

SENATE BILL NO. 17
INTRODUCED BY THOMAS
BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Taxation.
February 21, 1981	Committee recommend bill do pass as amended. Report adopted.
February 23, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading, do pass.
February 25, 1981	On motion rules suspended. Bill placed on calendar for third reading this day.
	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 2, 1981	Introduced and referred to Committee on Taxation.
April 11, 1981	Committee recommend bill be concurred in as amended. Report adopted.
April 13, 1981	Second reading, concurred in. On motion rules suspended and bill placed on third reading this day. Third reading, concurred in as amended. Ayes, 94; Noes, 0.

IN THE SENATE

April 14, 1981

Returned from House with
amendments.

April 15, 1981

Second reading, amendments
concurred in.

April 16, 1981

Third reading, amendments
concurred in. Ayes, 50;
Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1 SENATE BILL NO. 12

2 INTRODUCED BY THOMAS
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 PROCEDURE FOR PAYMENT OF TAXES AND LICENSE FEES UNDER
7 PROTEST; TO ALLOW THE STATE TAX APPEAL BOARD TO ORDER REFUND
8 OF PROTESTED TAXES AND LICENSE FEES IN CERTAIN CASES;
9 AMENDING SECTIONS 15-1-402, 15-1-403, 15-2-303, AND
10 15-16-601, MCA; AND REPEALING SECTIONS 15-1-401, 15-15-105,
11 AND 15-15-106, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 ~~NEW SECTION.~~ Section 1. Purpose. It is the purpose of
15 [this act] to insure an orderly procedure for the payment of
16 taxes and license fees under protest and to insure that a
17 taxpayer has exhausted all available remedies prior to
18 filing an appeal in district court.

19 ~~NEW SECTION.~~ Section 2. Board may order refund. (1) In
20 any appeal before the state tax appeal board when a taxpayer
21 has paid taxes or license fees under written protest and the
22 taxes or license fees are held by the treasurer of a unit of
23 local government in a protest fund, the state tax appeal
24 board shall enter judgment, exclusive of costs, if the board
25 finds that the taxes or license fees should be refunded.

1 (2) The state tax appeal board may not issue a judgment
2 pursuant to subsection (1) above if:
3 (a) the time period for appeal specified in 15-1-402(4)
4 has not passed; or
5 (b) the final decision of the state tax appeal board
6 has been appealed in accordance with 15-2-303.
7 Section 3. Section 15-16-601, MCA, is amended to read:
8 "15-16-601. Taxes or penalties illegally collected to
9 be refunded. (1) Any taxes, per centum, and costs paid more
10 than once or erroneously or illegally collected or any
11 amount of tax paid for which a taxpayer is entitled to a
12 refund under 15-16-612 or any part or portion of taxes paid
13 which were mistakenly computed on government bonus or
14 subsidy received by the taxpayer may, by order of the board
15 of county commissioners, be refunded by the county
16 treasurer. Whenever any payment shall have been made to the
17 state treasurer as provided in 15-1-504 and it shall
18 afterwards appear to the satisfaction of the board of county
19 commissioners that a portion of the money so paid should be
20 refunded as herein provided, said board of county
21 commissioners may refund such portion of said taxes,
22 penalties, and costs so paid to the state treasurer, and
23 upon the rendering of the report required by 15-1-505 the
24 county clerk and recorder shall certify to the state
25 auditor, in such form as the state auditor may prescribe.

1 all amounts so refunded, and in the next settlement of the
 2 county treasurer with the state, the state auditor shall
 3 give the county treasurer credit for the state's portion of
 4 the amounts so refunded.

5 ~~121 Upon the entering of judgment under [section 2],~~
 6 ~~the county commissioners of the affected county shall order~~
 7 ~~a refund of such portion of the taxes or license fees as the~~
 8 ~~state tax appeal board has judged should be refunded.~~

9 ~~131 When any part of the taxes, penalties, or costs~~
 10 ~~hereinafore referred to were levied in behalf of any school~~
 11 ~~district or municipal or other public corporation and~~
 12 ~~collected by the county treasurer, the same may be refunded~~
 13 ~~upon the order of the board of county commissioners.~~

14 ~~141 No order for the refund of any taxes, license~~
 15 ~~fees, per centum, or costs under this section shall be made~~
 16 ~~except upon a claim therefor, verified by the person who has~~
 17 ~~paid such tax, license fees, penalty, or costs or his~~
 18 ~~guardian or, in case of his death, by his executor or~~
 19 ~~administrator, which claim must be filed within 10 years~~
 20 ~~after the date when the second half of such taxes would have~~
 21 ~~become delinquent if the same had not been paid.~~

22 ~~151 All refunds ordered to be paid by the board of~~
 23 ~~county commissioners shall be paid by the county treasurer~~
 24 ~~out of the general fund of the county, and the county~~
 25 ~~treasurer shall then make such transfers from other county~~

1 funds and from state, school district, and other public
 2 corporation funds in his possession as may be necessary to
 3 reimburse the county general fund for payments made
 4 therefrom on account of such other funds."

5 Section 4. Section 15-1-402, MCA, is amended to read:
 6 "15-1-402. Payment of taxes under protest -- action to
 7 recover. (1) ~~In--att--eases--of--tevy--of--taxes--licenses--or~~
 8 ~~other--demands--for--public--revenue--which--are--deemed--unlawful~~
 9 ~~by--the--party--whose--property--is--thus--taxed--or--from--whom--such~~
 10 ~~tax--or--license--is--demanded--or--enforced--such--party--may~~
 11 ~~before--such--tax--or--license--becomes--delinquent--pay--under~~
 12 ~~written--protest--such--portions--of--such--tax--or--license--deemed~~
 13 ~~unlawful--to--the--officers--designated--and--authorized--to~~
 14 ~~collect--the--same--specifying--the--grounds--of--protest.~~
 15 ~~Thereupon--the--party--so--paying--or--his--legal--representatives~~
 16 ~~The--person--upon--whom--a--tax--or--license--fee--is--being--imposed~~
 17 ~~may--before--the--tax--or--license--fee--becomes--delinquent--pay~~
 18 ~~under--written--protest--that--portion--of--the--tax--or--license--fee~~
 19 ~~protested. The payment must:~~

20 ~~1a1 be made to the officer designated and authorized to~~
 21 ~~collect it, and~~

22 ~~1b1 specify the grounds of protest.~~

23 ~~121 After having exhausted the appeals available under~~
 24 ~~Title 15, chapters 2 and 15, a person or his legal~~
 25 ~~representative may bring an action in any court of competent~~

1 jurisdiction against the officers to whom said ~~license~~-or
 2 tax or licensefee was paid or against the county or
 3 municipality in whose behalf the same was collected and the
 4 department of revenue.

