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made.

HOUSE BILL NO. 19 1 INTRODUCED BY MARKS 2 3 u A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOCATE THE DUTIES 5 OF CONDUCTING ADMINISTRATIVE TAX CASE BEARINGS BETWEEN THE DEPARTMENT OF REVENUE AND THE STATE TAX APPEAL BOARD: 7 SPECIFYING PROCEDURES IN APPEALS FROM COUNTY TAX APPEAL BOARD DECISIONS AND FROM DEPARTMENT DECISIONS: ABOLISHING PROCEDURES INCONSISTENT THEREWITH: AMENDING SECTIONS 67-2220. 67-2221. 84-603. 84-709. 84-711. 84-1841. 10 11 84-4923.1, 84-5606.24, AND 84-5606.25, R.C.H. 1947; 12 REPEALING SECTIONS 84-440, 84-602, 84-609, AND 84-710, 13 R.C.M. 1947.\* 14 15 BE IT EMACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 16 Section 1. Section 84-709, R.C.B. 1947, is amended to 17 read as follows: 18 \*84-709. Appeal to state tax appeal board - hearing. (1) Any person, firm, or corporation or the department of 19 revenue in behalf of the state, or any municipal 20 21 corporation, aggrieved by the action of any county tax appeal board, may appeal to the state board by filing with 22 23 the county tax appeal board a notice of appeal, and a 24 duplicate thereof with the state board, within tea-(10) days after the receipt of the decision of the county board, which

3 set such appeal for hearing either in its office in the sapitel capital or such county seat as the board shall does considers advisable to facilitate the performance of its 5 duties or to accommodate parties in interest, and shall give 7 to the appellant and to the county board at least five (5)days' notice of the time and place of such hearing+. (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 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 permitted to submit additional sworm statements, or the 15 16 state board may hear further testimony. For the purpose of 17 expediting its work the state board may refer any such appeal to one (1) of its members, and the person so 18 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

notice shall specify the action complained of and the

reasons assigned for such complaint. The state board shall

transcript of the testimony received, to the board, and the

state board shall determine such appeal on the record so

(3) On all hearings at county seats throughout the

LC 0016/01

LC 0016/01

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

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[4] In connection with any appeal under this section the state board shall not be bound by common law and statutory rules of evidence or rules of discovery and shall have the authority to may affirm, reverse, or modify any decision appealable to the state tag appeal board; the. The decision of the state tax appeal board shall be final and binding upon all interested parties unless reversed or modified by judicial review. To the extent this section is in conflict with the Montana Administrative Procedure Act. this section shall supersede that act the sentana Administrative Procedure Act. The state tax appeal board shall may not have authority to amend or repeal any administrative rule or regulation of the department of revenue. The state tax appeal board must give an administrative rule or regulation full effect unless the board finds any such rule er-regulation arbitrary, 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

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

- (a) property centrally assessed under chapters 8, 9, 13, 54, 62, or 64 of this title;
- (b) classification of property as new industrialproperty;
- 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 provided11 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.

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LC 0016/01 LC 0016/01

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

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

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

\*84-711. Assessment of omitted property — limitation.

(1) Whenever the state department of revenue shall, in any year, discover discovers that any taxable property of any person has not been assessed in such year, or that it has been emitted from taxation during any provious year or years, the department may assess the same for such year or for such provious years. The order making the assessment shall contain the name of the person to when the property its 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 whose -- possession-the-assessent-books of such county-are at 5 the time-of the making of such ender by the department, and such officer shall inacdiately after receiving such copy, enter the accompant on the tax books of the county for the For in which such order is made, and theremone such assessment-shall have the same force and offset as though 10 originally sade by its agent; provided, hevever, that before 11 saking any such assessment the state department of revenue 12 shall give the person to whom such property is - proposed to 13 be-assessedy notice of its intention to make such 14 assessment, and the time and place when a hearing will be 15 had thereast -- such -- action to be given cither 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 assessments -- of - ositted - property sust be sade within three 19 rears after the end-of the calendar year in which - the - same 20 should have been assessed, escaped assessment, has been 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

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#84-1841. Judicial

to read as follows:

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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 84-409, the action

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

of the department is subject to the notice and conference

provisions of this section.

(b) In assessment revision review conference is not a contested case as defined in the Montana Administrative Procedure Act. The department shall keep minutes of each assessment review conference in writing, 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) 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,"

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

review

Section 6. Section 84-4923.1, R.C.H. 1947, is amended

and

appeals.

