

SENATE BILL NO. 210

INTRODUCED BY SENATE TAXATION COMMITTEE

IN THE SENATE

January 20, 1981	Introduced and referred to Committee on Taxation.  Fiscal note requested.
January 26, 1981	Fiscal note returned.
February 19, 1981	Committee recommend bill do pass as amended. Report adopted.
February 20, 1981	Bill printed and placed on members' desks.
February 21, 1981	Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	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 16, 1981	Second reading, concurred in.  On motion rules suspended and bill placed on third reading this day.  Third reading, concurred in as amended. Ayes, 98; Noes, 0.

IN THE SENATE

April 17, 1981

Returned from House with amendments.

April 20, 1981

Second reading, amendments concurred in.

On motion rules suspended. Bill placed on calendar for third reading this day.

Third reading, amendments concurred in. Ayes, 48; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1 *Agate* BILL NO. *210*  
 2 INTRODUCED BY *Senate Revenue Committee*  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW TAXPAYERS TO  
 5 CHALLENGE ASSESSMENT RULES AND PROCEDURES BEFORE THE STATE  
 6 TAX APPEAL BOARD; PROVIDING THAT RELIEF GRANTED IN SUCH A  
 7 PROCEEDING MAY APPLY TO ALL SIMILARLY SITUATED TAXPAYERS;  
 8 AMENDING SECTION 15-15-101, MCA; AND PROVIDING AN IMMEDIATE  
 9 EFFECTIVE DATE."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Challenges to assessment  
 13 rules or procedures. (1) An aggrieved taxpayer may file an  
 14 original proceeding before the state tax appeal board  
 15 contesting the validity of a method or procedure of  
 16 assessment of property adopted or utilized by the department  
 17 of revenue. Such cases may be brought before the board by a  
 18 single taxpayer or by a group of taxpayers who are similarly  
 19 situated.

20 (2) If the board finds the challenged rule or  
 21 procedure improper, it may direct that the assessments at  
 22 issue be adjusted in accordance with its decision.

23 (3) A decision of the board that such a rule or  
 24 procedure is improper may direct that assessment changes be  
 25 made for the taxpayer or taxpayers who brought the action,

1 as well as all taxpayers who are similarly situated.

2 Section 2. Section 15-15-101, MCA, is amended to read:  
 3 "15-15-101. County tax appeal board -- meetings and  
 4 compensation. (1) The board of county commissioners of each  
 5 county shall appoint a three-member county tax appeal board,  
 6 with the members to serve staggered terms of 3 years each.  
 7 The members of each county tax appeal board shall be  
 8 residents of the county in which they serve. They shall  
 9 receive compensation of \$25 a day and travel expenses as  
 10 provided for in 2-18-501 through 2-18-503, as amended, only  
 11 when the county tax appeal board is in session to hear  
 12 taxpayers' appeals from property tax assessments or when  
 13 they are attending meetings called by the state tax appeal  
 14 board. Travel expenses and compensation shall be paid from  
 15 the appropriation to the state tax appeal board. Office  
 16 space and equipment for the county tax appeal boards shall  
 17 be furnished by the county. All other incidental expenses  
 18 shall be paid from the appropriation of the state tax appeal  
 19 board.

20 (2) The county tax appeal board must meet on the third  
 21 Monday of April in each year to hear protests concerning  
 22 assessments made by the department of revenue. It must  
 23 continue in session for that purpose from time to time until  
 24 the business of hearing protests is disposed of, but not  
 25 later than 60 days after the department of revenue or its

1 agent:

2 (a) has mailed notice of classification and appraisal  
3 to all property owners as required in 15-7-102; and

4 (b) has notified the county tax appeal board that  
5 classification and appraisal notices have been mailed to all  
6 property owners.

7 (3) In connection with any such appeal, the county tax  
8 appeal board may change any assessment or fix the assessment  
9 at some other level. The county clerk shall publish a notice  
10 to taxpayers, giving the time the county tax appeal board  
11 will meet to hear protests concerning assessments and the  
12 latest date the county tax appeal board may take  
13 applications for such hearings. The notice shall be  
14 published in a newspaper if any is printed in the county or,  
15 if none, then in such manner as the board may direct. The  
16 notice shall be published at least 7 days prior to the first  
17 meeting of the county tax appeal board.

18 ~~(4) Challenges to a department of revenue rule~~  
19 ~~governing the assessment of property or to an assessment~~  
20 ~~procedure may be brought only before the state tax appeal~~  
21 ~~boards."~~

22 Section 3. Codification instruction. Section 1 is  
23 intended to be codified as an integral part of Title 15,  
24 chapter 2, part 3, and the provisions of Title 15, chapter  
25 2, part 3, apply to section 1.

