# SENATE BILL NO. 379

# INTRODUCED BY DOHERTY, TOOLE, ELLIOTT, TOWE, HARP

IN THE SENATE

FEBRUARY 12, 1993

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INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.

FIRST READING.

- MARCH 11, 1993 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
- MARCH 12, 1993 PRINTING REPORT.

ON MOTION, CONSIDERATION PASSED FOR THE DAY.

- MARCH 13, 1993 ON MOTION, CONSIDERATION PASSED UNTIL THE 59TH LEGISLATIVE DAY.
- MARCH 16, 1993 SECOND READING, DO PASS.
- MARCH 17, 1993 ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 48; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 18, 1993 INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.

FIRST READING.

- APRIL 6, 1993 ON MOTION, RULES SUSPENDED TO ALLOW 2ND AND 3RD READING SAME LEGISLATIVE DAY.
- APRIL 8, 1993 COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

APRIL 14, 1993 SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN. AYES, 86; NOES, 11.

RETURNED TO SENATE WITH AMENDMENTS.

# IN THE SENATE

APRIL 16, 1993

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SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 17, 1993

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THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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LC 1369/01

BILL NO. 1 2 INTRODUCED BY HARP 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT SIMPLIFYING TAX APPEAL 5 PROCEDURES BEFORE THE STATE TAX APPEAL BOARD; AMENDING SECTIONS 15-1-402, 15-1-406, 15-1-408, 15-2-301, 15-2-302, 6 7 15-2-303, 15-2-306, AND 15-15-101, MCA; AND REPEALING 8 SECTIONS 15-2-307, 15-2-308, 15-2-309, AND 15-2-310, MCA." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 15-1-402, MCA, is amended to read: 11 "15-1-402. Payment of taxes under protest ---action--to 12 13 recover. (1) The person upon whom a property tax or license 14 fee is being imposed may proceed--under--15-1-406--or--may, 15 before the property tax or license fee becomes delinquent, 16 pay under written protest that portion of the property tax 17 or license fee protested. The protested payment must: 18 (a) be made to the officer designated and authorized to 19 collect it; 20 (b) specify the grounds of protest; and 21 (c) not exceed the difference between the payment for 22 the immediately preceding tax year and the amount owing in 23 the tax year protested unless a different amount results 24 from the specified grounds of protest, which grounds may 25 include but are not limited to changes in assessment due to

1 reappraisal under 15-7-111.

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2	(2) After-having-exhausted-theadministrativeappeals
3	available-under-Title-157-chapters-2-and-157-a-person-og-his
4	legalrepresentativemaybringan-action-in-any-court-of
5	competent-jurisdiction-against-the-officers-to-whom-said-tax
6	orlicense-feewaspaidoragainstthecountyor
7	municipality-in-whose-behalf-the-same-was-collected-and-the
8	department-of-revenue: A person appealing a property tax or
9	fee pursuant to chapter 2 or 15 shall pay the tax or fee
10	under protest when due as a condition of continuing the
11	appeal before the county tax appeal board or the state tax
12	appeal board.
13	<del>t3)Both-the-officers-to-whom-the-taxorlicensefee</del>
14	was-paidor-the-county-or-municipality-in-whose-behalf-the
15	same-was-collected-and-the-departmentofrevenuemustbe
16	servedwithtimelysummonsand-complaint-within-the-time
17	prescribedr
18	(4)An-action-instituted-to-recover-anysuchportions
19	oftaxor-license-fee-paid-under-protest-must-be-commenced
20	and-summons-timely-served-within-60-days-after-thedateof
21	the-final-decision-of-the-state-tax-appeal-board-
22	(5)(3) If a protested property tax or license fee is
23	payable in installments, a subsequent installment portion
24	considered unlawful by the state tax appeal board need not
25	be paid and no an action or suit need not be commenced to

-2- SB 379 INTRODUCED BILL 1 recover the subsequent installment. The determination of the action or suit commenced to recover the first installment 2 portion paid under protest determines the right of the party 3 paying such the subsequent installment to have the -- same it 4 or any part thereof of it refunded to him the party or the 5 right of the taxing authority to collect a subsequent 6 installment not paid by the taxpayer plus interest from the 7 date the subsequent installment was due. 8

(6)(4) All property taxes and license fees paid under 9 protest to a county or municipality must be deposited by the 10 treasurer of the county or municipality to the credit of a 11 special fund to be designated as a protest fund and must be 12 retained in the protest fund until the final determination 13 of any action or suit to recover the-same the taxes and fees 14 unless they are released at the request of the county, 15 municipality, or other local taxing jurisdiction pursuant to 16 subsection (7) (5). Nothing-contained-herein-prohibits This 17 section does not prohibit the investment of the money of 18 this fund in the state unified investment program or in any 19 manner provided in Title 7, chapter 6. The provision 20 creating the special protest fund does not apply to any 21 payments made under protest directly to the state. 22

23 (77)(5) The governing board of a taxing jurisdiction
24 affected by the payment of taxes under protest in the second
25 and subsequent years that a tax protest remains unresolved

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may demand that the treasurer of the county or municipality 1 pay the requesting taxing jurisdiction all or a portion of 2 the protest payments to which it is entitled, except the 3 amount paid by the taxpayer in the first year of the 4 protest. The decision in a previous year of a taxing 5 jurisdiction to leave protested taxes in the protest fund 6 does not preclude it from demanding in a subsequent year any 7 or all of the payments to which it is satitled, except the 8 9 first-year protest amount.

10  $f\theta_{7}(6)$  (a) If no action before the county tax appeal 11 board, state tax appeal board, or district court is not commenced within the time herein specified or if such the 12 action is commenced and finally determined in favor of the 13 department of revenue, county, or municipality, or treasurer 14 15 thereof of the county or the municipality, the amount of the protested portions of the property tax or license fee must 16 be taken from the protest fund and deposited to the credit 17 of the fund or funds to which the same property tax belongs, 18 less a pro rata deduction for the costs of administration of 19 20 the protest fund and related expenses charged the local 21 government units.

(b) If such the action is finally determined adversely
to the department of revenue, a county, or a municipality,
or the treasurer thereof of a county or a municipality, then
the treasurer shall, upon receiving a certified copy of the

final judgment in maid the action from the state tax appeal 1 boardy or from the district or supreme court, as 2 appropriate, if the final action of the state tax appeal 3 board is appealed in the time prescribed, refund to the 4 person in whose favor such the judgment is rendered the 5 amount of such the protested portions of the property tax or 6 Heense fee deposited in the protest fund, and not released 7 pursuant to subsection (7) (5), as the person holding such 8 the judgment is entitled to recover, together with interest 9 thereon from the date of payment under protest, at the 10 greater of: 11

12 (i) the rate of interest generated from the pooled 13 investment fund provided for in 17-6-203 for the applicable 14 period; or

15 (ii) 6% a year.

16 (c) If the amount retained in the protest fund is
17 insufficient to pay all sums due the taxpayer, the treasurer
18 shall apply the available amount first to tax repayment,
19 then interest owed, and lastly to costs.

20 (d) If the protest action is decided adversely to a 21 taxing jurisdiction and the amount retained in the protest 22 fund is insufficient to refund the tax payments and costs to 23 which the taxpayer is entitled and for which local 24 government units are responsible, the treasurer shall bill 25 and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments
 and costs, for which the taxing jurisdiction is proratably
 responsible.

4 (e) In satisfying the requirements of subsection (8)(d) (6)(d), the taxing jurisdiction is allowed not more than 1 5 year from the beginning of the fiscal year following a final 6 resolution of the protest. The taxpayer is entitled to 7 interest on the unpaid balance at the greater of the rates 8 referred to in subsections (8)(b)(i) and 9 t8;tb;ti; (6)(b)(ii) from the date of payment under protest 10 until the date of final resolution of the protest and at the 11 combined rate of the federal reserve discount rate quoted 12 13 from the federal reserve bank in New York, New York, on the 14 date of final resolution, plus four percentage points, from 15 the date of final resolution of the protest until refund is 16 made.

17 (9)(7) A taxing jurisdiction may satisfy the
18 requirements of this section by use of funds from one or
19 more of the following sources:

20 (a) imposition of a property tax to be collected by a
21 special tax protest refund levy;

(b) the general fund, except that amount generated by
the all-purpose mill levy, or any other funds legally
available to the governing body; and

25 (c) proceeds from the sale of bonds issued by a county,

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city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is hereby authorized to issue such the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds."

8 Section 2. Section 15-1-406, MCA, is amended to read:

9 \*15-1-406. Alternative----remedy-----declaratory
 10 Declaratory judgment. (1) An aggrieved taxpayer mayy-in-lieu
 11 of--proceeding--under--15-1-402---or--15-1-2117 bring a
 12 declaratory judgment action in the district court seeking a
 13 declaration that:

(a) an administrative rule or method or procedure of
 assessment or imposition of tax adopted or used by the
 department of revenue is illegal or improper; or

17 (b) a tax isvied authorized by the state or one of its
18 subdivisions was illegally or unlawfully imposed or exceeded
19 the taxing authority of the entity imposing the tax.

