the determination pursuant
 18 to [section 1].

19 (2) ~~When a deficiency is determined and the tax becomes~~
 20 ~~final, the department shall mail a notice and demand for~~
 21 ~~payment to the taxpayer. The tax is due and payable at the~~
 22 ~~expiration of 10 days from the date of such notice and~~
 23 ~~demand. Interest on any deficiency assessment shall bear~~
 24 ~~interest until paid at the rate of 1% a month or fraction~~
 25 ~~thereof, computed from the original due date of the return."~~

1 **Section 21.** Section 15-53-105, MCA, is amended to read:

2 "15-53-105. Deficiency assessment -- hearing review --
3 interest. (1) When the department of revenue determines that
4 the amount of tax due is greater than the amount disclosed
5 by a return, it shall mail to the taxpayer a notice,
6 pursuant to [section 1], of the additional tax proposed to
7 be assessed. ~~Within 30 days after mailing of the notice, the~~
8 ~~taxpayer may file with the department a written protest~~
9 ~~against the proposed additional tax, setting forth the~~
10 ~~grounds upon which the protest is based, and may request in~~
11 ~~his protest an oral hearing or an opportunity to present~~
12 ~~additional evidence relating to his tax liability, if no~~
13 ~~protest is filed, the amount of the additional tax proposed~~
14 ~~to be assessed becomes final upon the expiration of the~~
15 ~~30-day period, if a protest is filed, the department must~~
16 ~~reconsider the proposed assessment and, if the taxpayer has~~
17 ~~so requested, must grant the taxpayer an oral hearing. After~~
18 ~~consideration of the protest and the evidence presented at~~
19 ~~any oral hearing, the department's action upon the protest~~
20 ~~is final when it mails notice of its action to the taxpayer~~
21 The taxpayer may seek review of the determination pursuant
22 to [section 1].

23 (2) ~~When a deficiency is determined and the tax becomes~~
24 ~~final, the department shall mail a notice and demand for~~
25 ~~payment to the taxpayer. The tax is due and payable at the~~

1 ~~expiration of 10 days from the date of such notice and~~
2 ~~demand. Interest on any deficiency assessment shall bear~~
3 ~~interest until paid at the rate of 1% a month or fraction~~
4 ~~thereof, computed from the original due date of the return."~~

5 **Section 22.** Section 15-55-106, MCA, is amended to read:

6 "15-55-106. Appeals Review and refunds. (1) ~~Any such A~~
7 ~~freight line company or railroad company, on or before June~~
8 ~~1 of the year in which the tax herein imposed has been paid,~~
9 ~~may file written complaint with the state tax appeal board~~
10 seek review pursuant to [section 1] concerning the
11 correctness of the rate used or the correctness of the
12 amount of the tax imposed or any other matter affecting the
13 complainant under the provisions of this chapter.

14 ~~{2} Upon filing such complaint, the state tax appeal~~
15 ~~board shall set the same for hearing and shall give written~~
16 ~~notice thereof to the complainant at least 10 days before~~
17 ~~the date set for hearing thereon. Upon the hearing of any~~
18 ~~such complaint, the state tax appeal board shall take~~
19 ~~testimony to determine whether the amount of the tax, as~~
20 ~~computed and determined by the department of revenue, is~~
21 ~~greater than the general ad valorem tax for all purposes~~
22 ~~would be on the cars of such freight line company subject to~~
23 ~~taxation in Montana if assessed and taxed on an ad valorem~~
24 ~~basis. In such cases the state tax appeal board shall have~~
25 ~~the power and it shall be its duty to lower or raise the~~

1 rates--herein-specified-to-conform-to-the-facts-disclosed-at
 2 such--hearing--and--to--make--the--amount--of--the--tax--due
 3 equivalent-to-such-ad-valorem-tax,-if-the-state--tax--appeal
 4 board--shall--then--determine--that--the--amount--of--the--tax
 5 imposed-and-collected-was-excessive,-the-claimant--shall--be
 6 entitled-to-a-refund-to-the-extent-of-such-excess-

7 (3)--Within--6--months--after--such--determination,-the
 8 claimant--may--present--to--the--department--a--sworn-claim-for
 9 such-refund,-setting-forth-the--amount--thereof--The--state
 10 auditor--shall--draw--his--warrant--upon--the--state--treasurer--for
 11 the-amount-of-such-claim,-and-the-same-shall-be-paid-in--the
 12 same-manner-as-other-claims-against-the-state-are-paid-

13 (4)(2) In order to determine the amount of tax such a
 14 freight line company would pay, the department may value all
 15 cars of any-such the company as a unit and allocate to
 16 Montana that proportion of the total value which the Montana
 17 car mileage bears to the total car mileage of the cars of
 18 any-such the freight line company during the 12-month period
 19 ending December 31 of the preceding year and may then apply
 20 to such that value the average total rate of all general
 21 property taxes levied for the preceding year by the taxing
 22 authorities of the state, counties, school districts,
 23 municipalities, and other taxing subdivisions for state,
 24 county, school and municipal, and other purposes."

25 **Section 23.** Section 15-58-110, MCA, is amended to read:

1 "15-58-110. Deficiency assessment -- hearing review --
 2 interest. (1) When the department of revenue determines that
 3 the amount of tax due is greater than the amount disclosed
 4 by a return, it shall mail to the taxpayer a notice,
 5 pursuant to [section 1], of the additional tax proposed to
 6 be assessed. Within 30 days after mailing of the notice, the
 7 taxpayer may file with the department a written protest
 8 against the proposed additional tax, setting forth the
 9 grounds upon which the protest is based, and may request in
 10 his protest an oral hearing or an opportunity to present
 11 additional evidence relating to his tax liability. If no
 12 protest is filed, the amount of the additional tax proposed
 13 to be assessed becomes final upon the expiration of the
 14 30-day period. If a protest is filed, the department must
 15 reconsider the proposed assessment and, if the taxpayer has
 16 so requested, must grant the taxpayer an oral hearing. After
 17 consideration of the protest and the evidence presented at
 18 any oral hearing, the department's action upon the protest
 19 is final when it mails notice of its action to the taxpayer.
 20 The taxpayer may seek review of the determination pursuant
 21 to [section 1].

22 (2) When a deficiency is determined and the tax becomes
 23 final, the department shall mail a notice and demand for
 24 payment to the taxpayer. The tax is due and payable at the
 25 expiration of 10 days from the date of such notice and

1 demand. Interest on any deficiency assessment shall bear
2 interest until paid at the rate of 1% a month or fraction
3 thereof, computed from the original due date of the return."

4 **Section 24.** Section 15-59-112, MCA, is amended to read:

5 "15-59-112. Deficiency assessment -- hearing review --
6 interest. (1) When the department of revenue determines that
7 the amount of tax due is greater than the amount disclosed
8 by a return, it shall mail to the taxpayer a notice, as
9 provided in [section 1], of the additional tax proposed to
10 be assessed. ~~Within 30 days after mailing of the notice, the~~
11 ~~taxpayer may file with the department a written protest~~
12 ~~against the proposed additional tax, setting forth the~~
13 ~~grounds upon which the protest is based, and may request in~~
14 ~~his protest an oral hearing or an opportunity to present~~
15 ~~additional evidence relating to his tax liability. If no~~
16 ~~protest is filed, the amount of the additional tax proposed~~
17 ~~to be assessed becomes final upon the expiration of the~~
18 ~~30-day period. If a protest is filed, the department must~~
19 ~~reconsider the proposed assessment and, if the taxpayer has~~
20 ~~so requested, must grant the taxpayer an oral hearing. After~~
21 ~~consideration of the protest and the evidence presented at~~
22 ~~any oral hearing, the department's action upon the protest~~
23 ~~is final when it mails notice of its action to the taxpayer.~~
24 The taxpayer may seek review of the determination pursuant
25 to [section 1].

1 (2) ~~When a deficiency is determined and the tax becomes~~
2 ~~final, the department shall mail a notice and demand for~~
3 ~~payment to the taxpayer. The tax is due and payable at the~~
4 ~~expiration of 10 days from the date of such notice and~~
5 ~~demand. Interest on any deficiency assessment shall bear~~
6 ~~interest until paid at the rate of 1% a month or fraction~~
7 ~~thereof, computed from the original due date of the return."~~

8 **Section 25.** Section 15-59-212, MCA, is amended to read:

9 "15-59-212. Deficiency assessment -- hearing review --
10 interest. (1) When the department of revenue determines that
11 the amount of tax due is greater than the amount disclosed
12 by a return, it shall mail to the taxpayer a notice,
13 pursuant to [section 1], of the additional tax proposed to
14 be assessed. ~~Within 30 days after mailing of the notice, the~~
15 ~~taxpayer may file with the department a written protest~~
16 ~~against the proposed additional tax, setting forth the~~
17 ~~grounds upon which the protest is based, and may request in~~
18 ~~his protest an oral hearing or an opportunity to present~~
19 ~~additional evidence relating to his tax liability. If no~~
20 ~~protest is filed, the amount of the additional tax proposed~~
21 ~~to be assessed becomes final upon the expiration of the~~
22 ~~30-day period. If a protest is filed, the department must~~
23 ~~reconsider the proposed assessment and, if the taxpayer has~~
24 ~~so requested, must grant the taxpayer an oral hearing. After~~
25 ~~consideration of the protest and the evidence presented at~~

~~any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer~~
The taxpayer may seek review of the determination pursuant to [section 1].

~~(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return.~~

Section 26. Section 15-65-115, MCA, is amended to read:

~~"15-65-115. Failure to pay or file -- penalty -- review -- interest.~~ (1) An owner or operator of a facility who fails to file the report as required by 15-65-112 must be assessed a penalty of 2% of the tax that should have been collected during the calendar quarter. Upon a showing of good cause, the department of revenue may waive the penalty.

(2) An owner or operator of a facility who fails to make payment or fails to report and make payment as required by 15-65-112 must be assessed a penalty of 2% of the amount that was not paid. Upon a showing of good cause, the department may waive the penalty.

(3) If an owner or operator of a facility fails to file the report required by 15-65-112 or if the department of

revenue determines that the report understates the amount of tax due, the department may determine the amount of the tax due and assess that amount against the owner or operator. The provisions of [section 1] apply to any assessment by the department of revenue. The taxpayer may seek review of the assessment pursuant to [section 1].

(4) The amount required to be paid under 15-65-112 accrues interest at the rate of 1% a month or part thereof from delinquency until paid."

Section 27. Section 69-1-225, MCA, is amended to read:

~~"69-1-225. Computation and collection of fee in absence of statement -- penalty and interest.~~ (1) If a regulated company or an officer or employee of a regulated company fails, neglects, or refuses to file the statement required by 69-1-223(2), the department of revenue may after the time for filing has expired proceed to inform itself, as best it may, regarding the regulated company's gross operating revenue from all activities regulated by the commission within the state for the calendar quarter, quarters, or portion thereof and may determine and fix the amount of the consumer counsel fee due.

(2) The department may add to the amount of the fee computed under subsection (1), in addition to any other penalty provided by law, a penalty of 10% thereof plus interest at the rate of 1% per month or fraction of month

1 computed on the total amount of fee and penalty. Interest is
2 computed from the date the fee is due to the date of
3 payment.

4 (3) The department of revenue shall mail to the
5 regulated company a letter notice, pursuant to [section 1],
6 setting forth the amount of the fee, penalty, and interest
7 and notifying the company that payment of the full amount of
8 the fee, penalty, and interest ~~must be remitted within 15~~
9 ~~days of the regulated company's receipt of the letter,~~
10 ~~otherwise a lien may be filed.~~ The taxpayer may seek review
11 of the department's action pursuant to [section 1].

12 (4) The 10% penalty may be waived by the department of
13 revenue if reasonable cause for failure and neglect to file
14 the statement is provided to the department."

15 **Section 28.** Section 69-1-226, MCA, is amended to read:

16 "69-1-226. Failure to pay fee -- penalty and interest
17 -- collection of fee. (1) If a regulated company or an
18 officer or employee of a regulated company files the
19 statement required by 69-1-223(2) but fails, neglects, or
20 refuses to pay the fee due within the time required, the
21 department of revenue may after the time for payment has
22 expired add to the fee due, in addition to any other penalty
23 provided by law, a penalty of 10% thereof plus interest at
24 the rate of 1% per month or fraction of month computed on
25 the total amount of the fee and penalty. Interest is

1 computed from the date the fee is due to the date of
2 payment.

3 (2) The department of revenue shall mail to the
4 regulated company a letter notice, pursuant to [section 1],
5 setting forth the amount of the fee, penalty, and interest
6 and notifying the company that payment of the full amount of
7 the fee, penalty, and interest ~~must be remitted within 15~~
8 ~~days of the regulated company's receipt of the letter,~~
9 ~~otherwise a warrant for distraint may be filed.~~ The taxpayer
10 may seek review of the department's action pursuant to
11 [section 1].

12 (3) The 10% penalty may be waived by the department of
13 revenue if reasonable cause for failure and neglect to make
14 payment is provided to the department."

15 NEW SECTION. Section 29. Repealer. Section 15-55-107,
16 MCA, is repealed.

17 NEW SECTION. Section 30. Codification instruction.
18 [Section 1] is intended to be codified as an integral part
19 of Title 15, and the provisions of Title 15 apply to
20 [section 1].

