## HOUSE BILL NO. 644

## INTRODUCED BY YARDLEY, WILLIAMS

## BY REQUEST OF THE DEPARTMENT OF REVENUE

### IN THE HOUSE

February 4, 1983	Introduced and referred to Committee on Taxation.
February 14, 1983	Committee recommend bill do pass. Report adopted.
	Bill printed and placed on members' desks.
February 15, 1983	Second reading, do pass.
February 16, 1983	Considered correctly engrossed.
February 17, 1983	Third reading, passed. Transmitted to Senate.
	IN THE SENATE
February 18, 1983	Introduced and referred to Committee on Taxation.
March 9, 1983	Committee recommend bill be concurred in. Report adopted.
March 11, 1983	Second reading, concurred in.
March 14, 1983	Third reading, concurred in.
	Ayes, 49; Noes, 0.

March 15, 1983

Reported correctly enrolled.

Sent to enrolling.

LC 2263/01

LC 2263/01

House BILL NO. 644 1 INTRODUCED BY Mandler Williams 2 BY REQUEST OF THE DEPARTMENT OF REVENUE 3

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 6 CLARIFY SECTION 15-31-544, MCA, RELATING TO ACTION ON A 7 FALSE DR FRAUDULENT INCOME TAX RETURN; AMENDING SECTIONS 8 15-31-509 AND 15-31-544, MCA; AND PROVIDING AN IMMEDIATE 9 EFFECTIVE DATE AND AN APPLICABILITY DATE."

10

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 12 Section 1. Section 15-31-544, MCA, is amended to read: "15-31-544. Statute--of-Histations Action on false or 13 fraudulent\_return. tit-Except-os-provided-in-subsection-t2tv 14 on-action-to-collect-a-past-due-tax-imposed-pursuant-to-this 15 16 chapter-or-to-enforce-a-provision-of-this--chapter--must--be 17 brogaht--within--5--vears--of-the-due-date-of-the-tax-or-the 18 date-of-filing-the-returny-whichever-is-latery tet Whenever a return is required to be filed and the 19

20 taxpayer <u>files\_a\_fraudulent\_return\_or</u> fails to file the 21 return, an-action-to-collect-the-tax-may-be-brought-at-any 22 times---Whanever-a-return-is-required-to-be-filed-and-the 23 taxpayer-files-a-fraudulent-returny-the-5-year-period 24 provided--for-in-subsection-(1)-does-not-begin-until 25 discovery-of-the-fraud-by the department <u>max\_at\_any\_time</u>

# 1 assess\_the\_tax\_or\_begin\_a\_proceeding\_in\_court\_for\_the 2 collection\_of\_the\_tax\_without\_assessment.\*\*

3 Section 2. Section 15-31-509, MCA, is amended to read: #15-31-509. Periods of limitation. (1) Except as 4 5 otherwise provided in this section and in 15-31-542 15-31-544, no deficiency shall be assessed or collected with 6 7 respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed 8 9 within 5 years from the date the return was filed. For the 10 purposes of this section, a return filed before the last day 11 prescribed for filing shall be considered as filed on such 12 last day. Where, before the expiration of the period 13 prescribed for assessment of the tax, the taxpayer consents 14 in writing to an assessment after the time, the tax may be 15 assessed at any time prior to the expiration of the period 16 agreed upon. The limitations prescribed for giving notice of 17 a proposed assessment of additional tax shall not apply 18 when:

(a) the taxpayer has by written agreement suspended
the federal statute of limitations for collection of federal
tax, provided the suspension of the limitation set forth in
this section shall last:

23 (i) only so long as the suspension of the federal24 statute of limitation; or

25 (ii) until 1 year after any federal changes have become

-2- INTRODUCED BILL

final or any amended federal return is filed as a result of
 such suspension of the federal statute, whichever is the
 latest in time; or

(b) a taxpayer has failed to file a report of changes
in federal taxable income or an amended return as required
by 15-31-506 until 5 years after the federal changes become
final or the amended federal return was filed, whichever the
case may be.

9 (2) No refund or credit shall be allowed or paid with 10 respect to the year for which a return is filed after 5 11 years from the last day prescribed for filing the return or 12 after 1 year from the date of the overpayment, whichever 13 period expires the later, unless before the expiration of such period the taxpayer files a claim therefor or the 14 15 department of revenue has determined the existence of the 16 overpayment and has approved the refund or credit thereof. 17 If the taxpayer has agreed in writing under the provisions of subsection (1) of this section to extend the time within 18 19 which the department may propose an additional assessment, 20 the period within which a claim for refund or credit may be 21 filed or a credit or refund allowed in the event no claim is 22 filed shall automatically be so extended."

<u>YEW\_SECTIONA</u> Section 3. Severability. If a part of
 this act is invalid, all valid parts that are severable from
 the invalid part remain in effect. If a part of this act is

invalid in one or more of its applications, the part remains
 in effect in all valid applications that are severable from

3 the invalid applications.

4 <u>NEW\_SECTION.</u> Section 4. Applicability. This act 5 applies to tax years beginning after December 31, 1982, and 6 to all prior tax years for which the liability for taxes has 7 not been discharged by statute.

8 <u>NEW\_SECTION</u> Section 5. Effective date. This act is
 9 effective on passage and approval.

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Approved by committee on Taxation

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19 (a) the taxpayer has by written agreement suspended
20 the federal statute of limitations for collection of federal
21 tax, provided the suspension of the limitation set forth in
22 this section shall last:

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### -2- SECOND READING

final or any amended federal return is filed as a result of
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 latest in time; or

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(b) a taxpayer has failed to file a report of changes
in federal taxable income or an amended return as required
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THIRD READING HB644 final or any amended federal return is filed as a result of
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HB644 REFERENCE BILL

HB 644

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