5 13 Both the officers to whom the ~~license~~-or tax or
 6 licensefee was paid or the county or municipality in whose
 7 behalf the same was collected and the department of revenue
 8 must be served with timely summons and complaint within the
 9 time prescribed.

10 14 Any action instituted to recover any such portions
 11 of ~~license~~-or tax or licensefee paid under protest shall be
 12 commenced and summons timely served within 90 60 days after
 13 the date of payment-of-the-same thefinaldecisionofthe
 14 statetaxappealboard.

15 15 When any such-~~license~~-or protested tax or license
 16 fee is payable in installments, the--first--installment
 17 portion-of-such-tax-or-license-as-may-be-deemed-unlawful-may
 18 be paid-under-written-protest-and-suit-commenced-and-summons
 19 served---to---recover---the--same--within--the--time--herein
 20 prescribed--and--if--any--subsequent--installment--of--such
 21 license--or--tax--shall--become--due--or--payable--before--the--final
 22 determination-of-the-suit-commenced--to--recover--the--first
 23 installment--portion--paid--under--protest--then such any
 24 subsequent installment portion deemed considered unlawful
 25 may also be paid under written protest and no suit-or action

1 orsuit need be commenced to recover the same, but the
 2 determination of the suit-or action orsuit commenced to
 3 recover the first installment portion paid under protest
 4 shall determine the right of the party paying such
 5 subsequent installment to have the same or any part thereof
 6 refunded to him.

7 16 All such portions of ~~licenses~~-and taxes when-so and
 8 licensefees paid under protest shall be deposited by the
 9 treasurer of the county or municipality to the credit of a
 10 special fund to be designated as a protest fund and shall be
 11 invested in interest-bearing deposits in local banks or
 12 savings and loan associations and retained in such protest
 13 fund until the final determination of any suit-or action or
 14 suit to recover the same.

15 17 Nothing contained herein prohibits the investment
 16 of the moneys money of this fund in the state unified
 17 investment program. The provision creating the special
 18 protest fund does not apply to any payments made under
 19 protest directly to the state.

20 18 If no action is commenced within the time
 21 herein specified or if such action be is commenced and
 22 finally determined in favor of the county or municipality or
 23 treasurer thereof, the amount of the protested portions of
 24 the ~~license~~-or tax or licensefee shall be taken from such
 25 the protest fund and deposited to the credit of the fund or

SB/7

1 funds to which the same property belongs--but--if--
2 (b) If such action is finally determined adversely to
3 such a county or municipality or the treasurer thereof, then
4 the treasurer shall, upon receiving a certified copy of the
5 final judgment in said action from the state tax appeal
board, or from a district court if the final action of the
state tax appeal board is appealed in the time prescribed,
6 refund to the person in whose favor such judgment is
7 rendered the amount of such protested portions of the
8 license--or tax or license fee, with costs of suit and
9 interest at the rate currently paid on short-term
10 interest-bearing time deposits in banks in the county or 5%
11 a year, whichever is greater, from the date of payment under
12 protest. If such action was commenced for the purpose of
13 recovering the first installment portions of any such
14 license--or tax or license fee and any subsequent installment
15 thereof has been paid under protest as herein provided, then
16 the county treasurer shall, at the time of refunding the
17 amount of such first installment required by such judgment,
18 also refund such portion of any subsequent installment as
19 the person holding such judgment is entitled to recover,
20 together with interest thereon at the rate of 6% a year from
21 the date of payment under protest."

1 STATEMENT OF OWNER. (1) Whenever any person has delivered to
2 the department of revenue or its agent a sworn statement of
3 his property subject to taxation as now provided by law and
4 giving the estimated value of such property and the
5 department or its agent shall increase such estimated value
6 or add other property to such assessment list, the agent
7 shall, at least 10 days prior to the meeting of the county
8 tax appeal board, give to such person written notice of such
9 change, which notice shall be substantially in the following
10 form:

11 (Date)

12 Mr.:

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

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

17 Agent

18 Department of Revenue

19 (2) Such person may then appear before the county tax
20 appeal board and contest the same. If the assessment of any
21 such person has been added to or changed, either by the
22 department or by the county tax appeal board, and such
23 person has not been notified thereof and given an
24 opportunity to contest the same before the county tax appeal
25 board, the tax on such increased value or added property

1 shall, upon such facts being established, be adjudged by the
 2 ~~court~~ ~~state tax appeal board~~ to be void, and such facts and
 3 all questions relating thereto, when said tax has been paid
 4 under protest, may be heard and determined in the action
 5 provided for in 15-1-402. When--any--person--has--appeared
 6 before--the--county--tax--appeal--board--and--has--contested--the
 7 increase--in--the--estimated--value--of--his--property--or--the
 8 addition--of--other--property--to--his--assessment--list--and--has
 9 appealed--to--the--state--tax--appeal--board--from--any--action--or
 10 decision--with--reference--thereto--by--the--county--tax--appeal
 11 board--and--such--person--is--aggrieved--at--the--final--action--of
 12 the--state--tax--appeal--board--in--making--or--allowing--such
 13 increase--or--addition--he--may--pay--the--tax--on--such--increase--or
 14 addition--or--the--installments--thereof--if--payable--in
 15 installments--under--protest--in--the--manner--provided--by
 16 t5-1-402--and--thereupon--and--within--the--time--prescribed--and--in
 17 the--manner--provided--by--t5-1-402--may--commence--an--action--to
 18 recover--such--tax--or--installments--and--in--such--action--contend
 19 and--litigate--the--payment--of--such--taxes--on--such--increased
 20 value--or--added--property--on--the--same--grounds--and--for--the--same
 21 reasons--that--he--has--contested--the--same--before--the--county--and
 22 state--tax--appeal--boards--and--for--no--other--reasons--and--on--no
 23 other--grounds--provided--that--all--of--the--provisions--of
 24 t5-1-402--for--the--retention--or--refunding--of--taxes--paid--under
 25 protest--shall--apply--to--taxes--paid--under--protest--under--this