21 NEW SECTION. Section 31. Applicability. [1] [This act]
22 applies to requests for refunds received by and the
23 preliminary--assessments NOTICES OF ADDITIONAL TAX issued by
24 the department of revenue pursuant to [section 1] after
25 December 31, 1991.

1 ~~{2}--{Section--4}--applies--to-court-actions-filed-on-or~~
2 ~~after-October-17-1991r~~

3 NEW SECTION. **Section 32.** *Effective dates.* (1) For the
4 purposes of promulgating administrative rules to administer
5 [this act], ~~subsection-{16}-of~~ [section 1] is effective on
6 passage and approval.

7 (2) The remainder of [this act] is effective October 1,
8 1991.

-End-

1 SENATE BILL NO. 445

2 INTRODUCED BY DOHERTY, MAZUREK

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MONTANA
6 TAXPAYERS WITH A SIMPLE, INEXPENSIVE, AND EFFECTIVE TAX
7 REVIEW PROCESS FOR TAXES ADMINISTERED BY THE DEPARTMENT OF
8 REVENUE EXCEPT PROPERTY, INHERITANCE, AND ESTATE TAXES BUT
9 INCLUDING REVISED ASSESSMENTS OF CENTRALLY ASSESSED PROPERTY
10 TAXES; ~~CLARIFYING--AND--LIMITING--THE--USE--OF--DECLARATORY~~
11 ~~JUDGMENT-ACTIONS-IN-TAX-CASES~~; PROVIDING AUTHORITY TO ENTER
12 INTO CLOSING AGREEMENTS; AMENDING SECTIONS ~~15-1-402~~,
13 ~~15-1-403~~, ~~15-1-406~~, ~~15-1-705~~, ~~15-2-307~~, ~~15-8-601~~, ~~15-23-104~~,
14 ~~15-25-114~~, ~~15-30-148~~, ~~15-30-149~~, ~~15-31-503~~, ~~15-31-532~~,
15 ~~15-31-701~~, ~~15-35-112~~, ~~15-36-105~~, ~~15-36-113~~, ~~15-37-110~~,
16 ~~15-37-114~~, ~~15-37-210~~, ~~15-38-110~~, ~~15-51-109~~, ~~15-53-105~~,
17 ~~15-55-106~~, ~~15-58-110~~, ~~15-59-112~~, ~~15-59-212~~, ~~15-65-115~~,
18 ~~69-1-225~~, AND ~~69-1-226~~, MCA; REPEALING SECTION ~~15-55-107~~,
19 MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY
20 DATES DATE."

21

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

23 NEW SECTION. Section 1. Uniform tax review procedure
24 -- notice -- appeal. (1) The department shall provide a
25 uniform tax review procedure for all taxpayers, except as

There are no changes in this bill,
and will not be reprinted. Please
refer to yellow copy for complete
text.



HOUSE STANDING COMMITTEE REPORT

April 12, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 445 (third reading copy -- blue) be concurred in as amended .

Signed: 
Dan Harrington, Chairman

Carried by: Rep. McCarthy

And, that such amendments read:

1. Page 5, line 12.
Following: "notice"
Insert: "referred to in subsection (4) (a) "
2. Page 6, line 16.
Following: "reasonable"
Insert: "not to exceed 90 days except by the mutual consent of both parties"
3. Page 6, line 25.
Following: "Procedure"
Insert: ", including additional time for mailing"
4. Page 7, lines 3 and 4.
Strike: "NOT TO EXCEED 90 DAYS EXCEPT BY THE MUTUAL CONSENT OF BOTH PARTIES,"

HOUSE
SB 445

781526SC.HSF

1 SENATE BILL NO. 445

2 INTRODUCED BY DOHERTY, MAZUREK

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MONTANA
 6 TAXPAYERS WITH A SIMPLE, INEXPENSIVE, AND EFFECTIVE TAX
 7 REVIEW PROCESS FOR TAXES ADMINISTERED BY THE DEPARTMENT OF
 8 REVENUE EXCEPT PROPERTY, INHERITANCE, AND ESTATE TAXES BUT
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 10 TAXES; ~~CLARIFYING--AND--LIMITING--THE--USE--OF--DECLARATORY~~
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 12 INTO CLOSING AGREEMENTS; AMENDING SECTIONS ~~15-1-402,~~
 13 15-1-403, 15-1-406, 15-1-705, ~~15-2-307,~~ 15-8-601, 15-23-104,
 14 15-25-114, 15-30-148, 15-30-149, 15-31-503, 15-31-532,
 15 15-31-701, 15-35-112, 15-36-105, 15-36-113, 15-37-110,
 16 15-37-114, 15-37-210, 15-38-110, 15-51-109, 15-53-105,
 17 15-55-106, 15-58-110, 15-59-112, 15-59-212, 15-65-115,
 18 69-1-225, AND 69-1-226, MCA; REPEALING SECTION 15-55-107,
 19 MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY
 20 DATES DATE."

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:23 NEW SECTION. Section 1. Uniform tax review procedure24 -- notice -- appeal. (1) The department shall provide a
25 uniform tax review procedure for all taxpayers, except as

1 provided in subsection (1)(a).

2 (a) The tax review procedure described in this section
3 applies to all taxes administered by the department except
4 inheritance taxes, estate taxes, and property taxes. The
5 procedure applies to any revised assessment of centrally
6 assessed property taxed pursuant to chapter 23.7 (b) The term "taxpayers", as used in this section,
8 includes all persons determined by the department to have a
9 potential tax liability.10 (2) (a) If the department determines that a request for
11 a refund should be denied in whole or part, it shall notify
12 the taxpayer of the determination. If the department
13 determines that a person has failed to pay a sufficient tax,
14 interest, or penalty, it shall provide the taxpayer with
15 notice, ~~such as a preliminary assessment or other document~~
16 ~~indicating that the tax, including interest and penalty, if~~
17 ~~any, is due~~. The notice stops the running of any applicable
18 statute of limitations REGARDING THE ASSESSMENT OF THE TAX.

19 (b) A notice under this section must clearly state:

20 (i) the reasons for the department's determination that
21 a refund is not due or that tax plus interest and penalty,
22 if any, is due;23 (ii) the taxpayer's right to a review by the department
24 and his right to appeal after a final department decision;

25 (iii) failure to notify the department within 30 days

1 will result in a forfeiture of the taxpayer's right to
 2 contest the department's determination UNDER THIS SECTION OR
 3 TO FILE AN APPEAL WITH THE STATE TAX APPEAL BOARD;

4 (iv) that the taxpayer has 30 days to either notify the
 5 department in writing that he does not agree with an
 6 assessment or pay the amount assessed; and

7 (v) that a warrant for distraint placing a lien on the
 8 taxpayer's property may be issued unless he notifies the
 9 department that he disagrees with an assessment or pays
 10 within 30 days; AND

11 (VI) THAT THE NOTICE STOPS THE RUNNING OF THE STATUTE
 12 OF LIMITATIONS REGARDING THE ASSESSMENT OF THE TAX.

13 (3) (a) A taxpayer shall notify the department, in
 14 writing, that he objects to the determination within 30 days
 15 from the date the notice is mailed. The notification by the
 16 taxpayer is not required to specify the reasons for the
 17 disagreement or be in any particular form. If the taxpayer
 18 does not notify the department within 30 days:

19 (i) an assessment becomes final and the assessed tax,
 20 plus any interest and penalty, must be paid;

21 (ii) the taxpayer waives any further right to review
 22 UNDER THIS SECTION or TO appeal TO THE STATE TAX APPEAL
 23 BOARD; and

24 (iii) a warrant for distraint may be issued without
 25 further opportunity to be heard on the assessment.

1 (b) A taxpayer who ~~validly~~ notifies the department
 2 PURSUANT TO SUBSECTION (3)(A) that he disagrees with a tax
 3 assessment shall present his objections, the reasons for his
 4 objections, and any other ~~required~~ information to the
 5 administrator of the division that administers the tax or to
 6 his designee within 60 days after the notice REFERRED TO IN
 7 SUBSECTION (3)(A) is mailed. The reasons for objections may
 8 be provided in writing, by telephone, or, if requested by
 9 the taxpayer, at an informal conference. An informal
 10 conference is not subject to the Montana Administrative
 11 Procedure Act.

12 (c) Within ~~30~~ 60 days after the taxpayer has presented
 13 his objections, AS PROVIDED IN SUBSECTION (3)(B), the
 14 administrator or his designee shall issue a written decision
 15 addressing the taxpayer's objections and describing the
 16 reasons for the determination. The administrator's decision
 17 must also clearly set forth the taxpayer's review rights.
 18 The administrator's decision must be provided to the
 19 taxpayer and the director of revenue.

20 (4) (a) ~~Within---30---days---after---mailing---of---the~~
 21 ~~administrator's---decision,---the---taxpayer---may---object---to---the~~
 22 ~~administrator's---decision---with---the---department~~ A TAXPAYER
 23 SHALL NOTIFY THE DEPARTMENT IN WRITING THAT HE OBJECTS TO
 24 THE ADMINISTRATOR'S DECISION WITHIN 30 DAYS FROM THE DATE
 25 THAT THE DECISION IS MAILED, or he may appeal to the state

1 tax appeal board as provided in subsection (6). If an
 2 objection is not made within 30 days, the administrator's
 3 decision and any assessment become final. By failing to
 4 object, the taxpayer waives any further right to review OR
 5 APPEAL and a warrant for distraint may be issued without
 6 further opportunity to be heard on the assessment.

7 (b) Except as provided in subsection (6), a taxpayer
 8 who validly objects to the administrator's decision PURSUANT
 9 TO SUBSECTION (4)(A) shall present his objections, his
 10 reasons for the objections, and any other required
 11 information to the director of revenue or his designee
 12 within 90 60 days after the notice REFERRED TO IN SUBSECTION
 13 (4)(A) is mailed. The director or his designee may consider
 14 written information, hold a telephone conference, or conduct
 15 an informal conference, none of which are subject to the
 16 Montana Administrative Procedure Act.

17 (c) Within 90 60 days after the taxpayer has presented
 18 his objections, the director or his designee shall issue a
 19 written decision addressing the objections and describing
 20 the reasons for the decision. The director's decision is the
 21 final decision and assessment of the department.

22 (5) The taxpayer shall pay the assessment within 30
 23 days after being mailed a copy of the final decision and
 24 assessment unless an appeal is filed with the state tax
 25 appeal board. If an appeal with the board is filed within 30

1 days after the final decision is mailed, payment is not due
 2 until final resolution by the board or, if further appeals
 3 are filed, by the appropriate court. However, any interest
 4 required by law shall continue to accrue.

5 (6) (a) A taxpayer who validly objects to the
 6 administrator's decision may elect to file an appeal with
 7 the state tax appeal board. The appeal must be filed within
 8 30 days after mailing an objection to the administrator's
 9 decision. IF AN APPEAL IS FILED, THE ADMINISTRATOR'S
 10 DECISION IS THE FINAL DECISION OF THE DEPARTMENT.

11 (b) If the director notifies the board within 30 days
 12 after an appeal is filed that he has not had an opportunity
 13 to review ~~a final assessment or~~ THE ADMINISTRATOR'S decision
 14 and he believes a review may be helpful in resolving the
 15 controversy, the board shall stay the appeal for a time the
 16 board considers reasonable NOT TO EXCEED 90 DAYS EXCEPT BY
 17 THE MUTUAL CONSENT OF BOTH PARTIES. The taxpayer shall
 18 provide his objections and reasons for his objections to the
 19 director so that the director or his designee may review the
 20 controversy and issue a decision within the period of the
 21 stay granted by the board. If the taxpayer is dissatisfied
 22 with the director's decision, the stay must be lifted and
 23 the appeal resumed.

24 (7) The time limits in this section must be applied and
 25 interpreted as provided in RULE 6 OF the Montana Rules of

1 Civil Procedure, INCLUDING ADDITIONAL TIME FOR MAILING. Any
 2 time limit may be extended by mutual consent of the
 3 department and the taxpayer or by order of the department.
 4 The department shall grant CONSENT TO all reasonable
 5 requests, ~~NOT TO EXCEED 90 DAYS EXCEPT BY THE MUTUAL CONSENT~~
 6 ~~OF BOTH PARTIES~~, for extension of deadlines.

7 (B) (a) The director of revenue or his designee is
 8 authorized to enter into an agreement with any taxpayer
 9 relating to the taxpayer's liability with respect to a tax
 10 administered by the department for any taxable period.

11 (b) An agreement under the provisions of subsection
 12 (B)(a) is final and conclusive, and, except upon a showing
 13 of fraud, malfeasance, or misrepresentation of a material
 14 fact:

15 (i) the agreement may not be reopened as to matters
 16 agreed upon or be modified by any officer, employee, or
 17 agent of this state; and

18 (ii) in any suit, action, or proceeding under the
 19 agreement or any determination, assessment, collection,
 20 payment, abatement, refund, or credit made in accordance
 21 with the agreement, the agreement may not be annulled,
 22 modified, set aside, or disregarded.