Any

determination of the department bereamder under this chapter
or chapter 63 may be reviewed by appealed to the state tax
appeal board which may, upon the record of a hearing,
affirm, modify, or reverse the decision of the department.
have party aggrieved by the decision of the board may
petition for judicial review by the district court of Lewis
and Clark county, and an appeal may be taken from the
judgment of said the district court to the supreme court."

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

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LC 0016/01

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revenue within six (6) months after the receipt of notice of the decision of the state department of revenue tax appeal hoard. Upon the serving of sussess upon the state department of revenue as in civil action, the state department of revenue as in civil action, the state department of revenue as in civil action, the state department of revenue any be made by serving one depy upon the director of the department of revenue. Proceedings for review shall be otherwise as specified under the Montana Administrative Procedure Act.

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(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 shall may be made, begun, or prosecuted until minety 490, days after such court action is finally determined. Prom any determination of such court, an appeal to the 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:

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

authorized agents. The board shall promptly consider such application. set same for hearing and notify the applicant 3 of the time and place fixed for such hearing or rehearing. which may be at its office or in the county of the 5 applicant. After such hearing or rehearing, the board may make any further or other order in the premises, as it may 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 licensing (as defined in 82-4202) in connection with the 11 administration of this act, upon at least tea. (10) days' 12 notice in writing to the person or persons to be investigated." 14 Section 8. Section 84-5606.25. R.C.E. 1947. is amended 15 to read as follows: \*84-5606.25. Appeal to district court-potice of

16 17 appoal--porfesting--appoal 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 of the department made under the provisions of this act, may 21 appeal therefrom to the district court of the county where 22 appollant residen, which appeal shall be taken by notice of 23 appeal is writing, setting forth the actions or decisions of 24 the department, of which the appellant is aggricuod. Such 25 appeal shall be perfected within thirty (30) days after

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2	shall be taken by serving a sotion of appeal upon the
3	dopartsont and filing the same with the clock of said court,
4	togother with a good and sufficient bond to the state of
5	Montana. The condition of such bend shall be to the effect
6	that appellant agrees to prosecute said appeal diligently,
7	and if the court chall finally decide that the state is
8	ontitled to judgment, that appoliant will pay the amount
9	thereof together with seats of such appeal. The boad shall
10	bo in the form required by law and in such an amount as the
11	ocurt may require. The action of appeal shall be signed by
12	the appellant or his atterney, and the matter appealed shall
13	be heard upon ben (10) days newice given by either party,
14	talons a different time is specified by the courty Said
15	district coart may grant such relief as the law and the
16	facts in the promises 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	m67-2220. Determination of claims. (a) (1) The state
21	department of revenue shall consider any claim filed under
22	this act and way 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

actice of any action or decision of the department, and

department board shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by the department board and the reasons for the department's board's decision. The decision shall be a cublic record. (b) (2) If the claim is allowed, the state department of revenue shall make payment forthwith. The claim shall be paid without deduction for costs of notices or sale or for service charges." Section 10. Section 67-2221, R.C.B. 1947, is amended to read as follows: #67-2221. Judicial action upon determination. Any person aggrieved by a decision of the state department of revenue tax appeal board or as to whose claim the department has failed to act within minety (90) days after the filing of the claim, may commence an action in the district court of Lewis and Clark county County to establish his claim. The proceeding shall be brought within minety (90) days after the decision of the state department of revenue tax appeal board or within one hundred eighty (180) days from the filing of the claim if the department fails to act. The action shall be tried de novo without a jury." Section 11. Repealer. Sections 84-440, 84-602, 84-609,

and 84-710. R.C.M. 1947, are repealed.

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EXECUTIVE DIRECTOR
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ADMINISTRATIVE ASSISTANT

ROBERTA MOODY
SUPERVISOR, ALTER SYSTEM



## Montana Legislative Council State Capitol

Helena, 59601

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CODE COMMISSIONER

ROBERT PERSON 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 equali-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. <u>67-2221</u>. 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 discovers 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.

45th Legislature HE 0C19/02 BE 0C19/02

Approved by Committee on Taxation

1 HOUSE BILL NG. 19
2 INTRODUCED BY MARKS

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A PILL POR AN ACT ENTITLED: "AN ACT TO ALLOCATE THE CUTIES OF CONDUCTING ADMINISTRATIVE TAX CASE HEARINGS BETWEEN THE DEPARTMENT OF REVENUE AND THE STATE TAX APPEAL BOARD; SPECIFYING PROCEDURES IN APPEALS PROF COUNTY TAX APPEAL BOARD DEPARTMENT DECISIONS; ABCLISHING PROCEDURES INCONSISTENT THERENITH; AMENDING SECTIONS 67-2220, 67-2221, 64-603, 84-709, 84-711, 84-1841, 84-4923.1, 84-5606.24, AND 84-5606.25, R.C.E. 1947; REFERLING SECTIONS 84-440, 84-602, 84-609, AND 84-710, R.C.H. 1947."