(2) The action must be brought within 90 days of the
imposition-of-the-tax date the tax bill for any portion of
the challenged tax is first mailed to the taxpayer or, in
the case of an assessment covered by the uniform tax review
procedure set forth in 15-1-211, within 90 days of the date
of the department director's final decision. The court shall

1 consolidate all actions brought under subsection (1) which that challenge the same tax levy. The decision of the court 2 3 shall-apply applies to all similarly situated taxpayers 4 except those taxpayers who are excluded under 15-1-407. 5 (3) The taxes that are being challenged under this section must be paid when due as a condition of continuing 6 7 the action. Property taxes may be paid under protest as 8 provided in 15-1-402. 9 (4) The remedy authorized by this section may not be 10 used to challenge the: 11 (a) market value of property under a property tax 12 unless the challenge is to the legality of a particular methodology that is being applied to similarly situated 13 14 taxpayers; or 15 (b) legality of a tax other than a property tax, 16 inheritance tax, or estate tax unless the review pursuant to 17 15-1-211 has been completed. 18 (5) The remedy authorized by this section is the exclusive method of obtaining a declaratory judgment 19 concerning a tax authorized by the state or one of its 20 subdivisions. The remedy authorized by this section 21 supersedes the Uniform Declaratory Judgments Act established 22 23 in Title 27, chapter 8. This section does not affect actions for declaratory judgments under 2-4-506." 24

25 Section 3. Section 15-1-408, MCA, is amended to read:

"15-1-408. Alternative remedy -- judgment. If the
 district court determines that the tax was illegally or
 unlawfully imposed or exceeded the taxing authority of the
 entity imposing the tax, the judgment may direct:

5 (1) that the revenue collected under the illegal tax be 6 directly refunded to the taxpayers who have paid the illegal 7 tax and who have not been excluded from the action;

8 (2) that the revenue collected under the illegal tax be
9 used to reduce a similar levy in the ensuing tax year; or

(3) that the assessment be changed for the taxpayer or
 taxpayers who brought the action as well as for all
 similarly situated taxpayers; or

13 (4) such any other remedy as the court considers
 14 appropriate."

15 Section 4. Section 15-2-301, MCA, is amended to read: 16 "15-2-301. Appeal of county tax appeal hoard decisions. 17 (1) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment 18 division of the department of revenue. Any person or the 19 20 department on behalf of the state or any municipal 21 corporation aggrieved by the action of the county tax appeal 22 board may appeal to the state board by filing with the state 23 tax appeal board a notice of appeal within 30 calendar days 24 after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons 25

assigned for the complaint. Notice of acceptance of an 1 appeal must be given to the county tax appeal board by the 2 state tax appeal board. The state board shall set the appeal 3 4 for hearing either in its office in the capital or the 5 county seat as the board considers advisable to facilitate 6 the performance of its duties or to accommodate parties in interest. The board shall give to the appellant and to the 7 8 respondent at least 15 calendar days' notice of the time and 9 place of the hearing.

10 (2) At the time of giving notice of acceptance of an appeal, the state board may require the county board to 11 certify to it the minutes of the proceedings resulting in 12 the action and all testimony taken in connection with its 13 proceedings. The state board may, in its discretion, 14 15 determine the appeal on the record if all parties receive a copy of the transcript and are permitted to submit 16 17 additional sworn statements, or the state board may hear further testimony. For the purpose of expediting its work, 18 the state board may refer any appeal to one of its members 19 or to a designated hearing officer. The board member or 20 21 hearing officer may exercise all the powers of the board in conducting a hearing and shall, as soon as possible after 22 23 the hearing, report the proceedings, together with a 24 transcript or a tape recording of the hearing, to the board. The state board shall determine the appeal on the record. 25

1 (3) On all hearings at county seats throughout the 2 state, the state board or the member or hearing officer 3 designated to conduct a hearing may employ the local court 4 reporter or other competent stenographer to take and 5 transcribe the testimony received. The cost of taking and 6 transcribing testimony may be paid out of the general 7 appropriation for the board.

(4) In connection with any appeal under this section, 8 the state board is not bound by common law and statutory 9 rules of evidence or rules of discovery and may affirm. 10 reverse, or modify any decision. The-decision-of-the-state 11 tax-appeal-board-is-final-and-binding--upon--all--interested 12 perties--unless--reversed-or-modified-by-judicial-review; To 13 the extent this section is in conflict with the Montana 14 Administrative Procedure Act, this section supersedes that 15 act. The state tax appeal board may not amend or repeal any 16 administrative rule of the department. The state tax appeal 17 board shall give an administrative rule full effect unless 18 the board finds a rule arbitrary, capricious, or otherwise 19 unlawful. 20

21 (5) The decision of the state tax appeal board is final 22 and binding upon all interested parties unless reversed or 23 modified by judicial review. Proceedings for judicial review 24 of a decision of the state tax appeal board under this 25 section are subject to the provisions of 15-2-303 and the

1 Montana Administrative Procedure Act to the extent that it 2 does not conflict with 15-2-303." 3 Section 5. Section 15-2-302, MCA, is amended to read: 4 "15-2-302. Direct appeal from department decision to 5 state tax appeal board -- hearing. (1) A person may appeal 6 to the state tax appeal board any final action of the 7 department of revenue involving: B (a) property centrally assessed under chapter 23 of 9 this title; 10 (b) classification of property as new industrial 11 property; 12 (c) any other tax (other than the property tax) imposed 13 under this title; or 14 (d) any other matter in which such the appeal is 15 provided by law. 16 (2) The appeal is made by filing a complaint with the 17 board within 30 days following receipt of notice of the 18 department action. The complaint shall must set forth the 19 grounds for relief and nature of relief demanded. The board 20 shall immediately transmit a copy of the complaint to the 21 department. 22 (3) The department shall file with the board an answer 23 within 30 days following filing of a complaint and at such 24 that time mail a copy to the complainant. The answer shall 25 must set forth the department's response to each ground for

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1 and type of relief demanded in the complaint.

2 (4) The board shall thereafter hear the parties in
3 accordance with the contested case provisions of the Nontana
4 Administrative Procedure Act.

5 (5) The decision of the state tax appeal board is final 6 and binding upon all interested parties unless reversed or 7 modified by judicial review. Proceedings for judicial review 8 of a decision of the state tax appeal board under this 9 section are subject to the provisions of 15-2-303 and the 10 Montana Administrative Procedure Act to the extent that it 11 does not conflict with 15-2-303."

12 Section 6. Section 15-2-303, NCA, is amended to read: 13 "15-2-303. Judicial review of-contested-cases. (1) Any 14 party to an appeal before the state tax appeal board who is 15 aggrieved by a final decision in--a--contested--case is 16 entitled to judicial review under this part.

17 (2) Proceedings for review shall must be instituted by filing a petition in district court in the county wherein in 18 19 which the taxable property or some portion thereof of it is 20 located (except the taxpayer mayy-at-his has the optiony to file in the district court of the first judicial district). 21 22 and--serving--a--copy--of--the-petition-on-the-department-of 23 revenue-or-taxpayer A petition for judicial review must be 24 filed within 60 days after service of the final decision of 25 the state tax appeal board or, if a rehearing is requested,

1 within 60 days after service of the final decision thereon. Copies of the petition must be promptly served on all 2 parties of record. The department of revenue shall promptly 3 notify the state tax appeal board, in writing, of any 4 judicial review, but failure to do so shall-have-no has no 5 effect on the judicial review. The department of revenue 6 7 shall, on request, submit to the state tax appeal board a 8 copy of all pleadings and documents. (3) If the judicial review involves a taxpayer who is 9 10 seeking a refund of taxes paid under protest, the appealing 11 party shall provide a copy of the petition to the treasurer 12 of the county in which the taxable property or some portion of it is located, but failure to do so has no effect on the 13 14 judicial review. 15 (3)(4) Notwithstanding-any-other-provisiony-proceedings 16 Proceedings for review of a decision by the state tax appeal 17 board by a company under the jurisdiction of the public service commission shall must be instituted in the district 18 19 court of the first judicial district. 20 (4) Notwithstanding the provisions of 2-4-704(1), 21 the court may, for good cause shown, permit additional

22 evidence to be introduced."

23 Section 7. Section 15-2-306, MCA, is amended to read:

24 "15-2-306. Board may order refund. (1) In any appeal
25 before the state tax appeal board when a taxpayer has paid

property 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 property taxes or license fees should be refunded.

7 (2) The state tax appeal board's judgment issued
8 pursuant to subsection (1) shall must be held in abeyance:

9 (a) until the time period for appeal specified--in 10 ±5-±-402t4; has passed; or

11 (b) if the final decision of the state tax appeal board 12 has been appealed in accordance with 15-2-303."

Section 8. Section 15-15-101, MCA, is amended to read: 13 "15-15-101. County tax appeal board -- meetings and 14 15 compensation. (1) The board of county commissioners of each 16 county shall appoint a three-sender county tax appeal board, with the members to serve staggered terms of 3 years each. 17 The members of each county tax appeal board shall be 18 residents of the county in which they serve. They shall 19 20 receive compensation of \$45 a day and travel expenses, as provided for in 2-18-501 through 2-18-503, as-amended, only 21 when the county tax appeal board is in session to hear 22 taxpayers' appeals from property tax assessments or when 23 24 they are attending meetings called by the state tax appeal 25 board. Travel expenses and compensation shall must be paid from the appropriation to the state tax appeal board. Office
 space and equipment for the county tax appeal boards shall
 <u>must</u> be furnished by the county. All other incidental
 expenses shall must be paid from the appropriation of the
 state tax appeal board.

(2) The county tax appeal board shall hold an 6 organizational meeting each year on the date of its first 7 8 scheduled hearing, immediately before conducting the business for which the hearing was otherwise scheduled. It 9 must continue in session from time to time to hear protests 10 concerning assessments made by the department of revenue 11 until the business of hearing protests is disposed of, but, 12 13 except as provided in 15-2-201, not later than 60 days after 14 the department of revenue or its agent:

15 (a) has mailed notice of classification and appraisal
16 to all property owners and purchasers under contracts for
17 deed as required in 15-7-102; and

(b) has notified the county tax appeal board that
classification and appraisal notices have been mailed to all
property owners and purchasers under contracts for deed.

(3) In connection with any-such an appeal, the county
tax appeal board may change any assessment or fix the
assessment at some other level. The county clerk shall
publish a notice to taxpayers, giving the time the county
tax appeal board will meet to hear protests concerning

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1 assessments and the latest date the county tax appeal board 2 may take applications for such the hearings. The notice 3 shall must be published in a newspaper if any is printed in 4 the county or, if none, then in such the manner as that the 5 board may-direct directs. The notice shall must be published 6 at least 7 days prior to the first meeting of the county tax 7 appeal board.

