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TO: Revenue and Transportation Oversight Committee

FROM: Karen Powell, Presiding Officer

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The ABA Model Act “would establish within the executive branch of government a tax tribunal with virtually the same powers as a state trial court of general jurisdiction, but with its subject matter jurisdiction limited to taxes.” The Model Act focuses on the importance of an independent tribunal, completely separate from the Department of Revenue, that provides easy access for taxpayers by using informal rules and by not requiring the taxpayer to pay the protested taxes before contesting them. The Model Act also recommends a type of small claims court to handle cases below a certain dollar level, with no appeal from the decision. It is a system that is designed to provide rapid specialized handling of cases in a manner that protects the interests of the taxpayer.

The tax appeal system created by Montana statutes is similar in many ways. The Montana Tax Appeal Board is the court of record hearing all cases involving state taxes. The Montana system is independent of Montana Department of Revenue, permits easy and rapid access for taxpayers although they are required by law to pay their taxes under protest before the challenge. We have a type of small-claims court in our system of 56 County Tax Appeal Boards that hear all property tax cases arising in their counties. These local Boards provide convenient and immediate access to tax relief, rendering decisions within months that are final in approximately three-quarters of property tax cases.

Unlike the Model Act, our system provides for appeal from the county board decisions to the state board, a feature we feel is important in assuring tax cases are handled the same way throughout the state. While the state board tries cases and is the court of record, it does not, however, have the powers or status of a state trial court, with the result that our decisions may be appealed to district court first rather than directly appealed to the Supreme Court, adding an additional layer of review and significant time delay. In these appeals the district courts function only as appellate courts reviewing the STAB opinion, duplicating the review afforded by the Supreme Court.