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

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

#84-709. Appeal to state tax appeal board -- hearing.

[1] Any person, firm, or corporation or the department of revenue in behalf of the state, or any municipal corporation, aggrieved by the action of any county tax appeal board, may appeal to the state board by filing with the county tax appeal board a notice of appeal, and a duplicate thereof with the state board, within \*en-(10) days after the receipt of the decision of the county board, which

notice shall specify the action complained of and the reasons assigned for such complaint. The state board shall set such appeal for hearing either in its office in the <u>sapital</u> or such county seat as the board <u>shall-deem</u> <u>considers</u> advisable to facilitate the performance of its duties or to accommodate parties in interest, and shall give to the appellant and to the county board at least <u>five</u> (5) days notice of the time and place of such hearing;

(2) at At the time of giving such notice the state board may require the county board to certify to it the 10 minutes of the proceedings resulting in such action and all 11 testimony taken in connection therewith, and the state board 12 may, in its discretion, determine the arreal on such record 13 14 if all parties receive a copy of the transcript and are 15 permitted to submit additional sworn statements, or the state board may bear further testimony. For the purpose of 17 expediting its work the state board may refer any such 19 appeal to one (4) of its members, and the person so designated shall have and exercise all the powers of the 20 toard in conducting such hearings, and shall, as seen as 21 possible thereafter, report the proceedings, together with a 22 transcript of the testimony received, to the board, and the state brand shall determine such appeal on the record so 2.3 2.0 made.

25 (3) On all bearings at county seats throughout the

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state, the state board or the member designated to conduct a hearing may employ the local court reporter or other competent stemographer to take and transcribe the testimony received, and the cost thereof may be gaid out of the general appropriation for the board.

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[4] In connection with any appeal under this section the state board shall not be bound by common law and statutory rules of evidence or rules of discovery and shall have the authority to may affirm, reverse, or modify any decision appealable to the state tax appeal beard; the. The decision of the state tax appeal board shall be final and binding upon all interested parties unless reversed or modified by judicial review. To the extent this section is in conflict with the Montana Administrative Procedure Act. this section shall supersede that act the --- Bentana Administrative--Procedure--Act. The state tax appeal board chall may not have authority to amend or repeal any administrative rule or regulation of the department of revenue. The state tax appeal board must give an administrative rule of requiation full effect unless the board finds any such rule or -- regulation arbitrary, 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

-3-

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

6 (t) 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 provided11 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 toard 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
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23 (4) The board shall thereafter hear the parties in 24 accordance with the contested case provisions of the Bontana 25 Administrative Procedure Act. HE 0019/02 RE CC19/02

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

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\*84-603. Application for reduction in \*alvations valuation. No reduction \*\*set \*\*say\* be \*\*nade\* in the \*valuation of property unless the party affected \*\*thereby\*, or his agent\*, makes and files with the county tax appeal board on or before the third \*\*Monday\* of July\*, a \*\*written application therefor. \*\*Said \*\*Ihe\*\* application shall state the post-office address of the applicant, shall specifically describe the property involved, and shall state the facts upon which it is claimed such reduction should be \*\*nade.\*\* The department of revenue shall\*, however, have the right to raise or lever the valuation of all of one class of property in a county, accorded in the preceding section [84-602]\*\*

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assessed-valuation, the fear for which it -- is -- assessed -- and the-county-is-which the-same-is-aggeged, 1-converted 3 order-phall-be-transmitted-to-the-officer-of-the-county---in the time of the making of cuch order by the desartment, - and such -- officer--chall--immediately-after-receiving-such cory, 7 enter-the-ascessment-on-the-tas-becks-of-the-scunty-for--the Year -- in--which--such--order--ic--hade, -- and--therewoon-such 9 assessment-shall-have-the-same-force-and--effect--ac--though 10 originally-made-by-itc-agent;-providedy-howevery-that-tefore 11 waking--any--such-assessent-the-state-department-of-revenue 12 shall-give-the-person-to-whom-guck-property-is--respectd--to 13 be---acsecsedy---notice---of--its--istestics--to--sake--such 14 ascessment, and the time and place when a - bearing - will - be had -- thereen: -- such -- notice-to-be-given-either-by-registered 16 letter-cr-personal-cervice-at-least-ton-days-before-the-date 17 so-fixed-for-cush-bearing;-and-provided--further--that--all 18 accessaents--of--omitted--property-must-be-made-within-three 19 yearg-after-the-end-of-the-calendar-year-in-which--the--case 2.0 ehould-have-been-assessed- escaped assessent, has been 2.1 erroneously assessed, or has been cuitted from taxation, the department may assess the same, provided the property is 2.3 under the cyneishic or control of the same person who cynea ž or controlled it at the time it escaped assessment, was erroneously assessed, or year oranted from taxation. All such

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

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

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(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 hoard within 10 days cr, if the property is locally assessed, may appeal to the

county tax appeal board at its pext meeting.