8 (4) Challenges to a department of revenue rule 9 governing the assessment of property or to an assessment 10 procedure shall apply only to the taxpayer bringing the 11 challenge and may not apply to all similarly situated 12 taxpayers unless an action is brought in the district court 13 as provided in 15-2-307-through-15-2-310 15-1-406."

14 <u>NEW SECTION.</u> Section 9. Repeater. Sections 15-2-307,
 15 15-2-308, 15-2-309, and 15-2-310, MCA, are repeated.

-End-

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#### 53rd Legislature

# SB 0379/02

#### APPROVED BY COMMITTEE ON TAXATION

1	SENATE BILL NO. 379
2	INTRODUCED BY DOHERTY, TOOLE, ELLIOTT, TOWE, HARP
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT SIMPLIFYING TAX APPEAL
5	PROCEDURES BEFORE THE STATE TAX APPEAL BOARD; AMENDING
6	SECTIONS 15-1-402, 15-1-406, 15-1-408, 15-2-301, 15-2-302,
7	15-2-303, 15-2-306, AND 15-15-101, MCA; AND REPEALING
8	SECTIONS 15-2-307, 15-2-308, 15-2-309, AND 15-2-310, MCA."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 15-1-402, MCA, is amended to read:
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12 13	*15-1-402. Payment of taxes under protestactionto recover. (1) The person upon whom a property tax or <del>license</del>
12 13 14	*15-1-402. Payment of taxes under protestactionto recover. (1) The person upon whom a <u>property</u> tax or <del>license</del> fee is being imposed <u>UNDER THIS TITLE</u> may proceedunder
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23 the immediately preceding tax year and the amount owing in 24 the tax year protested unless a different amount results 25 from the specified grounds of protest, which grounds may

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include but are not limited to changes in assessment due to
 reappraisal under 15-7-111.

3 (2) After--having--exhausted-the-administrative-appeals 4 available-under-Title-157-chapters-2-and-157-a-person-or-his legal-representative-may-bring-an-action--in--any--court--of 5 6 competent-jurisdiction-against-the-officers-to-whom-said-tax 7 or---license---fee---was--paid--or--against--the--county--or 8 municipality-in-whose-behalf-the-same-was-collected-and--the 9 department--of-revenue. A person appealing a property tax or 10 fee pursuant to chapter 2 or 15 shall pay the tax or fee 11 under protest when due as--a-condition-of-continuing-the 12 appeal-before-the-county-tax-appeal-board-or-the--state--tax appeal-board IN ORDER TO RECEIVE A REFUND. IF THE TAX OR FEE 13 IS NOT PAID UNDER PROTEST WHEN DUE, THE APPEAL MAY CONTINUE 14 BUT A TAX OR FEE MAY NOT BE REFUNDED AS A RESULT OF THE 15 16 APPEAL. 17 131--Both--the--officers--to-whom-the-tax-or-license-fee 18 was-paid-or-the-county-or-municipality-in-whose--behalf--the 19 same--was--collected--and--the-department-of-revenue-must-be 20 served-with-timely-summons-and--complaint--within--the--time 21 prescribed. 22 +4)--An--action--instituted-to-recover-any-such-portions 23 of-tax-or-license-fee-paid-under-protest-must--be--commenced 24 and--summons--timely-served-within-60-days-after-the-date-of 25 the-final-decision-of-the-state-tax-appeal-board-

> -2- SB 379 SECOND READING

(5)(3) If a protested property tax or license fee is 1 2 payable in installments, a subsequent installment portion 3 considered unlawful by the state tax appeal board need not 4 be paid and no an action or suit need not be commenced to recover the subsequent installment. The determination of the 5 6 action or suit commenced to recover the first installment 7 portion paid under protest determines the right of the party 8 paying such the subsequent installment to have the same it or any part thereof of it refunded to him the party or the 9 10 right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the 11 12 date the subsequent installment was due.

13 (6)(4) All property taxes and license fees paid under protest to a county or municipality must be deposited by the 14 15 treasurer of the county or municipality to the credit of a 16 special fund to be designated as a protest fund and must be 17 retained in the protest fund until the final determination of any action or suit to recover the-same the taxes and fees 18 19 unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to 20 subsection (7) (5). Nothing-contained-herein-prohibits This 21 section does not prohibit the investment of the money of 22 23 this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision 24 creating the special protest fund does not apply to any 25

1 payments made under protest directly to the state.

(7) (5) The governing board of a taxing jurisdiction 2 affected by the payment of taxes under protest in the second 3 and subsequent years that a tax protest remains unresolved 4 may demand that the treasurer of the county or municipality 5 6 pay the requesting taxing jurisdiction all or a portion of 7 the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the 8 protest. The decision in a previous year of a taxing 9 jurisdiction to leave protested taxes in the protest fund 10 does not preclude it from demanding in a subsequent year any 11 or all of the payments to which it is entitled, except the 12 13 first-year protest amount.

(6) (a) If no action before the county tax appeal 14 board, state tax appeal board, or district court is not 15 commenced within the time herein specified or if such the 16 17 action is commenced and finally determined in favor of the department of revenue, county, or municipality, or treasurer 18 thereof of the county or the municipality, the amount of the 19 protested portions of the property tax or license fee must 20 21 be taken from the protest fund and deposited to the credit of the fund or funds to which the same property tax belongs, 22 less a pro rata deduction for the costs of administration of 23 the protest fund and related expenses charged the local 24 25 government units.

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1 (b) If such the action is finally determined adversely 2 to the department of revenue, a county, or a municipality, or the treasurer thereof of a county or a municipality, then 3 the treasurer shall, upon receiving a certified copy of the 4 final judgment in said the action from the state tax appeal 5 boardy or from the district or supreme court, as 6 7 appropriate, if the final action of the state tax appeal 8 board is appealed in the time prescribed, refund to the 9 person in whose favor such the judgment is rendered the 10 amount of such the protested portions of the property tax or 11 license fee deposited in the protest fund, and not released 12 pursuant to subsection (7) (5), as the person holding such 13 the judgment is entitled to recover, together with interest 14 thereon from the date of payment under protest, at the 15 greater of:

16 (i) the rate of interest generated from the pooled
17 investment fund provided for in 17-6-203 for the applicable
18 period; or

19 (ii) 6% a year.

(c) If the amount retained in the protest fund is
insufficient to pay all sums due the taxpayer, the treasurer
shall apply the available amount first to tax repayment,
then interest owed, and lastly to costs.

24 (d) If the protest action is decided adversely to a25 taxing jurisdiction and the amount retained in the protest

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fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible.

8 (e) In satisfying the requirements of subsection +8++d+ 9 (6)(d), the taxing jurisdiction is allowed not more than 1 10 year from the beginning of the fiscal year following a final 11 resolution of the protest. The taxpayer is entitled to 12 interest on the unpaid balance at the greater of the rates referred to in subsections (8)(b)(i) 13 and 14 15 until the date of final resolution of the protest and at the 16 combined rate of the federal reserve discount rate quoted 17 from the federal reserve bank in New York, New York, on the 18 date of final resolution, plus four percentage points, from 19 the date of final resolution of the protest until refund is 20 made.

21 (9)(7) A taxing jurisdiction may satisfy the 22 requirements of this section by use of funds from one or 23 more of the following sources:

24 (a) imposition of a property tax to be collected by a25 special tax protest refund levy;

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(b) the general fund, except that amount generated by
 the all-purpose mill levy, or any other funds legally
 available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, 4 5 city, or school district for the purpose of deriving revenue 6 for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or 7 school district is hereby authorized to issue such the bonds 8 pursuant to procedures established by law. The bonds may be 9 10 issued without being submitted to an election. Property 11 taxes may be levied to amortize the bonds."

12 Section 2. Section 15-1-406, MCA, is amended to read:

13 "15-1-406. Alternative----remedy------declaratory 14 <u>Declaratory</u> judgment. (1) An aggrieved taxpayer mayy-in-lieu 15 of---proceeding---under---15-1-402---or--15-1-2117 bring a 16 declaratory judgment action in the district court seeking a 17 declaration that<u>i</u>

(a) an administrative rule or method or procedure of
 assessment or imposition of tax adopted or used by the
 department of revenue is illegal or improper; or

(b) a tax levied <u>authorized</u> by the state or one of its
subdivisions was illegally or unlawfully imposed or exceeded
the taxing authority of the entity imposing the tax.

24 (2) The action must be brought within 90 days of the
 25 imposition-of-the-tax date THE NOTICE OF the tax DUE bill

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1	for-any-portion-of-the-challenged-tax-isfirstmailed WAS
2	SENT to the taxpayer or, in the case of an assessment
3	covered by the uniform tax review procedure set forth in
4	15-1-211, within 90 days of the date of the department
5	director's final decision. The court shall consolidate all
6	actions brought under subsection (1) which that challenge
7	the same tax <b>levy</b> . The decision of the court <b>shallapply</b>
8	applies to all similarly situated taxpayers except those
9	taxpayers who are excluded under 15~1-407.
10	(3) The taxes that are being challenged under this
11	section must be paid when due as a condition of continuing
12	the action. Property taxes may be paid under protest as
13	provided in 15-1-402.
14	(4) The remedy authorized by this section may not be
15	used to challenge the:
16	(a) market value of property under a property tax
17	unless the challenge is to the legality of a particular
18	methodology that is being applied to similarly situated
19	taxpayers; or
20	(b) legality of a tax other than a property tax,
21	inheritance tax, or estate tax unless the review pursuant to
22	15-1-211 has been completed.
23	(5) The remedy authorized by this section is the
24	exclusive method of obtaining a declaratory judgment
25	concerning a tax authorized by the state or one of its

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subdivisions. The remedy authorized by this section
 supersedes the Uniform Declaratory Judgments Act established
 in Title 27, chapter 8. This section does not affect actions
 for declaratory judgments under 2-4-506."

