

1 HOUSE BILL NO. 19
2 INTRODUCED BY MARKS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOCATE THE DUTIES
5 OF CONDUCTING ADMINISTRATIVE TAX CASE HEARINGS BETWEEN THE
6 DEPARTMENT OF REVENUE AND THE STATE TAX APPEAL BOARD;
7 SPECIFYING PROCEDURES IN APPEALS FROM COUNTY TAX APPEAL
8 BOARD DECISIONS AND FROM DEPARTMENT DECISIONS; ABOLISHING
9 PROCEDURES INCONSISTENT THEREWITH; AMENDING SECTIONS
10 67-2220, 67-2221, 84-603, 84-709, 84-711, 84-1841,
11 84-4923.1, 84-5606.24, AND 84-5606.25, R.C.M. 1947;
12 REPEALING SECTIONS 84-440, 84-602, 84-609, AND 84-710,
13 R.C.M. 1947."

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

16 Section 1. Section 84-709, R.C.M. 1947, is amended to
17 read as follows:

18 "84-709. Appeal to state tax appeal board — hearing.
19 [1] Any person, firm, or corporation or the department of
20 revenue in behalf of the state, or any municipal
21 corporation, aggrieved by the action of any county tax
22 appeal board, may appeal to the state board by filing with
23 the county tax appeal board a notice of appeal, and a
24 duplicate thereof with the state board, within ~~ten~~ (10) days
25 after the receipt of the decision of the county board, which

1 notice shall specify the action complained of and the
2 reasons assigned for such complaint. The state board shall
3 set such appeal for hearing either in its office in the
4 ~~capital~~ capital or such county seat as the board ~~shall deem~~
5 considers advisable to facilitate the performance of its
6 duties or to accommodate parties in interest, and shall give
7 to the appellant and to the county board at least ~~five~~ (5)
8 days' notice of the time and place of such hearing.

9 [2] ~~at~~ At the time of giving such notice the state
10 board may require the county board to certify to it the
11 minutes of the proceedings resulting in such action and all
12 testimony taken in connection therewith, and the state board
13 may, in its discretion, determine the appeal on such record
14 if all parties receive a copy of the transcript and are
15 permitted to submit additional sworn statements, or the
16 state board may hear further testimony. For the purpose of
17 expediting its work the state board may refer any such
18 appeal to one ~~(4)~~ of its members, and the person so
19 designated shall have and exercise all the powers of the
20 board in conducting such hearings, and shall, as soon as
21 possible thereafter, report the proceedings, together with a
22 transcript of the testimony received, to the board, and the
23 state board shall determine such appeal on the record so
24 made.

25 [3] On all hearings at county seats throughout the

1 state, the state board or the member designated to conduct a
2 hearing may employ the local court reporter or other
3 competent stenographer to take and transcribe the testimony
4 received, and the cost thereof may be paid out of the
5 general appropriation for the board.

6 (4) In connection with any appeal under this section
7 the state board shall not be bound by common law and
8 statutory rules of evidence or rules of discovery and shall
9 have the authority to may affirm, reverse, or modify any
10 decision appealable to the state tax appeal board; the The
11 decision of the state tax appeal board shall be final and
12 binding upon all interested parties unless reversed or
13 modified by judicial review. To the extent this section is
14 in conflict with the Montana Administrative Procedure Act,
15 this section shall supersede that act the ~~Montana~~
16 ~~Administrative Procedure Act~~. The state tax appeal board
17 shall may not have authority to amend or repeal any
18 administrative rule or regulation of the department of
19 revenue. The state tax appeal board must give an
20 administrative rule or regulation full effect unless the
21 board finds any such rule or regulation arbitrary,
22 capricious, or otherwise unlawful."

23 Section 2. There is a new R.C.M. section that reads as
24 follows:

25 Direct appeal from department decision to state tax

1 appeal board — hearing. (1) A person may appeal to the
2 state tax appeal board any action of the department of
3 revenue involving:

4 (a) property centrally assessed under chapters 8, 9,
5 13, 54, 62, or 64 of this title;

6 (b) classification of property as new industrial
7 property;

8 (c) any other tax (other than the property tax)
9 imposed under this title; or

10 (d) any other matter in which such appeal is provided
11 by law.

12 (2) The appeal is made by filing a complaint with the
13 board within 30 days following receipt of notice of the
14 department action. The complaint shall set forth the grounds
15 for relief and nature of relief demanded. The board shall
16 immediately transmit a copy of the complaint to the
17 department.

18 (3) The department shall file with the board an answer
19 within 30 days following filing of a complaint, and at such
20 time mail a copy to the complainant. The answer shall set
21 forth the department's response to each ground for and type
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4 valuation. No reduction ~~must~~ may be made in the valuation
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6 makes and files with the county tax appeal board on or
7 before the third Monday of July, a written application
8 therefor. ~~Said~~ The application shall state the post-office
9 address of the applicant, shall specifically describe the
10 property involved, and shall state the facts upon which it
11 is claimed such reduction should be made. ~~The department of~~
12 ~~revenue shall, however, have the right to raise or lower the~~
13 ~~valuation of all of one class of property in a county, as~~
14 ~~provided in the preceding section [84-602]."~~

15 Section 4. Section 84-711, R.C.M. 1947, is amended to
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17 "84-711. Assessment of omitted property -- limitation.
18 (1) Whenever the state department of revenue shall, in any
19 year, ~~discover~~ discovers that any taxable property of any
20 person has ~~not been assessed in such year, or that it has~~
21 ~~been omitted from taxation during any previous year or~~
22 ~~years, the department may assess the same for such year or~~
23 ~~for such previous years. The order making the assessment~~
24 ~~shall contain the name of the person to whom the property is~~
25 ~~assessed, a general description of such property, its~~

1 ~~assessed valuation, the year for which it is assessed and~~
2 ~~the county in which the same is assessed, a copy of such~~
3 ~~order shall be transmitted to the officer of the county, in~~
4 ~~whose possession the assessment books of such county are at~~
5 ~~the time of the making of such order by the department, and~~
6 ~~such officer shall immediately after receiving such copy,~~
7 ~~enter the assessment on the tax books of the county for the~~
8 ~~year in which such order is made, and thereupon such~~
9 ~~assessment shall have the same force and effect as though~~
10 ~~originally made by its agent; provided, however, that before~~
11 ~~making any such assessment the state department of revenue~~
12 ~~shall give the person to whom such property is proposed to~~
13 ~~be assessed, notice of its intention to make such~~
14 ~~assessment, and the time and place when a hearing will be~~
15 ~~had thereon; such notice to be given either by registered~~
16 ~~letter or personal service at least ten days before the date~~
17 ~~so fixed for such hearing; and provided further that all~~
18 ~~assessments of omitted property must be made within three~~
19 ~~years after the end of the calendar year in which the same~~
20 ~~should have been assessed. escaped assessment, has been~~
21 ~~erroneously assessed, or has been omitted from taxation, the~~
22 ~~department may assess the same, provided the property is~~
23 ~~under the ownership or control of the same person who owned~~
24 ~~or controlled it at the time it escaped assessment, was~~
25 ~~erroneously assessed, or was omitted from taxation. All such~~

1 revised assessments must be made within 10 years after the
 2 end of the calendar year in which the original assessment
 3 was or should have been made.