3 (4) 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 7 entry shall be canceled upon order of the department."

Section 5. Section 84-1841, R.C.M. 1947, is arended to

9 read as follows:

10 \*84-1841. Judicial review and appeals. Any FINAL 11 WRITIEN determination of BY the department DIRECTOR horewader 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, acdify, or reverse the 15 decision of the department. Any party aggrieved by the 16 decision of the board may retition for judicial review by the district court of Lewis and Clark county County, and an 17 appeal may be taken from the judgment of said the district 18 19 court to the supreme court."

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

#84-4923.1. Beview 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

-7-**SF 19** HF 19 -8HB 0019/02 HE 0019/02

his principal office or place of business, by a complaint
filed by the tarpayer against or the state department of
revenue within six-(6) months after the receipt of notice of
the decision of the state department of revenue tax appeal
board. Upon the serving of susmess upon the state department
of revenue as in sivil action, the sauce shall proceed as
other sivil cases. Service upon the state department of
revenue may be made by serving one copy upon the director of
the department of revenue. Proceedings for review shall be
otherwise as specified under the Montana Administrative

121 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 chall may be made, begun, or prosecuted until ninety (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."

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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 authorized agents. The board shall promptly consider such 3 application, set same for hearing and notify the applicant 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 toard may 7 make any further or other order in the premises, as it may В deem proper and lawful and shall furnish a copy thereof to 9 the applicant. The department, on its cwn initiative, may 10 order a contested case hearing on any matter concerned with 11 licensing (as defined in 82-4262) 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 investigated."

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

"84-5606.25. Appeal to district court—netice—of
appeal—perfecting appeal within thirty—days—bend—hearing
date. Any person aggrieved by any action or decision of the
department, state tax appeal board or a licensing decision
of the department made under the provisions of this act, may
appeal therefrom to the district court of the—county—where
appealant—resides, which appeal shall be taken by notice—of
appeal in writing, setting forth—the actions—of the department, of which—the appealant—is—aggrieved.—Such

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1 appeal--shall--be--perfected--within-thirty-(10)-days-after motion of any action or - decision of the decarteent. - and 3 chall-be-taken-by-serving-a-a-actice-of-acreal-upon-the dopartment and filing the same with the clesk of caid court, 5 togother-with-a-good-and-sufficient-bond--te--the--state--of 6 Hostera. -- The conditios of such bond shall be to the effect that-appellant-agrees-to-procesute-said--appeal--diligently, 8 and--if--the--court--chall--finally-decide-that-the-state-is 9 entitled-to-judgment,-that-appollant--will--pay--the--asount 10 thereof -- tegether -- with costs of such appeal. The boad-shall 11 be is the fors required by law and in each as accust ac the 12 sourt--may--sequire.-The-metice-of-appeal-shall-be-signed-by 13 the appollant or his attorney, and the matter appealed shall be-heard-woon-ton-(10)-days-notice-given-by-cither-sarty, 19 15 valore--a--different--time--is--specified-by-the-courty-Said district-court-may-grant-such-relief--as--the--law--and--the 16 17 facto is the presises require in accordance with the Sontana 18 Administrative Procedure Act." 19 Section 9. Section 67-2220, B.C.R. 1947, is amended to read as follows: 20 \*67-2220. Determination of claims. (a) [1] The state 21 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

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concerning it the claim. If a hearing is held, the 1 department hourd shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by the dopartment board and the reasons for the department\*s board\*s decision. The decision shall b∈ a public record. (b) (2) If the claim is allowed, the state department 7 of revenue shall make payment forthwith. The claim shall be paid without deduction for costs of notices or sale or for 9 10 service charges." Section 10. Section 67-2221, R.C.E. 1947, is amended 11 to read as follows: 12 \*67-2221. Judicial action upon determination. 13 person aggrieved by a decision of the state department of 14 revenue tax appeal board or as to whose claim the department 15 BOARD has failed to act within aimety-(9C) days after the 16 filing of the claim, may commence an action in the district 17 court of Lewis and Clark county County to establish his 18 claim. The proceeding shall be brought within mimety- (90) 19

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and 84-710, R.C.M. 1947, are repealed.

days after the decision of the state department -- ef -- revenue

tax appeal board or within one-hundred-eighty (180) days

from the filing of the claim if the department BOMBE fails

Section 11. Repealer. Sections 84-440, 84-602, 84-609,

to act. The action shall be tried de novo without a jury."