5 Section 3. Section 15-1-408, MCA, is amended to read:

6 **"15-1-408. Alternative remedy -- judgment.** If the 7 district court determines that the tax was illegally or 8 unlawfully imposed or exceeded the taxing authority of the 9 entity imposing the tax, the judgment may direct:

10 (1) that the revenue collected under the illegal tax be
11 directly refunded to the taxpayers who have paid the illegal
12 tax and who have not been excluded from the action;

13 (2) that the revenue collected under the illegal tax be14 used to reduce a similar levy in the ensuing tax year; or

15 (3) that the assessment be changed for the taxpayer or
16 taxpayers who brought the action as well as for all
17 similarly situated taxpayers; or

18 (4) such any other remedy as the court considers
19 appropriate."

20 Section 4. Section 15-2-301, MCA, is amended to read: 21 "15-2-301. Appeal of county tax appeal board decisions. 22 (1) The county tax appeal board shall mail a copy of its 23 decision to the taxpayer and to the property assessment 24 division of the department of revenue. Any person or the 25 department on behalf of the state or any municipal

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1 corporation aggrieved by the action of the county tax appeal 2 board may appeal to the state board by filing with the state 3 tax appeal board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The 4 5 notice must specify the action complained of and the reasons 6 assigned for the complaint. Notice of acceptance of an 7 appeal must be given to the county tax appeal board by the 8 state tax appeal board. The state board shall set the appeal 9 for hearing either in its office in the capital or the 10 county seat as the board considers advisable to facilitate 11 the performance of its duties or to accommodate parties in 12 interest. The board shall give to the appellant and to the 13 respondent at least 15 calendar days' notice of the time and 14 place of the hearing.

15 (2) At the time of giving notice of acceptance of an appeal, the state board may require the county board to 16 17 certify to it the minutes of the proceedings resulting in 18 the action and all testimony taken in connection with its 19 proceedings. The state board may, in its discretion. 20 determine the appeal on the record if all parties receive a 21 copy of the transcript and are permitted to submit additional sworn statements, or the state board may hear 22 further testimony. For the purpose of expediting its work, 23 24 the state board may refer any appeal to one of its members 25 or to a designated hearing officer. The board member or

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hearing officer may exercise all the powers of the board in 1 conducting a hearing and shall, as soon as possible after 2 the hearing, report the proceedings, together with a 3 4 transcript or a tape recording of the hearing, to the board. 5 The state board shall determine the appeal on the record. (3) On all hearings at county seats throughout the 6 state, the state board or the member or hearing officer 7 designated to conduct a hearing may employ the local court 8 9 reporter or other competent stenographer to take and transcribe the testimony received. The cost of taking and 10 transcribing testimony may be paid out of the general 11 12 appropriation for the board. 13 (4) In connection with any appeal under this section, 14 the state board is not bound by common law and statutory 15 rules of evidence or rules of discovery and may affirm. 16 reverse, or modify any decision. The-decision-of--the--state 17 tax--appeal--board--is-final-and-binding-upon-all-interested 18 parties-unless-reversed-or-modified-by-judicial--review; To 19 the extent this section is in conflict with the Montana 20 Administrative Procedure Act, this section supersedes that act. The state tax appeal board may not amend or repeal any 21

administrative rule of the department. The state tax appeal board shall give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful.

1 (5) The decision of the state tax appeal board is final 2 and binding upon all interested parties unless reversed or 3 modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this 4 5 section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it 6 2 does not conflict with 15-2-303." Section 5. Section 15-2-302, MCA, is amended to read: 8 "15-2-302. Direct appeal from department decision to 9 state tax appeal board -- hearing. (1) A person may appeal 10 to the state tax appeal board any final action of the 11 department of revenue involving: 12 (a) property centrally assessed under chapter 23 of 13 this title: 14 15 (b) classification of property as new industrial 16 property; (c) any other tax (other than the property tax) imposed 17 under this title; or 18 (d) any other matter in which such the appeal is 19 provided by law. 20

(2) The appeal is made by filing a complaint with the board within 30 days following receipt of notice of the department action. The complaint shall must set forth the grounds for relief and nature of relief demanded. The board shall immediately transmit a copy of the complaint to the

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1 department.

2 (3) The department shall file with the board an answer 3 within 30 days following filing of a complaint and at such 4 <u>that</u> time mail a copy to the complainant. The answer shall 5 <u>must</u> set forth the department's response to each ground for 6 and type of relief demanded in the complaint.

7 (4) The board shall thereafter hear the parties in
8 accordance with the contested case provisions of the Montana
9 Administrative Procedure Act.

10 (5) The decision of the state tax appeal board is final 11 and binding upon all interested parties unless reversed or 12 modified by judicial review. Proceedings for judicial review 13 of a decision of the state tax appeal board under this 14 section are subject to the provisions of 15-2-303 and the 15 Montana Administrative Procedure Act to the extent that it 16 does not conflict with 15-2-303."

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.

(2) Proceedings for review shall must be instituted by
filing a petition in district court in the county wherein in
which the taxable property or some portion thereof of it is
located (except the taxpayer mayr-at-his has the option; to

1 file in the district court of the first judicial district). 2 and-serving-a-copy-of-the--petition--on--the--department--of 3 revenue--or--taxpayer A petition for judicial review must be 4 filed within 60 days after service of the final decision of 5 the state tax appeal board or, if a rehearing is requested, 6 within 60 days after service of the final decision thereon. 7 Copies of the petition must be promptly served on all parties of record. The department of revenue shall promptly 8 9 notify the state tax appeal board, in writing, of any 10 judicial review, but failure to do so shall-have-no has no 11 effect on the judicial review. The department of revenue 12 shall, on request, submit to the state tax appeal board a 13 copy of all pleadings and documents. 14 (3) If the judicial review involves a taxpayer who is 15 seeking a refund of taxes paid under protest, the appealing party shall provide a copy of the petition to the treasurer 16 of the county in which the taxable property or some portion 17 18 of it is located, but failure to do so has no effect on the 19 judicial review. 20 (4) Notwithstanding-any-other-provision-proceedings 21 Proceedings for review of a decision by the state tax appeal 22 board by a company under the jurisdiction of the public 23 service commission shall must be instituted in the district 24 court of the first judicial district.

25 (4)(5) Notwithstanding the provisions of 2-4-704(1),

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the court may, for good cause shown, permit additional
 evidence to be introduced."

3 Section 7. Section 15-2-306, MCA, is amended to read: \*15-2-306. Board may order refund. (1) In any appeal 4 before the state tax appeal board when a taxpayer has paid 5 6 property taxes or license fees under written protest and the 7 taxes or ticense fees are held by the treasurer of a unit of local government in a protest fund, the state tax appeal 8 9 board shall enter judgment, exclusive of costs, if the board 10 finds that the property taxes or license fees should be 11 refunded.

12 (2) The state tax appeal board's judgment issued 13 pursuant to subsection (1) shall must be held in abeyance: 14 (a) until the time period for appeal specified-in 15 ±5-1-402(4) has passed; or

(b) if the final decision of the state tax appeal boardhas been appealed in accordance with 15-2-303."

18 Section 8. Section 15-15-101, MCA, is amended to read: 19 15-15-101. County tax appeal board -- meetings and 20 compensation. (1) The board of county commissioners of each 21 county shall appoint a three-member county tax appeal board, 22 with the members to serve staggered terms of 3 years each. The members of each county tax appeal board shall be 23 residents of the county in which they serve. They shall 24 25 receive compensation of \$45 a day and travel expenses, as

1 provided for in 2-18-501 through 2-18-503, as-amended, only 2 when the county tax appeal board is in session to hear 3 taxpayers' appeals from property tax assessments or when 4 they are attending meetings called by the state tax appeal 5 board. Travel expenses and compensation shall must be paid 6 from the appropriation to the state tax appeal board. Office space and equipment for the county tax appeal boards shall 7 must be furnished by the county. All other incidental 8 9 expenses shall must be paid from the appropriation of the 10 state tax appeal board.

11 (2) The county tax appeal board shall hold an organizational meeting each year on the date of its first 12 scheduled hearing, immediately before conducting 13 the business for which the hearing was otherwise scheduled. It 14 15 must continue in session from time to time to hear protests 16 concerning assessments made by the department of revenue 17 until the business of hearing protests is disposed of, but, except as provided in 15-2-201, not later than 60 days after 18 19 the department of revenue or its agent:

(a) has mailed notice of classification and appraisal
to all property owners and purchasers under contracts for
deed as required in 15-7-102; and

(b) has notified the county tax appeal board that
classification and appraisal notices have been mailed to all
property owners and purchasers under contracts for deed.

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1 (3) In connection with any-such an appeal, the county 2 tax appeal board may change any assessment or fix the assessment at some other level. The county clerk shall 3 4 publish a notice to taxpayers, giving the time the county tax appeal board will meet to hear protests concerning 5 assessments and the latest date the county tax appeal board 6 may take applications for such the hearings. The notice 7 shall must be published in a newspaper if any is printed in 8 9 the county or, if none, then in such the manner as that the 10 COUNTY TAX APPEAL board may-direct directs. The notice shall 11 must be published at least 7 days prior to the first meeting 12 of the county tax appeal board.

13 (4) Challenges to a department of revenue rule
14 governing the assessment of property or to an assessment
15 procedure shall apply only to the taxpayer bringing the
16 challenge and may not apply to all similarly situated
17 taxpayers unless an action is brought in the district court
18 as provided in 15-2-307-through-15-2-310 15-1-406."

<u>NEW SECTION.</u> Section 9. Repealer. Sections 15-2-307,
 15-2-308, 15-2-309, and 15-2-310, MCA, are repealed.