23 **Section 2.** ~~Section 15-1-402, MCA, is amended to read:~~

24 ~~"15-1-402. Payment of taxes under protest --- action to~~
 25 ~~recover:--(1) The person upon whom a property tax or license~~

1 ~~fee collected by a county or municipality is being imposed~~
 2 ~~may proceed under 15-1-406 or may, before the tax or license~~
 3 ~~fee becomes delinquent, pay under written protest that~~
 4 ~~portion of the tax or license fee protested. The payment~~
 5 ~~must:~~

6 ~~(a) be made to the officer designated and authorized to~~
 7 ~~collect it;~~

8 ~~(b) specify the grounds of protest; and~~

9 ~~(c) not exceed the difference between the payment for~~
 10 ~~the immediately preceding tax year and the amount owing in~~
 11 ~~the tax year protested unless a different amount results~~
 12 ~~from the specified grounds of protest, which grounds may~~
 13 ~~include but are not limited to changes in assessment due to~~
 14 ~~reappraisal under 15-7-111;~~

15 ~~(2) After having exhausted the administrative appeals~~
 16 ~~available under Title 15, chapters 2 and 15, a person or his~~
 17 ~~legal representative may bring an action in any court of~~
 18 ~~competent jurisdiction against the officers to whom said tax~~
 19 ~~or license fee was paid or against the county or~~
 20 ~~municipality in whose behalf the same was collected and the~~
 21 ~~department of revenue.~~

22 ~~(3) Both the officers to whom the tax or license fee~~
 23 ~~was paid or the county or municipality in whose behalf the~~
 24 ~~same was collected and the department of revenue must be~~
 25 ~~served with timely summons and complaint within the time~~

1 prescribed:

2 (4)--An action instituted to recover any such portions
3 of tax or license fee paid under protest must be commenced
4 and summons timely served within 60 days after the date of
5 the final decision of the state tax appeal board.

6 (5)--If a protested tax or license fee is payable in
7 installments, a subsequent installment portion considered
8 unlawful by the state tax appeal board need not be paid and
9 no action or suit need be commenced to recover the
10 subsequent installment. The determination of the action or
11 suit commenced to recover the first installment portion paid
12 under protest determines the right of the party paying such
13 subsequent installment to have the same or any part thereof
14 refunded to him or the right of the taxing authority to
15 collect a subsequent installment not paid by the taxpayer
16 plus interest from the date the subsequent installment was
17 due.

18 (6)--All taxes and license fees paid under protest to a
19 county or municipality must be deposited by the treasurer of
20 the county or municipality to the credit of a special fund
21 to be designated as a protest fund and must be retained in
22 the protest fund until the final determination of any action
23 or suit to recover the same unless released at the request
24 of the county, municipality, or other local taxing
25 jurisdiction pursuant to subsection (7). Nothing contained

1 herein prohibits the investment of the money of this fund in
2 the state unified investment program or in any manner
3 provided in Title 7, chapter 6. The provision creating the
4 special protest fund does not apply to any payments made
5 under protest directly to the state.

6 (7)--The governing board of a taxing jurisdiction
7 affected by the payment of taxes under protest in the second
8 and subsequent years that a tax protest remains unresolved
9 may demand that the treasurer of the county or municipality
10 pay the requesting taxing jurisdiction all or a portion of
11 the protest payments to which it is entitled, except the
12 amount paid by the taxpayer in the first year of the
13 protest. The decision in a previous year of a taxing
14 jurisdiction to leave protested taxes in the protest fund
15 does not preclude it from demanding in a subsequent year any
16 or all of the payments to which it is entitled, except the
17 first year protest amount.

18 (8)--(a) If no action is commenced within the time
19 herein specified or if such action is commenced and finally
20 determined in favor of the county or municipality or
21 treasurer thereof, the amount of the protested portions of
22 the tax or license fee must be taken from the protest fund
23 and deposited to the credit of the fund or funds to which
24 the same property belongs, less a pro-rata deduction for the
25 costs of administration of the protest fund and related

1 expenses charged the local government units:

2 (b) If such action is finally determined adversely to a
3 county or municipality or the treasurer thereof, then the
4 treasurer shall, upon receiving a certified copy of the
5 final judgment in said action from the state tax appeal
6 board, or from the district or supreme court, as
7 appropriate, if the final action of the state tax appeal
8 board is appealed in the time prescribed, refund to the
9 person in whose favor such judgment is rendered the amount
10 of such protested portions of the tax or license fee
11 deposited in the protest fund, and not released pursuant to
12 subsection (7), as the person holding such judgment is
13 entitled to recover, together with interest thereon from the
14 date of payment under protest, at the greater of:

15 (i) the rate of interest generated from the pooled
16 investment fund provided for in 17-6-203 for the applicable
17 period, or

18 (ii) 6% a year;

19 (c) If the amount retained in the protest fund is
20 insufficient to pay all sums due the taxpayer, the treasurer
21 shall apply the available amount first to tax repayment,
22 then interest owed, and lastly to costs;

23 (d) If the protest action is decided adversely to a
24 taxing jurisdiction and the amount retained in the protest
25 fund is insufficient to refund the tax payments and costs to

1 which the taxpayer is entitled and for which local
2 government units are responsible, the treasurer shall bill
3 and the taxing jurisdiction shall refund to the treasurer
4 that portion of the taxpayer refund, including tax payments
5 and costs, for which the taxing jurisdiction is proratably
6 responsible.

7 (e) In satisfying the requirements of subsection
8 (8)(d), the taxing jurisdiction is allowed not more than 1
9 year from the beginning of the fiscal year following a final
10 resolution of the protest. The taxpayer is entitled to
11 interest on the unpaid balance at the greater of the rates
12 referred to in subsections (8)(b)(i) and (8)(b)(ii) from the
13 date of payment under protest until the date of final
14 resolution of the protest and at the combined rate of the
15 federal reserve discount rate quoted from the federal
16 reserve bank in New York, New York, on the date of final
17 resolution, plus four percentage points, from the date of
18 final resolution of the protest until refund is made.

19 (9) A taxing jurisdiction may satisfy the requirements
20 of this section by use of funds from one or more of the
21 following sources:

22 (a) imposition of a property tax to be collected by a
23 special tax protest refund levy;

24 (b) the general fund, except that amount generated by
25 the all-purpose mill levy, or any other funds legally

1 ~~available to the governing body, and~~
 2 ~~(c) proceeds from the sale of bonds issued by a county,~~
 3 ~~city, or school district for the purpose of deriving revenue~~
 4 ~~for the repayment of tax protests lost by the taxing~~
 5 ~~jurisdiction. The governing body of a county, city, or~~
 6 ~~school district is hereby authorized to issue such bonds~~
 7 ~~pursuant to procedures established by law. The bonds may be~~
 8 ~~issued without being submitted to an election. Property~~
 9 ~~taxes may be levied to amortize the bonds."~~

10 **Section 2.** Section 15-1-403, MCA, is amended to read:

11 "15-1-403. **Assessment for taxation -- increase over**
 12 **statement of owner.** (1) Whenever any person has delivered to
 13 the department of revenue or its agent a sworn statement of
 14 his locally assessed property subject to taxation as now
 15 provided by law and giving the estimated value of such
 16 property and the department or its agent shall increase such
 17 estimated value or add other property to such assessment
 18 list, the agent shall, at least 10 days prior to the meeting
 19 of the county tax appeal board, give to such person written
 20 notice of such change, which notice shall be substantially
 21 in the following form:

22 (Date)

23 Mr.:

24 A change has been made in your assessment list as
 25 follows:

1 (Set out and describe specifically changes made in
 2 list.)

3 , Agent
 4 Department of Revenue

5 (2) Such person may then appear before the county tax
 6 appeal board and contest the same. If the assessment of any
 7 such person has been added to or changed, either by the
 8 department or by the county tax appeal board, and such
 9 person has not been notified thereof and given an
 10 opportunity to contest the same before the county tax appeal
 11 board, the tax on such increased value or added property
 12 shall, upon such facts being established, be adjudged by the
 13 state tax appeal board to be void, and such facts and all
 14 questions relating thereto, when said tax has been paid
 15 under protest, may be heard and determined in the action
 16 provided for in 15-1-402."

17 **Section 3.** Section 15-1-406, MCA, is amended to read:

18 "15-1-406. **Alternative remedy -- declaratory judgment.**

19 (1) An aggrieved taxpayer may, in lieu of proceeding under
 20 15-1-402 or [section 1], bring a declaratory judgment action
 21 in the district court seeking a declaration that a tax
 22 levied by the state or one of its subdivisions was illegally
 23 or unlawfully imposed or exceeded the taxing authority of
 24 the entity imposing the tax.

25 (2) The action must be brought within 90 days after the

1 taxpayer receives notice of the imposition of the tax. The
 2 court shall consolidate all actions brought under subsection
 3 (1) which challenge the same tax levy. The decision of the
 4 court shall apply to all similarly situated taxpayers except
 5 those taxpayers who are excluded under 15-1-407.

6 (3) The taxes that are being challenged under this
 7 section must be paid when due as a condition of continuing
 8 the action.

9 ~~(4) The court may issue judgment for the party bringing
 10 the action only if the pleading, depositions, answers to
 11 interrogatories, and admissions on file, together with
 12 affidavits, if any, show that there is no genuine issue as
 13 to any material fact and the party bringing the action is
 14 entitled to a judgment as a matter of law. Section 15-2-307
 15 and this section are the exclusive authority for a
 16 declaratory judgment that taxes were illegally or unlawfully
 17 imposed or exceed the authority of the entity imposing the
 18 tax."~~

19 **Section 4.** Section 15-1-705, MCA, is amended to read:

20 "15-1-705. Hearing Review. (1) Except as provided in
 21 15-1-707, a taxpayer has the right to request a hearing on a
 22 review of the matter of tax liability pursuant to [section
 23 1] prior to execution on a filed warrant for distraint.

24 (2) The department must provide notice of the right to
 25 hearing review to the taxpayer. A request for a hearing must

1 ~~be made in writing within 30 days of the date of the notice.~~
 2 This notice may be given prior to the notice referred to in
 3 15-1-702. If ~~a written request for a hearing is received~~ the
 4 taxpayer notified the department that he disagrees with an
 5 assessment as provided in [section 1], the warrant may not
 6 be executed upon until after the ~~date the hearing is held~~
 7 ~~or, if the taxpayer fails to attend a scheduled hearing, the~~
 8 ~~date the hearing is scheduled~~ review process and any appeals
 9 are completed.

10 ~~(3) The hearing is subject to the contested case~~
 11 ~~provisions of the Montana Administrative Procedure Act.~~
 12 ~~Before a decision may be appealed to the district court, an~~
 13 ~~appeal must first be taken to the state tax appeal board. A~~
 14 ~~request for a hearing must be in writing in order to~~
 15 ~~postpone execution on a warrant."~~

16 **Section 6.** Section 15-2-307, MCA, is amended to read:

17 "15-2-307. Challenge to assessment rules or procedures.
 18 An aggrieved taxpayer may, in lieu of proceeding under Title
 19 15, chapter 15, part 1, bring a declaratory judgment action
 20 pursuant to 15-1-406 in the district court seeking a
 21 declaration that a method or procedure of assessment of
 22 property adopted or utilized by the department of revenue is
 23 illegal or improper."

24 **Section 5.** Section 15-8-601, MCA, is amended to read:

25 "15-8-601. Assessment revision -- conference for

1 review. (1) Whenever the department of revenue discovers
 2 that any taxable property of any person has in any year
 3 escaped assessment, been erroneously assessed, or been
 4 omitted from taxation, the department may assess the same
 5 provided the property is under the ownership or control of
 6 the same person who owned or controlled it at the time it
 7 escaped assessment, was erroneously assessed, or was omitted
 8 from taxation. All such revised assessments must be made
 9 within 10 years after the end of the calendar year in which
 10 the original assessment was or should have been made.

11 (2) Whenever the department or its agent proposes to
 12 increase the valuation of locally assessed property above
 13 the value reported by the taxpayer under 15-8-301, the
 14 action of the department is subject to the notice and
 15 conference provisions of this section. Revised assessments
 16 of centrally assessed property are subject to review
 17 pursuant to [section 1].

18 (3) (a) Notice of revised assessment pursuant to this
 19 section shall be made by the department or its agent by
 20 postpaid letter addressed to the person interested within 10
 21 days after the revised assessment has been made. ~~The~~ If the
 22 property is locally assessed, the notice shall include
 23 opportunity for a conference on the matter, at the request
 24 of the person interested, not less than 15 or more than 30
 25 days after notice is given.

1 (b) An assessment revision review conference is not a
 2 contested case as defined in the Montana Administrative
 3 Procedure Act. The department shall keep minutes in writing
 4 of each assessment review conference, which are public
 5 records.

6 (c) Following an assessment review conference or
 7 expiration of opportunity therefor, the department shall
 8 order such assessment as it considers proper. Any party to
 9 the conference aggrieved by the action of the department ~~may~~
 10 ~~appeal-directly-to-the-state-tax-appeal-board-within-30-days~~
 11 ~~or-if-the-property-is-locally-assessed,~~ may appeal to the
 12 county tax appeal board at its next meeting.

13 (4) The department must record in a book to be kept for
 14 that purpose all changes, corrections, and orders made by it
 15 and must direct its agent to enter upon the assessment book
 16 all changes and corrections made by it.

17 (5) Immediately upon receipt of a revised assessment,
 18 the county official possessing the assessment roll book
 19 shall enter the revised assessment. If the revised
 20 assessment corrects an original assessment, the previous
 21 entry shall be canceled upon order of the department."