4 (2) Whenever the department or its agent proposes to
 5 increase the valuation of locally assessed property above
 6 the value reported by the taxpayer under 84-409, the action
 7 of the department is subject to the notice and conference
 8 provisions of this section.

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

16 (b) An assessment revision review conference is not a
 17 contested case as defined in the Montana Administrative
 18 Procedure Act. The department shall keep minutes of each
 19 assessment review conference in writing, which are public
 20 records.

21 (c) Following an assessment review conference or
 22 expiration of opportunity therefor, the department shall
 23 order such assessment as it considers proper. Any party to
 24 the conference aggrieved by the action of the department may
 25 appeal directly to the state tax appeal board within 30 days

1 or, if the property is locally assessed, may appeal to the
 2 county tax appeal board at its next meeting.

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

8 Section 5. Section 84-1841, R.C.M. 1947, is amended to
 9 read as follows:

10 "84-1841. Judicial review and appeals. Any
 11 determination of the department ~~hereunder~~ under this chapter
 12 or chapter 63 may be reviewed by appealed to the state tax
 13 appeal board which may, upon the record of a hearing,
 14 affirm, modify, or reverse the decision of the department.
 15 Any party aggrieved by the decision of the board may
 16 petition for judicial review by the district court of Lewis
 17 and Clark ~~county~~ County, and an appeal may be taken from the
 18 judgment of said ~~the~~ district court to the supreme court."

19 Section 6. Section 84-4923.1, R.C.M. 1947, is amended
 20 to read as follows:

21 "84-4923.1. Review by court. (1) The determination of
 22 the state ~~department of revenue tax appeal board~~ may be
 23 reviewed in the district court for Lewis and Clark ~~county~~
 24 County or the county in which the taxpayer resides or has
 25 his principal office or place of business, by a complaint

1 filed by the taxpayer ~~against~~ or the state department of
 2 revenue within ~~six~~ (6) months after the receipt of notice of
 3 the decision of the state ~~department of revenue~~ tax appeal
 4 board. ~~Upon the serving of summons upon the state department~~
 5 ~~of revenue as in civil action, the cause shall proceed as~~
 6 ~~other civil cases. Service upon the state department of~~
 7 ~~revenue may be made by serving one copy upon the director of~~
 8 ~~the department of revenue. Proceedings for review shall be~~
 9 ~~otherwise as specified under the Montana Administrative~~
 10 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 ~~shall~~ may be made, begun, or prosecuted until ~~sixty~~
 15 (90) days after such court action is finally determined.
 16 From any determination of such court, an appeal to the
 17 supreme court may be taken by either party."

18 Section 7. Section 84-5606.24, R.C.M. 1947, is amended
 19 to read as follows:

20 "84-5606.24. Hearing or rehearing before state tax
 21 appeal board. Any person aggrieved by any action of the
 22 department or its duly authorized agents, under the
 23 provisions of this act, may apply to the state tax appeal
 24 board, in writing, for a hearing or rehearing thereon within
 25 ~~thirty~~ (30) days after such action of the department or its

1 authorized agents. The board shall promptly consider such
 2 application, set same for hearing and notify the applicant
 3 of the time and place fixed for such hearing or rehearing,
 4 which may be at its office or in the county of the
 5 applicant. After such hearing or rehearing, the board may
 6 make any further or other order in the premises, as it may
 7 deem proper and lawful and shall furnish a copy thereof to
 8 the applicant. The department, on its own initiative, may
 9 order a contested case hearing on any matter concerned with
 10 licensing (as defined in 82-4202) in connection with the
 11 administration of this act, upon at least ~~ten~~ (10) days'
 12 notice in writing to the person or persons to be
 13 investigated."

14 Section 8. Section 84-5606.25, R.C.M. 1947, is amended
 15 to read as follows:

16 "84-5606.25. Appeal to district court ~~notice of~~
 17 ~~appeal perfecting appeal within thirty days bond hearing~~
 18 ~~date~~. Any person aggrieved by any action or decision of the
 19 department, state tax appeal board or a licensing decision
 20 of the department made under the provisions of this act, may
 21 appeal therefrom to the district court ~~of the county where~~
 22 ~~appellant resides, which appeal shall be taken by notice of~~
 23 ~~appeal in writing, setting forth the actions or decisions of~~
 24 ~~the department, of which the appellant is aggrieved. Such~~
 25 ~~appeal shall be perfected within thirty (30) days after~~

1 ~~notice of any action or decision of the department, and~~
 2 ~~shall be taken by serving a notice of appeal upon the~~
 3 ~~department and filing the same with the clerk of said court,~~
 4 ~~together with a good and sufficient bond to the state of~~
 5 ~~Montana. The condition of such bond shall be to the effect~~
 6 ~~that appellant agrees to prosecute said appeal diligently,~~
 7 ~~and if the court shall finally decide that the state is~~
 8 ~~entitled to judgment, that appellant will pay the amount~~
 9 ~~thereof together with costs of such appeal. The bond shall~~
 10 ~~be in the form required by law and in such an amount as the~~
 11 ~~court may require. The notice of appeal shall be signed by~~
 12 ~~the appellant or his attorney, and the matter appealed shall~~
 13 ~~be heard upon ten (10) days' notice given by either party,~~
 14 ~~unless a different time is specified by the court. Said~~
 15 ~~district court may grant such relief as the law and the~~
 16 ~~facts in the premises require in accordance with the Montana~~
 17 ~~Administrative Procedure Act.~~"

18 Section 9. Section 67-2220, R.C.M. 1947, is amended to
 19 read as follows:

20 "67-2220. Determination of claims. ~~(a) (1)~~ The state
 21 department of revenue shall consider any claim filed under
 22 this act and ~~may issue a written determination of the claim.~~
 23 An aggrieved claimant may appeal to the state tax appeal
 24 board, which shall hold a hearing and receive evidence
 25 concerning ~~it~~ the claim. If a hearing is held, the

1 ~~department board~~ shall prepare a finding and a decision in
 2 writing on each claim filed, stating the substance of any
 3 evidence heard by the ~~department~~ board and the reasons for
 4 the ~~department's~~ board's decision. The decision shall be a
 5 public record.

6 ~~(b) (2)~~ If the claim is allowed, the state department
 7 of revenue shall make payment forthwith. The claim shall be
 8 paid without deduction for costs of notices or sale or for
 9 service charges."

10 Section 10. Section 67-2221, R.C.M. 1947, is amended
 11 to read as follows:

12 "67-2221. Judicial action upon determination. Any
 13 person aggrieved by a decision of the state ~~department of~~
 14 ~~revenue tax appeal board~~ or as to whose claim the department
 15 has failed to act within ~~ninety (90)~~ days after the filing
 16 of the claim, may commence an action in the district court
 17 of Lewis and Clark ~~county~~ County to establish his claim. The
 18 proceeding shall be brought within ~~ninety (90)~~ days after
 19 the decision of the state ~~department of revenue tax appeal~~
 20 board or within ~~one hundred eighty (180)~~ days from the
 21 filing of the claim if the department fails to act. The
 22 action shall be tried de novo without a jury."