1 ~~sections~~"
 2 Section 6. Section 15-2-303, MCA, is amended to read:
 3 "15-2-303. Judicial review of contested cases. (1) Any
 4 party to an appeal before the state tax appeal board who is
 5 aggrieved by a final decision in a contested case is
 6 entitled to judicial review under this part.
 7 (2) Proceedings for review shall be instituted by
 8 filing a petition in district court in the county wherein
 9 the taxable property or some portion thereof is located
 10 (except the taxpayer may, at his option, file in the
 11 district court of the first judicial district) and serving a
 12 copy of the petition on the state tax appeal board within 30
 13 ~~60~~ days after service of the final decision of the state tax
 14 appeal board or, if a rehearing is requested, within 30 ~~60~~
 15 days after the decision thereon. All parties to the appeal
 16 shall cause to be served on the state tax appeal board a
 17 copy of all pleadings and documents they shall file in such
 18 proceedings.
 19 (3) Notwithstanding any other provision, proceedings
 20 for review of a decision by the state tax appeal board by a
 21 company under the jurisdiction of the public service
 22 commission shall be instituted in the district court of the
 23 first judicial district.
 24 (4) Notwithstanding the provisions of 2-4-704(1), the
 25 court may, for good cause shown, permit additional evidence

SB/7

LC 0059/01

1 to be introduced."

2 Section 7. Repealer. Sections 15-1-401, 15-15-105, and

3 15-15-106, MCA, are repealed.

-End-

Approved by Committee
on Taxation

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

14 NEW SECTION. Section 1. Purpose. It is the purpose of

15 [this act] to insure an orderly procedure for the payment of

16 taxes and license fees under protest THAT MAY BE APPEALED TO

17 A COUNTY OR STATE TAX APPEAL BOARD and to insure that a

18 taxpayer has exhausted all available remedies prior to

19 filing an appeal in district court.

20 NEW SECTION. Section 2. Board may order refund. (1)
21 In any appeal before the state tax appeal board when a
22 taxpayer has paid taxes or license fees under written
23 protest and the taxes or license fees are held by the
24 treasurer of a unit of local government in a protest fund,
25 the state tax appeal board shall enter judgment, exclusive

1 of costs, if the board finds that the taxes or license fees
2 should be refunded.

3 (2) The state tax appeal board ~~may not issue a~~ BOARD'S
4 judgment ISSUED pursuant to subsection (1) above if SHALL BE
5 HELD IN ABEYANCE:

6 (a) UNTIL the time period for appeal specified in
7 15-1-402(4) has not passed; or

8 (b) IF the final decision of the state tax appeal
9 board has been appealed in accordance with 15-2-303.

10 Section 3. Section 15-16-601, MCA, is amended to read:

11 "15-16-601. Taxes or penalties illegally collected to
12 be refunded. (1) 1A Any taxes, per centum, and costs paid
13 more than once or erroneously or illegally collected or any
14 amount of tax paid for which a taxpayer is entitled to a
15 refund under 15-16-612 or any part or portion of taxes paid
16 which were mistakenly computed on government bonus or
17 subsidy received by the taxpayer may, by order of the board
18 of county commissioners, be refunded by the county
19 treasurer. Whenever any payment shall have been made to the
20 state treasurer as provided in 15-1-504 and it shall
21 afterwards appear to the satisfaction of the board of county
22 commissioners that a portion of the money so paid should be
23 refunded as herein provided, said board of county
24 commissioners may refund such portion of said taxes,
25 penalties, and costs so paid to the state treasurer, and

1 upon the rendering of the report required by 15-1-505 the
 2 county clerk and recorder shall certify to the state
 3 auditor, in such form as the state auditor may prescribe,
 4 all amounts so refunded, and in the next settlement of the
 5 county treasurer with the state, the state auditor shall
 6 give the county treasurer credit for the state's portion of
 7 the amounts so refunded.

8 ~~t27~~ Upon the entering of judgment under [section 2],
 9 the county commissioners of the affected county shall order
 10 a refund of such portion of the taxes or license fees as the
 11 state tax appeal board has judged should be refunded.

12 ~~t27~~ (B) When any part of the taxes, penalties, or
 13 costs hereinbefore referred to were levied in behalf of any
 14 school district or municipal or other public corporation and
 15 collected by the county treasurer, the same may be refunded
 16 upon the order of the board of county commissioners.

17 ~~t37~~ (C) No order for the refund of any taxes,
 18 license fees, per centum, or costs under this section shall
 19 be made except upon a claim therefor, verified by the person
 20 who has paid such tax, license fee, penalty, or costs or his
 21 guardian or, in case of his death, by his executor or
 22 administrator, which claim must be filed within 10 years
 23 after the date when the second half of such taxes would have
 24 become delinquent if the same had not been paid.

25 ~~t47~~ (D) All refunds ordered to be paid by the board

1 of county commissioners shall be paid by the county
 2 treasurer out of the general fund of the county, and the
 3 county treasurer shall then make such transfers from other
 4 county funds and from state, school district, and other
 5 public corporation funds in his possession as may be
 6 necessary to reimburse the county general fund for payments
 7 made therefrom on account of such other funds.

8 (2) UPON THE ENTERING OF JUDGEMENT UNDER [SECTION 2],
 9 THE COUNTY COMMISSIONERS OF THE AFFECTED COUNTY SHALL ORDER
 10 A REFUND OF SUCH PORTION OF THE TAXES OR LICENSE FEES AS THE
 11 STATE TAX APPEAL BOARD HAS JUDGED SHOULD BE REFUNDED."

12 Section 4. Section 15-1-402, MCA, is amended to read:
 13 "15-1-402. Payment of taxes under protest -- action to
 14 recover. (1) ~~in all cases of levy of taxes, licenses, or~~
 15 ~~other demands for public revenue which are deemed unlawful~~
 16 ~~by the party whose property is thus taxed or from whom such~~
 17 ~~tax or license is demanded or enforced such party may~~
 18 ~~before such tax or license becomes delinquent pay under~~
 19 ~~written protest such portions of such tax or license deemed~~
 20 ~~unlawful to the officers designated and authorized to~~
 21 ~~collect the same specifying the grounds of protest~~
 22 ~~thereupon the party so paying or his legal representatives~~
 23 ~~The person upon whom a tax or license fee is being imposed~~
 24 ~~may, before the tax or license fee becomes delinquent, pay~~
 25 ~~under written protest that portion of the tax or license fee~~

1 protested. The payment must:

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

4 (b) specify the grounds of protest.

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

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

17 (4) Any action instituted to recover any such portions
 18 of license-or tax or license fee paid under protest shall be
 19 commenced and summons timely served within 90 60 days after
 20 the date of payment-of-the-same the final decision of the
 21 state tax appeal board.