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45th Legislature HB 0019/03 HB 0019/03

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1 HOUSE BILL NO. 19
2 INTRODUCED BY BARKS

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

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

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

"84-709. Appeal to state tax appeal board — hearing.

(1) Any person, firm, or corporation or the department of revenue in behalf of the state, or any municipal corporation, aggrieved by the action of any county tax appeal board, may appeal to the state board by filing with the county tax appeal board a notice of appeal, and a duplicate thereof with the state board, within ten (10) days after the receipt of the decision of the county board, which

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

(2) at at the time of giving such notice the state board may require the county board to certify to it the winutes of the proceedings resulting in such action and all testimony taken in connection therewith, and the state board may, in its discretion, determine the appeal on such record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the state board may hear further testimony. For the purpose of expediting its work the state board may refer any such appeal to one 41) of its members, and the person so designated shall have and exercise all the powers of the board in conducting such hearings, and shall, as seen as possible thereafter, report the proceedings, together with a transcript of the testimony received, to the board, and the state board shall determine such appeal on the record so made.

25 (3) On all hearings at county seats throughout the

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state, the state board or the member designated to conduct a
hearing may employ the local court reporter or other
competent stenographer to take and transcribe the testimony
received, and the cost thereof may be paid out of the
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 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 beard; the, The 11 decision of the state tax appeal board shall be final and binding upon all interested parties unless reversed or 12 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 -- Sontana 16 Administrative - Procedure - Act. The state tax appeal board shall may not have-authority-to amend or repeal any 17 administrative rule or regulation of the department of 18 19 revenue. The state tax appeal board must give an 20 administrative rule or -- requiation full effect unless the board finds any such rule or regulation arbitrary, 21 22 capricious, or otherwise unlawful."

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

25 Direct appeal from department decision to state tax

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appeal board — hearing. (1) A person may appeal to the state tax appeal board any action of the department of 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 provided11 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.

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

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\*84-603. Application for reduction in \*\*alvations valuation. No reduction \*\*aust \*\*say\* be \*\*ade in the valuation of property unless the party affected \*\*thereby\*, or his agent\*\* wakes and files with the county tax appeal board on or before the third \*\*Bonday\* of July\*, a written application therefor. \*\*said \*\*The\*\* application shall state the post-cffice address of the applicant, shall specifically describe the property involved, and shall state the facts upon which it is claimed such reduction should be \*\*sade. \*\*The\*\* department\*\* of revenue chall, however, have the right to raise or less the valuation of all of one class of property is a county, as provided in the proceeding section [84-602].\*\*

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

"84-711. Assessment of omitted property -- limitation.

(1) Whenever the state department of revenue shall, in any year, discover discovers that any taxable property of any person has not been assessed in such year, or that it has been emitted from taxation during any previous year or years, the department may assess the same for such year or for such previous years. The order making the assessment shall contain the name of the person to when the property is assessed, a general description of such property, its

accorded valuation, the year for which it is accorded and the county in which the came is assessed, a copy of such 2 3 order-chall-be-transmitted-to-the-officer-of-the-county--im whose--pessesion-the-assessent-books-of-such-sounty-are at the time of the making of such order by the department, and such -- officer -- shall -- issediately-after-reserving such - copy. 7 enter the assessment on the tax books of the county for the year is which cuch order is sade, and thereupen cuch 8 9 assessment-shall-have-the-same-force-and--offect--as--though 10 originally made by-its-agenty-provided,-heverer, that before 11 making -- any -- such assessment - the state - department - of - sevenue 12 shall-give the-percente whom such property is propered to 13 be--assessed,--actise--of-its-istesties-te-sake-such 14 assessment, and the time and place when a -- hearing -- will -- be 15 had -- thereon: -- such -- notice to be given cither by registered 16 lettet-or-personal-service-at-least-ten-days-before-the-date 17 so-fixed-for-such-hearings and -provided-further-that-all 18 assessents-of-opittod--property-sust-be-sade-within-three 19 voors-after-the-end-of-the-galesdar-voor-is-which-the--case 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 under the canership or control of the same person who caned 23 24 or controlled it at the time it escaped assessment, was 25 erroneously assessed, or was cuitted from taxation, All such

-6- BB 19

HE 0019/03 HE 0019/03

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.