22 **Section 6.** Section 15-23-104, MCA, is amended to read:
 23 "15-23-104. Failure to file -- estimate by department
 24 -- penalty. If any person fails to file a report or return
 25 within the time established in 15-23-103 or by such later

1 date as the department may approve, the department shall
 2 estimate the value of the property to have been reported on
 3 the basis of the best available information. In estimating
 4 the value of the net proceeds of mines, the department shall
 5 proceed under 15-23-506, and in estimating the value of the
 6 gross proceeds of coal mines, the department shall proceed
 7 under 15-35-107. In estimating the value of all other
 8 property subject to assessment under parts 2 through 4 of
 9 this chapter, the department shall proceed under 15-1-303.
 10 In estimating value under this section, the department may
 11 subpoena a person or his agent as specified in 15-1-302. An
 12 assessment pursuant to parts 5 through 8 of this chapter
 13 based on estimated value or imputed value is subject to
 14 review under ~~15-8-601~~ [section 1]. Each month or part of a
 15 month a report is delinquent, the department shall impose
 16 and collect a \$25 penalty, the total not to exceed \$200, and
 17 shall deposit such penalty to the credit of the general
 18 fund. The department will also inform its agents in the
 19 counties of the delinquency, and the agents shall assess a
 20 penalty of 1/3 of the tax due for each month or part of a
 21 month the report is delinquent."

22 **Section 7.** Section 15-25-114, MCA, is amended to read:

23 "15-25-114. Tax appeal review. A person aggrieved by an
 24 assessment pursuant to 15-25-111 or an exemption decision
 25 pursuant to 15-25-112 may appeal seek a review of the

1 assessment or exemption decision pursuant to ~~Title 15,~~
 2 ~~chapter 27, part 3~~ [section 1]."

3 **Section 8.** Section 15-30-148, MCA, is amended to read:

4 "15-30-148. Judicial review. (1) The determination of
 5 the state tax appeal board may be reviewed in the district
 6 court for Lewis and Clark County or the county in which the
 7 taxpayer resides or has his principal office or place of
 8 business by a complaint filed by the taxpayer or the
 9 department within ~~6--months~~ 30 days after the receipt of
 10 notice of the ~~decision--of--the--state--tax--appeal--board~~
 11 determination. Proceedings for review shall be otherwise as
 12 specified under the Montana Administrative Procedure Act.

13 (2) The remedies provided by this chapter for the
 14 collection of the tax shall be stayed, and no assessment,
 15 distraint, or proceedings in court for collection of the
 16 taxes may be made, begun, or prosecuted until 90 days after
 17 such court action is finally determined. From any
 18 determination of such court, an appeal to the supreme court
 19 may be taken by either party."

20 **Section 9.** Section 15-30-149, MCA, is amended to read:

21 "15-30-149. Credits and refunds -- period of
 22 limitations. (1) If the department discovers from the
 23 examination of a return or upon claim duly filed by a
 24 taxpayer or upon final judgment of a court that the amount
 25 of income tax collected is in excess of the amount due or

1 that any penalty or interest was erroneously or illegally
2 collected, the amount of the overpayment shall be credited
3 against any income tax, penalty, or interest then due from
4 the taxpayer and the balance of such excess shall be
5 refunded to the taxpayer.

6 (2) (a) A credit or refund under the provisions of this
7 section may be allowed only if, prior to the expiration of
8 the period provided by 15-30-145 and by 15-30-146 during
9 which the department may determine tax liability, the
10 taxpayer files a claim or the department determines there
11 has been an overpayment.

12 (b) If an overpayment of tax results from a net
13 operating loss carryback, the overpayment may be refunded or
14 credited within the period that expires on the 15th day of
15 the 40th month following the close of the taxable year of
16 the net operating loss if that period expires later than 5
17 years from the due date of the return for the year to which
18 the net operating loss is carried back.

19 (3) Within 6 months after a claim for refund is filed,
20 the department shall examine ~~said the~~ claim and either
21 approve or disapprove it. If ~~said the~~ claim is approved, the
22 credit or refund ~~shall~~ must be made to the taxpayer within
23 60 days after the claim is approved, ~~if~~ If the claim is
24 disallowed, the department shall so notify the taxpayer and
25 ~~shall grant a hearing thereon upon proper application by the~~

1 ~~taxpayer, if the department disapproves a claim for refund,~~
2 review of the determination of the department may be had
3 pursued as otherwise provided in this chapter [Section 1].

4 (4) ~~Except as hereinafter provided for, interest shall~~
5 be Interest is allowed on overpayments at the same rate as
6 ~~is~~ is charged on delinquent taxes, due Interest is payable from
7 the due date of the return or from the date of the
8 overpayment, ~~(whichever date is later),~~ to the date the
9 department approves refunding or crediting of the
10 overpayment. With respect to tax paid by withholding or by
11 estimate, the date of overpayment ~~shall be deemed to be~~ is
12 the date on which the return for the taxable year was due.
13 ~~No interest shall~~ Interest does not accrue on an overpayment
14 if the taxpayer elects to have it applied to his estimated
15 tax for the succeeding taxable year, ~~nor shall interest.~~
16 Interest does not accrue during any period the processing of
17 a claim for refund is delayed more than 30 days by reason of
18 failure of the taxpayer to furnish information requested by
19 the department for the purpose of verifying the amount of
20 the overpayment. ~~No interest shall be~~ Interest is not
21 allowed if:

22 (a) the overpayment is refunded within 6 months from
23 the date the return is due or the date the return is filed,
24 whichever date is later;

25 (b) the overpayment results from the carryback of a net

1 operating loss; or

2 (c) the amount of interest is less than \$1.

3 (5) An overpayment not made incident to a bona fide and
4 orderly discharge of an actual income tax liability or one
5 reasonably assumed to be imposed by this law shall is not be
6 considered an overpayment with respect to which interest is
7 allowable."

8 **Section 10.** Section 15-31-503, MCA, is amended to read:

9 "15-31-503. Deficiency assessment -- hearing notice --
10 interest. (1) If the department of revenue determines that
11 the amount of tax due is greater than the amount disclosed
12 by the return, it shall mail to the taxpayer a notice,
13 pursuant to [section 1], of the additional tax proposed to
14 be assessed. The taxpayer may seek review of the
15 determination pursuant to [section 1]. Within 30 days after
16 the mailing of the notice, the taxpayer may file with the
17 department a written protest against the proposed additional
18 tax, setting forth the grounds upon which the protest is
19 based, and may request in its protest an oral hearing or an
20 opportunity to present additional evidence relating to its
21 tax liability. If no protest is filed, the amount of the
22 additional tax proposed to be assessed becomes final upon
23 the expiration of the 30-day period. If such protest is
24 filed, the department shall reconsider the proposed
25 assessment and, if the taxpayer has so requested, shall

1 grant the taxpayer an oral hearing. After consideration of
2 the protest and the evidence presented in the event of an
3 oral hearing, the department's action upon the protest is
4 final when it mails notice of its action to the taxpayer.

5 (2) When a deficiency is determined and the tax becomes
6 final, the department shall mail notice and demand to the
7 taxpayer for the payment thereof, and the tax shall be due
8 and payable at the expiration of 10 days from the date of
9 such notice and demand. Interest on any deficiency
10 assessment shall bear interest from the date specified in
11 15-31-502 for payment of the tax. A certificate by the
12 department of the mailing of the notices specified in this
13 subsection shall be prima facie evidence of the computation
14 and levy of the deficiency in tax and of the giving of the
15 notices."

16 **Section 11.** Section 15-31-532, MCA, is amended to read:

17 "15-31-532. Application for refund -- appeal from
18 denial. If the department of revenue disallows any claim for
19 refund, it shall notify the taxpayer accordingly. At the
20 expiration of 30 days from the mailing of the notice, the
21 department's action shall become final unless within the
22 30-day period the taxpayer appeals in writing from the
23 action of said department to the state tax appeal board. If
24 such appeal is made, the board shall grant the taxpayer an
25 oral hearing. After consideration of the appeal and evidence

~~presented, the board shall forthwith mail notice to the taxpayer of its determination. The board's determination is final when it mails notice of its action to the taxpayer as provided in [section 1]. The taxpayer may seek review of the decision pursuant to [section 1]."~~

Section 12. Section 15-31-701, MCA, is amended to read:

"15-31-701. Department of revenue -- special duties for transmitting corporation license tax revenues collected from banks or savings and loan associations to counties. (1) Within 30 days after receiving corporation license tax returns and payments from banks or savings and loan associations, the department of revenue shall transmit to the county treasurer of the county in which the business is located the revenues calculated under 15-31-702(1)(b).

(2) If the department of revenue determines, under the provisions of 15-31-503 and 15-31-531, that a bank or savings and loan association owes more taxes than shown on the original return or has paid more than the tax, penalty, or interest due in any year, it shall notify the bank or savings and loan association pursuant to [section 1]. ~~Additional payment is due within 10 days after receipt of the final determination of taxes due.~~ Review may be sought pursuant to [section 1]. County treasurers shall issue warrants for their portion of the overpayment received and interest, as provided in 15-31-531.

(3) The department shall continue to exercise all its duties and powers outlined in this title with respect to auditing returns and enforcing payment of the corporation license taxes owed by banks and savings and loan associations. Any delinquent taxes collected from the sale of property of a bank or savings and loan association under the provisions of 15-31-525 shall be transmitted to the county in which the corporation owing the delinquent taxes is located. The only duties of the county treasurers in this regard are issuing refunds and distributing the taxes to local taxing jurisdictions."

Section 13. Section 15-35-112, MCA, is amended to read:

"15-35-112. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. ~~Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the~~

1 ~~30-day period. If a protest is filed, the department must~~
 2 ~~reconsider the proposed assessment and, if the taxpayer has~~
 3 ~~so requested, must grant the taxpayer an oral hearing. After~~
 4 ~~consideration of the protest and the evidence presented at~~
 5 ~~any oral hearing, the department's action upon the protest~~
 6 ~~is final when it mails notice of its action to the taxpayer~~
 7 The taxpayer may seek review of the determination pursuant
 8 to [section 1].

9 (2) ~~When a deficiency is determined and the tax becomes~~
 10 ~~final, the department shall mail a notice and demand for~~
 11 ~~payment to the taxpayer. The tax is due and payable at the~~
 12 ~~expiration of 10 days from the date of such notice and~~
 13 ~~demand. Interest on any deficiency assessment shall bear~~
 14 ~~interest until paid at the rate of 1% a month or fraction~~
 15 ~~thereof, computed from the original due date of the return."~~

16 **Section 14.** Section 15-36-105, MCA, is amended to read:

17 "15-36-105. Statement to accompany payment -- records
 18 -- collection of tax -- refunds. (1) Each person shall,
 19 within 60 days after the end of each following quarter,
 20 complete on forms prescribed by the department of revenue a
 21 statement showing the total number of barrels of
 22 merchantable or marketable petroleum and other mineral or
 23 crude oil or cubic feet of natural gas produced or extracted
 24 by the person in the state during each month of the quarter
 25 and during the whole quarter, the average value of the

1 production during each month, and the total value of the
 2 production for the whole quarter, together with the total
 3 amount due to the state as severance taxes and local
 4 government severance taxes for the quarter, and shall within
 5 such 60 days deliver the statement and, except as provided
 6 in 15-36-102(2) and 15-36-121, pay to the department the
 7 amount of the taxes shown by the statement to be due to the
 8 state for the quarter for which the statement is made. The
 9 statement must be signed by the individual or the president,
 10 vice-president, treasurer, assistant treasurer, or managing
 11 agent in this state of the association, corporation,
 12 joint-stock company, or syndicate making the statement. Any
 13 person engaged in carrying on business at more than one
 14 place in this state or owning, leasing, controlling, or
 15 operating more than one oil or gas well in this state may
 16 include all operations in one statement. The department
 17 shall receive and file all statements and collect and
 18 receive from the person making and filing a statement the
 19 amount of tax payable by the person, if any, as appears in
 20 the statement.

21 (2) It is the duty of the department to examine each of
 22 the statements and compute the taxes thereon, and the amount
 23 computed by the department is the tax imposed, assessed
 24 against, and payable by the taxpayer making the statement
 25 for the quarter for which the statement is filed. If the tax

1 found to be due is greater than the amount paid, the excess
 2 must be paid by the taxpayer to the department within 10
 3 days after written notice of the amount of the deficiency is
 4 mailed by the department to the taxpayer pursuant to
 5 [section 1]. The taxpayer may seek review of the
 6 department's determination pursuant to [section 1]. If the
 7 tax imposed is less than the amount paid, the difference
 8 must be applied as a credit against tax liability for
 9 subsequent quarters or refunded if there is no subsequent
 10 tax liability.

11 (3) If the tax is not paid on or before the due date,
 12 there must be assessed a penalty of 10% of the amount of the
 13 tax, unless it is shown that the failure was due to
 14 reasonable cause and not due to neglect. If any tax under
 15 this chapter is not paid when due, interest must be added to
 16 the tax at the rate of 1% a month or fraction thereof,
 17 computed on the total amount of severance tax and penalty
 18 from the due date until paid."

19 **Section 15.** Section 15-36-113, MCA, is amended to read:
 20 "15-36-113. Deficiency assessment -- hearing review --
 21 interest. (1) When the department of revenue determines that
 22 the amount of tax due is greater than the amount disclosed
 23 by a return, it shall mail to the taxpayer a notice,
 24 pursuant to [section 1], of the additional tax proposed to
 25 be assessed. ~~Within 30 days after mailing of the notice,~~ the

1 taxpayer may file with the department a written protest
 2 against the proposed additional tax, setting forth the
 3 grounds upon which the protest is based, and may request in
 4 his protest an oral hearing or an opportunity to present
 5 additional evidence relating to his tax liability, if no
 6 protest is filed, the amount of the additional tax proposed
 7 to be assessed becomes final upon the expiration of the
 8 30-day period, if a protest is filed, the department must
 9 reconsider the proposed assessment and, if the taxpayer has
 10 so requested, must grant the taxpayer an oral hearing. After
 11 consideration of the protest and the evidence presented at
 12 any oral hearing, the department's action upon the protest
 13 is final when it mails notice of its action to the taxpayer.
 14 The taxpayer may seek review of the determination pursuant
 15 to [section 1].