23 Section 11. Repealer. Sections 84-440, 84-602, 84-609,
 24 and 84-710, R.C.M. 1947, are repealed.

-End-

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ROSE WEBER
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PAMELA DUENSING
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Montana Legislative Council

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DIRECTOR, RESEARCH

LC0016

1977 Legislature
Code Commissioner Bill - Summary

House Bill No. 19

TO ALLOCATE THE DUTIES OF CONDUCTING ADMINISTRATIVE TAX
CASE HEARINGS, ETC.

(This summary does not include discussion of routine form
or grammatical changes.) Summary by Roger Tippy.

Once upon a time, the entities involved in setting and collecting property taxes were known as the assessor, the board of county commissioners, and the state board of equalization. In 1973, references to all these entities in the tax statutes were rather mechanically changed to "department of revenue" or "state tax appeal board" without much attention to the resultant administrative structure. For instance, the assessor (in 84-440), the county commissioners (in 84-609), and the state board of equalization (in 84-711) each had authority to assess property which had escaped assessment. The procedures and limits on the authority of each differed, as their respective offices differed. Yet each reference was changed to "department of revenue" in 1973. The department has its choice among 3 code sections when it assesses omitted property now.

The statutes also reflect confusion as to the timing of a formal adjudicatory hearing in taxpayer-department disputes. While the state tax appeal board (STAB) is generally recognized as the formal hearing board for such cases, a number of sections call for hearings within the department. The APA's contested case provisions apply to these department hearings, which entails formality and an effort to develop a full record. Yet STAB maintains its duty is to develop a full record; consequently the department hearing is wasted time for all parties.

This represents an effort to rationalize administrative procedures in tax disputes upon the premises that (1) the department would have a single procedure for revising assessments and inserting omitted assessments, with opportunity for an informal conference at the department followed by a formal hearing before STAB, and (2) appeal procedure would be spelled out in cases going directly from department to STAB, i.e., not via the county tax appeal boards. These cases comprehend centralized utility

and mine assessments, Class 7 determinations, and all non-property tax matters.

Analysis of the bill:

Section 1. 84-709. Amendment in (4) emphasizes informality of appeals from county appeal board decisions and clarifies STAB's power to adopt its own rules of practice and procedure.

Section 2. New section, outlining separate procedure for direct appeals from department to STAB. Contested case procedures of Montana APA would apply to these appeals without the exemptions created for cases coming from county boards.

Section 3. 84-603. Amendment deletes reference to provision in 84-602 (which is to be repealed) dealing with old power of county commissioners to reduce the assessment ratio on an entire class of property in the county. Now, legislature has enacted standard assessment ratios for realty and department handles assessment ratios for personalty under notice and hearing rule making proceedings.

Section 4. 84-711. Amendment basically establishes new procedure for revising assessments. 10-year "statute of limitations" parallels 10-year limit on collecting personal property taxes enacted in 1975. Under old law, 3-year limit applied to state board of equalization while no time limit was set on assessor's revision authority.

Subsection (2) replaces first paragraph of 84-710, which as presently worded is at odds with reality. This says the department, "before making any change in the assessment of any property" must schedule a hearing on the change and send notice to the taxpayer by certified mail. Read literally, this applies to every automobile assessment every year, since the value changes in the blue book, with depreciation, every year. What the law covered before '73 (state board changing assessor's values) would be expressed again under the proposed language, i.e., those items like livestock and farm machinery valued from reports filed by the taxpayer are covered when the department revises the value from the reported figure.

Subsection (3) replaces the formal hearing procedures set out in 84-609, 84-710, and 84-711 with standard requirements for notice, conference, department action after conference, and appeals from that action.

Subsection (4) provides for response in the county courthouse to an order revising an assessment.

Section 5. 84-1841. Shifts formal hearings and judicial review thereof in gasoline tax cases from department to STAB.

Section 6. 84-4923.1. Shifts formal hearings and judicial review thereof in income tax cases from department to STAB.

Section 7. 84-5606.24. Recognizes department hearings in any cigarette vendor case involving licensing qualifications rather than revenue.

Section 8. 84-5606.25. Provides for judicial review of STAB decision in cigarette tax case or of department decision if case involves licensing rather than revenue.

Section 9. 67-2220. Shifts formal hearing under Abandoned Property statutes from department to STAB.

Section 10. 67-2221. Shifts judicial review of formal hearings in abandoned property disputes from department decision to STAB decision.

Section 11. Repeals:

84-440, authorizing department to assess at any time property which is discovered to have escaped assessment.

84-602, authorizes department to increase or lower assessments to equalize and match true value, upon notice and hearing, and to change the assessment ratio of an entire class within a county.

84-609, authorizes department to direct assessor to list any property which had escaped assessment and to revise assessments, and directs county clerk to notify all interested parties.

84-710, requires department to send notice by certified mail before revising any assessment, requires department to hold hearing before changing assessment ratio of any class within a county.

Approved by Committee
in Taxation

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SECOND READING

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3 ~~order shall be transmitted to the officer of the county, in~~
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1 revised assessments must be made within 10 years after the
 2 end of the calendar year in which the original assessment
 3 was or should have been made.

4 (2) Whenever the department or its agent proposes to
 5 increase the valuation of locally assessed property above
 6 the value reported by the taxpayer under 84-409, the action
 7 of the department is subject to the notice and conference
 8 provisions of this section.

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

16 (b) An assessment revision review conference is not a
 17 contested case as defined in the Montana Administrative
 18 Procedure Act. The department shall keep minutes of each
 19 assessment review conference in writing, which are public
 20 records.

21 (c) Following an assessment review conference or
 22 expiration of opportunity therefor, the department shall
 23 order such assessment as it considers proper. Any party to
 24 the conference aggrieved by the action of the department may
 25 appeal directly to the state tax appeal board within 30 days

1 or, if the property is locally assessed, may appeal to the
 2 county tax appeal board at its next meeting.

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

8 Section 5. Section 84-1841, R.C.M. 1947, is amended to
 9 read as follows:

10 "84-1841. Judicial review and appeals. Any FINAL
 11 WRITTEN determination of BY the department DIRECTOR
 12 hereunder under this chapter or chapter 63 may be reviewed
 13 by appealed to the state tax appeal board which may, upon
 14 the record of a hearing, affirm, modify, or reverse the
 15 decision of the department. Any party aggrieved by the
 16 decision of the board may petition for judicial review by
 17 the district court of Lewis and Clark county County, and an
 18 appeal may be taken from the judgment of said the district
 19 court to the supreme court."