22 (5) When any such license-or protested tax or license
 23 fee is payable in installments, the--first--instalment
 24 portion-of-such-tax-or-license-as-may-be-deemed-unlawful-may
 25 be-paid-under-written-protest-and-suit-commenced-and-summons

1 served--to--recover--the--same--within---the---time---herein
 2 prescribed--and--if--any--subsequent--installment--of--such
 3 license-or-tax-shall-become-due-or-payable-before-the--final
 4 determination--of--the--suit--commenced-to-recover-the-first
 5 installment--portion--paid--under--protest, then such any
 6 subsequent installment portion deemed considered unlawful BY
 7 THE STATE TAX APPEAL BOARD may--also NEED NOT be paid under
 8 written-protest and no suit--or action or suit need be
 9 commenced to recover the same, but the determination of the
 10 suit--or action or suit commenced to recover the first
 11 installment portion paid under protest shall determine the
 12 right of the party paying such subsequent installment to
 13 have the same or any part thereof refunded to him OR THE
 14 RIGHT OF THE TAXING AUTHORITY TO COLLECT A SUBSEQUENT
 15 INSTALLMENT NOT PAID BY THE TAXPAYER PLUS INTEREST FROM THE
 16 DATE THE SUBSEQUENT INSTALLMENT WAS DUE.

17 (6) All such portions of license-and taxes when--so
 18 and license fees paid under protest TO A COUNTY OR
 19 MUNICIPALITY shall be deposited by the treasurer of the
 20 county or municipality to the credit of a special fund to be
 21 designated as a protest fund and shall be invested in
 22 interest-bearing deposits in local banks or savings and loan
 23 associations and retained in such protest fund until the
 24 final determination of any suit--or action or suit to recover
 25 the same.

1 ~~(7)~~ Nothing contained herein prohibits the investment
 2 of the ~~moneys~~ money of this fund in the state unified
 3 investment program. The provision creating the special
 4 protest fund does not apply to any payments made under
 5 protest directly to the state.

6 ~~t27~~~~(8)~~ (a) If no action is commenced within the time
 7 herein specified or if such action be is commenced and
 8 finally determined in favor of the county or municipality or
 9 treasurer thereof, the amount of the protested portions of
 10 the ~~license-or tax or license fee~~ shall be taken from such
 11 the protest fund and deposited to the credit of the fund or
 12 funds to which the same property belongs--~~but-if~~

13 ~~(b)~~ If such action is finally determined adversely to
 14 such a county or municipality or the treasurer thereof, then
 15 the treasurer shall, upon receiving a certified copy of the
 16 final judgment in said action from the state tax appeal
board, or from a THE district OR SUPREME court, AS
APPROPRIATE, if the final action of the state tax appeal
board is appealed in the time prescribed, refund to the
 19 person in whose favor such judgment is rendered the amount
 20 of such protested portions of the license-or tax or license
fee, with costs of suit and interest at the rate currently
 23 paid on short-term interest-bearing time deposits in banks
 24 in the county or 5% a year, whichever is greater, from the
 25 date of payment under protest. If such action was commenced

1 for the purpose of recovering the first installment portions
 2 of any such ~~license-or tax or license fee~~ and any subsequent
 3 installment thereof has been paid under protest as herein
 4 provided, then the county treasurer shall, at the time of
 5 refunding the amount of such first installment required by
 6 such judgment, also refund such portion of any subsequent
 7 installment as the person holding such judgment is entitled
 8 to recover, together with interest thereon at the rate of 6%
 9 a year from the date of payment under protest."

10 Section 5. Section 15-1-403, MCA, is amended to read:
 11 "15-1-403. Assessment for taxation -- increase over
 12 statement of owner. (1) Whenever any person has delivered to
 13 the department of revenue or its agent a sworn statement of
 14 his property subject to taxation as now provided by law and
 15 giving the estimated value of such property and the
 16 department or its agent shall increase such estimated value
 17 or add other property to such assessment list, the agent
 18 shall, at least 10 days prior to the meeting of the county
 19 tax appeal board, give to such person written notice of such
 20 change, which notice shall be substantially in the following
 21 form:

1 (Date) - - - - -

2 Mr. _____:

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

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

7 Agent
8 Department of Revenue

9 (2) Such person may then appear before the county tax
10 appeal board and contest the same. If the assessment of any
11 such person has been added to or changed, either by the
12 department or by the county tax appeal board, and such
13 person has not been notified thereof and given an
14 opportunity to contest the same before the county tax appeal
15 board, the tax on such increased value or added property
16 shall, upon such facts being established, be adjudged by the
17 court state tax appeal board to be void, and such facts and
18 all questions relating thereto, when said tax has been paid
19 under protest, may be heard and determined in the action
20 provided for in 15-1-402. When--any--person--has--appeared
21 before--the--county--tax--appeal--board--and--has--contested--the
22 increase--in--the--estimated--value--of--his--property--or--the
23 addition--of--other--property--to--his--assessment--first--and--has
24 appealed--to--the--state--tax--appeal--board--from--any--action--or
25 decision--with--reference--thereto--by--the--county--tax--appeal

1 board-and-such-person-is-aggrieved-at-the--final--action--of
2 the--state--tax--appeal--board--in--making--or--allowing--such
3 increase--or--addition--he--may--pay--the--tax--on--such--increase--or
4 addition--or--the--installments--thereof--if--payable--in
5 installments--under--protest--in--the--manner--provided--by
6 t5-t-402--and--thereupon--and--within--the--time--prescribed--and--in
7 the--manner--provided--by--t5-t-402--may--commence--on--action--to
8 recover--such--tax--or--installments--and--in--such--action--contest
9 and--litigate--the--payment--of--such--taxes--on--such--increased
10 value--or--added--property--on--the--same--grounds--and--for--the--same
11 reasons--that--he--has--contested--the--same--before--the--county--and
12 state--tax--appeal--boards--and--for--no--other--reasons--and--on--no
13 other--grounds--provided--that--all--of--the--provisions--of
14 t5-t-402--for--the--retention--or--refunding--of--taxes--paid--under
15 protest--shall--apply--to--taxes--paid--under--protest--under--this
16 section."

17 Section 6. Section 15-2-303, MCA, is amended to read:
18 *15-2-303. Judicial review of contested cases. (1) Any
19 party to an appeal before the state tax appeal board who is
20 aggrieved by a final decision in a contested case is
21 entitled to judicial review under this part.