16 (2) ~~When a deficiency is determined and the tax becomes~~
 17 ~~final, the department shall mail a notice and demand for~~
 18 ~~payment to the taxpayer. The tax is due and payable at the~~
 19 ~~expiration of 10 days from the date of such notice and~~
 20 ~~demand. Interest on any deficiency assessment shall bear~~
 21 ~~interest until paid at the rate of 1% a month or fraction~~
 22 ~~thereof, computed from the original due date of the return."~~

23 **Section 16.** Section 15-37-110, MCA, is amended to read:
 24 "15-37-110. Hearing on Review of determination of gross
 25 value of product or amount of tax. Every person whose

1 license tax has been determined and assessed by the
 2 department of revenue under any of the provisions of this
 3 part who feels aggrieved by the determination and assessment
 4 of the department as to the amount of gross value of product
 5 or as to the amount of the license tax may seek review
 6 pursuant to [section 1], ~~at any time within 10 days after~~
 7 ~~the receipt of the required notice of such determination and~~
 8 ~~assessment, file with the state tax appeal board a petition~~
 9 ~~for a hearing, in which petition must be stated the grounds~~
 10 ~~and reasons therefor and the manner in which the amount of~~
 11 ~~the gross value of product or the amount of the license tax,~~
 12 ~~or both, should be changed or corrected. Upon the filing of~~
 13 ~~such petition, if it appears to the satisfaction of the~~
 14 ~~state tax appeal board therefrom that the department has~~
 15 ~~erred in any manner in ascertaining and determining the~~
 16 ~~amount of the gross value of product or the amount of the~~
 17 ~~license tax, or both, the board shall immediately correct~~
 18 ~~such error or errors, and if such correction is in~~
 19 ~~conformity with the request contained in the petition for a~~
 20 ~~hearing, the board shall take no further steps in connection~~
 21 ~~with such petition other than to notify the department of~~
 22 ~~the correct amount of the license tax due from such person~~
 23 ~~after the making of such correction and notifying such~~
 24 ~~person thereof, if from such examination it does not appear~~
 25 ~~to the satisfaction of the state tax appeal board that the~~

1 ~~department has erred in any manner, the board shall grant~~
 2 ~~the hearing, fix a day when the board will take up and hear~~
 3 ~~such matter, and give notice to such person of such date of~~
 4 ~~hearing as the board considers reasonable. At the hearing of~~
 5 ~~such petition, any taxpayer interested and the department~~
 6 ~~may introduce witnesses and present testimony on any~~
 7 ~~material matters connected with such return and license tax,~~
 8 ~~and after considering such evidence the board shall fix and~~
 9 ~~determine the gross value of product and reassess the amount~~
 10 ~~of the license tax to be paid by such person and give notice~~
 11 ~~thereof to such person and the department."~~

12 **Section 17.** Section 15-37-114, MCA, is amended to read:
 13 "15-37-114. Deficiency assessment -- hearing review --
 14 interest. (1) When the department of revenue determines that
 15 the amount of tax due is greater than the amount disclosed
 16 by a return, it shall mail to the taxpayer a notice,
 17 pursuant to [section 1], of the additional tax proposed to
 18 be assessed. ~~Within 30 days after mailing of the notice, the~~
 19 ~~taxpayer may file with the department a written protest~~
 20 ~~against the proposed additional tax, setting forth the~~
 21 ~~grounds upon which the protest is based, and may request in~~
 22 ~~his protest an oral hearing or an opportunity to present~~
 23 ~~additional evidence relating to his tax liability. If no~~
 24 ~~protest is filed, the amount of the additional tax proposed~~
 25 ~~to be assessed becomes final upon the expiration of the~~

1 30-day period, if a protest is filed, the department must
 2 reconsider the proposed assessment and, if the taxpayer has
 3 so requested, must grant the taxpayer an oral hearing. After
 4 consideration of the protest and the evidence presented at
 5 any oral hearing, the department's action upon the protest
 6 is final when it mails notice of its action to the taxpayer
 7 The taxpayer may seek review of the determination pursuant
 8 to [section 1].

9 (2) When a deficiency is determined and the tax becomes
 10 final, the department shall mail a notice and demand for
 11 payment to the taxpayer. The tax is due and payable at the
 12 expiration of 10 days from the date of such notice and
 13 demand. Interest on any deficiency assessment shall bear
 14 interest until paid at the rate of 1% a month or fraction
 15 thereof, computed from the original due date of the return."

16 **Section 18.** Section 15-37-210, MCA, is amended to read:

17 "15-37-210. Deficiency assessment -- hearing review --
 18 interest. (1) When the department of revenue determines that
 19 the amount of tax due is greater than the amount disclosed
 20 by a return, it shall mail to the taxpayer a notice,
 21 pursuant to [section 1], of the additional tax proposed to
 22 be assessed. Within 30 days after mailing of the notice, the
 23 taxpayer may file with the department a written protest
 24 against the proposed additional tax, setting forth the
 25 grounds upon which the protest is based, and may request in

1 his protest an oral hearing or an opportunity to present
 2 additional evidence relating to his tax liability. If no
 3 protest is filed, the amount of the additional tax proposed
 4 to be assessed becomes final upon the expiration of the
 5 30-day period. If a protest is filed, the department must
 6 reconsider the proposed assessment and, if the taxpayer has
 7 so requested, must grant the taxpayer an oral hearing. After
 8 consideration of the protest and the evidence presented at
 9 any oral hearing, the department's action upon the protest
 10 is final when it mails notice of its action to the taxpayer
 11 The taxpayer may seek review of the determination pursuant
 12 to [section 1].

13 (2) When a deficiency is determined and the tax becomes
 14 final, the department shall mail a notice and demand for
 15 payment to the taxpayer. The tax is due and payable at the
 16 expiration of 10 days from the date of such notice and
 17 demand. Interest on any deficiency assessment shall bear
 18 interest until paid at the rate of 1% a month or fraction
 19 thereof, computed from the original due date of the return."

20 **Section 19.** Section 15-38-110, MCA, is amended to read:

21 "15-38-110. Deficiency assessment -- hearing review --
 22 interest. (1) When the department of revenue determines that
 23 the amount of tax due is greater than the amount disclosed
 24 by a return, it shall mail to the taxpayer a notice,
 25 pursuant to [section 1], of the additional tax proposed to

1 be assessed. Within 30 days after mailing of the notice, the
 2 taxpayer may file with the department a written protest
 3 against the proposed additional tax, setting forth the
 4 grounds upon which the protest is based, and may request in
 5 his protest an oral hearing or an opportunity to present
 6 additional evidence relating to his tax liability. If no
 7 protest is filed, the amount of the additional tax proposed
 8 to be assessed becomes final upon the expiration of the
 9 30-day period. If a protest is filed, the department must
 10 reconsider the proposed assessment and, if the taxpayer has
 11 so requested, must grant the taxpayer an oral hearing. After
 12 consideration of the protest and the evidence presented at
 13 any oral hearing, the department's action upon the protest
 14 is final when it mails notice of its action to the taxpayer.
 15 The taxpayer may seek review of the determination pursuant
 16 to [section 1].

17 (2) When a deficiency is determined and the tax becomes
 18 final, the department shall mail a notice and demand for
 19 payment to the taxpayer. The tax is due and payable at the
 20 expiration of 10 days from the date of such notice and
 21 demand. Interest on any deficiency assessment shall bear
 22 interest until paid at the rate of 1% a month or fraction
 23 thereof, computed from the original due date of the return."

24 **Section 20.** Section 15-51-109, MCA, is amended to read:
 25 "15-51-109. Deficiency assessment -- hearing review --

1 interest. (1) When the department of revenue determines that
 2 the amount of tax due is greater than the amount disclosed
 3 by a return, it shall mail to the taxpayer a notice,
 4 pursuant to [section 1], of the additional tax proposed to
 5 be assessed. Within 30 days after mailing of the notice, the
 6 taxpayer may file with the department a written protest
 7 against the proposed additional tax, setting forth the
 8 grounds upon which the protest is based, and may request in
 9 his protest an oral hearing or an opportunity to present
 10 additional evidence relating to his tax liability. If no
 11 protest is filed, the amount of the additional tax proposed
 12 to be assessed becomes final upon the expiration of the
 13 30-day period. If a protest is filed, the department must
 14 reconsider the proposed assessment and, if the taxpayer has
 15 so requested, must grant the taxpayer an oral hearing. After
 16 consideration of the protest and the evidence presented at
 17 any oral hearing, the department's action upon the protest
 18 is final when it mails notice of its action to the taxpayer.
 19 The taxpayer may seek review of the determination pursuant
 20 to [section 1].

21 (2) When a deficiency is determined and the tax becomes
 22 final, the department shall mail a notice and demand for
 23 payment to the taxpayer. The tax is due and payable at the
 24 expiration of 10 days from the date of such notice and
 25 demand. Interest on any deficiency assessment shall bear

1 interest until paid at the rate of 1% a month or fraction
2 thereof, computed from the original due date of the return."

3 **Section 21.** Section 15-53-105, MCA, is amended to read:

4 "15-53-105. Deficiency assessment -- hearing review --
5 interest. (1) When the department of revenue determines that
6 the amount of tax due is greater than the amount disclosed
7 by a return, it shall mail to the taxpayer a notice,
8 pursuant to [section 1], of the additional tax proposed to
9 be assessed. ~~Within 30 days after mailing of the notice, the~~
10 ~~taxpayer may file with the department a written protest~~
11 ~~against the proposed additional tax, setting forth the~~
12 ~~grounds upon which the protest is based, and may request in~~
13 ~~his protest an oral hearing or an opportunity to present~~
14 ~~additional evidence relating to his tax liability. If no~~
15 ~~protest is filed, the amount of the additional tax proposed~~
16 ~~to be assessed becomes final upon the expiration of the~~
17 ~~30-day period. If a protest is filed, the department must~~
18 ~~reconsider the proposed assessment and, if the taxpayer has~~
19 ~~so requested, must grant the taxpayer an oral hearing. After~~
20 ~~consideration of the protest and the evidence presented at~~
21 ~~any oral hearing, the department's action upon the protest~~
22 ~~is final when it mails notice of its action to the taxpayer~~
23 The taxpayer may seek review of the determination pursuant
24 to [section 1].

25 (2) ~~When a deficiency is determined and the tax becomes~~

1 ~~final, the department shall mail a notice and demand for~~
2 ~~payment to the taxpayer. The tax is due and payable at the~~
3 ~~expiration of 10 days from the date of such notice and~~
4 ~~demand. Interest on any deficiency assessment shall bear~~
5 ~~interest until paid at the rate of 1% a month or fraction~~
6 ~~thereof, computed from the original due date of the return."~~

7 **Section 22.** Section 15-55-106, MCA, is amended to read:

8 "15-55-106. Appeals Review and refunds. (1) Any such A
9 freight line company or railroad company, on or before June
10 1 of the year in which the tax herein imposed has been paid,
11 may file written complaint with the state tax appeal board
12 seek review pursuant to [section 1] concerning the
13 correctness of the rate used or the correctness of the
14 amount of the tax imposed or any other matter affecting the
15 complainant under the provisions of this chapter.

16 (2) ~~Upon filing such complaint, the state tax appeal~~
17 ~~board shall set the same for hearing and shall give written~~
18 ~~notice thereof to the complainant at least 10 days before~~
19 ~~the date set for hearing thereon. Upon the hearing of any~~
20 ~~such complaint, the state tax appeal board shall take~~
21 ~~testimony to determine whether the amount of the tax, as~~
22 ~~computed and determined by the department of revenue, is~~
23 ~~greater than the general ad valorem tax for all purposes~~
24 ~~would be on the cars of such freight line company subject to~~
25 ~~taxation in Montana if assessed and taxed on an ad valorem~~

1 basis--In--such--cases--the--state--tax--appeal--board--shall--have
 2 the--power--and--it--shall--be--its--duty--to--lower--or--raise--the
 3 rates--herein--specified--to--conform--to--the--facts--disclosed--at
 4 such--hearing--and--to--make--the--amount--of--the--tax--due
 5 equivalent--to--such--ad--valorem--tax;--if--the--state--tax--appeal
 6 board--shall--then--determine--that--the--amount--of--the--tax
 7 imposed--and--collected--was--excessive;--the--claimant--shall--be
 8 entitled--to--a--refund--to--the--extent--of--such--excess;

9 (3)--Within--6--months--after--such--determination;--the
 10 claimant--may--present--to--the--department--a--sworn--claim--for
 11 such--refund;--setting--forth--the--amount--thereof;--The--state
 12 auditor--shall--draw--his--warrant--upon--the--state--treasurer--for
 13 the--amount--of--such--claim;--and--the--same--shall--be--paid--in--the
 14 same--manner--as--other--claims--against--the--state--are--paid;

15 (4)(2) In order to determine the amount of tax such a
 16 freight line company would pay, the department may value all
 17 cars of any such the company as a unit and allocate to
 18 Montana that proportion of the total value which the Montana
 19 car mileage bears to the total car mileage of the cars of
 20 any such the freight line company during the 12-month period
 21 ending December 31 of the preceding year and may then apply
 22 to such that value the average total rate of all general
 23 property taxes levied for the preceding year by the taxing
 24 authorities of the state, counties, school districts,
 25 municipalities, and other taxing subdivisions for state,

1 county, school and municipal, and other purposes."

