

1 *Senate* BILL NO. 299
2 INTRODUCED BY *[Signature]*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
5 PROCEDURE FOR AN INTERLOCUTORY ADJUDICATION OF AN APPEAL
6 PENDING BEFORE THE STATE TAX APPEAL BOARD; AND AMENDING
7 SECTIONS 15-2-304 AND 15-2-305, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 15-2-304, MCA, is amended to read:

11 "15-2-304. **Petition for interlocutory adjudication.**

12 (1) (a) Either party, within 30 days of the filing of an
13 answer to an appeal before the state tax appeal board, may
14 file a petition for an interlocutory adjudication under
15 15-2-305. The petition may be filed with the district court:

- 16 (i) in the first judicial district;
- 17 (ii) in the county in which the taxable property is
- 18 located; or
- 19 (iii) in cases not involving property taxes, in the
- 20 county where the taxpayer resides or has his principal place
- 21 of business in the state.

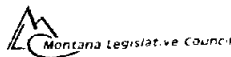
22 (b) The petition must may raise ~~all--questions~~ any
23 question involving procedure, the admissibility of evidence,
24 or a substantive question of law raised by the pleadings
25 ~~involving the interpretation of a constitutional--provision;~~

1 ~~a--statute,--or--a--rule~~ within 30 days of filing an answer to
2 the appeal with the state tax appeal board.

3 (c) A nonpetitioning party shall respond to the
4 petition within 30 days after service of the petition. The
5 response may raise any question not raised in the petition
6 involving procedure, the admissibility of evidence, or a
7 substantive question of law.

8 (2) After ~~a--proceeding--has--commenced--before--the--state~~
9 ~~tax--appeal--board~~ the 30-day period specified in subsection
10 (1)(b) but before arguments have been heard, the parties to
11 the proceeding may jointly petition a district court to make
12 an interlocutory adjudication as provided under 15-2-305. A
13 petition for ~~such an~~ adjudication shall must be signed by
14 each party to the proceeding.

15 (3) In a petition under subsection (1) or (2), one
16 party ~~shall~~ must be designated as the petitioner and every
17 other party ~~shall~~ must be designated a respondent. The court
18 may in its discretion grant such a petition if it appears
19 that the issues presented involve ~~the--interpretation--of--a~~
20 ~~constitutional--provision,--a--statute,--or--a--rule~~ procedure,
21 the admissibility of evidence, or a substantive question of
22 law and do not require the ~~hearing--of--evidence--to--be~~
23 ~~resolved~~ determination of questions of fact and that the
24 controversy would be more expeditiously resolved by ~~such an~~
25 adjudication. If the court grants a petition, it shall rule



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1 on all issues presented in the petition and the response,
2 regardless of whether a ruling on less than all of the
3 issues is dispositive of the case."

4 **Section 2.** Section 15-2-305, MCA, is amended to read:

5 "15-2-305. Jurisdiction to make interlocutory
6 adjudication. A district court may make an interlocutory
7 adjudication of an issue pending in before the state tax
8 appeal board if that issue involves ~~only-the-interpretation~~
9 ~~of-a-constitutional-provision, statute, or regulation~~
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15 whether a ruling on less than all of the issues is
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17 court may be appealed as in other civil actions."

-End-

APPROVED BY COMMITTEE
ON TAXATION

1 *Senate* BILL NO. *299*
2 INTRODUCED BY *Hollibaugh*

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