4 (2) Whenever the department or its agent proposes to

(2) Whenever the department or its agent proposes to increase the valuation of locally assessed property above the value reported by the taxpayer under 64-409, the action of the department is subject to the notice and conference provisions of this section.

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

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

or, if the property is locally assessed, may appeal to the 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, E.C.M. 1947, is amended to 9 read as follows:

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

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

-7- HB 19 -8- HB 19

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1 his principal office or place of business, by a complaint filed by the taxpayer against or the state department of 2 revenue within six-{6}- wonths after the receipt of notice of the decision of the state department-of-revenue tax appeal board. Upon the serving of summons upon the State department of-revenue-as-in-civil-action, the cause-shall-proceed--as 7 cttor-civil-cases. Service-upon-the-state-department-of revenue-say-be-made-by-corving-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.

(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 shall may be made, begun, or prosecuted until minety (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."

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19 Section 7. Section 84-5606.24, R.C.H. 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

department or its duly authorized agents, under the provisions of this act, may apply to the state tax appeal board, in writing, for a hearing or rehearing thereon within

authorized agents. The board shall promptly consider such
application, set same for hearing and notify the applicant
of the time and place fixed for such hearing or rehearing,
which may be at its office or in the county of the
applicant. After such hearing or rehearing, the board may
make any further or other order in the premises, as it may
deem proper and lawful and shall furnish a copy thereof to

thirty-430+ days after such action of the department or its

the applicant. The department, on its cwn initiative, may

order a contested case hearing on any matter concerned with

licensing (as defined in 82-4202) in connection with the

administration of this act, upon at least ten (10) days!

notice in writing to the person or persons to be

investigated.\*

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

\*84-5606.25. Appeal to district court-actics of

18 appeal perfecting appeal within thirty days bend bearing
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

appeal therefrom to the district court of the county - where

appeal therefrom to the district court of the county - where

24 appeal-in-writing,-setting-forth-the-actions-or-decisions-of

25 the department, of which the appellant is aggricued. Such

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appeal - chall -- be - perfected - within - thisty (30) -days - after 2 notice of any action or decision of the department, and shall be taken by gerring a petice of appeal upon the department and filing the case with the clerk of caid court. together with a good-and sufficient bond to the state of Montana. The condition of cuch bond shall be to the effect that-appollant agrees to procesute said apposl - diligently, and--if--the--court--chall--finally-decide-that-the-state-is entitled-to-jadquesty-that appollant--will -pay--the--amount 10 thereof together with costs of such appeal. The bond shall 11 be in the fore required by law and in such as succest as the 12 sourt -- say -- require, The motice of appeal shall be signed by 13 the appellant or his attorney, and the matter appealed shall 14 be-heard upon ton (10) days'-netice-given-by-cither-party, 15 unloss - a - different - time - is - specified by the sourt - Said 16 district-court-may-grant-such-relief-as-the-law-and-the facts-in the promises require in accordance with the Bontana 17 18 Administrative Procedure Act.\* 19 Section 9. Section 67-2220, B.C.B. 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 way issue a written determination of the claim.

ewidence heard by the department board and the reasons for the department's board's decision. The decision shall be a public record. 7 -(b)-(2) If the claim is allowed, the state department 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.H. 1947, is amended 12 to read as follows: \*67-2221. Judicial action upon determination. 13 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 ainety-(90) days after the 17 filing of the claim, may commence an action in the district court of Lewis and Clark county to establish his 18 19 claim. The proceeding shall be brought within minety (90) 20 days after the decision of the state department -- of -- revenue 21 tax appeal board or within ene-hundred-eighty-{180} days from the filing of the claim if the department BCABD fails 22 to act. The action shall be tried de novo without a jury." 23 Section 11. Repealer. Sections 84-440, 84-602, 84-609, 24 25 and 84-710, R.C.M. 1947, are repealed.

concerning it the claim. If a hearing is held, the

department board shall prepare a finding and a decision in

writing on each claim filed, stating the substance of any

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an aggrieved claimant may appeal to the state tax appeal

board, which shall hold a hearing and receive evidence

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## 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"

45th Legislature HB 0019/04

HOUSE BILL NO. 19

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read as follows:

/04 HB 0019/04

2	INTRODUCED BY MARKS
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOCATE THE DUTIES
ö	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:

18 #84-709. Appeal to state tax appeal board — hearing.