22 (2) Proceedings for review shall be instituted by
23 filing a petition in district court in the county wherein
24 the taxable property or some portion thereof is located
25 (except the taxpayer may, at his option, file in the

1 district court of the first judicial district) and serving a
2 copy of the petition on the state tax appeal board within 30
3 60 days after service of the final decision of the state tax
4 appeal board or, if a rehearing is requested, within 30 60
5 days after the decision thereon. All parties to the appeal
6 shall cause to be served on the state tax appeal board a
7 copy of all pleadings and documents they shall file in such
8 proceedings.

9 (3) Notwithstanding any other provision, proceedings
10 for review of a decision by the state tax appeal board by a
11 company under the jurisdiction of the public service
12 commission shall be instituted in the district court of the
13 first judicial district.

14 (4) Notwithstanding the provisions of 2-4-704(1), the
15 court may, for good cause shown, permit additional evidence
16 to be introduced."

17 Section 7. Repealer. Sections 15-1-401, 15-15-105, and
18 15-15-106, MCA, are repealed.

-End-

SENATE BILL NO. 17

INTRODUCED BY THOMAS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 PROCEDURE FOR PAYMENT OF TAXES AND LICENSE FEES UNDER
7 PROTEST; TO ALLOW THE STATE TAX APPEAL BOARD TO ORDER REFUND
8 OF PROTESTED TAXES AND LICENSE FEES IN CERTAIN CASES;
9 AMENDING SECTIONS 15-1-402, 15-1-403, 15-2-303, AND
10 15-16-601, MCA; AND REPEALING SECTIONS 15-1-401, 15-15-105,
11 AND 15-15-106, MCA."

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

14 NEW SECTION. Section 1. Purpose. It is the purpose of
15 [this act] to insure an orderly procedure for the payment of
16 taxes and license fees under protest THAT MAY BE APPEALED TO
17 A COUNTY OR STATE TAX APPEAL BOARD and to insure that a
18 taxpayer has exhausted all available remedies prior to
19 filing an appeal in district court.

20 NEW SECTION. Section 2. Board may order refund. (1)
21 In any appeal before the state tax appeal board when a
22 taxpayer has paid taxes or license fees under written
23 protest and the taxes or license fees are held by the
24 treasurer of a unit of local government in a protest fund,
25 the state tax appeal board shall enter judgment, exclusive

1 of costs, if the board finds that the taxes or license fees
2 should be refunded.

3 (2) The state tax appeal board may not issue a BOARD'S
4 judgment ISSUED pursuant to subsection (1) above if SHALL BE
5 HELD IN ABEYANCE:

6 (a) UNTIL the time period for appeal specified in
7 15-1-402(4) has not passed; or

8 (b) IF the final decision of the state tax appeal
9 board has been appealed in accordance with 15-2-303.

10 Section 3. Section 15-16-601, MCA, is amended to read:

11 "15-16-601. Taxes or penalties illegally collected to
12 be refunded. (1) 1A Any taxes, per centum, and costs paid
13 more than once or erroneously or illegally collected or any
14 amount of tax paid for which a taxpayer is entitled to a
15 refund under 15-16-612 or any part or portion of taxes paid
16 which were mistakenly computed on government bonus or
17 subsidy received by the taxpayer may, by order of the board
18 of county commissioners, be refunded by the county
19 treasurer. Whenever any payment shall have been made to the
20 state treasurer as provided in 15-1-504 and it shall

21 it is hereto agreed to the satisfaction of the board of county
22 commissioners that a portion of the money so paid should be
23 refunded as herein provided, said board of county
24 commissioners may refund such portion of said taxes,
25 penalties, and costs so paid to the state treasurer, and

1 upon the rendering of the report required by 15-1-505 the
 2 county clerk and recorder shall certify to the state
 3 auditor, in such form as the state auditor may prescribe,
 4 all amounts so refunded, and in the next settlement of the
 5 county treasurer with the state, the state auditor shall
 6 give the county treasurer credit for the state's portion of
 7 the amounts so refunded.

8 ~~Upon the entering of judgment under [section 2],
 9 the county commissioners of the affected county shall order
 10 a refund of such portion of the taxes or license fees as the
 11 state tax appeal board has judged should be refunded.~~

12 ~~(B) When any part of the taxes, penalties, or
 13 costs hereinbefore referred to were levied in behalf of any
 14 school district or municipal or other public corporation and
 15 collected by the county treasurer, the same may be refunded
 16 upon the order of the board of county commissioners.~~

17 ~~(C) No order for the refund of any taxes,
 18 license fees, per centum, or costs under this section shall
 19 be made except upon a claim therefor, verified by the person
 20 who has paid such tax, license fee, penalty, or costs or his
 21 guardian or, in case of his death, by his executor or
 22 administrator, which claim must be filed within 10 years
 23 after the date when the second half of such taxes would have
 24 become delinquent if the same had not been paid.~~

25 ~~(D) All refunds ordered to be paid by the board~~

1 of county commissioners shall be paid by the county
 2 treasurer out of the general fund of the county, and the
 3 county treasurer shall then make such transfers from other
 4 county funds and from state, school district, and other
 5 public corporation funds in his possession as may be
 6 necessary to reimburse the county general fund for payments
 7 made therefrom on account of such other funds.

8 (2) UPON THE ENTERING OF JUDGEMENT UNDER [SECTION 2],
 9 THE COUNTY COMMISSIONERS OF THE AFFECTED COUNTY SHALL ORDER
 10 A REFUND OF SUCH PORTION OF THE TAXES OR LICENSE FEES AS THE
 11 STATE TAX APPEAL BOARD HAS JUDGED SHOULD BE REFUNDED."

12 Section 4. Section 15-1-402, MCA, is amended to read:
 13 "15-1-402. Payment of taxes under protest -- action to
 14 recover. (1) ~~In all cases of levy of taxes, -- + license, -- or
 15 other demands -- for public revenue which are deemed unlawful
 16 by the party whose property is thus taxed or from whom such
 17 tax -- or -- license -- is -- demanded -- or -- enforced, such party may
 18 before such tax or license becomes -- delinquent -- pay -- under
 19 written -- protest -- such portions of such tax or license deemed
 20 unlawful -- to -- the -- officers -- designated -- and -- authorized -- to
 21 collect -- the -- same -- specifying -- the -- grounds -- of -- protest --
 22 Thereupon the party so paying or his -- legal -- representatives
 23 The person upon whom a tax or license fee is being imposed
 24 may, before the tax or license fee becomes delinquent, pay
 25 under written protest that portion of the tax or license fee~~

1 protested. The payment must:

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

4 (b) specify the grounds of protest.