-End-

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### 53rd Legislature

#### SB 0379/02

1	SENATE BILL NO. 379
2	INTRODUCED BY DOHERTY, TOOLE, ELLIGTT, TOWE, HARP
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT SIMPLIFYING TAX APPEAL
5	PROCEDURES BEFORE THE STATE TAX APPEAL BOARD; AMENDING
6	SECTIONS 15-1-402, 15-1-406, 15-1-408, 15-2-301, 15-2-302,
7	15-2-303, 15-2-306, AND 15-15-101, MCA; AND REPEALING
8	SECTIONS 15-2-307, 15-2-308, 15-2-309, AND 15-2-310, MCA."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 15-1-402, MCA, is amended to read:
12	"15-1-402. Payment of taxes under protestactionto
13	recover. (1) The person upon whom a property tax or license
14	fee is being imposed UNDER THIS TITLE may proceedunder
15	15-1-406ormay, before the property tax or license fee
16	becomes delinquent, pay under written protest that portion
17	of the property tax or license fee protested. The protested
18	payment must:
19	(a) be made to the officer designated and authorized to
20	collect it;
21	(b) specify the grounds of protest; and

(c) not exceed the difference between the payment for
the immediately preceding tax year and the amount owing in
the tax year protested unless a different amount results
from the specified grounds of protest, which grounds may

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include but are not limited to changes in assessment due to
 reappraisal under 15-7-111.

(2) After--having--exhausted-the-administrative-appeals 3 available-under-Title-157-chapters-2-and-157-a-person-or-his 4 legal-representative-may-bring-an-action--in--any--court--of 5 competent-jurisdiction-against-the-officers-to-whom-said-tax 6 7 or---license---fee---was--paid--or--against--the--county--or municipality-in-whose-behalf-the-same-was-collected-and--the 8 9 department--of-revenue. A person appealing a property tax or 10 fee pursuant to chapter 2 or 15 shall pay the tax or fee 11 under protest when due as -- a-condition-of-continuing-the 12 appeal-before-the-county-tax-appeal-board-or-the--state--tax appeal-board IN ORDER TO RECEIVE A REFUND. IF THE TAX OR FEE 13 IS NOT PAID UNDER PROTEST WHEN DUE, THE APPEAL MAY CONTINUE 14 15 BUT A TAX OR FEE MAY NOT BE REFUNDED AS A RESULT OF THE 16 APPEAL. 17 +3}--Both--the--officers--to-whom-the-tax-or-license-fee 18 was-paid-or-the-county-or-municipality-in-whose--behalf--the 19 same--was--collected--and--the-department-of-revenue-must-be 20 served-with-timely-summons-and--complaint--within--the--time prescribed-21 (4)--An--action--instituted-to-recover-any-such-portions 22 of-tax-or-license-fee-paid-under-protest-must--be--commenced 23 24 and--summons--timely-served-within-60-days-after-the-date-of 25 the-final-decision-of-the-state-tax-appeal-board-

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THIRD READING

1 (5)(3) If a protested property tax or license fee is 2 payable in installments, a subsequent installment portion 3 considered unlawful by the state tax appeal board need not be paid and no an action or suit need not be commenced to recover the subsequent installment. The determination of the 5 action or suit commenced to recover the first installment 6 7 portion paid under protest determines the right of the party paying such the subsequent installment to have the-same it 8 9 or any part thereof of it refunded to him the party or the right of the taxing authority to collect a subsequent 10 installment not paid by the taxpayer plus interest from the 11 12 date the subsequent installment was due.

13 (6)(4) All property taxes and license fees paid under 14 protest to a county or municipality must be deposited by the treasurer of the county or municipality to the credit of a 15 16 special fund to be designated as a protest fund and must be 17 retained in the protest fund until the final determination 18 of any action or suit to recover the-same the taxes and fees 19 unless they are released at the request of the county, 20 municipality, or other local taxing jurisdiction pursuant to 21 subsection (7) (5). Nothing-contained-herein-prohibits This 22 section does not prohibit the investment of the money of 23 this fund in the state unified investment program or in any 24 manner provided in Title 7, chapter 6. The provision 25 creating the special protest fund does not apply to any

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1 payments made under protest directly to the state.

(7) (5) The governing board of a taxing jurisdiction 2 affected by the payment of taxes under protest in the second 3 and subsequent years that a tax protest remains unresolved 4 may demand that the treasurer of the county or municipality S 6 pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the 7 amount paid by the taxpayer in the first year of the 8 protest. The decision in a previous year of a taxing 9 jurisdiction to leave protested taxes in the protest fund 10 does not preclude it from demanding in a subsequent year any 11 or all of the payments to which it is entitled, except the 12 first-year protest amount. 13

 $(\theta)$  (a) If no action before the county tax appeal 14 board, state tax appeal board, or district court is not 15 commenced within the time herein specified or if such the 16 17 action is commenced and finally determined in favor of the department of revenue, county, or municipality, or treasurer 18 19 thereof of the county or the municipality, the amount of the protested portions of the property tax or license fee must 20 be taken from the protest fund and deposited to the credit 21 22 of the fund or funds to which the same property tax belongs, 23 less a pro rata deduction for the costs of administration of the protest fund and related expenses charged the local 24 government units. 25

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1 (b) If such the action is finally determined adversely 2 to the department of revenue, a county, or a municipality, 3 or the treasurer thereof of a county or a municipality, then 4 the treasurer shall, upon receiving a certified copy of the 5 final judgment in said the action from the state tax appeal board, or from the district or supreme court, as 6 7 appropriate, if the final action of the state tax appeal 8 board is appealed in the time prescribed, refund to the 9 person in whose favor such the judgment is rendered the amount of such the protested portions of the property tax or 10 11 ticense fee deposited in the protest fund, and not released 12 pursuant to subsection (7) (5), as the person holding such 13 the judgment is entitled to recover, together with interest 14 thereon from the date of payment under protest, at the 15 greater of:

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17 investment fund provided for in 17-6-203 for the applicable
18 period; or

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21 (9)(7) A taxing jurisdiction may satisfy the 22 requirements of this section by use of funds from one or 23 more of the following sources:

24 (a) imposition of a property tax to be collected by a25 special tax protest refund levy;

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(b) the general fund, except that amount generated by
 the all-purpose mill levy, or any other funds legally
 available to the governing body; and

4 (c) proceeds from the sale of bonds issued by a county, 5 city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing 6 jurisdiction. The governing body of a county, city, or 7 8 school district is hereby authorized to issue such the bonds 9 pursuant to procedures established by law. The bonds may be issued without being submitted to an election, Property 10 taxes may be levied to amortize the bonds." 11

12 Section 2. Section 15-1-406, MCA, is amended to read:

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(b) a tax levied <u>authorized</u> by the state or one of its
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15	used to challenge the:
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subdivisions. The remedy authorized by this section
 supersedes the Uniform Declaratory Judgments Act established
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(1) The county tax appeal board shall mail a copy of its
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hearing officer may exercise all the powers of the board in
 conducting a hearing and shall, as soon as possible after
 the hearing, report the proceedings, together with a
 transcript or a tape recording of the hearing, to the board.
 The state board shall determine the appeal on the record.

6 (3) On all hearings at county seats throughout the 7 state, the state board or the member or hearing officer 8 designated to conduct a hearing may employ the local court 9 reporter or other competent stenographer to take and 10 transcribe the testimony received. The cost of taking and 11 transcribing testimony may be paid out of the general 12 appropriation for the board.

13 (4) In connection with any appeal under this section, 14 the state board is not bound by common law and statutory 15 rules of evidence or rules of discovery and may affirm, 16 reverse, or modify any decision. The-decision-of--the--state 17 tax--appeal--board--is-final-and-binding-upon-all-interested 18 parties-unless-reversed-or-modified-by-judicial--review- To 19 the extent this section is in conflict with the Montana 20 Administrative Procedure Act, this section supersedes that 21 act. The state tax appeal board may not amend or repeal any 22 administrative rule of the department. The state tax appeal board shall give an administrative rule full effect unless 23 24 the board finds a rule arbitrary, capricious, or otherwise 25 unlawful.

(5) The decision of the state tax appeal board is final 1 and binding upon all interested parties unless reversed or 2 modified by judicial review. Proceedings for judicial review 3 of a decision of the state tax appeal board under this 4 section are subject to the provisions of 15-2-303 and the 5 Montana Administrative Procedure Act to the extent that it 6 does not conflict with 15-2-303." 7 Section 5. Section 15-2-302, MCA, is amended to read: 8 \*15-2-302. Direct appeal from department decision to 9 state tax appeal board -- hearing. (1) A person may appeal 10 to the state tax appeal board any final action of the 11 department of revenue involving: 12 (a) property centrally assessed under chapter 23 of 13 this title: 14 (b) classification of property as new industrial 15 property; 16 (c) any other tax (other than the property tax) imposed 17 under this title; or 18 (d) any other matter in which such the appeal is 19 provided by law. 20 (2) The appeal is made by filing a complaint with the 21 board within 30 days following receipt of notice of the 22 department action. The complaint shall must set forth the 23 grounds for relief and nature of relief demanded. The board 24 shall immediately transmit a copy of the complaint to the 25

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#### 1 department.

2 (3) The department shall file with the board an answer
3 within 30 days following filing of a complaint and at such
4 that time mail a copy to the complainant. The answer shall
5 must set forth the department's response to each ground for
6 and type of relief demanded in the complaint.

7 (4) The board shall thereafter hear the parties in
8 accordance with the contested case provisions of the Montana
9 Administrative Procedure Act.

10 (5) The decision of the state tax appeal board is final 11 and binding upon all interested parties unless reversed or 12 modified by judicial review. Proceedings for judicial review 13 of a decision of the state tax appeal board under this 14 section are subject to the provisions of 15-2-303 and the 15 Montana Administrative Procedure Act to the extent that it 16 does not conflict with 15-2-303."

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.