2 **Section 23.** Section 15-58-110, MCA, is amended to read:
 3 "15-58-110. Deficiency assessment -- hearing review --
 4 interest. (1) When the department of revenue determines that
 5 the amount of tax due is greater than the amount disclosed
 6 by a return, it shall mail to the taxpayer a notice,
 7 pursuant to [section 1], of the additional tax proposed to
 8 be assessed. Within 30 days after mailing of the notice, the
 9 taxpayer may file with the department a written protest
 10 against the proposed additional tax, setting forth the
 11 grounds upon which the protest is based, and may request in
 12 his protest an oral hearing or an opportunity to present
 13 additional evidence relating to his tax liability. If no
 14 protest is filed, the amount of the additional tax proposed
 15 to be assessed becomes final upon the expiration of the
 16 30-day period. If a protest is filed, the department must
 17 reconsider the proposed assessment and, if the taxpayer has
 18 so requested, must grant the taxpayer an oral hearing. After
 19 consideration of the protest and the evidence presented at
 20 any oral hearing, the department's action upon the protest
 21 is final when it mails notice of its action to the taxpayer.
 22 The taxpayer may seek review of the determination pursuant
 23 to [section 1].

24 (2) When a deficiency is determined and the tax becomes
 25 final, the department shall mail a notice and demand for

1 ~~payment--to--the-taxpayer--The-tax-is-due-and-payable-at-the~~
 2 ~~expiration-of-10-days-from--the--date--of--such--notice--and~~
 3 ~~demand.~~ Interest on any deficiency assessment shall bear
 4 interest until paid at the rate of 1% a month or fraction
 5 thereof, computed from the original due date of the return."

6 **Section 24.** Section 15-59-112, MCA, is amended to read:

7 "15-59-112. Deficiency assessment -- hearing review --
 8 interest. (1) When the department of revenue determines that
 9 the amount of tax due is greater than the amount disclosed
 10 by a return, it shall mail to the taxpayer a notice, as
 11 provided in [section 1], of the additional tax proposed to
 12 be assessed. ~~Within-30-days-after-mailing-of-the-notice, the~~
 13 ~~taxpayer--may--file--with--the--department-a-written-protest~~
 14 ~~against-the--proposed--additional--tax,--setting--forth--the~~
 15 ~~grounds--upon-which-the-protest-is-based, and may request in~~
 16 ~~his-protest-an-oral-hearing-or--an--opportunity--to--present~~
 17 ~~additional--evidence--relating--to--his-tax-liability,--if-no~~
 18 ~~protest-is-filed, the amount of the additional tax--proposed~~
 19 ~~to--be--assessed--becomes--final--upon-the-expiration-of-the~~
 20 ~~30-day-period,--if-a-protest-is-filed,--the--department--must~~
 21 ~~reconsider--the-proposed-assessment-and,--if-the-taxpayer-has~~
 22 ~~so-requested,--must-grant-the-taxpayer-an-oral-hearing,--After~~
 23 ~~consideration-of-the-protest-and-the-evidence--presented--at~~
 24 ~~any--oral-hearing, the department's action upon the protest~~
 25 ~~is final when it mails notice of its action to the taxpayer~~

1 The taxpayer may seek review of the determination pursuant
 2 to [section 1].

3 (2) ~~When-a-deficiency-is-determined-and-the-tax-becomes~~
 4 ~~final, the department shall mail a--notice--and--demand--for~~
 5 ~~payment--to--the-taxpayer--The-tax-is-due-and-payable-at-the~~
 6 ~~expiration-of-10-days-from--the--date--of--such--notice--and~~
 7 ~~demand.~~ Interest on any deficiency assessment shall bear
 8 interest until paid at the rate of 1% a month or fraction
 9 thereof, computed from the original due date of the return."

10 **Section 25.** Section 15-59-212, MCA, is amended to read:

11 "15-59-212. Deficiency assessment -- hearing review --
 12 interest. (1) When the department of revenue determines that
 13 the amount of tax due is greater than the amount disclosed
 14 by a return, it shall mail to the taxpayer a notice,
 15 pursuant to [section 1], of the additional tax proposed to
 16 be assessed. ~~Within-30-days-after-mailing-of-the-notice, the~~
 17 ~~taxpayer--may--file--with--the--department-a-written-protest~~
 18 ~~against-the--proposed--additional--tax,--setting--forth--the~~
 19 ~~grounds--upon-which-the-protest-is-based, and may request in~~
 20 ~~his-protest-an-oral-hearing-or--an--opportunity--to--present~~
 21 ~~additional--evidence--relating--to--his-tax-liability,--if-no~~
 22 ~~protest-is-filed, the amount of the additional tax--proposed~~
 23 ~~to--be--assessed--becomes--final--upon-the-expiration-of-the~~
 24 ~~30-day-period,--if-a-protest-is-filed,--the--department--must~~
 25 ~~reconsider--the-proposed-assessment-and,--if-the-taxpayer-has~~

1 ~~so requested, must grant the taxpayer an oral hearing. After~~
 2 ~~consideration of the protest and the evidence presented at~~
 3 ~~any oral hearing, the department's action upon the protest~~
 4 ~~is final when it mails notice of its action to the taxpayer.~~
 5 The taxpayer may seek review of the determination pursuant
 6 to [section 1].

7 (2) ~~When a deficiency is determined and the tax becomes~~
 8 ~~final, the department shall mail a notice and demand for~~
 9 ~~payment to the taxpayer. The tax is due and payable at the~~
 10 ~~expiration of 10 days from the date of such notice and~~
 11 ~~demand. Interest on any deficiency assessment shall bear~~
 12 ~~interest until paid at the rate of 1% a month or fraction~~
 13 ~~thereof, computed from the original due date of the return."~~

14 **Section 26.** Section 15-65-115, MCA, is amended to read:

15 "15-65-115. Failure to pay or file -- penalty -- review
 16 -- interest. (1) An owner or operator of a facility who
 17 fails to file the report as required by 15-65-112 must be
 18 assessed a penalty of 2% of the tax that should have been
 19 collected during the calendar quarter. Upon a showing of
 20 good cause, the department of revenue may waive the penalty.

21 (2) An owner or operator of a facility who fails to
 22 make payment or fails to report and make payment as required
 23 by 15-65-112 must be assessed a penalty of 2% of the amount
 24 that was not paid. Upon a showing of good cause, the
 25 department may waive the penalty.

1 (3) If an owner or operator of a facility fails to file
 2 the report required by 15-65-112 or if the department of
 3 revenue determines that the report understates the amount of
 4 tax due, the department may determine the amount of the tax
 5 due and assess that amount against the owner or operator.
 6 The provisions of [section 1] apply to any assessment by the
 7 department of revenue. The taxpayer may seek review of the
 8 assessment pursuant to [section 1].

9 (4) The amount required to be paid under 15-65-112
 10 accrues interest at the rate of 1% a month or part thereof
 11 from delinquency until paid."

12 **Section 27.** Section 69-1-225, MCA, is amended to read:

13 "69-1-225. Computation and collection of fee in absence
 14 of statement -- penalty and interest. (1) If a regulated
 15 company or an officer or employee of a regulated company
 16 fails, neglects, or refuses to file the statement required
 17 by 69-1-223(2), the department of revenue may after the time
 18 for filing has expired proceed to inform itself, as best it
 19 may, regarding the regulated company's gross operating
 20 revenue from all activities regulated by the commission
 21 within the state for the calendar quarter, quarters, or
 22 portion thereof and may determine and fix the amount of the
 23 consumer counsel fee due.

24 (2) The department may add to the amount of the fee
 25 computed under subsection (1), in addition to any other

1 penalty provided by law, a penalty of 10% thereof plus
2 interest at the rate of 1% per month or fraction of month
3 computed on the total amount of fee and penalty. Interest is
4 computed from the date the fee is due to the date of
5 payment.

6 (3) The department of revenue shall mail to the
7 regulated company a ~~letter notice, pursuant to [section 1],~~
8 setting forth the amount of the fee, penalty, and interest
9 and notifying the company that payment of the full amount of
10 the fee, penalty, and interest ~~must be remitted within 15~~
11 ~~days of the regulated company's receipt of the letter,~~
12 ~~otherwise a lien may be filed. The taxpayer may seek review~~
13 ~~of the department's action pursuant to [section 1].~~

14 (4) The 10% penalty may be waived by the department of
15 revenue if reasonable cause for failure and neglect to file
16 the statement is provided to the department."

17 **Section 28.** Section 69-1-226, MCA, is amended to read:

18 "69-1-226. Failure to pay fee -- penalty and interest
19 -- collection of fee. (1) If a regulated company or an
20 officer or employee of a regulated company files the
21 statement required by 69-1-223(2) but fails, neglects, or
22 refuses to pay the fee due within the time required, the
23 department of revenue may after the time for payment has
24 expired add to the fee due, in addition to any other penalty
25 provided by law, a penalty of 10% thereof plus interest at

1 the rate of 1% per month or fraction of month computed on
2 the total amount of the fee and penalty. Interest is
3 computed from the date the fee is due to the date of
4 payment.

5 (2) The department of revenue shall mail to the
6 regulated company a ~~letter notice, pursuant to [section 1],~~
7 setting forth the amount of the fee, penalty, and interest
8 and notifying the company that payment of the full amount of
9 the fee, penalty, and interest ~~must be remitted within 15~~
10 ~~days of the regulated company's receipt of the letter,~~
11 ~~otherwise a warrant for distraint may be filed. The taxpayer~~
12 ~~may seek review of the department's action pursuant to~~
13 ~~[section 1].~~

14 (3) The 10% penalty may be waived by the department of
15 revenue if reasonable cause for failure and neglect to make
16 payment is provided to the department."

17 NEW SECTION. **Section 29.** Repealer. Section 15-55-107,
18 MCA, is repealed.

19 NEW SECTION. **Section 30.** Codification instruction.
20 [Section 1] is intended to be codified as an integral part
21 of Title 15, and the provisions of Title 15 apply to
22 [section 1].

23 NEW SECTION. **Section 31.** Applicability. (77) [This act]
24 applies to requests for refunds received by and the
25 ~~preliminary assessments~~ NOTICES OF ADDITIONAL TAX issued by

1 the department of revenue pursuant to [section 1] after
2 December 31, 1991.

3 ~~{2}--{Section--4}--applies--to-court-actions-filed-on-or~~
4 ~~after-October-17-1991~~

5 NEW SECTION. **Section 32.** Effective dates. (1) For the
6 purposes of promulgating administrative rules to administer
7 [this act], ~~subsection-16~~-of [section 1] is effective on
8 passage and approval.

9 (2) The remainder of [this act] is effective October 1,
10 1991.

-End-

GOVERNOR'S AMENDMENTS TO
SENATE BILL 445
(REFERENCE COPY, AS AMENDED)
April 23, 1991

1. Page 45, lines 9 and 10.
Following: line 8
Strike: line 9 through "interest" on line 10

2. Page 46, lines 8 and 9.
Following: line 7
Strike: line 8 through "interest on line 9

GOV. Amend
SB 445



AN ACT PROVIDING MONTANA TAXPAYERS WITH A SIMPLE, INEXPENSIVE, AND EFFECTIVE TAX REVIEW PROCESS FOR TAXES ADMINISTERED BY THE DEPARTMENT OF REVENUE EXCEPT PROPERTY, INHERITANCE, AND ESTATE TAXES BUT INCLUDING REVISED ASSESSMENTS OF CENTRALLY ASSESSED PROPERTY TAXES; PROVIDING AUTHORITY TO ENTER INTO CLOSING AGREEMENTS; AMENDING SECTIONS 15-1-403, 15-1-406, 15-1-705, 15-8-601, 15-23-104, 15-25-114, 15-30-148, 15-30-149, 15-31-503, 15-31-532, 15-31-701, 15-35-112, 15-36-105, 15-36-113, 15-37-110, 15-37-114, 15-37-210, 15-38-110, 15-51-109, 15-53-105, 15-55-106, 15-58-110, 15-59-112, 15-59-212, 15-65-115, 69-1-225, AND 69-1-226, MCA; REPEALING SECTION 15-55-107, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

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

Section 1. Uniform tax review procedure -- notice -- appeal.

(1) The department shall provide a uniform tax review procedure for all taxpayers, except as provided in subsection (1)(a).

(a) The tax review procedure described in this section applies to all taxes administered by the department except inheritance taxes, estate taxes, and property taxes. The procedure applies to any revised assessment of centrally assessed property taxed pursuant to chapter 23.

(b) The term "taxpayers", as used in this section, includes all persons determined by the department to have a potential tax liability.

(2) (a) If the department determines that a request for a refund should be denied in whole or part, it shall notify the taxpayer of the determination. If the department determines that a person has failed to pay a sufficient tax, interest, or penalty, it shall provide the taxpayer with notice. The notice stops the running of any applicable statute of limitations regarding the assessment of the tax.