20 Section 6. Section 84-4523.1, R.C.M. 1947, is amended
 21 to read as follows:

22 "84-4923.1. Review by court. (1) The determination of
 23 the state department of revenue tax appeal board may be
 24 reviewed in the district court for Lewis and Clark county
 25 County or the county in which the taxpayer resides or has

1 his principal office or place of business, by a complaint
 2 filed by the taxpayer ~~against or~~ the state department of
 3 revenue within ~~six~~ (6) months after the receipt of notice of
 4 the decision of the state ~~department of revenue~~ tax appeal
 5 board. ~~Upon the serving of summons upon the state department~~
 6 ~~of revenue as in civil action, the cause shall proceed as~~
 7 ~~other civil cases. Service upon the state department of~~
 8 ~~revenue may be made by serving one copy upon the director of~~
 9 ~~the department of revenue. Proceedings for review shall be~~
 10 ~~otherwise as specified under the Montana Administrative~~
 11 ~~Procedure Act.~~

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

19 Section 7. Section 84-5606.24, R.C.M. 1947, is amended
 20 to read as follows:

21 "84-5606.24. Hearing or rehearing before state tax
 22 appeal board. Any person aggrieved by any action of the
 23 department or its duly authorized agents, under the
 24 provisions of this act, may apply to the state tax appeal
 25 board, in writing, for a hearing or rehearing thereon within

1 ~~thirty~~ (30) days after such action of the department or its
 2 authorized agents. The board shall promptly consider such
 3 application, set same for hearing and notify the applicant
 4 of the time and place fixed for such hearing or rehearing,
 5 which may be at its office or in the county of the
 6 applicant. After such hearing or rehearing, the board may
 7 make any further or other order in the premises, as it may
 8 deem proper and lawful and shall furnish a copy thereof to
 9 the applicant. The department, on its own initiative, may
 10 order a contested case hearing on any matter concerned with
 11 licensing (as defined in 82-4202) in connection with the
 12 administration of this act, upon at least ~~ten~~ (10) days'
 13 notice in writing to the person or persons to be
 14 investigated."

15 Section 8. Section 84-5606.25, R.C.M. 1947, is amended
 16 to read as follows:

17 "84-5606.25. Appeal to district court ~~notice of~~
 18 ~~appeal perfecting appeal within thirty days bond hearing~~
 19 ~~date~~. Any person aggrieved by any action or decision of the
 20 department, state tax appeal board or a licensing decision
 21 of the department made under the provisions of this act, may
 22 appeal therefrom to the district court ~~of the county where~~
 23 ~~appellant resides, which appeal shall be taken by notice of~~
 24 ~~appeal in writing, setting forth the actions or decisions of~~
 25 ~~the department, of which the appellant is aggrieved. Such~~

1 ~~appeal shall be perfected within thirty (30) days after~~
 2 ~~notice of any action or decision of the department, and~~
 3 ~~shall be taken by serving a notice of appeal upon the~~
 4 ~~department and filing the case with the clerk of said court,~~
 5 ~~together with a good and sufficient bond to the state of~~
 6 ~~Montana. The condition of such bond shall be to the effect~~
 7 ~~that appellant agrees to prosecute said appeal diligently,~~
 8 ~~and if the court shall finally decide that the state is~~
 9 ~~entitled to judgment, that appellant will pay the amount~~
 10 ~~thereof together with costs of such appeal. The bond shall~~
 11 ~~be in the form required by law and in such an amount as the~~
 12 ~~court may require. The notice of appeal shall be signed by~~
 13 ~~the appellant or his attorney, and the matter appealed shall~~
 14 ~~be heard upon ten (10) days' notice given by either party,~~
 15 ~~unless a different time is specified by the court. Said~~
 16 ~~district court may grant such relief as the law and the~~
 17 ~~facts in the premises require in accordance with the Montana~~
 18 Administrative Procedure Act."

19 Section 9. Section 67-2220, R.C.M. 1947, is amended to
 20 read as follows:

21 "67-2220. Determination of claims. ~~(a) (1)~~ The state
 22 department of revenue shall consider any claim filed under
 23 this act and ~~may issue a written determination of the claim.~~
 24 An aggrieved claimant may appeal to the state tax appeal
 25 board, which shall hold a hearing and receive evidence

1 concerning ~~it~~ the claim. If a hearing is held, the
 2 ~~department board~~ shall prepare a finding and a decision in
 3 writing on each claim filed, stating the substance of any
 4 evidence heard by the ~~department board~~ and the reasons for
 5 the ~~department's board's~~ decision. The decision shall be a
 6 public record.

7 ~~(b) (2)~~ If the claim is allowed, the state department
 8 of revenue shall make payment forthwith. The claim shall be
 9 paid without deduction for costs of notices or sale or for
 10 service charges."

11 Section 10. Section 67-2221, R.C.M. 1947, is amended
 12 to read as follows:

13 "67-2221. Judicial action upon determination. Any
 14 person aggrieved by a decision of the state ~~department of~~
 15 ~~revenue tax appeal board~~ or as to whose claim the ~~department~~
 16 BOARD has failed to act within ~~sixty (60)~~ days after the
 17 filing of the claim, may commence an action in the district
 18 court of Lewis and Clark ~~county County~~ to establish his
 19 claim. The proceeding shall be brought within ~~sixty (60)~~
 20 days after the decision of the state ~~department of revenue~~
 21 tax appeal board or within ~~one hundred eighty (180)~~ days
 22 from the filing of the claim if the ~~department BOARD~~ fails
 23 to act. The action shall be tried de novo without a jury."

24 Section 11. Repealer. Sections 84-440, 84-602, 84-609,
 25 and 84-710, R.C.M. 1947, are repealed.

-End-

1 HOUSE BILL NO. 19
 2 INTRODUCED BY MARKS
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOCATE THE DUTIES
 5 OF CONDUCTING ADMINISTRATIVE TAX CASE HEARINGS BETWEEN THE
 6 DEPARTMENT OF REVENUE AND THE STATE TAX APPEAL BOARD;
 7 SPECIFYING PROCEDURES IN APPEALS FROM COUNTY TAX APPEAL
 8 BOARD DECISIONS AND FROM DEPARTMENT DECISIONS; ABOLISHING
 9 PROCEDURES INCONSISTENT THEREWITH; AMENDING SECTIONS
 10 67-2220, 67-2221, 84-603, 84-709, 84-711, 84-1841,
 11 84-4923.1, 84-5606.24, AND 84-5606.25, R.C.M. 1947;
 12 REPEALING SECTIONS 84-440, 84-602, 84-609, AND 84-710,
 13 R.C.M. 1947."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 Section 1. Section 84-709, R.C.M. 1947, is amended to
 17 read as follows:
 18 "84-709. Appeal to state tax appeal board — hearing.
 19 (1) Any person, firm, or corporation or the department of
 20 revenue in behalf of the state, or any municipal
 21 corporation, aggrieved by the action of any county tax
 22 appeal board, may appeal to the state board by filing with
 23 the county tax appeal board a notice of appeal, and a
 24 duplicate thereof with the state board, within ~~ten~~ (10) days
 25 after the receipt of the decision of the county board, which