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

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

17 (4) Any action instituted to recover any such portions
 18 of license-or tax or license fee paid under protest shall be
 19 commenced and summons timely served within 90 60 days after
 20 the date of payment-of-the-same the final decision of the
 21 state tax appeal board.

22 (5) When any such-license-or protested tax or license
 23 fee is payable in installments, the--first--installment
 24 portion-of-such-tax-or-license-as-may-be-deemed-unlawful-may
 25 be-paid-under-written-protest-and-suit-commenced-and-summons

1 served--to--recover--the--same--within--the--time--herein
 2 prescribed--and--if--any--subsequent--installment--of--such
 3 license-or-tax-shall-become-due-or-payable-before-the--final
 4 determination--of--the--suit--commenced-to-recover-the-first
 5 installment--portion--paid--under--protest, then such any
 6 subsequent installment portion deemed considered unlawful BY
 7 THE STATE TAX APPEAL BOARD may--also NEED NOT be paid under
 8 written-protest and no suit--or action or suit need be
 9 commenced to recover the same, but the determination of the
 10 suit--or action or suit commenced to recover the first
 11 installment portion paid under protest shall determine the
 12 right of the party paying such subsequent installment to
 13 have the same or any part thereof refunded to him OR THE
 14 RIGHT OF THE TAXING AUTHORITY TO COLLECT A SUBSEQUENT
 15 INSTALLMENT NOT PAID BY THE TAXPAYER PLUS INTEREST FROM THE
 16 DATE THE SUBSEQUENT INSTALLMENT WAS DUE.

17 (6) All such portions of licensees-and taxes when--so
 18 and license fees paid under protest TO A COUNTY OR
 19 MUNICIPALITY shall be deposited by the treasurer of the
 20 county or municipality to the credit of a special fund to be
 21 designated as a protest fund and shall be invested in
 22 interest-bearing deposits in local banks or savings and loan
 23 associations and retained in such protest fund until the
 24 final determination of any suit--or action or suit to recover
 25 the same.

1 (7) Nothing contained herein prohibits the investment
 2 of the moneys money of this fund in the state unified
 3 investment program. The provision creating the special
 4 protest fund does not apply to any payments made under
 5 protest directly to the state.

6 f27(8) (a) If no action is commenced within the time
 7 herein specified or if such action be is commenced and
 8 finally determined in favor of the county or municipality or
 9 treasurer thereof, the amount of the protested portions of
 10 the license-or tax or license fee shall be taken from such
 11 the protest fund and deposited to the credit of the fund or
 12 funds to which the same property belongs--but-if2

13 (b) If such action is finally determined adversely to
 14 such a county or municipality or the treasurer thereof, then
 15 the treasurer shall, upon receiving a certified copy of the
 16 final judgment in said action from the state tax appeal
 17 board, or from a THE district OR SUPREME court, AS
 18 APPROPRIATE, if the final action of the state tax appeal
 19 board is appealed in the time prescribed, refund to the
 20 person in whose favor such judgment is rendered the amount
 21 of such protested portions of the license-or tax or license
 22 fee, with costs of suit and interest at the rate currently
 23 paid on short-term interest-bearing time deposits in banks
 24 in the county or 5% a year, whichever is greater, from the
 25 date of payment under protest. If such action was commenced

1 for the purpose of recovering the first installment portions
 2 of any such license-or tax or license fee and any subsequent
 3 installment thereof has been paid under protest as herein
 4 provided, then the county treasurer shall, at the time of
 5 refunding the amount of such first installment required by
 6 such judgment, also refund such portion of any subsequent
 7 installment as the person holding such judgment is entitled
 8 to recover, together with interest thereon at the rate of 6%
 9 a year from the date of payment under protest."

10 Section 5. Section 15-1-403, MCA, is amended to read:
 11 "15-1-403. Assessment for taxation -- increase over
 12 statement of owner. (1) Whenever any person has delivered to
 13 the department of revenue or its agent a sworn statement of
 14 his property subject to taxation as now provided by law and
 15 giving the estimated value of such property and the
 16 department or its agent shall increase such estimated value
 17 or add other property to such assessment list, the agent
 18 shall, at least 10 days prior to the meeting of the county
 19 tax appeal board, give to such person written notice of such
 20 change, which notice shall be substantially in the following
 21 form:

1 (Date) (Signature)

2 Mrs. ~~xxxxxx~~

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

5 {Set out and describe specifically changes made in
6 list.}

7 Agent
8 Department of Revenue

9 (2) Such person may then appear before the county tax
10 appeal board and contest the same. If the assessment of any
11 such person has been added to or changed, either by the
12 department or by the county tax appeal board, and such
13 person has not been notified thereof and given an
14 opportunity to contest the same before the county tax appeal
15 board, the tax on such increased value or added property
16 shall, upon such facts being established, be adjudged by the
17 court state tax appeal board to be void, and such facts and
18 all questions relating thereto, when said tax has been paid
19 under protest, may be heard and determined in the action
20 provided for in 15-1-402. When--any--person--has--appeared
21 before--the--county--tax--appeal--board--and--has--contested--the
22 increase--in--the--estimated--value--of--his--property--or--the
23 addition--of--other--property--to--his--assessment--list--and--has
24 Appealed--to--the--state--tax--appeal--board--from--any--action--or
25 decision--with--reference--thereto--by--the--county--tax--appeal

1 board-and-such-person-is-aggrieved-at-the-final-action-of
2 the-state-tax-appeal-board-in-making-or-allowing-such
3 increase-or-addition-he-may-pay-the-tax-on-such-increase-or
4 addition-or-the-installments-thereof-if-payable-in
5 installments-under-protest-in-the-manner-provided-by
6 §5-1-402-and-thereupon-end-within-the-time-prescribed-and-in
7 the-manner-provided-by-§5-1-402-may-commence-an-action-to
8 recover-such-tax-or-installments-and-in-such-action-contest
9 and-litigate-the-payment-of-such-taxes-on-such-increased
10 value-or-added-property-on-the-same-grounds-and-for-the-same
11 reasons-that-he-has-contested-the-same-before-the-county-and
12 state-tax-appeal-boards-and-for-no-other-reasons-and-on-no
13 other-grounds-provided-that-all-of-the-provisions-of
14 §5-1-402-for-the-retention-or-refunding-of-taxes-paid-under
15 protest-shall-apply-to-taxes-paid-under-protest-under-this
16 section."

17 Section 6. Section 15-2-303, MCA, is amended to read:

18 "15-2-303. Judicial review of contested cases. (1) Any

19 party to an appeal before the state tax appeal board who is

20 aggrieved by a final decision in a contested case is

21 entitled to judicial review under this part.