1 Section 4. Effective date. This act is effective on  
2 passage and approval.

-End-

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STATE OF MONTANA

REQUEST NO. 180-81

FISCAL NOTE

Form BD-15

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In compliance with a written request received January 22, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 210 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

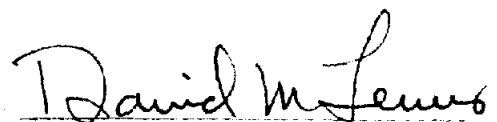
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DESCRIPTION

This proposal would allow taxpayers to challenge the Department of Revenue's assessment rules and procedures before the State Tax Appeals Board. Any relief granted an individual taxpayer by S.T.A.B. would be extended to all other similarly situated taxpayers.

FISCAL IMPACT:

There will be no direct effect on state revenues; however, the measure could have an effect upon state programs that rely on the property tax, i.e. the university levy and foundation programs. These programs, if not adequately funded by the property tax, could require additional funds from the General Fund. The impact on local government revenues cannot be estimated but, depending on the breadth of a particular class of taxpayers involved in a challenge, could be significant.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-26-81

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Approved by Committee  
on Taxation

SENATE BILL NO. 210

INTRODUCED BY SENATE TAXATION COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW TAXPAYERS TO CHALLENGE ASSESSMENT RULES AND PROCEDURES BEFORE THE STATE TAX APPEAL BOARD IN THE DISTRICT COURT; PROVIDING THAT RELIEF GRANTED IN SUCH A PROCEEDING MAY APPLY TO ALL SIMILARLY SITUATED TAXPAYERS; AMENDING SECTION 15-15-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

~~NEW SECTION. Section 15-15-101. Challenges to assessment rules or procedures. (1) An aggrieved taxpayer may file an original proceeding before the state tax appeal board contesting the validity of a method or procedure of assessment of property adopted or utilized by the department of revenue. Such cases may be brought before the board by a single taxpayer or by a group of taxpayers who are similarly situated.~~

~~(2) If the board finds the challenged rule or procedure improper, it may direct that the assessments at issue be adjusted in accordance with its decision.~~

~~(3) A decision of the board that such a rule or procedure is improper may direct that assessment changes be made for the taxpayer or taxpayers who brought the action~~

~~as well as all taxpayers who are similarly situated.~~

NEW SECTION. SECTION 1. CHALLENGE TO ASSESSMENT RULES OR PROCEDURES. AN AGGRIEVED TAXPAYER MAY, IN LIEU OF PROCEEDING UNDER TITLE 15, CHAPTER 15, PART 1, BRING A DECLARATORY JUDGMENT ACTION IN THE DISTRICT COURT SEEKING A DECLARATION THAT A METHOD OR PROCEDURE OF ASSESSMENT OF PROPERTY ADOPTED OR UTILIZED BY THE DEPARTMENT OF REVENUE IS ILLEGAL OR IMPROPER.

NEW SECTION. SECTION 2. PROCEDURE. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), AN ACTION PURSUANT TO [SECTION 1] IS SUBJECT TO THE PROVISIONS OF TITLE 27, CHAPTER 8.

(2) IN LIEU OF THE REQUIREMENT OF 27-8-301, A PARTY BRINGING AN ACTION UNDER [SECTION 1] MAY ELECT TO USE:

(A) THE PROCEDURES AVAILABLE UNDER THE MONTANA RULES OF CIVIL PROCEDURE FOR BRINGING A CLASS ACTION, TITLE 25, CHAPTER 20, RULE 23; OR

(B) THE PROCEDURE PROVIDED FOR IN SUBSECTION (3).

(3) (A) A PARTY BRINGING AN ACTION UNDER [SECTION 1] MAY ELECT TO GIVE NOTICE AS PROVIDED IN THIS SUBSECTION. A PARTY SO ELECTING MUST PUBLISH NOTICE THAT AN ACTION HAS BEEN BROUGHT. THE NOTICE MUST BE PUBLISHED AT LEAST ONCE EACH WEEK FOR 4 CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY WHERE THE ACTION IS COMMENCED AND IN OTHER COUNTIES WITHIN THE JURISDICTION OF THE TAXING AUTHORITY. THE NOTICE SHALL ADVISE EACH SIMILARLY

1 SITUATED TAXPAYER THAT:

2 (I) THE COURT WILL EXCLUDE HIM FROM THE CLASS IF HE SO  
3 REQUESTS BY A SPECIFIC DATE;

4 (II) THE JUDGMENT, WHETHER FAVORABLE OR NOT, WILL  
5 INCLUDE ALL SIMILARLY SITUATED TAXPAYERS WHO DO NOT REQUEST  
6 TO BE EXCLUDED; AND

7 (III) ANY SIMILARLY SITUATED TAXPAYER WHO DOES NOT  
8 REQUEST EXCLUSION MAY, IF HE DESIRES, ENTER AN APPEARANCE.