1 notice shall specify the action complained of and the
 2 reasons assigned for such complaint. The state board shall
 3 set such appeal for hearing either in its office in the
 4 ~~capital~~ capital or such county seat as the board ~~shall deem~~
 5 considers advisable to facilitate the performance of its
 6 duties or to accommodate parties in interest, and shall give
 7 to the appellant and to the county board at least ~~five~~ (5)
 8 days' notice of the time and place of such hearing.
 9 (2) ~~At~~ At the time of giving such notice the state
 10 board may require the county board to certify to it the
 11 minutes of the proceedings resulting in such action and all
 12 testimony taken in connection therewith, and the state board
 13 may, in its discretion, determine the appeal on such record
 14 if all parties receive a copy of the transcript and are
 15 permitted to submit additional sworn statements, or the
 16 state board may hear further testimony. For the purpose of
 17 expediting its work the state board may refer any such
 18 appeal to one ~~(4)~~ of its members, and the person so
 19 designated shall have and exercise all the powers of the
 20 board in conducting such hearings, and shall, as soon as
 21 possible thereafter, report the proceedings, together with a
 22 transcript of the testimony received, to the board, and the
 23 state board shall determine such appeal on the record so
 24 made.
 25 (3) On all hearings at county seats throughout the

1 state, the state board or the member designated to conduct a
 2 hearing may employ the local court reporter or other
 3 competent stenographer to take and transcribe the testimony
 4 received, and the cost thereof may be paid out of the
 5 general appropriation for the board.

6 (4) In connection with any appeal under this section
 7 the state board shall not be bound by common law and
 8 statutory rules of evidence or rules of discovery and shall
 9 ~~have the authority to~~ may affirm, reverse, or modify any
 10 decision ~~appealable to the state tax appeal board; the,~~ The
 11 decision of the state tax appeal board shall be final and
 12 binding upon all interested parties unless reversed or
 13 modified by judicial review. To the extent this section is
 14 in conflict with the Montana Administrative Procedure Act,
 15 this section shall supersede ~~that act the Montana~~
 16 ~~Administrative Procedure Act.~~ The state tax appeal board
 17 shall may not ~~have authority to~~ amend or repeal any
 18 administrative rule ~~or regulation of the department of~~
 19 revenue. The state tax appeal board must give an
 20 administrative rule ~~or regulation~~ full effect unless the
 21 board finds any such rule ~~or regulation~~ arbitrary,
 22 capricious, or otherwise unlawful."

23 Section 2. There is a new R.C.M. section that reads as
 24 follows:

25 Direct appeal from department decision to state tax

1 appeal board — hearing. (1) A person may appeal to the
 2 state tax appeal board any action of the department of
 3 revenue involving:

4 (a) property centrally assessed under chapters 8, 9,
 5 13, 5A, 62, or 64 of this title;

6 (b) classification of property as new industrial
 7 property;

8 (c) any other tax (other than the property tax)
 9 imposed under this title; or

10 (d) any other matter in which such appeal is provided
 11 by law.

12 (2) The appeal is made by filing a complaint with the
 13 board within 30 days following receipt of notice of the
 14 department action. The complaint shall set forth the grounds
 15 for relief and nature of relief demanded. The board shall
 16 immediately transmit a copy of the complaint to the
 17 department.

18 (3) The department shall file with the board an answer
 19 within 30 days following filing of a complaint, and at such
 20 time mail a copy to the complainant. The answer shall set
 21 forth the department's response to each ground for and type
 22 of relief demanded in the complaint.

23 (4) The board shall thereafter hear the parties in
 24 accordance with the contested case provisions of the Montana
 25 Administrative Procedure Act.

1 Section 3. Section 84-603, R.C.M. 1947, is amended to
 2 read as follows:

3 "84-603. Application for reduction in ~~valuations~~
 4 valuation. No reduction ~~must~~ may be made in the valuation
 5 of property unless the party affected ~~thereby~~, or his agent,
 6 makes and files with the county tax appeal board on or
 7 before the third Monday of July, a written application
 8 therefor. ~~Said~~ The application shall state the post-office
 9 address of the applicant, shall specifically describe the
 10 property involved, and shall state the facts upon which it
 11 is claimed such reduction should be made. ~~The department of~~
 12 ~~revenue shall, however, have the right to raise or lower the~~
 13 ~~valuation of all of one class of property in a county, as~~
 14 ~~provided in the preceding section [84-602]."~~

15 Section 4. Section 84-711, R.C.M. 1947, is amended to
 16 read as follows:

17 "84-711. Assessment of omitted property -- limitation.
 18 [1] Whenever the state department of revenue shall, in any
 19 year, discover ~~discovers~~ that any taxable property of any
 20 person has ~~not been assessed in such year, or that it has~~
 21 ~~been omitted from taxation during any previous year or~~
 22 ~~years, the department may assess the same for such year or~~
 23 ~~for such previous years. The order making the assessment~~
 24 ~~shall contain the name of the person to whom the property is~~
 25 ~~assessed, a general description of such property, its~~

1 ~~assessed valuation, the year for which it is assessed and~~
 2 ~~the county in which the case is assessed. A copy of such~~
 3 ~~order shall be transmitted to the officer of the county, in~~
 4 ~~whose possession the assessment books of such county are at~~
 5 ~~the time of the making of such order by the department, and~~
 6 ~~such officer shall immediately after receiving such copy,~~
 7 ~~enter the assessment on the tax books of the county for the~~
 8 ~~year in which such order is made, and thereupon such~~
 9 ~~assessment shall have the same force and effect as though~~
 10 ~~originally made by its agent; provided, however, that before~~
 11 ~~making any such assessment the state department of revenue~~
 12 ~~shall give the person to whom such property is proposed to~~
 13 ~~be assessed, notice of its intention to make such~~
 14 ~~assessment, and the time and place when a hearing will be~~
 15 ~~had thereon; such notice to be given either by registered~~
 16 ~~letter or personal service at least ten days before the date~~
 17 ~~so fixed for such hearing; and provided further that all~~
 18 ~~assessments of omitted property must be made within three~~
 19 ~~years after the end of the calendar year in which the same~~
 20 ~~should have been assessed. escaped assessment, has been~~
 21 ~~erroneously assessed, or has been omitted from taxation, the~~
 22 ~~department may assess the same, provided the property is~~
 23 ~~under the ownership or control of the same person who owned~~
 24 ~~or controlled it at the time it escaped assessment, was~~
 25 ~~erroneously assessed, or was omitted from taxation. All such~~

1 revised assessments must be made within 10 years after the
 2 end of the calendar year in which the original assessment
 3 was or should have been made.

4 (2) Whenever the department or its agent proposes to
 5 increase the valuation of locally assessed property above
 6 the value reported by the taxpayer under 84-409, the action
 7 of the department is subject to the notice and conference
 8 provisions of this section.

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

16 (b) An assessment revision review conference is not a
 17 contested case as defined in the Montana Administrative
 18 Procedure Act. The department shall keep minutes of each
 19 assessment review conference in writing, which are public
 20 records.

21 (c) Following an assessment review conference or
 22 expiration of opportunity therefor, the department shall
 23 order such assessment as it considers proper. Any party to
 24 the conference aggrieved by the action of the department may
 25 appeal directly to the state tax appeal board within 30 days

1 or, if the property is locally assessed, may appeal to the
 2 county tax appeal board at its next meeting.