22 (2) Proceedings for review shall be instituted by
23 filing a petition in district court in the county wherein
24 the taxable property or some portion thereof is located
25 (except the taxpayer may, at his option, file in the

1 district court of the first judicial district) and serving a
2 copy of the petition on the state tax appeal board within 30
3 60 days after service of the final decision of the state tax
4 appeal board or, if a rehearing is requested, within 30 60
5 days after the decision thereon. All parties to the appeal
6 shall cause to be served on the state tax appeal board a
7 copy of all pleadings and documents they shall file in such
8 proceedings.

9 (3) Notwithstanding any other provision, proceedings
10 for review of a decision by the state tax appeal board by a
11 company under the jurisdiction of the public service
12 commission shall be instituted in the district court of the
13 first judicial district.

14 (4) Notwithstanding the provisions of 2-4-704(1), the
15 court may, for good cause shown, permit additional evidence
16 to be introduced."

17 Section 7. Repeater. Sections 15-1-401, 15-15-105, and
18 15-15-106, MCA, are repealed.

-End-

SENATE BILL NO. 17

INTRODUCED BY THOMAS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 PROCEDURE FOR PAYMENT OF TAXES AND LICENSE FEES UNDER
7 PROTEST; TO ALLOW THE STATE TAX APPEAL BOARD TO ORDER REFUND
8 OF PROTESTED TAXES AND LICENSE FEES IN CERTAIN CASES;
9 AMENDING SECTIONS 15-1-402, 15-1-403, 15-2-303, AND
10 15-16-601, MCA; AND REPEALING SECTIONS 15-1-401, 15-15-105,
11 AND 15-15-106, MCA."

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

14 NEW SECTION. Section 1. Purpose. It is the purpose of
15 [this act] to insure an orderly procedure for the payment of
16 taxes and license fees under protest THAT MAY BE APPEALED TO
17 A COUNTY OR STATE TAX APPEAL BOARD and to insure that a
18 taxpayer has exhausted all available remedies prior to
19 filing an appeal in district court.

20 NEW SECTION. Section 2. Board may order refund. (1)
21 In any appeal before the state tax appeal board when a
22 taxpayer has paid taxes or license fees under written
23 protest and the taxes or license fees are held by the
24 treasurer of a unit of local government in a protest fund,
25 the state tax appeal board shall enter judgment, exclusive

1 of costs, if the board finds that the taxes or license fees
2 should be refunded.

6 (a) UNTIL the time period for appeal specified in
7 15-1-402(4) has not passed; or
8 (b) IF the final decision of the state tax appeal
9 board has been appealed in accordance with 15-2-303.

20 state treasurer as provided in 15-1-504 and it shall
21 afterwards appear to the satisfaction of the board of county
22 commissioners that a portion of the money so paid should be
23 refunded as herein provided, said board of county
24 commissioners may refund such portion of said taxes,
25 penalties, and costs so paid to the state treasurer, and

1 upon the rendering of the report required by 15-1-505 the
 2 county clerk and recorder shall certify to the state
 3 auditor, in such form as the state auditor may prescribe,
 4 all amounts so refunded, and in the next settlement of the
 5 county treasurer with the state, the state auditor shall
 6 give the county treasurer credit for the state's portion of
 7 the amounts so refunded.

8 ~~127~~ Upon the entering of judgment under section 21
 9 the county commissioners of the affected county shall order
 10 a refund of such portion of the taxes or license fees as the
 11 state tax appeal board has judged should be refunded.

12 ~~127~~ When any part of the taxes, penalties, or
 13 costs hereinbefore referred to were levied in behalf of any
 14 school district or municipal or other public corporation and
 15 collected by the county treasurer, the same may be refunded
 16 upon the order of the board of county commissioners.

17 ~~127~~ No order for the refund of any taxes,
 18 license fees, per centum, or costs under this section shall
 19 be made except upon a claim therefor, verified by the person
 20 who has paid such tax, license fee, penalty, or costs or his
 21 guardian or, in case of his death, by his executor or
 22 administrator, which claim must be filed within 10 years
 23 after the date when the second half of such taxes would have
 24 become delinquent if the same had not been paid.

25 ~~127~~ All refunds ordered to be paid by the board

1 of county commissioners shall be paid by the county
 2 treasurer out of the general fund of the county, and the
 3 county treasurer shall then make such transfers from other
 4 county funds and from state, school district, and other
 5 public corporation funds in his possession as may be
 6 necessary to reimburse the county general fund for payments
 7 made therefrom on account of such other funds.

8 127 UPON THE ENTERING OF JUDGEMENT JUDGMENT UNDER
 9 SECTION 21, THE COUNTY COMMISSIONERS OF THE AFFECTED COUNTY
 10 SHALL ORDER A REFUND OF SUCH PORTION OF THE TAXES OR LICENSE
 11 FEES AS THE STATE TAX APPEAL BOARD HAS JUDGED SHOULD BE
 12 REFUNDED."

13 Section 4. Section 15-1-402, MCA, is amended to read:
 14 "15-1-402. Payment of taxes under protest -- action to
 15 recover. (1) ~~in-att-eases-of-tevy-of--taxes--+licenses--+or~~
 16 ~~other--demands--for-public-revenue-which-are-deemed-unlawful~~
 17 ~~by-the-party-whose-property-is-thus-taxed-or-free-whom--such~~
 18 ~~tax--or--license--is--demanded--or-enforced--+such-party-may,~~
 19 ~~before--such-tax-or-license--becomes--delinquent--pay--under~~
 20 ~~written--protest--such-portions-of--such-tax-or--license--deemed~~
 21 ~~unlawful--to--the--officers--designated--and--authorized--to~~
 22 ~~collect--the--same--specifying--the--grounds--of--protest.~~
 23 ~~Thereupon--the--party--so--paying--or--his--teget--representatives~~
 24 ~~The person upon whom a tax or license fee is being imposed~~
 25 ~~may, before the tax or license fee becomes delinquent, pay~~

1 under written protest that portion of the tax or license fee
 2 protested. The payment must:

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

5 (b) specify the grounds of protest.

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

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

18 (4) Any action instituted to recover any such portions
 19 of license-or tax or license fee paid under protest shall be
 20 commenced and summons timely served within 90 60 days after
 21 the date of payment-of-the-same the final decision of the
 22 state tax appeal board.