(b) A notice under this section must clearly state:

(i) the reasons for the department's determination that a refund is not due or that tax plus interest and penalty, if any, is due;

(ii) the taxpayer's right to a review by the department and his right to appeal after a final department decision;

(iii) failure to notify the department within 30 days will result in a forfeiture of the taxpayer's right to contest the department's determination under this section or to file an appeal with the state tax appeal board;

(iv) that the taxpayer has 30 days to either notify the department in writing that he does not agree with an assessment or pay the amount assessed;

(v) that a warrant for distraint placing a lien on the taxpayer's property may be issued unless he notifies the department that he disagrees with an assessment or pays within 30 days; and

(vi) that the notice stops the running of the statute of

limitations regarding the assessment of the tax.

(3) (a) A taxpayer shall notify the department, in writing, that he objects to the determination within 30 days from the date the notice is mailed. The notification by the taxpayer is not required to specify the reasons for the disagreement or be in any particular form. If the taxpayer does not notify the department within 30 days:

- (i) an assessment becomes final and the assessed tax, plus any interest and penalty, must be paid;
- (ii) the taxpayer waives any further right to review under this section or to appeal to the state tax appeal board; and
- (iii) a warrant for distraint may be issued without further opportunity to be heard on the assessment.

(b) A taxpayer who notifies the department pursuant to subsection (3)(a) that he disagrees with a tax assessment shall present his objections, the reasons for his objections, and any other information to the administrator of the division that administers the tax or to his designee within 60 days after the notice referred to in subsection (3)(a) is mailed. The reasons for objections may be provided in writing, by telephone, or, if requested by the taxpayer, at an informal conference. An informal conference is not subject to the Montana Administrative Procedure Act.

(c) Within 60 days after the taxpayer has presented his objections, as provided in subsection (3)(b), the administrator or

his designee shall issue a written decision addressing the taxpayer's objections and describing the reasons for the determination. The administrator's decision must also clearly set forth the taxpayer's review rights. The administrator's decision must be provided to the taxpayer and the director of revenue.

(4) (a) A taxpayer shall notify the department in writing that he objects to the administrator's decision within 30 days from the date that the decision is mailed, or he may appeal to the state tax appeal board as provided in subsection (6). If an objection is not made within 30 days, the administrator's decision and any assessment become final. By failing to object, the taxpayer waives any further right to review or appeal and a warrant for distraint may be issued without further opportunity to be heard on the assessment.

(b) Except as provided in subsection (6), a taxpayer who objects to the administrator's decision pursuant to subsection (4)(a) shall present his objections, his reasons for the objections, and any other information to the director of revenue or his designee within 60 days after the notice referred to in subsection (4)(a) is mailed. The director or his designee may consider written information, hold a telephone conference, or conduct an informal conference, none of which are subject to the Montana Administrative Procedure Act.

(c) Within 60 days after the taxpayer has presented his objections, the director or his designee shall issue a written

decision addressing the objections and describing the reasons for the decision. The director's decision is the final decision and assessment of the department.

(5) The taxpayer shall pay the assessment within 30 days after being mailed a copy of the final decision and assessment unless an appeal is filed with the state tax appeal board. If an appeal with the board is filed within 30 days after the final decision is mailed, payment is not due until final resolution by the board or, if further appeals are filed, by the appropriate court. However, any interest required by law shall continue to accrue.

(6) (a) A taxpayer who validly objects to the administrator's decision may elect to file an appeal with the state tax appeal board. The appeal must be filed within 30 days after mailing an objection to the administrator's decision. If an appeal is filed, the administrator's decision is the final decision of the department.

(b) If the director notifies the board within 30 days after an appeal is filed that he has not had an opportunity to review the administrator's decision and he believes a review may be helpful in resolving the controversy, the board shall stay the appeal for a time the board considers reasonable not to exceed 90 days except by the mutual consent of both parties. The taxpayer shall provide his objections and reasons for his objections to the director so that the director or his designee may review the

controversy and issue a decision within the period of the stay granted by the board. If the taxpayer is dissatisfied with the director's decision, the stay must be lifted and the appeal resumed.

(7) The time limits in this section must be applied and interpreted as provided in Rule 6 of the Montana Rules of Civil Procedure, including additional time for mailing. Any time limit may be extended by mutual consent of the department and the taxpayer. The department shall consent to all reasonable requests for extension of deadlines.

(8) (a) The director of revenue or his designee is authorized to enter into an agreement with any taxpayer relating to the taxpayer's liability with respect to a tax administered by the department for any taxable period.

(b) An agreement under the provisions of subsection (8)(a) is final and conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

(i) the agreement may not be reopened as to matters agreed upon or be modified by any officer, employee, or agent of this state; and

(ii) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded.

Section 2. Section 15-1-403, MCA, is amended to read:

"15-1-403. Assessment for taxation -- increase over statement of owner. (1) Whenever any person has delivered to the department of revenue or its agent a sworn statement of his locally assessed property subject to taxation as now provided by law and giving the estimated value of such property and the department or its agent shall increase such estimated value or add other property to such assessment list, the agent shall, at least 10 days prior to the meeting of the county tax appeal board, give to such person written notice of such change, which notice shall be substantially in the following form:

(Date)

Mr.:

A change has been made in your assessment list as follows:

(Set out and describe specifically changes made in list.)

....., Agent
Department of Revenue

(2) Such person may then appear before the county tax appeal board and contest the same. If the assessment of any such person has been added to or changed, either by the department or by the county tax appeal board, and such person has not been notified thereof and given an opportunity to contest the same before the county tax appeal board, the tax on such increased value or added property shall, upon such facts being established, be adjudged by the state tax appeal board to be void, and such facts and all

questions relating thereto, when said tax has been paid under protest, may be heard and determined in the action provided for in 15-1-402."

Section 3. Section 15-1-406, MCA, is amended to read:

"15-1-406. Alternative remedy -- declaratory judgment. (1) An aggrieved taxpayer may, in lieu of proceeding under 15-1-402 or [section 1], bring a declaratory judgment action in the district court seeking a declaration that a tax levied by the state or one of its subdivisions was illegally or unlawfully imposed or exceeded the taxing authority of the entity imposing the tax.

(2) The action must be brought within 90 days of the imposition of the tax. The court shall consolidate all actions brought under subsection (1) which challenge the same tax levy. The decision of the court shall apply to all similarly situated taxpayers except those taxpayers who are excluded under 15-1-407.

(3) The taxes that are being challenged under this section must be paid when due as a condition of continuing the action."

Section 4. Section 15-1-705, MCA, is amended to read:

"15-1-705. Hearing Review. (1) Except as provided in 15-1-707, a taxpayer has the right to ~~request--a--hearing--on a review of the matter--of tax liability pursuant to [section 1]~~ prior to execution on a filed warrant for distraint.

(2) The department must provide notice of the right to ~~hearing review~~ to the taxpayer. ~~A request-for-a-hearing-must-be made-in-writing-within-30-days-of-the-date-of--the--notice.~~ This

notice may be given prior to the notice referred to in 15-1-702. ~~If a written request for a hearing is received~~ the taxpayer notified the department that he disagrees with an assessment as provided in [section 1], the warrant may not be executed upon until after the ~~date the hearing is held or, if the taxpayer fails to attend a scheduled hearing, the date the hearing is scheduled~~ review process and any appeals are completed.

~~{3}--The hearing is subject to the contested case provisions of the Montana Administrative Procedure Act. Before a decision may be appealed to the district court, an appeal must first be taken to the state tax appeal board. A request for a hearing must be in writing in order to postpone execution on a warrant."~~

Section 5. Section 15-8-601, MCA, is amended to read:

"15-8-601. Assessment revision -- conference for review. (1) 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 person who owned or controlled it at the time it escaped assessment, was erroneously assessed, or was omitted from taxation. All such revised assessments must be made within 10 years after the end of the calendar year in which the original assessment was or should have been made.

(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. Revised assessments of centrally assessed property are subject to review pursuant to [section 1].

(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 If the property is locally assessed, 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 records.

(c) Following an assessment review conference or expiration of opportunity therefor, the department shall order such assessment as it considers proper. Any party to the conference aggrieved by the action of the department ~~may appeal directly to the state tax appeal board within 30 days or, if the property is locally assessed,~~ may appeal to the 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.

(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."

Section 6. Section 15-23-104, MCA, is amended to read:

"15-23-104. Failure to file -- estimate by department -- penalty. If any person fails to file a report or return within the time established in 15-23-103 or by such later date as the department may approve, the department shall estimate the value of the property to have been reported on the basis of the best available information. In estimating the value of the net proceeds of mines, the department shall proceed under 15-23-506, and in estimating the value of the gross proceeds of coal mines, the department shall proceed under 15-35-107. In estimating the value of all other property subject to assessment under parts 2 through 4 of this chapter, the department shall proceed under 15-1-303. In estimating value under this section, the department may subpoena a person or his agent as specified in 15-1-302. An assessment pursuant to parts 5 through 8 of this chapter based on estimated value or imputed value is subject to review under ~~15-8-601~~ [section 1]. Each month or part of a month a report is delinquent, the department shall impose and collect a \$25 penalty, the total not to exceed \$200, and shall deposit such penalty to the credit

of the general fund. The department will also inform its agents in the counties of the delinquency, and the agents shall assess a penalty of 1% of the tax due for each month or part of a month the report is delinquent."

Section 7. Section 15-25-114, MCA, is amended to read:

"15-25-114. Tax appeal review. A person aggrieved by an assessment pursuant to 15-25-111 or an exemption decision pursuant to 15-25-112 may appeal seek a review of the assessment or exemption decision pursuant to ~~Title--157--chapter--27--part-3~~ [section 1]."

Section 8. Section 15-30-148, MCA, is amended to read:

"15-30-148. Judicial review. (1) The determination of the state tax appeal board may be reviewed in the district court for Lewis and Clark County or the county in which the taxpayer resides or has his principal office or place of business by a complaint filed by the taxpayer or the department within 6-months 30 days after the receipt of notice of the ~~decision--of--the--state--tax~~ appeal--board determination. Proceedings for review shall be otherwise as specified under the Montana Administrative Procedure Act.

(2) The remedies provided by this chapter for the collection of the tax shall be stayed, and no assessment, distraint, or proceedings in court for collection of the taxes may be made, begun, or prosecuted until 90 days after such court action is finally determined. From any determination of such court, an

appeal to the supreme court may be taken by either party."

Section 9. Section 15-30-149, MCA, is amended to read:

"15-30-149. Credits and refunds -- period of limitations. (1)

If the department discovers from the examination of a return or upon claim duly filed by a taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment shall be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of such excess shall be refunded to the taxpayer.

(2) (a) A credit or refund under the provisions of this section may be allowed only if, prior to the expiration of the period provided by 15-30-145 and by 15-30-146 during which the department may determine tax liability, the taxpayer files a claim or the department determines there has been an overpayment.

(b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 40th month following the close of the taxable year of the net operating loss if that period expires later than 5 years from the due date of the return for the year to which the net operating loss is carried back.

(3) Within 6 months after a claim for refund is filed, the department shall examine said the claim and either approve or

disapprove it. If said the claim is approved, the credit or refund shall must be made to the taxpayer within 60 days after the claim is approved; if If the claim is disallowed, the department shall so notify the taxpayer and shall--grant--a--hearing--thereon--upon proper--application-by-the-taxpayer--if-the-department-disapproves a-claim-for-refund; review of the determination of the department may be had pursued as otherwise provided in this chapter [section 1].

(4) Except-as-hereinafter-provided--for--interest--shall--be Interest is allowed on overpayments at the same rate as is charged on delinquent taxes, due Interest is payable from the due date of the return or from the date of the overpayment, (whichever date is later), to the date the department approves refunding or crediting of the overpayment. With respect to tax paid by withholding or by estimate, the date of overpayment shall-be-deemed-to-be is the date on which the return for the taxable year was due. No-interest shall Interest does not accrue on an overpayment if the taxpayer elects to have it applied to his estimated tax for the succeeding taxable year; nor-shall-interest. Interest does not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. No-interest-shall-be Interest is not allowed if:

(a) the overpayment is refunded within 6 months from the date

the return is due or the date the return is filed, whichever date is later;

(b) the overpayment results from the carryback of a net operating loss; or

(c) the amount of interest is less than \$1.

(5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability or one reasonably assumed to be imposed by this law shall is not be considered an overpayment with respect to which interest is allowable."

Section 10. Section 15-31-503, MCA, is amended to read:

"15-31-503. Deficiency assessment -- hearing notice -- interest. (1) If the department of revenue determines that the amount of tax due is greater than the amount disclosed by the return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to [section 1]. ~~Within 30 days after the mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If such protest is filed, the~~

~~department shall reconsider the proposed assessment and, if the taxpayer has so requested, shall grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented in the event of an oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer.~~

(2) ~~When a deficiency is determined and the tax becomes final, the department shall mail notice and demand to the taxpayer for the payment thereof, and the tax shall be due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest from the date specified in 15-31-502 for payment of the tax. A certificate by the department of the mailing of the notices specified in this subsection shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of the notices.~~

Section 11. Section 15-31-532, MCA, is amended to read:

"15-31-532. Application for refund -- appeal from denial. If the department of revenue disallows any claim for refund, it shall notify the taxpayer accordingly. ~~At the expiration of 30 days from the mailing of the notice, the department's action shall become final unless within the 30-day period the taxpayer appeals in writing from the action of said department to the state tax appeal board. If such appeal is made, the board shall grant the taxpayer an oral hearing. After consideration of the appeal and evidence presented, the board shall forthwith mail notice to the taxpayer~~

~~of its determination. The board's determination is final when it mails notice of its action to the taxpayer as provided in [section 1]. The taxpayer may seek review of the decision pursuant to [section 1]."~~

Section 12. Section 15-31-701, MCA, is amended to read:

"15-31-701. Department of revenue -- special duties for transmitting corporation license tax revenues collected from banks or savings and loan associations to counties. (1) Within 30 days after receiving corporation license tax returns and payments from banks or savings and loan associations, the department of revenue shall transmit to the county treasurer of the county in which the business is located the revenues calculated under 15-31-702(1)(b).