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

8 Section 5. Section 84-1841, R.C.M. 1947, is amended to
 9 read as follows:

10 "84-1841. Judicial review and appeals. Any FINAL
 11 WRITTEN determination ~~of~~ BY the ~~department~~ DIRECTOR OF THE
 12 DEPARTMENT ~~hereunder~~ under this chapter or chapter 63 may be
 13 ~~reviewed by~~ appealed to the state tax appeal board which
 14 may, upon the record of a hearing, affirm, modify, or
 15 reverse the decision of the department. Any party aggrieved
 16 by the decision of the board may petition for judicial
 17 review by the district court of Lewis and Clark ~~county~~
 18 County, and an appeal may be taken from the judgment of said
 19 the district court to the supreme court."

20 Section 6. Section 84-4923.1, R.C.M. 1947, is amended
 21 to read as follows:

22 "84-4923.1. Review by court. (1) The determination of
 23 the state ~~department of revenue~~ tax appeal board may be
 24 reviewed in the district court for Lewis and Clark ~~county~~
 25 County or the county in which the taxpayer resides or has

1 his principal office or place of business, by a complaint
 2 filed by the taxpayer against ~~or~~ the state department of
 3 revenue within ~~six~~ (6) months after the receipt of notice of
 4 the decision of the state department of revenue tax appeal
 5 board. ~~Upon the serving of summons upon the state department~~
 6 ~~of revenue as in civil action, the cause shall proceed as~~
 7 ~~other civil cases. Service upon the state department of~~
 8 ~~revenue may be made by serving one copy upon the director of~~
 9 ~~the department of revenue. Proceedings for review shall be~~
 10 otherwise as specified under the Montana Administrative
 11 Procedure Act.

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

19 Section 7. Section 84-5606.24, R.C.M. 1947, is amended
 20 to read as follows:

21 "84-5606.24. Hearing or rehearing before state tax
 22 appeal board. Any person aggrieved by any action of the
 23 department or its duly authorized agents, under the
 24 provisions of this act, may apply to the state tax appeal
 25 board, in writing, for a hearing or rehearing thereon within

1 ~~thirty~~ (30) days after such action of the department or its
 2 authorized agents. The board shall promptly consider such
 3 application, set same for hearing and notify the applicant
 4 of the time and place fixed for such hearing or rehearing,
 5 which may be at its office or in the county of the
 6 applicant. After such hearing or rehearing, the board may
 7 make any further or other order in the premises, as it may
 8 deem proper and lawful and shall furnish a copy thereof to
 9 the applicant. The department, on its own initiative, may
 10 order a contested case hearing on any matter concerned with
 11 licensing (as defined in 82-4202) in connection with the
 12 administration of this act, upon at least ~~ten~~ (10) days'
 13 notice in writing to the person or persons to be
 14 investigated."

15 Section 8. Section 84-5606.25, R.C.M. 1947, is amended
 16 to read as follows:

17 "84-5606.25. Appeal to district court ~~notice of~~
 18 ~~appeal perfecting appeal within thirty days head hearing~~
 19 ~~date.~~ Any person aggrieved by any action or decision of the
 20 department, state tax appeal board or a licensing decision
 21 of the department made under the provisions of this act, may
 22 appeal therefrom to the district court ~~of the county where~~
 23 ~~appellant resides, which appeal shall be taken by notice of~~
 24 ~~appeal in writing, setting forth the actions or decisions of~~
 25 ~~the department, of which the appellant is aggrieved. Such~~

~~1 appeal shall be perfected within thirty (30) days after
 2 notice of any notice or decision of the department, and
 3 shall be taken by serving a notice of appeal upon the
 4 department and filing the case with the clerk of said court,
 5 together with a good and sufficient bond to the state of
 6 Montana. The condition of such bond shall be to the effect
 7 that appellant agrees to prosecute said appeal diligently,
 8 and if the court shall finally decide that the state is
 9 entitled to judgment, that appellant will pay the amount
 10 thereof together with costs of such appeal. The bond shall
 11 be in the form required by law and in such an amount as the
 12 court may require. The notice of appeal shall be signed by
 13 the appellant or his attorney, and the matter appealed shall
 14 be heard upon ten (10) days' notice given by either party,
 15 unless a different time is specified by the court. Said
 16 district court may grant such relief as the law and the
 17 facts in the premises require in accordance with the Montana
 18 Administrative Procedure Act."~~

19 Section 9. Section 67-2220, R.C.M. 1947, is amended to
 20 read as follows:

21 "67-2220. Determination of claims. ~~(a)~~ (1) The state
 22 department of revenue shall consider any claim filed under
 23 this act and ~~may issue a written determination of the claim.~~
 24 An aggrieved claimant may appeal to the state tax appeal
 25 board, which shall hold a hearing and receive evidence

1 concerning ~~it~~ the claim. If a hearing is held, the
 2 department board shall prepare a finding and a decision in
 3 writing on each claim filed, stating the substance of any
 4 evidence heard by the department board and the reasons for
 5 the department's board's decision. The decision shall be a
 6 public record.

7 ~~(b)~~ (2) If the claim is allowed, the state department
 8 of revenue shall make payment forthwith. The claim shall be
 9 paid without deduction for costs of notices or sale or for
 10 service charges."

11 Section 10. Section 67-2221, R.C.M. 1947, is amended
 12 to read as follows:

13 "67-2221. Judicial action upon determination. Any
 14 person aggrieved by a decision of the state department of
 15 ~~revenue tax appeal board~~ or as to whose claim the department
 16 BOARD has failed to act within ~~ninety (90)~~ days after the
 17 filing of the claim, may commence an action in the district
 18 court of Lewis and Clark ~~county~~ County to establish his
 19 claim. The proceeding shall be brought within ~~ninety (90)~~
 20 days after the decision of the state department of revenue
 21 tax appeal board or within ~~one hundred eighty (180)~~ days
 22 from the filing of the claim if the department BOARD fails
 23 to act. The action shall be tried de novo without a jury."

