

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. 17

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.

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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 (2) 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 ~~(2)(3)~~ When any part of the taxes, penalties, or costs
10 hereinbefore 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 ~~(3)(4)~~ 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 fee, 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 ~~(4)(5)~~ 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 all cases of levy 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 (a) be made to the officer designated and authorized to
21 collect it; and

22 (b) specify the grounds of protest.

23 (2) 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 license fee was paid or against the county or
3 municipality in whose behalf the same was collected and the
4 department of revenue.

5 (3) Both the officers to whom the ~~license-fee-or tax or~~
6 license fee 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 (4) Any action instituted to recover any such portions
11 of ~~license-or tax or license fee~~ paid under protest shall be
12 commenced and summons timely served within 90 60 days after
13 the date of ~~payment-of-the-same~~ the final decision of the
14 state tax appeal board.

15 (5) 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 or suit need be commenced to recover the same, but the
2 determination of the ~~suit-or action~~ or suit 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 (6) All such portions of ~~licenses-and taxes when-so and~~
8 license fees 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 (7) 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 (2)(a) 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 license fee~~ shall be taken from such
25 the protest fund and deposited to the credit of the fund or

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

24 Section 5. Section 15-1-403, MCA, is amended to read:
 25 "15-1-403. Assessment for taxation -- increase over

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:

(Date)

11
 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 ~~15-1-402 and thereupon and within the time prescribed and in~~
 17 ~~the manner provided by 15-1-402 may commence an action to~~
 18 ~~recover such tax or installments and in such action contest~~
 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 ~~15-1-402 for the retention or refunding of taxes paid under~~
 25 ~~protest shall apply to taxes paid under protest under this~~

1 ~~section.~~"

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

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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

1 SENATE BILL NO. 17

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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 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) [A] 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 ~~(2) 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 ~~(3)(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 ~~(3)(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 ~~(4)(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 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 licenses 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 ~~(2)~~(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
17 boards 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)

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 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 ~~15-1-402 and thereupon and within the time prescribed and in~~
7 ~~the manner provided by 15-1-402 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 ~~15-1-402 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

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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-

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2 INTRODUCED BY THOMAS

3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

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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 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) [A] 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 15-1-305 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 ~~(2) 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 ~~(2)(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 ~~(3)(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 ~~(4)(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 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 licenses 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 ~~(2)~~ (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
 17 boards 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)

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 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 15-1-402 and thereupon and within the time prescribed and in
7 the manner provided by 15-1-402 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 15-1-402 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

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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

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

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

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

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

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

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

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

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

Section 3. Section 15-16-601, MCA, is amended to read: "15-16-601. Taxes or penalties illegally collected to be refunded. (1) [A] Any taxes, per centum, and costs paid more than once or erroneously or illegally collected or any amount of tax paid for which a taxpayer is entitled to a refund under 15-16-612 or any part or portion of taxes paid which were mistakenly computed on government bonus or subsidy received by the taxpayer may, by order of the board of county commissioners, be refunded by the county treasurer. Whenever any payment shall have been made to the state treasurer as provided in 15-1-504 and it shall afterwards appear to the satisfaction of the board of county commissioners that a portion of the money so paid should be refunded as herein provided, said board of county commissioners may refund such portion of said taxes, 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 ~~{2}--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 ~~{2}{3}(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 ~~{3}{4}(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 ~~{4}{5}(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 JUDGMENT UNDER
 9 [SECTION 2], 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--all--cases--of--levy--of--taxes--or--licenses--or~~
 16 ~~other--demands--for--public--revenue--which--are--deemed--unlawful~~
 17 ~~by--the--party--whose--property--is--thus--taxed--or--from--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--legal--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 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 (2)(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
18 board, or from a THE district OR SUPREME court, AS
19 APPROPRIATE, if the final action of the state tax appeal
20 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~~
23 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

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 15-1-402 and thereupon and within the time prescribed and in
7 the manner provided by 15-1-402 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 15-1-402 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

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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"