9 (B) AN ELECTION TO GIVE NOTICE UNDER THIS SUBSECTION  
10 DOES NOT PREVENT ANY PARTY TO THE ACTION FROM SERVING  
11 PROCESS ON OTHER INTERESTED PARTIES.

12 (4) IN A PROCEEDING UNDER [SECTION 1] ALL ISSUES SHALL  
13 BE TRIED BY THE COURT.

14 NEW SECTION. SECTION 3. REMEDY. (1) IF THE DISTRICT  
15 COURT DETERMINES THAT THE CHALLENGED RULE OR PROCEDURE IS  
16 IMPROPER IT MAY DIRECT:

17 (A) THAT THE ASSESSMENT BE CHANGED FOR THE TAXPAYER OR  
18 TAXPAYERS WHO BROUGHT THE ACTION AS WELL AS ALL SIMILARLY  
19 SITUATED TAXPAYERS; OR

20 (B) SUCH OTHER REMEDY AS THE COURT CONSIDERS  
21 APPROPRIATE.

22 (2) THE REMEDY DIRECTED BY THE DISTRICT COURT MAY  
23 APPLY ONLY TO TAXES IMPOSED DURING OR AFTER THE YEAR THE  
24 RULE OR PROCEDURE IS CHALLENGED. THE REMEDY MAY NOT APPLY TO  
25 THE APPLICATION OR IMPLEMENTATION OF THE RULE OR PROCEDURE

1 AS IT APPLIES TO TAXES IMPOSED IN YEARS PRIOR TO THE  
2 CHALLENGE UNDER [SECTION 1].

3 NEW SECTION. SECTION 4. TAX TO BE PAID. A TAX WHICH  
4 IS BASED ON THE RULE OR PROCEDURE BEING CHALLENGED UNDER  
5 [SECTION 1] AND WHICH BECOMES DUE BEFORE THE FINAL  
6 DETERMINATION OF THE VALIDITY OF THE RULE OR PROCEDURE MUST  
7 BE PAID WHEN DUE AS A CONDITION OF CONTINUING THE ACTION.

8 Section 5. Section 15-15-101, MCA, is amended to read:

9 "15-15-101. County tax appeal board -- meetings and  
10 compensation. (1) The board of county commissioners of each  
11 county shall appoint a three-member county tax appeal board,  
12 with the members to serve staggered terms of 3 years each.  
13 The members of each county tax appeal board shall be  
14 residents of the county in which they serve. They shall  
15 receive compensation of \$25 a day and travel expenses as  
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 2 Monday of April in each year to hear protests concerning  
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 4 continue in session for that purpose from time to time until  
 5 the business of hearing protests is disposed of, but not  
 6 later than 60 days after the department of revenue or its  
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8 (a) has mailed notice of classification and appraisal  
 9 to all property owners as required in 15-7-102; and

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 11 classification and appraisal notices have been mailed to all  
 12 property owners.

13 (3) In connection with any such appeal, the county tax  
 14 appeal board may change any assessment or fix the assessment  
 15 at some other level. The county clerk shall publish a notice  
 16 to taxpayers, giving the time the county tax appeal board  
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 18 latest date the county tax appeal board may take  
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 20 published in a newspaper if any is printed in the county or,  
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 22 notice shall be published at least 7 days prior to the first  
 23 meeting of the county tax appeal board.

24 (4) Challenges to a department of revenue rule  
 25 governing the assessment of property or to an assessment

1 ~~procedure may be brought only before the state tax appeal~~  
 2 ~~board SHALL APPLY ONLY TO THE TAXPAYER BRINGING THE~~  
 3 ~~CHALLENGE AND MAY NOT APPLY TO ALL SIMILARLY SITUATED~~  
 4 ~~TAXPAYERS UNLESS AN ACTION IS BROUGHT IN THE DISTRICT COURT~~  
 5 ~~AS PROVIDED IN [SECTIONS 1 THROUGH 4]."~~

6 ~~Section 3v--Codification--instruction--Section--1--is~~  
 7 ~~intended--to--be--codified--as--an--integral--part--of--title--15v~~  
 8 ~~chapter--2v--part--3v--and--the--provisions--of--title--15v--chapter~~  
 9 ~~2v--part--3v--apply--to--section--1v~~

10 Section 6. Effective date. This act is effective on  
 11 passage and approval.

-End-



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NEW SECTION. Section 15-15-101. Challenges to assessment rules or procedures. (1) An aggrieved taxpayer may file an original proceeding before the state tax appeal board contesting the validity of a method or procedure of assessment of property adopted or utilized by the department of revenue. Such cases may be brought before the board by a single taxpayer or by a group of taxpayers who are similarly situated.