24 Section 11. Repealer. Sections 84-440, 84-602, 84-609,
 25 and 84-710, R.C.M. 1947, are repealed.

March 15, 1977

STANDING COMMITTEE REPORT
Senate Committee on Taxation

That House Bill No. 19 be amended as follows:

1. Amend page 3, section 1, line 8.

Following: "discovery"

Insert: "unless the taxpayer demands that either or both of the
rules of discovery or evidence apply"

1 HOUSE BILL NO. 19
 2 INTRODUCED BY MARKS
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOCATE THE DUTIES
 5 OF CONDUCTING ADMINISTRATIVE TAX CASE HEARINGS BETWEEN THE
 6 DEPARTMENT OF REVENUE AND THE STATE TAX APPEAL BOARD;
 7 SPECIFYING PROCEDURES IN APPEALS FROM COUNTY TAX APPEAL
 8 BOARD DECISIONS AND FROM DEPARTMENT DECISIONS; ABOLISHING
 9 PROCEDURES INCONSISTENT THEREWITH; AMENDING SECTIONS
 10 67-2220, 67-2221, 84-603, 84-709, 84-711, 84-1841,
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 12 REPEALING SECTIONS 84-440, 84-602, 84-609, AND 84-710,
 13 R.C.M. 1947."
 14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 Section 1. Section 84-709, R.C.M. 1947, is amended to
 17 read as follows:
 18 "84-709. Appeal to state tax appeal board -- hearing.
 19 (1) Any person, firm, or corporation or the department of
 20 revenue in behalf of the state, or any municipal
 21 corporation, aggrieved by the action of any county tax
 22 appeal board, may appeal to the state board by filing with
 23 the county tax appeal board a notice of appeal, and a
 24 duplicate thereof with the state board, within ~~ten~~(10) days
 25 after the receipt of the decision of the county board, which

1 notice shall specify the action complained of and the
 2 reasons assigned for such complaint. The state board shall
 3 set such appeal for hearing either in its office in the
 4 ~~capitol~~ capital or such county seat as the board ~~shall deem~~
 5 considers advisable to facilitate the performance of its
 6 duties or to accommodate parties in interest, and shall give
 7 to the appellant and to the county board at least ~~five~~(5)
 8 days' notice of the time and place of such hearing.
 9 (2) ~~at~~ At the time of giving such notice the state
 10 board may require the county board to certify to it the
 11 minutes of the proceedings resulting in such action and all
 12 testimony taken in connection therewith, and the state board
 13 may, in its discretion, determine the appeal on such record
 14 if all parties receive a copy of the transcript and are
 15 permitted to submit additional sworn statements, or ~~the~~
 16 state board may hear further testimony. For the purpose of
 17 expediting its work the state board may refer any such
 18 appeal to one ~~(1)~~ of its members, and the person so
 19 designated shall have and exercise all the powers of the
 20 board in conducting such hearings, and shall, as soon as
 21 possible thereafter, report the proceedings, together with a
 22 transcript of the testimony received, to the board, and the
 23 state board shall determine such appeal on the record so
 24 made.
 25 (3) On all hearings at county seats throughout the

1 state, the state board or the member designated to conduct a
 2 hearing may employ the local court reporter or other
 3 competent stenographer to take and transcribe the testimony
 4 received, and the cost thereof may be paid out of the
 5 general appropriation for the board.

6 ~~(4)~~ In connection with any appeal under this section
 7 the state board ~~shall not be bound by common law and~~
 8 ~~statutory rules of evidence or rules of discovery and shall~~
 9 ~~have the authority to~~ may affirm, reverse, or modify any
 10 decision ~~appealable to the state tax appeal board; the. The~~
 11 decision of the state tax appeal board shall be final and
 12 binding upon all interested parties unless reversed or
 13 modified by judicial review. To the extent this section is
 14 in conflict with the Montana Administrative Procedure Act,
 15 this section shall supersede ~~that act the--Montana~~
 16 ~~Administrative--Procedure--Act.~~ The state tax appeal board
 17 ~~shall may not have--authority--to~~ amend or repeal any
 18 administrative rule ~~or--regulation of the department of~~
 19 ~~revenue.~~ The state tax appeal board must give an
 20 administrative rule ~~or--regulation~~ full effect unless the
 21 board finds any such rule ~~or--regulation~~ arbitrary,
 22 capricious, or otherwise unlawful."

23 Section 2. There is a new R.C.M. section that reads as
 24 follows:

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 2 state tax appeal board any action of the department of
 3 revenue involving:

4 (a) property centrally assessed under chapters 8, 9,
 5 13, 54, 62, or 64 of this title;

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 7 property;

8 (c) any other tax (other than the property tax)
 9 imposed under this title; or

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 11 by law.

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 13 board within 30 days following receipt of notice of the
 14 department action. The complaint shall set forth the grounds
 15 for relief and nature of relief demanded. The board shall
 16 immediately transmit a copy of the complaint to the
 17 department.

18 (3) The department shall file with the board an answer
 19 within 30 days following filing of a complaint, and at such
 20 time mail a copy to the complainant. The answer shall set
 21 forth the department's response to each ground for and type
 22 of relief demanded in the complaint.

23 (4) The board shall thereafter hear the parties in
 24 accordance with the contested case provisions of the Montana
 25 Administrative Procedure Act.

1 Section 3. Section 84-603, R.C.M. 1947, is amended to
2 read as follows:

3 "84-603. Application for reduction in valuations
4 valuation. No reduction ~~must~~ may be made in the valuation
5 of property unless the party affected ~~thereby~~, or his agent
6 makes and files with the county tax appeal board on or
7 before the third Monday of July a written application
8 therefor. ~~Said~~ The application shall state the post-office
9 address of the applicant, shall specifically describe the
10 property involved, and shall state the facts upon which it
11 is claimed such reduction should be made. ~~The department of~~
12 ~~revenue shall, however, have the right to raise or lower the~~
13 ~~valuation of all of one class of property in a county as~~
14 ~~provided in the preceding section [84-602]."~~

15 Section 4. Section 84-711, R.C.M. 1947, is amended to
16 read as follows:

17 "84-711. Assessment of omitted property -- limitation.
18 (1) whenever the state department of revenue ~~shall~~ in any
19 year ~~discover~~ discovers that any taxable property of any
20 person has ~~not been assessed in such year or that it has~~
21 ~~been omitted from taxation during any previous year or~~
22 ~~years, the department may assess the same for such year or~~
23 ~~for such previous years. The order making the assessment~~
24 ~~shall contain the name of the person to whom the property is~~
25 ~~assessed, a general description of such property, its~~

1 ~~assessed valuation, the year for which it is assessed and~~
2 ~~the county in which the same is assessed. A copy of such~~
3 ~~order shall be transmitted to the officer of the county in~~
4 ~~whose possession the assessment books of such county are at~~
5 ~~the time of the making of such order by the department and~~
6 ~~such officer shall immediately after receiving such copy~~
7 ~~enter the assessment on the tax books of the county for the~~
8 ~~year in which such order is made, and thereupon such~~
9 ~~assessment shall have the same force and effect as though~~
10 ~~originally made by its agents, provided, however, that before~~
11 ~~making any such assessment the state department of revenue~~
12 ~~shall give the person to whom such property is proposed to~~
13 ~~be assessed, notice of its intention to make such~~
14 ~~assessment, and the time and place when a hearing will be~~
15 ~~had thereon; such notice to be given either by registered~~
16 ~~letter or personal service at least ten days before the date~~
17 ~~so fixed for such hearing; and provided further that all~~
18 ~~assessments of omitted property must be made within three~~
19 ~~years after the end of the calendar year in which the same~~
20 ~~should have been assessed. escaped assessment, has been~~
21 ~~erroneously assessed, or has been omitted from taxation, the~~
22 ~~department may assess the same, provided the property is~~
23 ~~under the ownership or control of the same person who owned~~
24 ~~or controlled it at the time it escaped assessment, was~~
25 ~~erroneously assessed, or was omitted from taxation. All such~~

1 revised assessments must be made within 10 years after the
 2 end of the calendar year in which the original assessment
 3 was or should have been made.