(2) If the department of revenue determines, under the provisions of 15-31-503 and 15-31-531, that a bank or savings and loan association owes more taxes than shown on the original return or has paid more than the tax, penalty, or interest due in any year, it shall notify the bank or savings and loan association pursuant to [section 1]. ~~Additional payment is due within 10 days after receipt of the final determination of taxes due. Review may be sought pursuant to [section 1].~~ County treasurers shall issue warrants for their portion of the overpayment received and interest, as provided in 15-31-531.

(3) The department shall continue to exercise all its duties and powers outlined in this title with respect to auditing returns and enforcing payment of the corporation license taxes owed by

banks and savings and loan associations. Any delinquent taxes collected from the sale of property of a bank or savings and loan association under the provisions of 15-31-525 shall be transmitted to the county in which the corporation owing the delinquent taxes is located. The only duties of the county treasurers in this regard are issuing refunds and distributing the taxes to local taxing jurisdictions."

Section 13. Section 15-35-112, MCA, is amended to read:

"15-35-112. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. ~~Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice~~

~~of--its-action-to-the-taxpayer~~ The taxpayer may seek review of the determination pursuant to [section 1].

~~(2) When-a-deficiency--is--determined--and--the--tax--becomes finally--the--department-shall-MAIL-a-notice-and-demand-for-payment to-the-taxpayer--The-tax-is-due-and-payable-at-the--expiration--of 10--days--from-the-date-of-such-notice-and-demand.~~ Interest on any deficiency assessment shall bear interest until paid at the rate of 1½ a month or fraction thereof, computed from the original due date of the return."

Section 14. Section 15-36-105, MCA, is amended to read:

"15-36-105. Statement to accompany payment -- records -- collection of tax -- refunds. (1) Each person shall, within 60 days after the end of each following quarter, complete on forms prescribed by the department of revenue a statement showing the total number of barrels of merchantable or marketable petroleum and other mineral or crude oil or cubic feet of natural gas produced or extracted by the person in the state during each month of the quarter and during the whole quarter, the average value of the production during each month, and the total value of the production for the whole quarter, together with the total amount due to the state as severance taxes and local government severance taxes for the quarter, and shall within such 60 days deliver the statement and, except as provided in 15-36-102(2) and 15-36-121, pay to the department the amount of the taxes shown by the statement to be due to the state for the quarter for which the

statement is made. The statement must be signed by the individual or the president, vice-president, treasurer, assistant treasurer, or managing agent in this state of the association, corporation, joint-stock company, or syndicate making the statement. Any person engaged in carrying on business at more than one place in this state or owning, leasing, controlling, or operating more than one oil or gas well in this state may include all operations in one statement. The department shall receive and file all statements and collect and receive from the person making and filing a statement the amount of tax payable by the person, if any, as appears in the statement.

(2) It is the duty of the department to examine each of the statements and compute the taxes thereon, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer making the statement for the quarter for which the statement is filed. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department ~~within-10-days~~ after written notice of the amount of the deficiency is mailed by the department to the taxpayer pursuant to [section 1]. The taxpayer may seek review of the department's determination pursuant to [section 1]. If the tax imposed is less than the amount paid, the difference must be applied as a credit against tax liability for subsequent quarters or refunded if there is no subsequent tax liability.

(3) If the tax is not paid on or before the due date, there

must be assessed a penalty of 10% of the amount of the tax, unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax under this chapter is not paid when due, interest must be added to the tax at the rate of 1% a month or fraction thereof, computed on the total amount of severance tax and penalty from the due date until paid."

Section 15. Section 15-36-113, MCA, is amended to read:

"15-36-113. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the

determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return.

Section 16. Section 15-37-110, MCA, is amended to read:

"15-37-110. Hearing on Review of determination of gross value of product or amount of tax. Every person whose license tax has been determined and assessed by the department of revenue under any of the provisions of this part who feels aggrieved by the determination and assessment of the department as to the amount of gross value of product or as to the amount of the license tax may seek review pursuant to [section 1]. at any time within 10 days after the receipt of the required notice of such determination and assessment, file with the state tax appeal board a petition for a hearing, in which petition must be stated the grounds and reasons therefor and the manner in which the amount of the gross value of product or the amount of the license tax, or both, should be changed or corrected. Upon the filing of such petition, if it appears to the satisfaction of the state tax appeal board therefrom that the department has erred in any manner in ascertaining and determining the amount of the gross value of

product or the amount of the license tax, or both, the board shall immediately correct such error or errors, and if such correction is in conformity with the request contained in the petition for a hearing, the board shall take no further steps in connection with such petition other than to notify the department of the correct amount of the license tax due from such person after the making of such correction and notifying such person thereof. If from such examination it does not appear to the satisfaction of the state tax appeal board that the department has erred in any manner, the board shall grant the hearing, fix a day when the board will take up and hear such matter, and give notice to such person of such date of hearing as the board considers reasonable. At the hearing of such petition, any taxpayer interested and the department may introduce witnesses and present testimony on any material matters connected with such return and license tax, and after considering such evidence the board shall fix and determine the gross value of product and reassess the amount of the license tax to be paid by such person and give notice thereof to such person and the department."

Section 17. Section 15-37-114, MCA, is amended to read:

"15-37-114. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within

30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 18. Section 15-37-210, MCA, is amended to read:

"15-37-210. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a

return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30-days-after-mailing-of-the-notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 19. Section 15-38-110, MCA, is amended to read:

"15-38-110. Deficiency assessment -- hearing review --

interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30-days-after-mailing-of-the-notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 20. Section 15-51-109, MCA, is amended to read:

"15-51-109. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within ~~30-days-after-mailing-of-the-notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer.~~ The taxpayer may seek review of the determination pursuant to [section 1].

(2) ~~When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate~~

of 1% a month or fraction thereof, computed from the original due date of the return."

Section 21. Section 15-53-105, MCA, is amended to read:

"15-53-105. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within ~~30-days-after-mailing-of-the-notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer.~~ The taxpayer may seek review of the determination pursuant to [section 1].

(2) ~~When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of~~

~~10--days--from--the--date--of--such--notice--and--demand; Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."~~

Section 22. Section 15-55-106, MCA, is amended to read:

~~"15-55-106. Appeals Review and--refunds. (1) Any--such A freight line company or railroad company, on or before June 1 of the year in which the tax herein-imposed has been paid, may file written-complaint-with-the-state--tax--appeal--board seek review pursuant to [section 1] concerning the correctness of the rate used or the correctness of the amount of the tax imposed or any other matter affecting the complainant under the provisions of this chapter.~~

~~{2}--Upon-filing-such-complaint,--the-state--tax--appeal--board shall--set--the--same--for--hearing--and--shall-give-written-notice thereof-to-the-complainant-at-least-10-days-before--the--date--set for--hearing--thereon;--Upon-the-hearing-of-any-such-complaint,--the state-tax-appeal-board-shall-take-testimony-to--determine--whether the--amount--of--the--tax,--as--computed--and--determined--by--the department--of-revenue,--is-greater-than-the-general-ad-valorem-tax for-all-purposes-would-be-on-the-cars-of-such-freight-line-company subject-to-taxation-in-Montana-if-assessed--and--taxed--on--an--ad valorem-basis,--in-such-cases-the-state-tax-appeal-board-shall-have the--power--and--it--shall-be-its-duty-to-lower-or-raise-the-rates herein-specified-to-conform-to-the-facts-disclosed-at-such-hearing~~

~~and-to-make-the-amount-of--the--tax--due--equivalent--to--such--ad valorem--tax,--if--the-state-tax-appeal-board-shall-then-determine that-the-amount-of-the-tax-imposed-and--collected--was--excessive, the--claimant--shall-be-entitled-to-a-refund-to-the-extent-of-such excess-~~

~~{3}--Within-6-months-after-such--determination,--the--claimant may--present--to--the--department--a--sworn-claim-for-such-refund, setting-forth-the-amount-thereof;--The-state-auditor-shall-draw-his warrant-upon-the-state-treasurer-for-the-amount-of-such-claim,--and the-same-shall-be-paid-in-the-same-manner-as-other-claims--against the-state-are-paid;~~

~~{4}{2} In order to determine the amount of tax such a freight line company would pay, the department may value all cars of any such the company as a unit and allocate to Montana that proportion of the total value which the Montana car mileage bears to the total car mileage of the cars of any-such the freight line company during the 12-month period ending December 31 of the preceding year and may then apply to such that value the average total rate of all general property taxes levied for the preceding year by the taxing authorities of the state, counties, school districts, municipalities, and other taxing subdivisions for state, county, school and municipal, and other purposes."~~

Section 23. Section 15-58-110, MCA, is amended to read:

~~"15-58-110. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the~~

amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30--days--after--mailing-of-the-notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 24. Section 15-59-112, MCA, is amended to read:

"15-59-112. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, as provided in [section 1], of the additional tax proposed to be assessed. Within 30--days--after--mailing-of-the-notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due

date of the return."

Section 25. Section 15-59-212, MCA, is amended to read:

"15-59-212. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. ~~Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer.~~ The taxpayer may seek review of the determination pursuant to [section 1].

(2) ~~When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand.~~ Interest on any

deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 26. Section 15-65-115, MCA, is amended to read:

"15-65-115. Failure to pay or file -- penalty -- review -- interest. (1) An owner or operator of a facility who fails to file the report as required by 15-65-112 must be assessed a penalty of 2% of the tax that should have been collected during the calendar quarter. Upon a showing of good cause, the department of revenue may waive the penalty.

(2) An owner or operator of a facility who fails to make payment or fails to report and make payment as required by 15-65-112 must be assessed a penalty of 2% of the amount that was not paid. Upon a showing of good cause, the department may waive the penalty.

(3) If an owner or operator of a facility fails to file the report required by 15-65-112 or if the department of revenue determines that the report understates the amount of tax due, the department may determine the amount of the tax due and assess that amount against the owner or operator. The provisions of [section 1] apply to any assessment by the department of revenue. The taxpayer may seek review of the assessment pursuant to [section 1].

(4) The amount required to be paid under 15-65-112 accrues interest at the rate of 1% a month or part thereof from

delinquency until paid."

Section 27. Section 69-1-225, MCA, is amended to read:

"69-1-225. Computation and collection of fee in absence of statement -- penalty and interest. (1) If a regulated company or an officer or employee of a regulated company fails, neglects, or refuses to file the statement required by 69-1-223(2), the department of revenue may after the time for filing has expired proceed to inform itself, as best it may, regarding the regulated company's gross operating revenue from all activities regulated by the commission within the state for the calendar quarter, quarters, or portion thereof and may determine and fix the amount of the consumer counsel fee due.

(2) The department may add to the amount of the fee computed under subsection (1), in addition to any other penalty provided by law, a penalty of 10% thereof plus interest at the rate of 1% per month or fraction of month computed on the total amount of fee and penalty. Interest is computed from the date the fee is due to the date of payment.

(3) The department of revenue shall mail to the regulated company a letter notice, pursuant to [section 1], setting forth the amount of the fee, penalty, and interest ~~and--notifying--the company--that--payment-of-the-full-amount-of-the-fee, penalty, and interest must--be--remitted--within--15--days--of--the--regulated company's receipt-of-the-letter, otherwise a lien may be filed.~~ The taxpayer may seek review of the department's action pursuant

to [section 1].

(4) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to file the statement is provided to the department."

Section 28. Section 69-1-226, MCA, is amended to read:

"69-1-226. Failure to pay fee -- penalty and interest -- collection of fee. (1) If a regulated company or an officer or employee of a regulated company files the statement required by 69-1-223(2) but fails, neglects, or refuses to pay the fee due within the time required, the department of revenue may after the time for payment has expired add to the fee due, in addition to any other penalty provided by law, a penalty of 10% thereof plus interest at the rate of 1% per month or fraction of month computed on the total amount of the fee and penalty. Interest is computed from the date the fee is due to the date of payment.

(2) The department of revenue shall mail to the regulated company a letter notice, pursuant to [section 1], setting forth the amount of the fee, penalty, and interest ~~and--notifying--the company--that--payment-of-the-full-amount-of-the-fee, penalty, and interest must--be--remitted--within--15--days--of--the--regulated company's receipt-of-the-letter, otherwise a warrant for distraint may be filed.~~ The taxpayer may seek review of the department's action pursuant to [section 1].

(3) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to make

payment is provided to the department."

Section 29. **Repealer.** Section 15-55-107, MCA, is repealed.

Section 30. **Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [section 1].

Section 31. **Applicability.** [This act] applies to requests for refunds received by and the notices of additional tax issued by the department of revenue pursuant to [section 1] after December 31, 1991.

Section 32. **Effective dates.** (1) For the purposes of promulgating administrative rules to administer [this act], [section 1] is effective on passage and approval.

(2) The remainder of [this act] is effective October 1, 1991.