(2) Proceedings for review shall must be instituted by
filing a petition in district court in the county wherein in
which the taxable property or some portion thereof of it is
located (except the taxpayer mayr-at-his has the option; to

1	file in the district court of the first judicial district).
2	and-serving-a-copy-of-thepetitiononthedepartmentof
3	revenueortaxpayer A petition for judicial review must be
4	filed within 60 days after service of the final decision of
5	the state tax appeal board or, if a rehearing is requested,
6	within 60 days after service of the final decision thereon.
7	Copies of the petition must be promptly served on all
8	parties of record. The department of revenue shall promptly
9	notify the state tax appeal board, in writing, of any
10	judicial review, but failure to do so shall-have-no has no
11	effect on the judicial review. The department of revenue
12	shall, on request, submit to the state tax appeal board a
13	copy of all pleadings and documents.
14	(3) If the judicial review involves a taxpayer who is
15	seeking a refund of taxes paid under protest, the appealing
16	party shall provide a copy of the petition to the treasurer
17	of the county in which the taxable property or some portion
18	of it is located, but failure to do so has no effect on the
19	judicial review.
20	(3) (4) Notwithstanding-any-other-provision-proceedings
21	Proceedings for review of a decision by the state tax appeal
22	board by a company under the jurisdiction of the public
23	service commission shall must be instituted in the district
24	court of the first judicial district

- 24 court of the first judicial district.
- 25 (4)(5) Notwithstanding the provisions of 2-4-704(1),

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1 the court may, for good cause shown, permit additional 2 evidence to be introduced."

3 Section 7. Section 15-2-306, MCA, is amended to read: \*15-2-306. Board may order refund. (1) In any appeal 4 before the state tax appeal board when a taxpayer has paid 5 6 property taxes or license fees under written protest and the 7 taxes or license fees are held by the treasurer of a unit of 8 local government in a protest fund, the state tax appeal 9 board shall enter judgment, exclusive of costs, if the board 10 finds that the property taxes or license fees should be 11 refunded.

(2) The state tax appeal board's judgment issued
pursuant to subsection (1) shall must be held in abeyance:
(a) until the time period for appeal specified-in
15 ±5-1-402(4) has passed: or

(b) if the final decision of the state tax appeal boardhas been appealed in accordance with 15-2-303."

18 Section 8. Section 15-15-101, MCA, is amended to read: 19 \*15-15-101. County tax appeal board -- meetings and 20 compensation. (1) The board of county commissioners of each county shall appoint a three-member county tax appeal board, 21 22 with the members to serve staggered terms of 3 years each. 23 The members of each county tax appeal board shall be 24 residents of the county in which they serve. They shall 25 receive compensation of \$45 a day and travel expenses, as

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1 provided for in 2-18-501 through 2-18-503, as-amended, only 2 when the county tax appeal board is in session to hear 3 taxpayers' appeals from property tax assessments or when they are attending meetings called by the state tax appeal 4 board. Travel expenses and compensation shall must be paid 5 from the appropriation to the state tax appeal board. Office 6 7 space and equipment for the county tax appeal boards shell must be furnished by the county. All other incidental 8 9 expenses shall must be paid from the appropriation of the 10 state tax appeal board.

11 (2) The county tax appeal board shall hold an 12 organizational meeting each year on the date of its first scheduled hearing, immediately before conducting the 13 business for which the hearing was otherwise scheduled. It 14 must continue in session from time to time to hear protests 15 16 concerning assessments made by the department of revenue 17 until the business of hearing protests is disposed of, but, except as provided in 15-2-201, not later than 60 days after 18 19 the department of revenue or its agent:

20 (a) has mailed notice of classification and appraisal
21 to all property owners and purchasers under contracts for
22 deed as required in 15-7-102; and

(b) has notified the county tax appeal board that
classification and appraisal notices have been mailed to all
property owners and purchasers under contracts for deed.

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1 (3) In connection with any-such an appeal, the county 2 tax appeal board may change any assessment or fix the 3 assessment at some other level. The county clerk shall 4 publish a notice to taxpayers, giving the time the county 5 tax appeal board will meet to hear protests concerning 6 assessments and the latest date the county tax appeal board may take applications for such the hearings. The notice 7 8 shall must be published in a newspaper if any is printed in 9 the county or, if none, then in such the manner as that the 10 COUNTY TAX APPEAL board may-direct directs. The notice shall 11 must be published at least 7 days prior to the first meeting 12 of the county tax appeal board.

13 (4) Challenges to a department of revenue rule
14 governing the assessment of property or to an assessment
15 procedure shell apply only to the taxpayer bringing the
16 challenge and may not apply to all similarly situated
17 taxpayers unless an action is brought in the district court
18 as provided in 15-2-307-through-15-2-310 15-1-406."

NEW SECTION. Section 9. Repealer. Sections 15-2-307,
 15-2-308, 15-2-309, and 15-2-310, MCA, are repealed.

-End-

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#### HOUSE STANDING COMMITTEE REPORT

April 8, 1993 Page 1 of 3

Mr. Speaker: We, the committee on <u>Taxation</u> report that <u>Senate</u> <u>Bill 379</u> (third reading copy -- blue) <u>be concurred in as</u> <u>amended</u>.

Signed: Bob Fullert, Chai

Carried by: Rep. Eleit

And, that such amendments read:

1. Title, line 7.
Following: "15-2-306,"
Insert: "15-7-102,"

2. Page 15.

Following: line 17

Insert: "Section 8. Section 15-7-102, MCA, is amended to read: "15-7-102. Notice of classification and appraisal to owners -- appeals. (1) It shall be is the duty of the department of revenue, through its agent as specified in subsection (2), to cause to be mailed to each owner and purchaser under contract for deed a notice of the classification of the land owned or being purchased by him and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (a) change in ownership;
- (b) change in classification;
- (c) change in valuation; or

(d) addition or subtraction of personal property affixed to the land.

(2)(a) The county assessor shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of his the property and of changes over the prior tax year.

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(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of his land or improvements, he the owner may submit his an objection in writing to the department's agent. In an objection to the appraisal of the property, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of hearing and hear any testimony or other evidence that the taxpayer may desire to produce at that time and afford the opportunity to other interested persons to produce evidence at the hearing. After the hearing, the department shall determine the true and correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department must shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land shall must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a hearing as provided in subsection (3) is held or not, the department or its agent may not adjust an appraisal or classification upon taxpayer's objection unless:

(a) the taxpayer has submitted his an objection in writing; and

(b) the department or its agent has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. Each county appraiser shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved at the classification and/or the appraisal made by the department, <del>he</del> <del>shall have</del> the owner has the right to appeal to the county tax appeal board and then to the state tax appeal board, whose findings <del>shall be</del> are final subject to the right of review in the courts. The property owner may appeal the base valuation and the classification determination. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or

Committee Vote: Yes // No - . HOUSE 58 379 790750sc.hpf

## April 8, 1993 Page 3 of 3

the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."" Renumber: subsequent sections

-END-

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SB 0379/03

1 SENATE BILL NO. 379 2 INTRODUCED BY DOHERTY, TOOLE, ELLIOTT, TOWE, HARP 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT SIMPLIFYING TAX APPEAL 5 PROCEDURES BEFORE THE STATE TAX APPEAL BOARD; AMENDING 6 SECTIONS 15-1-402, 15-1-406, 15-1-408, 15-2-301, 15-2-302, 15-2-303, 15-2-306, 15-7-102, AND 15-15-101, MCA; AND 7 8 REPEALING SECTIONS 15-2-307, 15-2-308, 15-2-309, AND 9 15-2-310, MCA." 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 15-1-402, MCA, is amended to read: 13 "15-1-402. Payment of taxes under protest ---action-to recover. (1) The person upon whom a property tax or license 14 fee is being imposed UNDER THIS TITLE may proceed-under 15 15-1-406-or-may, before the property tax or license fee 16 17 becomes delinguent, pay under written protest that portion 18 of the property tax or license fee protested. The protested 19 payment must: (a) be made to the officer designated and authorized to 20 collect it; 21 (b) specify the grounds of protest; and 22

(c) not exceed the difference between the payment for
the immediately preceding tax year and the amount owing in
the tax year protested unless a different amount results



from the specified grounds of protest, which grounds may
 include but are not limited to changes in assessment due to
 reappraisal under 15-7-111.

4 (2) After-having-exhausted-the--administrative--appeals 5 available-under-Title-157-chapters-2-and-157-a-person-or-his 6 tegal--representative--may--bring--an-action-in-any-court-of 7 competent-jurisdiction-against-the-officers-to-whom-said-tax 8 or--ticense--fee--was--paid--or--against---the---county---or 9 municipality--in-whose-behalf-the-same-was-collected-ard-the 10 department-of-revenuer A person appealing a property tax or 11 fee pursuant to chapter 2 or 15 shall pay the tax or fee 12 under protest when due as--a--condition--of--continuing--the 13 appeal--before--the-county-tax-appeal-board-or-the-state-tax 14 appeal-board IN ORDER TO RECEIVE A REFUND. IF THE TAX OR FEE 15 IS NOT PAID UNDER PROTEST WHEN DUE, THE APPEAL MAY CONTINUE 16 BUT A TAX OR FEE MAY NOT BE REFUNDED AS A RESULT OF THE 17 APPEAL. 18 t3)--Both-the-officers-to-whom-the-tax--or--license--fee 19 was--paid--or-the-county-or-municipality-in-whose-behalf-the 20 same-was-collected-and-the-department--of--revenue--must--be 21 served--with--timely--summons--and-complaint-within-the-time 22 prescribedt 23 (4)--An-action-instituted-to-recover-any--such--portions 24 of--tax--or-license-fee-paid-under-protest-must-be-commenced 25 and-summons-timely-served-within-60-days-after-the--date--of

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# 1 the-final-decision-of-the-state-tax-appeal-board-

(5)(3) If a protested property tax or license fee is 2 payable in installments, a subsequent installment portion 3 considered unlawful by the state tax appeal board need not 4 be paid and no an action or suit need not be commenced to 5 recover the subsequent installment. The determination of the 6 action or suit commenced to recover the first installment 7 portion paid under protest determines the right of the party 8 paying such the subsequent installment to have the -- same it 9 or any part thereof of it refunded to him the party or the 10 right of the taxing authority to collect a subsequent 11 installment not paid by the taxpayer plus interest from the 12 date the subsequent installment was due. 13

(6)(4) All property taxes and license fees paid under 14 protest to a county or municipality must be deposited by the 15 treasurer of the county or municipality to the credit of a 16 special fund to be designated as a protest fund and must be 17 retained in the protest fund until the final determination 18 of any action or suit to recover the-same the taxes and fees 19 unless they are released at the request of the county, 20 municipality, or other local taxing jurisdiction pursuant to 21 subsection (7) (5). Nothing-contained-herein-prohibits This 22 section does not prohibit the investment of the money of 23 this fund in the state unified investment program or in any 24 manner provided in Title 7, chapter 6. The provision 25

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creating the special protest fund does not apply to any
 payments made under protest directly to the state.