(2) If the board finds the challenged rate or procedure improper, it may direct that the assessments at issue be adjusted in accordance with its decision.

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 4 (II) THE JUDGMENT, WHETHER FAVORABLE OR NOT, WILL  
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 7 (III) ANY SIMILARLY SITUATED TAXPAYER WHO DOES NOT  
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 8 Section 5. Section 15-15-101, MCA, is amended to read:  
 9 "15-15-101. County tax appeal board -- meetings and  
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 12 with the members to serve staggered terms of 3 years each.  
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 9 to all property owners as required in 15-7-102; and

10 (b) has notified the county tax appeal board that  
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 14 appeal board may change any assessment or fix the assessment  
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6 TO BE EXCLUDED; AND

7 (III) ANY SIMILARLY SITUATED TAXPAYER WHO DOES NOT  
8 REQUEST EXCLUSION MAY, IF HE DESIRES, ENTER AN APPEARANCE.

9 (B) THE COURT SHALL EXCLUDE A TAXPAYER FROM AN ACTION  
10 BROUGHT PURSUANT TO [SECTION 1] IF THE PERSON BRINGING THE  
11 ACTION PUBLISHES NOTICE AS PROVIDED IN SUBSECTION (3) OF  
12 THIS SECTION AND THE TAXPAYER REQUESTS TO BE EXCLUDED BY THE  
13 DATE SPECIFIED IN THE NOTICE.

14 (B)(C) AN ELECTION TO GIVE NOTICE UNDER THIS  
15 SUBSECTION SUBSECTION (3) OF THIS SECTION DOES NOT PREVENT  
16 ANY PARTY TO THE ACTION FROM SERVING PROCESS ON OTHER  
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21 COURT DETERMINES THAT THE CHALLENGED RULE OR PROCEDURE IS  
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 8 Monday of April in each year to hear protests concerning  
 9 assessments made by the department of revenue. It must  
 10 continue in session for that purpose from time to time until  
 11 the business of hearing protests is disposed of, but not  
 12 later than 60 days after the department of revenue or its  
 13 agent:

14 (a) has mailed notice of classification and appraisal  
 15 to all property owners as required in 15-7-102; and

16 (b) has notified the county tax appeal board that  
 17 classification and appraisal notices have been mailed to all  
 18 property owners.

19 (3) In connection with any such appeal, the county tax  
 20 appeal board may change any assessment or fix the assessment  
 21 at some other level. The county clerk shall publish a notice  
 22 to taxpayers, giving the time the county tax appeal board  
 23 will meet to hear protests concerning assessments and the  
 24 latest date the county tax appeal board may take  
 25 applications for such hearings. The notice shall be

1 published in a newspaper if any is printed in the county or,  
 2 if none, then in such manner as the board may direct. The  
 3 notice shall be published at least 7 days prior to the first  
 4 meeting of the county tax appeal board.

5 (4) Challenges to a department of revenue rule  
 6 governing the assessment of property or to an assessment  
 7 procedure may be brought only before the state tax appeal  
 8 board SHALL APPLY ONLY TO THE TAXPAYER BRINGING THE  
 9 CHALLENGE AND MAY NOT APPLY TO ALL SIMILARLY SITUATED  
 10 TAXPAYERS UNLESS AN ACTION IS BROUGHT IN THE DISTRICT COURT  
 11 AS PROVIDED IN [SECTIONS 1 THROUGH 4]."

12 ~~Section 3--Codification--instructions--Section 1--is~~  
 13 ~~intended--to--be--codified--as--an--integral--part--of--Title--15,~~  
 14 ~~chapter 2, part 3, and the provisions of Title 15, chapter~~  
 15 ~~2, part 3, apply to section 1.~~

16 Section 6. Effective date. This act is effective on  
 17 passage and approval.

-End-

April 10, 1981

HOUSE OF REPRESENTATIVES  
COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 210:

1. Page 3, line 9.

Following: line 8

Strike: "(B)"

Insert: "(b)The court shall exclude a taxpayer from an action brought pursuant to [section 1] if the person bringing the action publishes notice as provided in subsection (3) of this section and the taxpayer requests to be excluded by the date specified in the notice."

Reléttér: subsequent subsection

Following: "UNDER" on line 9

Strike: "THIS SUBSECTION"

Insert: "subsection (3) of this section"