23 (5) When any such license-or protested tax or license
 24 fee is payable in installments, the--first--installment
 25 portion-of-such-tax-or-license-as-may-be-deemed-unlawful-may

1 be paid under written protest and suit commenced and summons
 2 served--to--recover--the--same--within--the--time--herein
 3 prescribed--and--if--any--subsequent--installment--of--such
 4 license-or tax shall become due or payable before the final
 5 determination--of--the--suit--commenced-to-recover-the-first
 6 installment--portion--paid--under--protest then such any
 7 subsequent installment portion deemed considered unlawful BY
 8 THE STATE TAX APPEAL BOARD may also NEED NOT be paid under
 9 written-protest and no suit--or action or suit need be
 10 commenced to recover the same, but the determination of the
 11 suit--or action or suit commenced to recover the first
 12 installment portion paid under protest shall determine the
 13 right of the party paying such subsequent installment to
 14 have the same or any part thereof refunded to him OR THE
 15 RIGHT OF THE TAXING AUTHORITY TO COLLECT A SUBSEQUENT
 16 INSTALLMENT NOT PAID BY THE TAXPAYER PLUS INTEREST FROM THE
 17 DATE THE SUBSEQUENT INSTALLMENT WAS DUE.

18 (6) All such portions of licenses-and taxes when--so
 19 and license fees paid under protest TO A COUNTY OR
 20 MUNICIPALITY shall be deposited by the treasurer of the
 21 county or municipality to the credit of a special fund to be
 22 designated as a protest fund and shall be invested in
 23 interest-bearing deposits in local banks or savings and loan
 24 associations and retained in such protest fund until the
 25 final determination of any suit--or action or suit to recover

1 the same.

2 (7) Nothing contained herein prohibits the investment
 3 of the moneys money of this fund in the state unified
 4 investment program. The provision creating the special
 5 protest fund does not apply to any payments made under
 6 protest directly to the state.

7 t27(8) (a) If no action is commenced within the time
 8 herein specified or if such action be is commenced and
 9 finally determined in favor of the county or municipality or
 10 treasurer thereof, the amount of the protested portions of
 11 the license-or tax or license fee shall be taken from such
 12 the protest fund and deposited to the credit of the fund or
 13 funds to which the same property belongs--but if .

14 (b) If such action is finally determined adversely to
 15 such a county or municipality or the treasurer thereof, then
 16 the treasurer shall, upon receiving a certified copy of the
 17 final judgment in said action from the state tax appeal
board, or from a THE district OR SUPREME court, AS
APPROPRIATE, if the final action of the state tax appeal
board is appealed in the time prescribed, refund to the
 21 person in whose favor such judgment is rendered the amount
 22 of such protested portions of the license-or tax or license
fee, with costs of suit and interest at the rate currently
 24 paid on short-term interest-bearing time deposits in banks
 25 in the county or 5% a year, whichever is greater, from the

1 date of payment under protest. If such action was commenced
 2 for the purpose of recovering the first installment portions
 3 of any such license-or tax or license fee and any subsequent
 4 installment thereof has been paid under protest as herein
 5 provided, then the county treasurer shall, at the time of
 6 refunding the amount of such first installment required by
 7 such judgment, also refund such portion of any subsequent
 8 installment as the person holding such judgment is entitled
 9 to recover, together with interest thereon at the rate of 6%
 10 a year from the date of payment under protest."

11 Section 5. Section 15-1-403, MCA, is amended to read:
 12 "15-1-403. Assessment for taxation -- increase over
 13 statement of owner. (1) Whenever any person has delivered to
 14 the department of revenue or its agent a sworn statement of
 15 his property subject to taxation as now provided by law and
 16 giving the estimated value of such property and the
 17 department or its agent shall increase such estimated value
 18 or add other property to such assessment list, the agent
 19 shall, at least 10 days prior to the meeting of the county
 20 tax appeal board, give to such person written notice of such
 21 change, which notice shall be substantially in the following
 22 form:

1 (Date) -----

2 Mr. *****

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

5 {Set out and describe specifically changes made in
6 list.)

7 Agent
8 Department of Revenue

1 board-and-such-person-is-aggrieved-at-the--final--action--of
2 the--state--tax--appeal--board--in--making--or-allowing-such
3 increase-or-addition--he-may-pay-the-tax-on-such-increase-or
4 addition--or--the--installments--thereof--if--payable--in
5 installments--under--protest--in--the--manner--provided--by
6 t5-t-402--and-thereupon-and-within-the-time-prescribed-and-in
7 the-manner-provided-by-t5-t-402--may-commence--an--action--to
8 recover--such-tax-or-installments-and-in-such-action-contest
9 and-fitigate-the-payment-of-such--taxes--on--such--increased
10 value-or-added-property-on-the-same-grounds-and-for-the-same
11 reasons--that-he-has-contested-the-same-before-the-county-and
12 state--tax--appeal-boards-and-for-no-other-reasons-and-on-no
13 other-grounds--provided--that--all--of--the--provisions--of
14 t5-t-402--for-the-retention-or-refunding-of-taxes-paid-under
15 protest--shall-apply-to-taxes-paid-under-protest--under--this
16 section."

17 Section 6. Section 15-2-303, MCA, is amended to read:
18 "15-2-303. Judicial review of contested cases. (1) Any
19 party to an appeal before the state tax appeal board who is
20 aggrieved by a final decision in a contested case is
21 entitled to judicial review under this part.

22 (2) Proceedings for review shall be instituted by
23 filing a petition in district court in the county wherein
24 the taxable property or some portion thereof is located
25 (except the taxpayer may, at his option, file in the

1 district court of the first judicial district) and serving a
2 copy of the petition on the state tax appeal board within 30
3 60 days after service of the final decision of the state tax
4 appeal board or, if a rehearing is requested, within 30 60
5 days after the decision thereon. All parties to the appeal
6 shall cause to be served on the state tax appeal board a
7 copy of all pleadings and documents they shall file in such
8 proceedings.

9 (3) Notwithstanding any other provision, proceedings
10 for review of a decision by the state tax appeal board by a
11 company under the jurisdiction of the public service
12 commission shall be instituted in the district court of the
13 first judicial district.

14 (4) Notwithstanding the provisions of 2-4-704(1), the
15 court may, for good cause shown, permit additional evidence
16 to be introduced."

17 Section 7. Repealer. Sections 15-1-401, 15-15-105, and
18 15-15-106, MCA, are repealed.

-End-

April 10, 1981

HOUSE OF REPRESENTATIVES

COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 17:

1. Page 4, line 8.

Following: "OF"

Strike: "JUDGEMENT"

Insert: "judgment"