3 (7)(5) The governing board of a taxing jurisdiction 4 affected by the payment of taxes under protest in the second 5 and subsequent years that a tax protest remains unresolved 6 may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of 7 8 the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the 9 protest. The decision in a previous year of a taxing 10 jurisdiction to leave protested taxes in the protest fund 11 does not preclude it from demanding in a subsequent year any 12 13 or all of the payments to which it is entitled, except the first-year protest amount. 14

15 (6) (a) If no action before the county tax appeal board, state tax appeal board, or district court is not 16 17 commenced within the time herein specified or if such the action is commenced and finally determined in favor of the 18 19 department of revenue, county, or municipality, or treasurer thereof of the county or the municipality, the amount of the 20 protested portions of the property tax or <del>license</del> fee must 21 22 be taken from the protest fund and deposited to the credit 23 of the fund or funds to which the same property tax belongs, less a pro rata deduction for the costs of administration of 24 the protest fund and related expenses charged the local 25

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1 government units.

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(b) If such the action is finally determined adversely 2 3 to the department of revenue, a county, or a municipality, or the treasurer thereof of a county or a municipality, then 4 5 the treasurer shall, upon receiving a certified copy of the final judgment in said the action from the state tax appeal 6 boardy or from the district or supreme court, as 7 appropriate, if the final action of the state tax appeal 8 9 board is appealed in the time prescribed, refund to the person in whose favor such the judgment is rendered the 10 11 amount of such the protested portions of the property tax or license fee deposited in the protest fund, and not released 12 pursuant to subsection (7) (5), as the person holding such 13 the judgment is entitled to recover, together with interest 14 thereon from the date of payment under protest, at the 15 16 greater of:

17 (i) the rate of interest generated from the pooled
18 investment fund provided for in 17-6-203 for the applicable
19 period; or

20 (ii) 6% a year.

(c) If the amount retained in the protest fund is
insufficient to pay all sums due the taxpayer, the treasurer
shall apply the available amount first to tax repayment,
then interest owed, and lastly to costs.

25 (d) If the protest action is decided adversely to a

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1 taxing jurisdiction and the amount retained in the protest 2 fund is insufficient to refund the tax payments and costs to 3 which the taxpayer is entitled and for which local 4 government units are responsible, the treasurer shall bill 5 and the taxing jurisdiction shall refund to the treasurer 6 that portion of the taxpayer refund, including tax payments 7 and costs, for which the taxing jurisdiction is proratably B responsible.

9 (e) In satisfying the requirements of subsection +8++d+ 10 (6)(d), the taxing jurisdiction is allowed not more than 1 11 year from the beginning of the fiscal year following a final 12 resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the greater of the rates 13 14 referred to in subsections <del>(8)(b)(i)</del>(i) and 15 +0;fb;fii; (6)(b)(ii) from the date of payment under protest until the date of final resolution of the protest and at the 16 17 combined rate of the federal reserve discount rate guoted from the federal reserve bank in New York, New York, on the 18 19 date of final resolution, plus four percentage points, from 20 the date of final resolution of the protest until refund is 21 made.

497(7) A taxing jurisdiction may satisfy the
 requirements of this section by use of funds from one or
 more of the following sources:

25 (a) imposition of a property tax to be collected by a

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1 special tax protest refund levy;

(b) the general fund, except that amount generated by
3 the all-purpose mill levy, or any other funds legally
4 available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, 5 city, or school district for the purpose of deriving revenue 6 for the repayment of tax protests lost by the taxing 7 jurisdiction. The governing body of a county, city, or 8 school district is hereby authorized to issue such the bonds 9 pursuant to procedures established by law. The bonds may be 10 issued without being submitted to an election. Property 11 taxes may be levied to amortize the bonds." 12

Section 2. Section 15-1-406, MCA, is amended to read: 14 "15-1-406. Alternative----remedy------declaratory 15 <u>Declaratory</u> judgment. (1) An aggrieved taxpayer may<sub>7</sub>-in-lieu 16 of--proceeding--under--15-1-402---or---15-1-2117 bring a 17 declaratory judgment action in the district court seeking a 18 declaration that:

19 (a) an administrative rule or method or procedure of
20 assessment or imposition of tax adopted or used by the
21 department of revenue is illegal or improper; or

(b) a tax levied authorized by the state or one of its
subdivisions was illegally or unlawfully imposed or exceeded
the taxing authority of the entity imposing the tax.

25 (2) The action must be brought within 90 days of the

3 SENT to the taxpayer or, in the case of an assessment covered by the uniform tax review procedure set forth in 4 5 15-1-211, within 90 days of the date of the department director's final decision. The court shall consolidate all 6 7 actions brought under subsection (1) which that challenge 8 the same tax levy. The decision of the court shall-apply 9 applies to all similarly situated taxpayers except those taxpayers who are excluded under 15-1-407. 10 (3) The taxes that are being challenged under this 11 section must be paid when due as a condition of continuing 12 13 the action. Property taxes may be paid under protest as 14 provided in 15-1-402. 15 (4) The remedy authorized by this section may not be 16 used to challenge the: 17 (a) market value of property under a property tax 18 unless the challenge is to the legality of a particular 19 methodology that is being applied to similarly situated 20 taxpayers; or 21 (b) legality of a tax other than a property tax, inheritance tax, or estate tax unless the review pursuant to 22 23 15-1-211 has been completed. 24 (5) The remedy authorized by this section is the

imposition-of-the-tax date THE NOTICE OF the tax DUE bill

for--any--portion--of-the-challenged-tax-is-first-mailed WAS

25 exclusive method of obtaining a declaratory judgment

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1	concerning a tax authorized by the state or one of its
2	subdivisions. The remedy authorized by this section
3	supersedes the Uniform Declaratory Judgments Act established
4	in Title 27, chapter 8. This section does not affect actions
5	for declaratory judgments under 2-4-506."
6	<b>Section 3.</b> Section 15-1-408, MCA, is amended to read:
7	<b>"15-1-408. Alternative remedy</b> judgment. If the
8	district court determines that the tax was illegally or
9	unlawfully imposed or exceeded the taxing authority of the
10	entity imposing the tax, the judgment may direct:
11	(1) that the revenue collected under the illegal tax be
12	directly refunded to the taxpayers who have paid the illegal
13	tax and who have not been excluded from the action;
14	(2) that the revenue collected under the illegal tax be
15	used to reduce a similar levy in the ensuing tax year; or
16	(3) that the assessment be changed for the taxpayer or
17	taxpayers who brought the action as well as for all
18	similarly situated taxpayers; or
19	(4) such any other remedy as the court considers

Section 4. Section 15-2-301, MCA, is amended to read:
"15-2-301. Appeal of county tax appeal board decisions.
(1) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue. Any person or the

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appropriate."

department on behalf of the state or any municipal 1 2 corporation aggrieved by the action of the county tax appeal 3 board may appeal to the state board by filing with the state tax appeal board a notice of appeal within 30 calendar days 4 after the receipt of the decision of the county board. The 5 6 notice must specify the action complained of and the reasons 7 assigned for the complaint. Notice of acceptance of an appeal must be given to the county tax appeal board by the 8 9 state tax appeal board. The state board shall set the appeal 10 for hearing either in its office in the capital or the 11 county seat as the board considers advisable to facilitate 12 the performance of its duties or to accommodate parties in 13 interest. The board shall give to the appellant and to the 14 respondent at least 15 calendar days' notice of the time and 15 place of the hearing.

16 (2) At the time of giving notice of acceptance of an 17 appeal, the state board may require the county board to 18 certify to it the minutes of the proceedings resulting in 19 the action and all testimony taken in connection with its 20 proceedings. The state board may, in its discretion, 21 determine the appeal on the record if all parties receive a copy of the transcript and are permitted to 22 submit 23 additional sworn statements, or the state board may hear 24 further testimony. For the purpose of expediting its work, the state board may refer any appeal to one of its members 25

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or to a designated hearing officer. The board member or 1 hearing officer may exercise all the powers of the board in 2 conducting a hearing and shall, as soon as possible after 3 hearing, report the proceedings, together with a the 4 transcript or a tape recording of the hearing, to the board. 5 The state board shall determine the appeal on the record. б

(3) On all hearings at county seats throughout the 7 state, the state board or the member or hearing officer B designated to conduct a hearing may employ the local court 9 reporter or other competent stenographer to take and 10 transcribe the testimony received. The cost of taking and 11 transcribing testimony may be paid out of the general 12 appropriation for the board. 13

(4) In connection with any appeal under this section, 14 the state board is not bound by common law and statutory 15 rules of evidence or rules of discovery and may affirm, 16 reverse, or modify any decision. The-decision-of-the-state 17 tax-appeal-board-is-final-and-binding--upon--all--interested 18 parties--unless--reversed-or-modified-by-judicial-review. To 19 the extent this section is in conflict with the Montana 20 Administrative Procedure Act, this section supersedes that 21 act. The state tax appeal board may not amend or repeal any 22 administrative rule of the department. The state tax appeal 23 board shall give an administrative rule full effect unless 24 the board finds a rule arbitrary, capricious, or otherwise 25

1 unlawful.