4 (2) Whenever the department or its agent proposes to
 5 increase the valuation of locally assessed property above
 6 the value reported by the taxpayer under 84-409, the action
 7 of the department is subject to the notice and conference
 8 provisions of this section.

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

16 (b) An assessment revision review conference is not a
 17 contested case as defined in the Montana Administrative
 18 Procedure Act. The department shall keep minutes of each
 19 assessment review conference in writing, which are public
 20 records.

21 (c) Following an assessment review conference or
 22 expiration of opportunity therefor, the department shall
 23 order such assessment as it considers proper. Any party to
 24 the conference aggrieved by the action of the department may
 25 appeal directly to the state tax appeal board within 30 days

1 or, if the property is locally assessed, may appeal to the
 2 county tax appeal board at its next meeting.

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

8 Section 5. Section 84-1841, R.C.M. 1947, is amended to
 9 read as follows:

10 "84-1841. Judicial review and appeals. Any FINAL
 11 WRITTEN determination of BY the department DIRECTOR OF THE
 12 DEPARTMENT hereunder under this chapter or chapter 63 may be
 13 reviewed--by appealed to the state tax appeal board which
 14 may, upon the record of a hearing, affirm, modify, or
 15 reverse the decision of the department. Any party aggrieved
 16 by the decision of the board may petition for judicial
 17 review by the district court of Lewis and Clark county
 18 County, and an appeal may be taken from the judgment of said
 19 the district court to the supreme court."

20 Section 6. Section 84-4923.1, R.C.M. 1947, is amended
 21 to read as follows:

22 "84-4923.1. Review by court. (1) The determination of
 23 the state department-of-revenue tax appeal board may be
 24 reviewed in the district court for Lewis and Clark county
 25 County or the county in which the taxpayer resides or has

1 his principal office or place of business by a complaint
 2 filed by the taxpayer against ~~or~~ the state department of
 3 revenue within ~~six~~ {6} months after the receipt of notice of
 4 the decision of the state department-of-revenue tax appeal
 5 board. ~~Upon the serving of summons upon the state department~~
 6 ~~of revenue as in civil action, the cause shall proceed as~~
 7 ~~other civil cases. Service upon the state department of~~
 8 ~~revenue may be made by serving one copy upon the director of~~
 9 ~~the department of revenue. Proceedings for review shall be~~
 10 otherwise as specified under the Montana Administrative
 11 Procedure Act.

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

19 Section 7. Section 84-5606.24, R.C.M. 1947, is amended
 20 to read as follows:

21 "84-5606.24. Hearing or rehearing before state tax
 22 appeal board. Any person aggrieved by any action of the
 23 department or its duly authorized agents, under the
 24 provisions of this act, may apply to the state tax appeal
 25 board, in writing, for a hearing or rehearing thereon within

1 ~~thirty~~ {30} days after such action of the department or its
 2 authorized agents. The board shall promptly consider such
 3 application, set same for hearing and notify the applicant
 4 of the time and place fixed for such hearing or rehearing,
 5 which may be at its office or in the county of the
 6 applicant. After such hearing or rehearing, the board may
 7 make any further or other order in the premises, as it may
 8 deem proper and lawful and shall furnish a copy thereof to
 9 the applicant. The department, on its own initiative, may
 10 order a contested case hearing on any matter concerned with
 11 licensing (as defined in 82-4202) in connection with the
 12 administration of this act, upon at least ~~ten~~ {10} days'
 13 notice in writing to the person or persons to be
 14 investigated."

15 Section 8. Section 84-5606.25, R.C.M. 1947, is amended
 16 to read as follows:

17 "84-5606.25. Appeal to district court ~~notice of~~
 18 ~~appeal--perfecting appeal within thirty--days--bond--hearing~~
 19 ~~date.~~ Any person aggrieved by any action or decision of the
 20 department, state tax appeal board or a licensing decision
 21 of the department made under the provisions of this act, may
 22 appeal therefrom to the district court ~~of the--county--where~~
 23 ~~appellant--resides, which appeal shall be taken by notice of~~
 24 ~~appeal in writing, setting forth the actions or decisions of~~
 25 ~~the department, of which the appellant is aggrieved,--such~~

1 ~~appeal shall be perfected within thirty (30) days after~~
 2 ~~notice of any action or decision of the department and~~
 3 ~~shall be taken by serving a notice of appeal upon the~~
 4 ~~department and filing the same with the clerk of said court~~
 5 ~~together with a good and sufficient bond to the state of~~
 6 ~~Montana. The condition of such bond shall be to the effect~~
 7 ~~that appellant agrees to prosecute said appeal diligently~~
 8 ~~and if the court shall finally decide that the state is~~
 9 ~~entitled to judgment that appellant will pay the amount~~
 10 ~~thereof together with costs of such appeal. The bond shall~~
 11 ~~be in the form required by law and in such an amount as the~~
 12 ~~court may require. The notice of appeal shall be signed by~~
 13 ~~the appellant or his attorney, and the matter appealed shall~~
 14 ~~be heard upon ten (10) days' notice given by either party,~~
 15 ~~unless a different time is specified by the court. Said~~
 16 ~~district court may grant such relief as the law and the~~
 17 ~~facts in the premises require in accordance with the Montana~~
 18 ~~Administrative Procedure Act."~~

19 Section 9. Section 67-2220, R.C.M. 1947, is amended to
 20 read as follows:

21 "67-2220. Determination of claims. ~~(a)~~ (1) The state
 22 department of revenue shall consider any claim filed under
 23 this act and ~~may issue a written determination of the claim.~~
 24 An aggrieved claimant may appeal to the state tax appeal
 25 board, which shall hold a hearing and receive evidence

1 concerning ~~it~~ the claim. If a hearing is held, the
 2 department board shall prepare a finding and a decision in
 3 writing on each claim filed, stating the substance of any
 4 evidence heard by the department board and the reasons for
 5 the department's board's decision. The decision shall be a
 6 public record.

7 ~~(b)(2)~~ If the claim is allowed, the state department
 8 of revenue shall make payment forthwith. The claim shall be
 9 paid without deduction for costs of notices or sale or for
 10 service charges."

11 Section 10. Section 67-2221, R.C.M. 1947, is amended
 12 to read as follows:

13 "67-2221. Judicial action upon determination. Any
 14 person aggrieved by a decision of the state department of
 15 revenue tax appeal board or as to whose claim the department
 16 BOARD has failed to act within ~~ninety (90)~~ days after the
 17 filing of the claim, may commence an action in the district
 18 court of Lewis and Clark county County to establish his
 19 claim. The proceeding shall be brought within ~~ninety (90)~~
 20 days after the decision of the state department ~~of revenue~~
 21 tax appeal board or within ~~one hundred eighty (180)~~ days
 22 from the filing of the claim if the department BOARD fails
 23 to act. The action shall be tried de novo without a jury."

24 Section 11. Repealer. Sections 84-440, 84-602, 84-609,
 25 and 84-710, R.C.M. 1947, are repealed.