19 (11) 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

Section 1. Section 84-709, R.C.M. 1947, is amended to

22 appeal boardy may appeal to the state board by filing with

23 the county tax appeal board a notice of appeal  $_{\boldsymbol{v}}$  and a

duplicate thereof with the state boardy within ten-(10) days

25 after the receipt of the decision of the county board, which

notice shall specify the action complained of and the reasons assigned for such complaint. The state board shall set such appeal for hearing either in its office in the capital capital or such county seat as the board shall-deem considers advisable to facilitate the performance of its duties or to accommodate parties in interest, and shall give to the appellant and to the county board at least five t57 days notice of the time and place of such hearings.

9 12) at At the time of giving such notice the state board may require the county board to certify to it the 10 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 ló 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 board in conducting such hearingsy and shalls as soon as 20 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

HS 0019/04

HB 0019/04

	state, the state board or the member designated to conduct a
:	hearing may employ the local court reporter or other
,	competent stenographer to take and transcribe the testimony
•	received, and the cost thereof may be paid out of the
	peneral appropriation for the board.

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141 In connection with any appeal under this section the state board shall not be bound by common law and statutory rules of evidence or rules of discovery and shall have-the-authority-to may affirm, reverse, or modify any decision appealable-to-the-state-tax-appeal-board;-the. The decision of the state tax appeal board shall be final and binding upon all interested parties unless reversed or modified by judicial review. To the extent this section is in conflict with the Montana Administrative Procedure Act. this section shall supersede that act the -- Montane Administrative--Procedure--Act. The state tax appeal board shelt may not have--authority--to amend or repeal any administrative rule or--regulation of the department of revenue. The state tax appeal board must give an administrative rule or--reculation full effect unless the board finds any such rule or---regulation arbitrary, capricious or otherwise unlawful.\*

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

25 Direct appeal from department decision to state tax

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Ĺ	appeal	boar	d hea	ring. (	1) A	person	may	appeal	to	the
2	state	tax	appeal	board	any	action	of t	he depar	tmen	t o
3	revenue	e inv	o) vina:							

- 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.

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

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

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#34-603. Application for reduction in valuations valuation. No reduction must may be made in the valuation of property unless the party affected thereby, or his agenty makes and files with the county tax appeal board on or before the third Monday of July, a written application therefor. Said The application shall state the post-office address of the applicant, shall specifically describe the property involveds and shall state the facts upon which it is claimed such reduction should be made. The department -- of revenue-shelly-howevery-have-the-right-to-reise-or-lower-the valuation--of--all--of-one-class-of-property-in-a-countyv-as provided-in-the-preceding-section-f84-682 %

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

#84-711. Assessment of omitted property -- limitation. (1) Whenever the state department of revenue shally in any yeary-discover discovers that any taxable property of any person has not-been-assessed-in-such-yeary-or-that-it-has been-omitted-from--taxation--during--any--previous--year--or yearsy--the--department-may-assess-the-same-for-such-year-or for-such-previous-years--The--order--making--the--assessment shall-contain-the-name-of-the-person-to-whom-the-property-is assessedy--a--general--description--of--such--propertyy--its

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assessed-voluationy-the-year-for-which-it--is--assessed--and the-county-in-which-the-same-is-assessedy-A-copy-of-such 2 order-shall-be-transmitted-to-the-officer-of-the-countyv--in 4 whose--possession-the-assessment-books-of-such-county-are-at 5 the-time-of-the-making-of-such-order-by-the-departmenty--and such-officer--shall--immediately-after-receiving-such-copyy 7 enter-the-assessment-on-the-tax-books-of-the-county-for--the vear--in--which--such--order--is--sadev--and--thereupon-such 9 assessment-shall-have-the-same-force-and-reffect--as--though 10 originally-made-by-its-agenty-providedy-howevery-thot-before 11 making--sny--such-essessment-the-state-department-of-revenue 12 shall-dive-the-person-to-whom-such-property-is--proposed--to 13 be---assessed----notice---of--its--intention--to--make--such 14 assessmenty-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-st-least-ten-days-before-the-date 17 so-fixed-for-such-hearings-and-provided--further--that--all 13 assessments--of--omitted--property-must-be-made-within-three 19 years-after-the-end-of-the-colendar-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

HB 19

-6-HB 19 HB 0019/04 HB 0019/04

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.