2 (5) The decision of the state tax appeal board is final 3 and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review 4 5 of a decision of the state tax appeal board under this section are subject to the provisions of 15-2-303 and the 6 Montana Administrative Procedure Act to the extent that it 7 does not conflict with 15-2-303." В Section 5. Section 15-2-302, MCA, is amended to read: 9 10 "15-2-302. Direct appeal from department decision to 11 state tax appeal board -- hearing. (1) A person may appeal to the state tax appeal board any final action of the 12 13 department of revenue involving: (a) property centrally assessed under chapter 23 of 14 15 this title: (b) classification of property as new 16 industrial 17 property; 18 (c) any other tax (other than the property tax) imposed 19 under this title; or (d) any other matter in which such the appeal is 20 21 provided by law. (2) The appeal is made by filing a complaint with the 22 board within 30 days following receipt of notice of the 23 department action. The complaint shall must set forth the 24 grounds for relief and nature of relief demanded. The board 25

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1 shall immediately transmit a copy of the complaint to the 2 department.

3 (3) The department shall file with the board an answer 4 within 30 days following filing of a complaint and at such 5 <u>that</u> time mail a copy to the complainant. The answer shall 6 <u>must</u> set forth the department's response to each ground for 7 and type of relief demanded in the complaint.

8 (4) The board shall thereafter hear the parties in
9 accordance with the contested case provisions of the Montana
10 Administrative Procedure Act.

11 (5) The decision of the state tax appeal board is final 12 and binding upon all interested parties unless reversed or 13 modified by judicial review. Proceedings for judicial review 14 of a decision of the state tax appeal board under this 15 section are subject to the provisions of 15-2-303 and the 16 Montana Administrative Procedure Act to the extent that it 17 does not conflict with 15-2-303."

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

19 \*15-2-303. Judicial review of-contested-cases. (1) Any
20 party to an appeal before the state tax appeal board who is
21 aggrieved by a final decision in--a--contested--case is
22 entitled to judicial review under this part.

(2) Proceedings for review shall must be instituted by
filing a petition in district court in the county wherein in
which the taxable property or some portion thereof of it is

1 located (except the taxpayer may -at-his has the option to 2 file in the district court of the first judicial district). 3 and--serving--a--copy--of--the-petition-on-the-department-of 4 revenue-or-taxpayer A petition for judicial review must be 5 filed within 60 days after service of the final decision of the state tax appeal board or, if a rehearing is requested, 6 7 within 60 days after service of the final decision thereon. 8 Copies of the petition must be promptly served on all 9 parties of record. The department of revenue shall promptly notify the state tax appeal board, in writing, of any 10 11 judicial review, but failure to do so shall-have-no has no effect on the judicial review. The department of revenue 12 shall, on request, submit to the state tax appeal board a 13 copy of all pleadings and documents. 14 15 (3) If the judicial review involves a taxpayer who is 16 seeking a refund of taxes paid under protest, the appealing party shall provide a copy of the petition to the treasurer 17 18 of the county in which the taxable property or some portion of it is located, but failure to do so has no effect on the 19 20 judicial review.

21 (3)(4) Notwithstanding-any-other-provision;-proceedings
22 Proceedings for review of a decision by the state tax appeal
23 board by a company under the jurisdiction of the public
24 service commission shall must be instituted in the district
25 court of the first judicial district.

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-14-

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

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"15-2-306. Board may order refund. (1) In any appeal
before the state tax appeal board when a taxpayer has paid

7 property taxes or license fees under written protest and the 8 taxes or license fees are held by the treasurer of a unit of 9 local government in a protest fund, the state tax appeal 10 board shall enter judgment, exclusive of costs, if the board 11 finds that the property taxes or license fees should be 12 refunded.

13 (2) The state tax appeal board's judgment issued
14 pursuant to subsection (1) shall must be held in abeyance:
15 (a) until the time period for appeal specified--in
16 15-1-402447 has passed; or

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

19 **SECTION 8.** SECTION 15-7-102, MCA, IS AMENDED TO READ: 20 "15-7-102. Notice of classification and appraisal to 21 owners -- appeals. (1) It shall--be is the duty of the 22 department of revenue, through its agent as specified in 23 subsection (2), to cause to be mailed to each owner and 24 purchaser under contract for deed a notice of the 25 classification of the land owned or being purchased by--him and the appraisal of the improvements on the land only if
 one or more of the following changes pertaining to the land
 or improvements have been made since the last notice:

(a) change in ownership;

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(b) change in classification;

(c) change in valuation; or

7 (d) addition or subtraction of personal property8 affixed to the land.

9 (2) (a) The county assessor shall assign each 10 assessment to the correct owner or purchaser under contract 11 for deed and mail the notice of classification and appraisal standardized form, adopted by the department, 12 on a containing sufficient information in a comprehensible manner 13 designed to fully inform the taxpayer as to the 14 15 classification and appraisal of his the property and of 16 changes over the prior tax year.

17 (b) The notice must advise the taxpayer that in order
18 to be eligible for a refund of taxes from an appeal of the
19 classification or appraisal, the taxpayer is required to pay
20 the taxes under protest as provided in 15-1-402.

(3) If the owner of any land and improvements is
dissatisfied with the appraisal as it reflects the market
value of the property as determined by the department or
with the classification of his land or improvements, he the
<u>owner may submit his an objection in writing to the</u>

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1 department's agent. In an objection to the appraisal of the 2 property, the department may consider the actual selling 3 price of the property, independent appraisals of the 4 property, and other relevant information presented by the 5 taxpayer as evidence of the market value of the property. 6 The department shall give reasonable notice to the taxpayer 7 of the time and place of hearing and hear any testimony or 8 other evidence that the taxpayer may desire to produce at 9 that time and afford the opportunity to other interested 10 persons to produce evidence at the hearing. After the 11 hearing, the department shall determine the true and correct 12 appraisal and classification of the land or improvements and 13 notify the taxpayer of its determination. In the 14 notification, the department must shall state its reasons 15 for revising the classification or appraisal. When the 16 proper appraisal and classification have been determined, 17 the land shall must be classified and the improvements 18 appraised in the manner ordered by the department.

19 (4) Whether a hearing as provided in subsection (3) is 20 held or not, the department or its agent may not adjust an 21 appraisal or classification upon taxpayer's objection 22 unless:

23 (a) the taxpayer has submitted his an objection in 24 writing; and

25 (b) the department or its agent has stated its reason

1 in writing for making the adjustment.

(5) A taxpayer's written objection to a classification 2 3 or appraisal and the department's notification to the taxpayer of its determination and the reason for that 4 5 determination are public records. Each county appraiser shall make the records available for inspection during 6 7 regular office hours.

8 (6) If any property owner feels aggrieved at the 9 classification and/or the appraisal made by the department, 10 he shall--have the owner has the right to appeal to the county tax appeal board and then to the state tax appeal 11 board, whose findings shall--be are final subject to the 12 13 right of review in the courts. The property owner may appeal the base valuation and the classification determination. A 14 county tax appeal board or the state tax appeal board may 15 consider the actual selling price of the property, 16 17 independent appraisals of the property, and other relevant 18 information presented by the taxpayer as evidence of the 19 market value of the property. If the county tax appeal board 20 or the state tax appeal board determines that an adjustment 21 should be made, the department shall adjust the base value 22 of the property in accordance with the board's order."

23 Section 9. Section 15-15-101, MCA, is amended to read: 24 "15-15-101. County tax appeal board -- meetings and 25 compensation. (1) The board of county commissioners of each

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county shall appoint a three-member county tax appeal board, 1 2 with the members to serve staggered terms of 3 years each. 3 The members of each county tax appeal board shall be residents of the county in which they serve. They shall receive compensation of \$45 a day and travel expenses, as 5 6 provided for in 2-18-501 through 2-18-503, as-amended; only 7 when the county tax appeal board is in session to hear 8 taxpayers' appeals from property tax assessments or when 9 they are attending meetings called by the state tax appeal 10 board. Travel expenses and compensation shall must be paid 11 from the appropriation to the state tax appeal board. Office 12 space and equipment for the county tax appeal boards shall 13 must be furnished by the county. All other incidental 14 expenses shall must be paid from the appropriation of the 15 state tax appeal board.

16 (2) The county tax appeal board shall hold an 17 organizational meeting each year on the date of its first 18 scheduled hearing, immediately before conducting the 19 business for which the hearing was otherwise scheduled. It must continue in session from time to time to hear protests 20 21 concerning assessments made by the department of revenue 22 until the business of hearing protests is disposed of, but, 23 except as provided in 15-2-201, not later than 60 days after the department of revenue or its agent: 24

25 (a) has mailed notice of classification and appraisal

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to all property owners and purchasers under contracts for
 deed as required in 15-7-102; and

3 (b) has notified the county tax appeal board that 4 classification and appraisal notices have been mailed to all 5 property owners and purchasers under contracts for deed.

6 (3) In connection with any-such an appeal, the county 7 tax appeal board may change any assessment or fix the 8 assessment at some other level. The county clerk shall publish a notice to taxpayers, giving the time the county 9 10 tax appeal board will meet to hear protests concerning 11 assessments and the latest date the county tax appeal board may take applications for such the hearings. The notice 12 shall must be published in a newspaper if any is printed in 13 14 the county or, if none, then in such the manner as that the 15 COUNTY TAX APPEAL board may-direct directs. The notice shall 16 must be published at least 7 days prior to the first meeting 17 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 shall apply only to the taxpayer bringing the 21 challenge and may not apply to all similarly situated 22 taxpayers unless an action is brought in the district court 23 as provided in 15-2-307-through-15-2-310 15-1-406."

24 NEW SECTION. Section 10. Repealer. Sections 15-2-307,

25 15-2-308, 15-2-309, and 15-2-310, MCA, are repealed.

# -End-

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