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- (2) Whenever the department or its agent proposes to increase the valuation of locally assessed property above the value reported by the taxpayer under 84-409, the action of the department is subject to the notice and conference provisions of this section.
- (3) (a) Notice of revised assessment pursuant to this section shall be made by the department or its agent by postpaid letter addressed to the person interested within 10 days after the revised assessment has been made. The notice shall include opportunity for a conference on the matter, at the request of the person interested, not less than 15 or more than 30 days after notice is given.
- (b) An assessment revision review conference is not a contested case as defined in the Montana Administrative Procedure Act. The department shall keep minutes of each assessment review conference in writing, 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.

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 3.1 WRITTEN determination of BY the department DIRECTOR DE THE DEPARTMENT hereunder under this chapter or chapter 63 may be reviewed-by appealed to the state tax appeal board which 13 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 review by the district court of Lewis and Clark county 17 County: and an appeal may be taken from the judgment of said 18 the district court to the supreme court." 19

section 6. Section 84-4923.1, R.C.M. 1947, is amended

-7- HB 19

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-8- HB 19

HB 0019/04

HB 19

his principal office or place of businessy by a complaint filed by the taxpayer egainst of the state department of revenue within six-(6) months after the receipt of notice of the decision of the state department-of-revenue tax appeal board. Upon-the-serving-of-summons-upon-the-state department of-revenue-os-in-civil-actiony-the-cause-shall-proceed-os other-civil-causes-Service-upon-the-state-department-of revenue-may-be-made-by-serving-one-copy-upon-the-director-of the-department-of-revenue-Proceedings for review shall be otherwise as specified under the Montana Administrative Procedure Acts.

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12) 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 shall may be made, begun, or prosecuted until ninety 1907 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 7. Section 84-5606.24, R.C.M. 1947, is amended to read as follows:

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

-9-

1 thirty-(30) days after such action of the department or its authorized agents. The board shall promptly consider such 3 application, set same for hearing and notify the applicant of the time and place fixed for such hearing or rehearing. which may be at its office or in the county of the applicant. After such hearing or rehearing, the board may make any further or other order in the premisesy as it may deem proper and lawful and shall furnish a copy thereof to 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.\*

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

\*84-5606.25. Appeal to district court—notice—of appeal—perfecting-appeal—within—thirty—days—bond—hearing date. Any person aggrieved by any action or decision of the departmenty <u>State tax appeal board or a licensing decision of the department</u> made under the provisions of this acty may appeal therefrom to the district court of—the—county—where appealant—residesy—which—appeal—shall—be—taken—by—notice—of appeal—in—writingy—setting—forth—the—actions—or—decisions—of the—departmenty—of—which—the—appealant—is—aggrievedy——Such

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HB 19

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notice-of-any-action-ordecisionofthedepartmentyand
shall—betakenbyservinganoticeof-appeal-upon-the
${\tt department-and-filing-the-same-with-the-clerk-of-said-courty}$
together-with-a-good-and-sufficient-bondtothestateof
MontanawThe-condition-of-such-bond-shall-be-to-the-effect
that-appellant-agrees-to-prosecute-saidappealdiffentlyw
andifthecourtshallfinally-decide-that-the-state-is
entitled-to-judgmenty-that-appellantwillpaytheamount
thereoftogetherwith-costs-of-such-appeals-The-bond-shall
be-in-the-form-required-by-law-and-in-such-on-omount-asthe
courtmayrequires-The-notice-of-appeal-shall-be-signed-by
the-appellant-or-his-attorneyand-the-motter-appealed-shall
be-heard-upon-ten-(10)-days*-notice-given-byeitherparty*
unlessadifferenttimeisspecified-by-the-courtw-Said
district-court-may-grant-such-reliefasthelawandthe
facts-in-the-premises-require in accordance with the Montana
Administrative Procedure Act .*
Section 9. Section 67-2220, R.C.M. 1947, is amended to

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

concerning it the claim. If a hearing is held, the 3 department board shall prepare a finding and a decision in 2 writing on each claim filed, stating the substance of any evidence heard by the department board and the reasons for the department's board's decision. The decision shall be a public record. (b)(2) If the claim is allowed, the state department 7

of revenue shall make payment forthwith. The claim shall be paid without deduction for costs of notices or sale or for 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 BOARD has failed to act within ninety-(90) days after the 16 filing of the claim, may commence an action in the district 17 court of Lewis and Clark county County to establish his 18 claim. The proceeding shall be brought within ninety-(90) 19 days after the decision of the state department-of-revenue 20 tax appeal board or within one-hundred-eighty-(180) days 21 from the filing of the claim if the department BOARD fails 22 to act. The action shall be tried de novo without a jury." 23 Section 11. Repealer. Sections 84-440, 84-602, 84-609,

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and 84-710, R.C.M. 1947, are repealed.

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read as follows: