

HOUSE BILL NO. 58

INTRODUCED BY DRISCOLL, ADDY, KILPATRICK,  
WHALEN, MCDONOUGH, - KIMBERLEY

IN THE HOUSE

JANUARY 3, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
JANUARY 4, 1989	FIRST READING.
JANUARY 13, 1989	ON MOTION BY CHIEF SPONSOR, REPRESENTATIVES ADDY, KILPATRICK, WHALEN, MCDONOUGH, AND KIMBERLEY ADDED AS SPONSORS.
	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 14, 1989	PRINTING REPORT.
JANUARY 16, 1989	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
JANUARY 17, 1989	SECOND READING, DO PASS AS AMENDED.
JANUARY 18, 1989	ENGROSSING REPORT.
JANUARY 19, 1989	THIRD READING, PASSED. AYES, 91; NOES, 7.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 20, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
JANUARY 27, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
JANUARY 31, 1989	PASS CONSIDERATION.

ON MOTION, REREFERRED TO COMMITTEE  
ON TAXATION.

FEBRUARY 6, 1989

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

FEBRUARY 9, 1989

SECOND READING, CONCURRED IN.

FEBRUARY 11, 1989

THIRD READING, CONCURRED IN.  
AYES, 46; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

FEBRUARY 27, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

FEBRUARY 28, 1989

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

MARCH 2, 1989

REPORTED CORRECTLY ENROLLED.

SIGNED BY SPEAKER.

IN THE SENATE

MARCH 3, 1989

SIGNED BY PRESIDENT.

IN THE HOUSE

MARCH 3, 1989

DELIVERED TO GOVERNOR.

MARCH 8, 1989

RECEIVED FROM GOVERNOR WITH  
RECOMMENDED AMENDMENTS.

MARCH 9, 1989

SECOND READING, GOVERNOR'S RECOM-  
MENDED AMENDMENTS NOT CONCURRED IN.

MARCH 16, 1989

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

MARCH 17, 1989

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE HOUSE

MARCH 21, 1989

FREE CONFERENCE COMMITTEE REPORTED.

MARCH 30, 1989

SECOND READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

MARCH 31, 1989

THIRD READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 1, 1989

FREE CONFERENCE COMMITTEE REPORT  
ADOPTED.

IN THE HOUSE

APRIL 1, 1989

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HB BILL NO. 58  
2 INTRODUCED BY Donnell  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LOCAL  
5 GOVERNMENT DISCRETION TO SUSPEND OR CANCEL DELINQUENT  
6 PROPERTY TAXES ON COMMERCIAL PROPERTY TO FACILITATE THE  
7 PURCHASE AND CONTINUED OPERATION OF A BUSINESS UTILIZING THE  
8 PROPERTY; AMENDING SECTIONS 15-16-102, 15-16-113, 15-16-117,  
9 15-16-301, 15-16-303, 15-16-401, 15-16-402, 15-16-404,  
10 15-17-122, AND 15-17-911, MCA; AND PROVIDING AN IMMEDIATE  
11 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."  
12

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

14 **Section 1.** Section 15-16-102, MCA, is amended to read:

15 "15-16-102. Time for payment -- penalty for  
16 delinquency. All Unless suspended or canceled under the  
17 provisions of [section 11], all taxes levied and assessed in  
18 the state of Montana, except assessments made for special  
19 improvements in cities and towns payable under 15-16-103 and  
20 assessments made on interim production and new production as  
21 provided in Title 15, chapter 23, part 6, and payable under  
22 15-16-121, shall be payable as follows:

23 (1) One-half of the amount of such taxes shall be  
24 payable on or before 5 p.m. on November 30 of each year or  
25 within 30 days after the tax notice is postmarked, whichever

1 is later, and one-half on or before 5 p.m. on May 31 of each  
2 year.

3 (2) Unless one-half of such taxes are paid on or  
4 before 5 p.m. on November 30 of each year or within 30 days  
5 after the tax notice is postmarked, whichever is later, then  
6 such amount so payable shall become delinquent and shall  
7 draw interest at the rate of 5/6 of 1% per month from and  
8 after such delinquency until paid and 2% shall be added to  
9 the delinquent taxes as a penalty.

10 (3) All taxes due and not paid on or before 5 p.m. on  
11 May 31 of each year shall be delinquent and shall draw  
12 interest at the rate of 5/6 of 1% per month from and after  
13 such delinquency until paid and 2% shall be added to the  
14 delinquent taxes as a penalty.

15 (4) If the date on which taxes are due falls on a  
16 holiday or Saturday, taxes may be paid without penalty or  
17 interest on or before 5 p.m. of the next business day in  
18 accordance with 1-1-307.

19 (5) If the taxes become delinquent, the county  
20 treasurer may accept a partial payment equal to the  
21 delinquent taxes, including penalty and interest, for one or  
22 more full taxable years, provided both halves of the current  
23 tax year have been paid. Payment of delinquent taxes must be  
24 applied to the taxes that have been delinquent the longest."

25 **Section 2.** Section 15-16-113, MCA, is amended to read:

1       **"15-16-113. Personal property -- duty of treasurer --**  
 2 **penalty.** (1) The county treasurer shall collect taxes on all  
 3 personal property and, in the case provided in 15-16-111,  
 4 shall immediately upon receipt of the report prescribed by  
 5 15-16-111 notify the person or persons against whom the tax  
 6 is assessed and any person who has a properly perfected  
 7 security interest of record with the department of justice  
 8 that the amount of the tax is due and payable at the county  
 9 treasurer's office.

10       (2) The county treasurer shall, at the time of  
 11 receiving the report and in any event within 30 days from  
 12 the receipt of such report, levy upon and take into his  
 13 possession the personal property against which a tax is  
 14 assessed or any other personal property in the hands of the  
 15 delinquent taxpayer and proceed to sell the same in the same  
 16 manner as property is sold on execution by the sheriff.

17       (3) The county treasurer shall, for the purpose of  
 18 making the levy and sale, direct the sheriff to make the  
 19 levy and sale. The sheriff, undersheriff, or any deputy  
 20 sheriff of the county is ex officio a deputy county  
 21 treasurer for such purposes, and either may act and receive  
 22 payment of such taxes. The sheriff may receive the same fees  
 23 as he is entitled to in making a seizure and sale as  
 24 provided in 15-17-911.

25       (4) The county treasurer and his sureties are liable

1       on his official bond for all taxes on personal property  
 2 remaining uncollected by reason of the willful failure and  
 3 neglect of the treasurer to levy upon and sell such personal  
 4 property for the taxes levied thereon.

5       (5) Failure by the sheriff, undersheriff, or deputy  
 6 sheriff acting as a deputy county treasurer to make the levy  
 7 and sale results in a levy against the official bond of the  
 8 sheriff, undersheriff, or deputy sheriff for payment of the  
 9 delinquent tax.

10       (6) The provisions of this section do not apply to  
 11 property for which delinquent property taxes have been  
 12 suspended or canceled under the provisions of [section 11]."

13       **Section 3.** Section 15-16-117, MCA, is amended to read:

14       **"15-16-117. Personal property -- treasurer's duty to**  
 15 **collect certain taxes.** (1) The county treasurer shall demand  
 16 payment of poor taxes, authorized by 53-2-321, and road  
 17 taxes, authorized by 7-14-2206 or 7-14-2501 through  
 18 7-14-2504, of every person liable therefor whose name does  
 19 not appear on the assessment lists. On the neglect or  
 20 refusal of any such person to pay the same, the treasurer  
 21 shall collect the taxes by seizure and sale of any property  
 22 owned by the person.

23       (2) These taxes must be added upon the assessment  
 24 lists to other property taxes of persons paying taxes upon  
 25 real and personal property and paid to the county treasurer

at the time of payment of other taxes.

(3) The procedure for the sale of such property by the county treasurer for such taxes must be regulated by 15-16-113 and 15-17-911.

(4) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of [section 11]."

**Section 4.** Section 15-16-301, MCA, is amended to read:

"15-16-301. Delinquent list -- list of taxes suspended or canceled -- real property. (1) On the third Monday of December and on the third Monday of June of each year, the county treasurer must make a report to the county clerk and recorder in detail, showing the amount of taxes collected and a complete list of all persons and property then owing taxes.

(2) The county treasurer must make a separate report to the county clerk and recorder showing the amount of taxes suspended or canceled under the provisions of [section 11] during the 6-month period immediately preceding the date of the report.

(3) The county clerk and recorder shall compare the report reports with the books of the county treasurer and shall keep a record of the report reports in his office."

**Section 5.** Section 15-16-303, MCA, is amended to read:

"15-16-303. Treasurer charged with delinquent taxes.

After settlement with the county treasurer as prescribed in 15-16-302, the county clerk and recorder must charge the treasurer with the amount of taxes due on the delinquent tax list, minus taxes suspended or canceled under the provisions of [section 11], and within 3 days thereafter deliver the list, duly certified, to the county treasurer."

**Section 6.** Section 15-16-401, MCA, is amended to read:

"15-16-401. Tax due as a judgment or lien. Every Unless suspended or canceled under the provisions of [section 11], every tax has the effect of a judgment against the person, and every lien created by this title has the force and effect of an execution duly levied against all personal property in the possession of the person assessed from and after the date the assessment is made. The county treasurer may issue a writ of execution for delinquent personal property taxes, unless suspended or canceled under the provisions of [section 11], and deliver the writ to the sheriff. The sheriff shall thereupon proceed upon the writ in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record and shall be entitled to the fees provided for in 15-17-911. The judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment thereof."

**Section 7.** Section 15-16-402, MCA, is amended to read:

1       **"15-16-402. Tax on personal property lien on realty --**  
 2 **separate assessment.** (1) Every tax due upon personal  
 3 property is a prior lien upon any or all of such property,  
 4 which lien shall have precedence over any other lien, claim,  
 5 or demand upon such property, and except as hereinafter  
 6 provided, every tax upon personal property is also a lien  
 7 upon the real property of the owner thereof on and after  
 8 January 1 of each year.

9       (2) The taxes upon personal property based upon a  
 10 taxable value up to and including \$1,000 shall be a first  
 11 and prior lien upon the real property of the owner of such  
 12 personal property. Taxes upon personal property based upon  
 13 the taxable value thereof in excess of \$1,000 shall be a  
 14 first and prior lien upon the real property of the owner  
 15 unless the owner or holder of any mortgage or other lien  
 16 upon said real property appearing of record in the office of  
 17 the clerk and recorder of the county where such real  
 18 property is situated, at or before the time such personal  
 19 property tax attached thereto, shall have filed the notice  
 20 hereinafter provided for, in which event the taxes upon such  
 21 excess of \$1,000 of taxable value shall not be a lien on the  
 22 real property of such owner. It shall be the duty of the  
 23 county treasurer to issue to any mortgagee or lien holder,  
 24 upon his request, a statement of the personal property tax  
 25 due upon the taxable value up to and including \$1,000.

1       Personal property taxes upon a taxable value up to \$1,000  
 2 may be paid, redeemed from a tax sale as by law provided, or  
 3 discharged separately from any personal property taxes in  
 4 excess of such amount. Payment of such taxes upon a taxable  
 5 value up to \$1,000, as herein provided, shall operate to  
 6 discharge the tax lien upon the personal property of the  
 7 owner to the extent of such payment in the order that the  
 8 person paying such tax shall direct.

9       (3) The holder of any mortgage or lien upon real  
 10 property who desires to obtain the benefits of this section  
 11 shall file in the office of the county treasurer of said  
 12 county a notice giving:

13       (a) the name and address of the mortgagee and holder  
 14 of the mortgage or lien;

15       (b) the name of the reputed owner of the land;

16       (c) the description of the land;

17       (d) the date of record and expiration of the mortgage  
 18 or lien;

19       (e) the amount thereof; and

20       (f) a statement that he claims the benefit of the  
 21 provisions of this section.

22       (4) Such notice shall be ineffectual as to any taxes  
 23 which shall have become a lien on real property prior to the  
 24 filing of such notice as aforesaid. If the mortgage be not  
 25 paid at maturity, such notice shall thereafter be filed

1 annually unless the mortgage be extended for a definite  
2 period to be stated in such notice.

3 (5) Any owner of a mortgage on real estate upon which  
4 personal property taxes are by this section made a lien,  
5 where the owner of such real estate and personal property  
6 has failed to pay taxes due upon such real estate and  
7 personal property for 1 or more years, may file with the  
8 department of revenue or its agent in the county in which  
9 such property is located a written request to have the  
10 personal property and real estate of the owner separately  
11 assessed. Such request must be made by registered or  
12 certified mail at least 10 days prior to January 1 in the  
13 year for which property is assessed. Upon receipt by the  
14 department or its agent of such request, it is hereby made  
15 the duty of the department or its agent to make a separate  
16 assessment of real and personal property of the owner  
17 thereof, and such personal taxes shall not be a lien upon  
18 the real estate so mortgaged of the owner thereof, and the  
19 personal property taxes shall be collected in the manner  
20 provided by law for other personal property.

21 (6) The provisions of this section do not apply to  
22 property for which delinquent property taxes have been  
23 suspended or canceled under the provisions of [section 11]."

24 **Section 8.** Section 15-16-404, MCA, is amended to read:  
25 "15-16-404. County lien on moneys of taxpayer. The

1 county has a general lien, dependent on possession, upon any  
2 moneys in its possession belonging to any taxpayer for any  
3 amounts due the county for any delinquent personal property  
4 taxes that are not a lien on real estate of the taxpayer and  
5 that are not delinquent personal property taxes suspended or  
6 canceled under the provisions of [section 11]. Due notice  
7 shall be given the lien holder, if known."

8 **Section 9.** Section 15-17-122, MCA, is amended to read:

9 "15-17-122. Notice of pending tax sale. (1) The county  
10 treasurer shall publish or post a notice of pending tax  
11 sale. The notice must include:

12 (a) the specific time, date, and place an interest in  
13 the property on which the taxes are delinquent will be  
14 offered for sale;

15 (b) a statement that the delinquent taxes, including  
16 penalties, interest, and costs, are a lien upon the property  
17 and that unless the delinquent taxes, penalties, interest,  
18 and costs are paid prior to the time of the tax sale, the  
19 lien will be offered for sale at the time and place  
20 specified in subsection (1)(a).

21 (2) The notice required in subsection (1) must also  
22 include a statement that a list of each property on which  
23 the taxes are delinquent is on file in the office of the  
24 county treasurer and open to inspection. The list must  
25 include:



(a) the name and address of the person to whom the delinquent taxes are assessed;

(b) the amounts of the delinquent taxes, all accrued penalties, interest, and other costs; and

(c) a statement that penalties, interest, and costs will be added to delinquent taxes.

(3) The notice must be published once a week for 3 consecutive weeks in the newspaper designated for county printing as provided in 7-5-2411. If no newspaper is published in the county, the notice must be posted by the county treasurer in three public places. The notice must be first published or posted on or before the last Monday in June.

(4) Except as provided in 15-17-211(2), the sale may not be held less than 21 days or more than 28 days from the date of first publication or first day the notice is posted.

(5) The sale must be held at the county courthouse.

(6) Property on which taxes are delinquent but for which proper notification was not made may not be included in the current year's notice and sale. In the event of improper notification, the sale may be held on all property properly noticed.

(7) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of [section 11]."

**Section 10.** Section 15-17-911, MCA, is amended to read:

**"15-17-911. Sale of personal property for delinquent taxes -- fee -- disposition of proceeds -- unsold property.**

(1) The tax on personal property may be collected and payment enforced by the seizure and sale of any personal property in the possession of the person assessed. Seizure and sale are authorized at any time after the date the taxes become delinquent or by the institution of a civil action for its collection in any court of competent jurisdiction. A resort to one method does not bar the right to resort to any other method. Any of the methods provided may be used until the full amount of the tax is collected.

(2) The provisions of 15-16-113 and this section apply to a seizure and sale under subsection (1).

(3) A sale under subsection (1) must be at public auction. The minimum bid for any property offered for sale must be of a sufficient amount to pay the delinquent taxes, including penalties, interest, and costs.

(4) For seizing and selling personal property, the treasurer shall charge \$25, plus the mileage allowance provided by law to the sheriff, plus reasonable expenses for seizing, handling, keeping, or caring for any property so seized. The charge and other costs may be charged only when property is actually seized and offered for sale or sold.

(5) On payment of the price bid for any property sold as provided in this section, delivery of the property, with a bill of sale, vests the title of the property in the purchaser.

(6) (a) All money collected from the sale of property in liquidation of the delinquency, including delinquent taxes, penalties, and interest but not costs, must be credited by the treasurer to the appropriate funds.

(b) Any money collected in excess of the delinquent tax, penalties, interest, costs, and charges must be returned to the person owning the property prior to the sale, if known. If the person does not claim the excess immediately following the sale, the treasurer shall deposit the money in the county treasury for a period of 1 year from the date of sale. If the person has not claimed the excess within 1 year from the date of sale, the county treasurer shall deposit the amount in the county general fund and the person has no claim to it thereafter.

(7) Any property seized for the purpose of liquidating a delinquency by a tax sale that remains unsold following a sale may be left at the place of sale at the risk of the owner.

(8) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of [section 11]."

**Section 11. Suspension and cancellation of collection of certain property taxes on commercial property -- local government discretion.** (1) The governing body of a county or consolidated local government unit may suspend collection of delinquent property taxes on commercial property to facilitate the purchase and continued operation of a business utilizing the commercial property if the property has not been used in a business for 6 months immediately preceding the date of suspension.

(2) The governing body may refuse to suspend delinquent taxes if it determines that the purchase of the commercial property is not an arm's length transaction or if the purchase otherwise appears to be a restructuring of ownership for the primary purpose of escaping payment of delinquent property taxes.

(3) If a purchaser of such commercial property continuously utilizes the property in a profit-oriented, employment-stimulating business for 3 years from the date of purchase, the governing body may cancel the collection of the suspended delinquent property taxes. The governing body may not cancel the suspended delinquent property taxes if the purchaser is delinquent on taxes for any other property within the governing body's taxing jurisdiction.

(4) In order for the governing body to grant a suspension or cancellation of delinquent property taxes

pursuant to this section, it shall adopt a resolution after due notice, as defined in 76-15-103, and a public hearing. The resolution must state that the suspension or cancellation is in the best interest of the people of the county or consolidated local government, based on full disclosure of all pertinent financial information by the new owner as required by the local government.

(5) The suspension or cancellation of delinquent property taxes pursuant to this section applies to all mills levied in the county or otherwise required under state law, including levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, and 20-25-423.

**Section 12. Payment of suspended delinquent property taxes.** If collection of delinquent property taxes has been suspended in accordance with [section 11] but the purchaser of the commercial property fails to comply with any of the provisions of the resolution granting suspension under [section 11], the governing body that adopted the resolution may revoke the suspension. Upon revocation, the tax lien for the delinquent taxes, penalties, and interest is reinstated. Penalties and interest are to be calculated from the date of delinquency as if there had been no suspension of collection of the delinquent taxes.

**Section 13. Extension of authority.** Any existing authority to make rules on the subject of the provisions of

[this act] is extended to the provisions of [this act].

**Section 14. Codification instruction.** (1) [Section 11] is intended to be codified as an integral part of Title 15, chapter 24, and the provisions of Title 15 apply to [section 11].

(2) [Section 12] is intended to be codified as an integral part of Title 15, chapter 16, and the provisions of Title 15 apply to [section 12].

**Section 15. Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1983.

-End-

APPROVED BY COMM.  
ON LOCAL GOVERNMENT

HOUSE BILL NO. 58

INTRODUCED BY DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LOCAL GOVERNMENT DISCRETION TO SUSPEND OR CANCEL DELINQUENT PROPERTY TAXES ON COMMERCIAL PROPERTY TO FACILITATE THE PURCHASE AND CONTINUED OPERATION OF A BUSINESS UTILIZING THE PROPERTY; AMENDING SECTIONS 15-16-102, 15-16-113, 15-16-117, 15-16-301, 15-16-303, 15-16-401, 15-16-402, 15-16-404, 15-17-122, AND 15-17-911, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. At Unless suspended or canceled under the provisions of [section 11], all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103 and assessments made on interim production and new production as provided in Title 15, chapter 23, part 6, and payable under 15-16-121, shall be payable as follows:

(1) One-half of the amount of such taxes shall be payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever

is later, and one-half on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of such taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, then such amount so payable shall become delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year shall be delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty.

(4) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(5) If the taxes become delinquent, the county treasurer may accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full taxable years, provided both halves of the current tax year have been paid. Payment of delinquent taxes must be applied to the taxes that have been delinquent the longest."

**Section 2.** Section 15-16 113, MCA, is amended to read:

"15-16-113. Personal property -- duty of treasurer -- penalty. (1) The county treasurer shall collect taxes on all personal property and, in the case provided in 15-16-111, shall immediately upon receipt of the report prescribed by 15-16-111 notify the person or persons against whom the tax is assessed and any person who has a properly perfected security interest of record with the department of justice that the amount of the tax is due and payable at the county treasurer's office.

(2) The county treasurer shall, at the time of receiving the report and in any event within 30 days from the receipt of such report, levy upon and take into his possession the personal property against which a tax is assessed or any other personal property in the hands of the delinquent taxpayer and proceed to sell the same in the same manner as property is sold on execution by the sheriff.

(3) The county treasurer shall, for the purpose of making the levy and sale, direct the sheriff to make the levy and sale. The sheriff, undersheriff, or any deputy sheriff of the county is ex officio a deputy county treasurer for such purposes, and either may act and receive payment of such taxes. The sheriff may receive the same fees as he is entitled to in making a seizure and sale as provided in 15-17-911.

(4) The county treasurer and his sureties are liable

on his official bond for all taxes on personal property remaining uncollected by reason of the willful failure and neglect of the treasurer to levy upon and sell such personal property for the taxes levied thereon.

(5) Failure by the sheriff, undersheriff, or deputy sheriff acting as a deputy county treasurer to make the levy and sale results in a levy against the official bond of the sheriff, undersheriff, or deputy sheriff for payment of the delinquent tax.

(6) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of [section 11]."

**Section 3.** Section 15-16-117, MCA, is amended to read:

"15-16-117. Personal property -- treasurer's duty to collect certain taxes. (1) The county treasurer shall demand payment of poor taxes, authorized by 53-2-321, and road taxes, authorized by 7-14-2206 or 7-14-2501 through 7-14-2504, of every person liable therefor whose name does not appear on the assessment lists. On the neglect or refusal of any such person to pay the same, the treasurer shall collect the taxes by seizure and sale of any property owned by the person.

(2) These taxes must be added upon the assessment lists to other property taxes of persons paying taxes upon real and personal property and paid to the county treasurer

1 at the time of payment of other taxes.

2 (3) The procedure for the sale of such property by the  
3 county treasurer for such taxes must be regulated by  
4 15-16-113 and 15-17-911.

5 (4) The provisions of this section do not apply to  
6 property for which delinquent property taxes have been  
7 suspended or canceled under the provisions of [section 11]."

8 **Section 4.** Section 15-16-301, MCA, is amended to read:

9 "15-16-301. Delinquent list -- list of taxes suspended  
10 or canceled -- real property. (1) On the third Monday of  
11 December and on the third Monday of June of each year, the  
12 county treasurer must make a report to the county clerk and  
13 recorder in detail, showing the amount of taxes collected  
14 and a complete list of all persons and property then owing  
15 taxes.

16 (2) The county treasurer must make a separate report  
17 to the county clerk and recorder showing the amount of taxes  
18 suspended or canceled under the provisions of [section 11]  
19 during the 6-month period immediately preceding the date of  
20 the report.

21 (3) The county clerk and recorder shall compare the  
22 report reports with the books of the county treasurer and  
23 shall keep a record of the report reports in his office."

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2 15-16-302, the county clerk and recorder must charge the  
3 treasurer with the amount of taxes due on the delinquent tax  
4 list, minus taxes suspended or canceled under the provisions  
5 of [section 11], and within 3 days thereafter deliver the  
6 list, duly certified, to the county treasurer."

7 **Section 6.** Section 15-16-401, MCA, is amended to read:

8 "15-16-401. Tax due as a judgment or lien. Every  
9 Unless suspended or canceled under the provisions of  
10 [section 11], every tax has the effect of a judgment against  
11 the person, and every lien created by this title has the  
12 force and effect of an execution duly levied against all  
13 personal property in the possession of the person assessed  
14 from and after the date the assessment is made. The county  
15 treasurer may issue a writ of execution for delinquent  
16 personal property taxes, unless suspended or canceled under  
17 the provisions of [section 11], and deliver the writ to the  
18 sheriff. The sheriff shall thereupon proceed upon the writ  
19 in all respects, with like effect, and in the same manner  
20 prescribed by law in respect to executions issued against  
21 property upon judgments of a court of record and shall be  
22 entitled to the fees provided for in 15-17-911. The judgment  
23 is not satisfied nor the lien removed until the taxes are  
24 paid or the property sold for the payment thereof."

25 **Section 7.** Section 15-16-402, MCA, is amended to read:

"15-16-402. Tax on personal property lien on realty --  
 separate assessment. (1) Every tax due upon personal  
 property is a prior lien upon any or all of such property,  
 which lien shall have precedence over any other lien, claim,  
 or demand upon such property, and except as hereinafter  
 provided, every tax upon personal property is also a lien  
 upon the real property of the owner thereof on and after  
 January 1 of each year.

(2) The taxes upon personal property based upon a  
 taxable value up to and including \$1,000 shall be a first  
 and prior lien upon the real property of the owner of such  
 personal property. Taxes upon personal property based upon  
 the taxable value thereof in excess of \$1,000 shall be a  
 first and prior lien upon the real property of the owner  
 unless the owner or holder of any mortgage or other lien  
 upon said real property appearing of record in the office of  
 the clerk and recorder of the county where such real  
 property is situated, at or before the time such personal  
 property tax attached thereto, shall have filed the notice  
 hereinafter provided for, in which event the taxes upon such  
 excess of \$1,000 of taxable value shall not be a lien on the  
 real property of such owner. It shall be the duty of the  
 county treasurer to issue to any mortgagee or lien holder,  
 upon his request, a statement of the personal property tax  
 due upon the taxable value up to and including \$1,000.

Personal property taxes upon a taxable value up to \$1,000  
 may be paid, redeemed from a tax sale as by law provided, or  
 discharged separately from any personal property taxes in  
 excess of such amount. Payment of such taxes upon a taxable  
 value up to \$1,000, as herein provided, shall operate to  
 discharge the tax lien upon the personal property of the  
 owner to the extent of such payment in the order that the  
 person paying such tax shall direct.

(3) The holder of any mortgage or lien upon real  
 property who desires to obtain the benefits of this section  
 shall file in the office of the county treasurer of said  
 county a notice giving:

(a) the name and address of the mortgagee and holder  
 of the mortgage or lien;

(b) the name of the reputed owner of the land;

(c) the description of the land;

(d) the date of record and expiration of the mortgage  
 or lien;

(e) the amount thereof; and

(f) a statement that he claims the benefit of the  
 provisions of this section.

(4) Such notice shall be ineffectual as to any taxes  
 which shall have become a lien on real property prior to the  
 filing of such notice as aforesaid. If the mortgage be not  
 paid at maturity, such notice shall thereafter be filed

1 annually unless the mortgage be extended for a definite  
2 period to be stated in such notice.

3 (5) Any owner of a mortgage on real estate upon which  
4 personal property taxes are by this section made a lien,  
5 where the owner of such real estate and personal property  
6 has failed to pay taxes due upon such real estate and  
7 personal property for 1 or more years, may file with the  
8 department of revenue or its agent in the county in which  
9 such property is located a written request to have the  
10 personal property and real estate of the owner separately  
11 assessed. Such request must be made by registered or  
12 certified mail at least 10 days prior to January 1 in the  
13 year for which property is assessed. Upon receipt by the  
14 department or its agent of such request, it is hereby made  
15 the duty of the department or its agent to make a separate  
16 assessment of real and personal property of the owner  
17 thereof, and such personal taxes shall not be a lien upon  
18 the real estate so mortgaged of the owner thereof, and the  
19 personal property taxes shall be collected in the manner  
20 provided by law for other personal property.

21 (6) The provisions of this section do not apply to  
22 property for which delinquent property taxes have been  
23 suspended or canceled under the provisions of [section 11]."

24 **Section 8.** Section 15-16-404, MCA, is amended to read:

25 "15-16-404. County lien on moneys of taxpayer. The

1 county has a general lien, dependent on possession, upon any  
2 moneys in its possession belonging to any taxpayer for any  
3 amounts due the county for any delinquent personal property  
4 taxes that are not a lien on real estate of the taxpayer and  
5 that are not delinquent personal property taxes suspended or  
6 canceled under the provisions of [section 11]. Due notice  
7 shall be given the lien holder, if known."

8 **Section 9.** Section 15-17-122, MCA, is amended to read:

9 "15-17-122. Notice of pending tax sale. (1) The county  
10 treasurer shall publish or post a notice of pending tax  
11 sale. The notice must include:

12 (a) the specific time, date, and place an interest in  
13 the property on which the taxes are delinquent will be  
14 offered for sale;

15 (b) a statement that the delinquent taxes, including  
16 penalties, interest, and costs, are a lien upon the property  
17 and that unless the delinquent taxes, penalties, interest,  
18 and costs are paid prior to the time of the tax sale, the  
19 lien will be offered for sale at the time and place  
20 specified in subsection (1)(a).

21 (2) The notice required in subsection (1) must also  
22 include a statement that a list of each property on which  
23 the taxes are delinquent is on file in the office of the  
24 county treasurer and open to inspection. The list must  
25 include:



(a) the name and address of the person to whom the delinquent taxes are assessed;

(b) the amounts of the delinquent taxes, all accrued penalties, interest, and other costs; and

(c) a statement that penalties, interest, and costs will be added to delinquent taxes.

(3) The notice must be published once a week for 3 consecutive weeks in the newspaper designated for county printing as provided in 7-5-2411. If no newspaper is published in the county, the notice must be posted by the county treasurer in three public places. The notice must be first published or posted on or before the last Monday in June.

(4) Except as provided in 15-17-211(2), the sale may not be held less than 21 days or more than 28 days from the date of first publication or first day the notice is posted.

(5) The sale must be held at the county courthouse.

(6) Property on which taxes are delinquent but for which proper notification was not made may not be included in the current year's notice and sale. In the event of improper notification, the sale may be held on all property properly noticed.

(7) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of [section 11]."

**Section 10.** Section 15-17-911, MCA, is amended to

read:

**"15-17-911. Sale of personal property for delinquent taxes -- fee -- disposition of proceeds -- unsold property.**

(1) The tax on personal property may be collected and payment enforced by the seizure and sale of any personal property in the possession of the person assessed. Seizure and sale are authorized at any time after the date the taxes become delinquent or by the institution of a civil action for its collection in any court of competent jurisdiction. A resort to one method does not bar the right to resort to any other method. Any of the methods provided may be used until the full amount of the tax is collected.

(2) The provisions of 15-16-113 and this section apply to a seizure and sale under subsection (1).

(3) A sale under subsection (1) must be at public auction. The minimum bid for any property offered for sale must be of a sufficient amount to pay the delinquent taxes, including penalties, interest, and costs.

(4) For seizing and selling personal property, the treasurer shall charge \$25, plus the mileage allowance provided by law to the sheriff, plus reasonable expenses for seizing, handling, keeping, or caring for any property so seized. The charge and other costs may be charged only when property is actually seized and offered for sale or sold.

1 (5) On payment of the price bid for any property sold  
2 as provided in this section, delivery of the property, with  
3 a bill of sale, vests the title of the property in the  
4 purchaser.

5 (6) (a) All money collected from the sale of property  
6 in liquidation of the delinquency, including delinquent  
7 taxes, penalties, and interest but not costs, must be  
8 credited by the treasurer to the appropriate funds.

9 (b) Any money collected in excess of the delinquent  
10 tax, penalties, interest, costs, and charges must be  
11 returned to the person owning the property prior to the  
12 sale, if known. If the person does not claim the excess  
13 immediately following the sale, the treasurer shall deposit  
14 the money in the county treasury for a period of 1 year from  
15 the date of sale. If the person has not claimed the excess  
16 within 1 year from the date of sale, the county treasurer  
17 shall deposit the amount in the county general fund and the  
18 person has no claim to it thereafter.

19 (7) Any property seized for the purpose of liquidating  
20 a delinquency by a tax sale that remains unsold following a  
21 sale may be left at the place of sale at the risk of the  
22 owner.

23 (8) The provisions of this section do not apply to  
24 property for which delinquent property taxes have been  
25 suspended or canceled under the provisions of [section 11]."

1 NEW SECTION. Section 11. Suspension and cancellation  
2 of collection of certain property taxes on commercial  
3 property -- local government discretion. (1) The governing  
4 body of a county or consolidated local government unit may  
5 suspend collection of delinquent property taxes on  
6 commercial property to facilitate the purchase and continued  
7 operation of a business utilizing the commercial property if  
8 the property has not been used in a business for 6 months  
9 immediately preceding the date of suspension.

10 (2) The governing body may refuse to suspend  
11 delinquent taxes if it determines that the purchase of the  
12 commercial property is not an arm's length transaction or if  
13 the purchase otherwise appears to be a restructuring of  
14 ownership for the primary purpose of escaping payment of  
15 delinquent property taxes.

16 (3) If a purchaser of such commercial property  
17 continuously utilizes the property in a profit-oriented,  
18 employment-stimulating business for 3 years from the date of  
19 purchase, the governing body may cancel the collection of  
20 the suspended delinquent property taxes. The governing body  
21 may not cancel the suspended delinquent property taxes if  
22 the purchaser is delinquent on taxes for any other property  
23 within the governing body's taxing jurisdiction.

24 (4) In order for the governing body to grant a  
25 suspension or cancellation of delinquent property taxes

pursuant to this section, it shall adopt a resolution after due PROVIDING notice, as defined SET FORTH in 76-15-103 7-1-2121, and a public hearing. The resolution must state that the suspension or cancellation is in the best interest of the people of the county or consolidated local government, based on full disclosure of all pertinent financial information by the new owner as required by the local government.

(5) The suspension or cancellation of delinquent property taxes pursuant to this section applies to all mills levied in the county or otherwise required under state law, including EXCEPT:

(A) levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, and 20-25-423; OR

(B) ASSESSMENTS MADE AGAINST PROPERTY FOR THE PAYMENT OF BONDS ISSUED PURSUANT TO TITLE 7, CHAPTER 12.

NEW SECTION. Section 12. Payment of suspended delinquent property taxes. If collection of delinquent property taxes has been suspended in accordance with [section 11] but the purchaser of the commercial property fails to comply with any of the provisions of the resolution granting suspension under [section 11], the governing body that adopted the resolution may revoke the suspension. Upon revocation, the tax lien for the delinquent taxes, penalties, and interest is reinstated. Penalties and

interest are to be calculated from the date of delinquency as if there had been no suspension of collection of the delinquent taxes.

NEW SECTION. Section 13. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 14. Codification instruction. (1) [Section 11] is intended to be codified as an integral part of Title 15, chapter 24, and the provisions of Title 15 apply to [section 11].

(2) [Section 12] is intended to be codified as an integral part of Title 15, chapter 16, and the provisions of Title 15 apply to [section 12].

NEW SECTION. Section 15. Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1983.

-End-

## HOUSE BILL NO. 58

INTRODUCED BY DRISCOLL, ADDY, KILPATRICK,  
WHALEN, MCDONOUGH, KIMBERLY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LOCAL  
GOVERNMENT DISCRETION TO SUSPEND OR CANCEL DELINQUENT  
PROPERTY TAXES ON COMMERCIAL PROPERTY TO FACILITATE THE  
PURCHASE AND CONTINUED OPERATION OF A BUSINESS UTILIZING THE  
PROPERTY; AMENDING SECTIONS 15-16-102, 15-16-113, 15-16-117,  
15-16-301, 15-16-303, 15-16-401, 15-16-402, 15-16-404,  
15-17-122, AND 15-17-911, MCA; AND PROVIDING AN IMMEDIATE  
EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for  
delinquency. All Unless suspended or canceled under the  
provisions of [section 11], all taxes levied and assessed in  
the state of Montana, except assessments made for special  
improvements in cities and towns payable under 15-16-103 and  
assessments made on interim production and new production as  
provided in Title 15, chapter 23, part 6, and payable under  
15-16-121, shall be payable as follows:

(1) One-half of the amount of such taxes shall be  
payable on or before 5 p.m. on November 30 of each year or

within 30 days after the tax notice is postmarked, whichever  
is later, and one-half on or before 5 p.m. on May 31 of each  
year.

(2) Unless one-half of such taxes are paid on or  
before 5 p.m. on November 30 of each year or within 30 days  
after the tax notice is postmarked, whichever is later, then  
such amount so payable shall become delinquent and shall  
draw interest at the rate of 5/6 of 1% per month from and  
after such delinquency until paid and 2% shall be added to  
the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on  
May 31 of each year shall be delinquent and shall draw  
interest at the rate of 5/6 of 1% per month from and after  
such delinquency until paid and 2% shall be added to the  
delinquent taxes as a penalty.

(4) If the date on which taxes are due falls on a  
holiday or Saturday, taxes may be paid without penalty or  
interest on or before 5 p.m. of the next business day in  
accordance with 1-1-307.

(5) If the taxes become delinquent, the county  
treasurer may accept a partial payment equal to the  
delinquent taxes, including penalty and interest, for one or  
more full taxable years, provided both halves of the current  
tax year have been paid. Payment of delinquent taxes must be  
applied to the taxes that have been delinquent the longest."

**Section 2.** Section 15-16-113, MCA, is amended to read:

**"15-16-113. Personal property -- duty of treasurer -- penalty.** (1) The county treasurer shall collect taxes on all personal property and, in the case provided in 15-16-111, shall immediately upon receipt of the report prescribed by 15-16-111 notify the person or persons against whom the tax is assessed and any person who has a properly perfected security interest of record with the department of justice that the amount of the tax is due and payable at the county treasurer's office.

(2) The county treasurer shall, at the time of receiving the report and in any event within 30 days from the receipt of such report, levy upon and take into his possession the personal property against which a tax is assessed or any other personal property in the hands of the delinquent taxpayer and proceed to sell the same in the same manner as property is sold on execution by the sheriff.

(3) The county treasurer shall, for the purpose of making the levy and sale, direct the sheriff to make the levy and sale. The sheriff, undersheriff, or any deputy sheriff of the county is ex officio a deputy county treasurer for such purposes, and either may act and receive payment of such taxes. The sheriff may receive the same fees as he is entitled to in making a seizure and sale as provided in 15-17-911.

(4) The county treasurer and his sureties are liable on his official bond for all taxes on personal property remaining uncollected by reason of the willful failure and neglect of the treasurer to levy upon and sell such personal property for the taxes levied thereon.

(5) Failure by the sheriff, undersheriff, or deputy sheriff acting as a deputy county treasurer to make the levy and sale results in a levy against the official bond of the sheriff, undersheriff, or deputy sheriff for payment of the delinquent tax.

(6) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of [section 11]."

**Section 3.** Section 15-16-117, MCA, is amended to read:

**"15-16-117. Personal property -- treasurer's duty to collect certain taxes.** (1) The county treasurer shall demand payment of poor taxes, authorized by 53-2-321, and road taxes, authorized by 7-14-2206 or 7-14-2501 through 7-14-2504, of every person liable therefor whose name does not appear on the assessment lists. On the neglect or refusal of any such person to pay the same, the treasurer shall collect the taxes by seizure and sale of any property owned by the person.

(2) These taxes must be added upon the assessment lists to other property taxes of persons paying taxes upon

1 real and personal property and paid to the county treasurer  
2 at the time of payment of other taxes.

3 (3) The procedure for the sale of such property by the  
4 county treasurer for such taxes must be regulated by  
5 15-16-113 and 15-17-911.

6 (4) The provisions of this section do not apply to  
7 property for which delinquent property taxes have been  
8 suspended or canceled under the provisions of [section 11]."

9 **Section 4.** Section 15-16-301, MCA, is amended to read:

10 "15-16-301. Delinquent list -- list of taxes suspended  
11 or canceled -- real property. (1) On the third Monday of  
12 December and on the third Monday of June of each year, the  
13 county treasurer must make a report to the county clerk and  
14 recorder in detail, showing the amount of taxes collected  
15 and a complete list of all persons and property then owing  
16 taxes.

17 (2) The county treasurer must make a separate report  
18 to the county clerk and recorder showing the amount of taxes  
19 suspended or canceled under the provisions of [section 11]  
20 during the 6-month period immediately preceding the date of  
21 the report.

22 (3) The county clerk and recorder shall compare the  
23 report reports with the books of the county treasurer and  
24 shall keep a record of the report reports in his office."

25 **Section 5.** Section 15-16-303, MCA, is amended to read:

1 "15-16-303. Treasurer charged with delinquent taxes.

2 After settlement with the county treasurer as prescribed in  
3 15-16-302, the county clerk and recorder must charge the  
4 treasurer with the amount of taxes due on the delinquent tax  
5 list, minus taxes suspended or canceled under the provisions  
6 of [section 11], and within 3 days thereafter deliver the  
7 list, duly certified, to the county treasurer."

8 **Section 6.** Section 15-16-401, MCA, is amended to read:

9 "15-16-401. Tax due as a judgment or lien. Every  
10 Unless suspended or canceled under the provisions of  
11 [section 11], every tax has the effect of a judgment against  
12 the person, and every lien created by this title has the  
13 force and effect of an execution duly levied against all  
14 personal property in the possession of the person assessed  
15 from and after the date the assessment is made. The county  
16 treasurer may issue a writ of execution for delinquent  
17 personal property taxes, unless suspended or canceled under  
18 the provisions of [section 11], and deliver the writ to the  
19 sheriff. The sheriff shall thereupon proceed upon the writ  
20 in all respects, with like effect, and in the same manner  
21 prescribed by law in respect to executions issued against  
22 property upon judgments of a court of record and shall be  
23 entitled to the fees provided for in 15-17-911. The judgment  
24 is not satisfied nor the lien removed until the taxes are  
25 paid or the property sold for the payment thereof."

**Section 7.** Section 15-16-402, MCA, is amended to read:

**"15-16-402. Tax on personal property lien on realty -- separate assessment.** (1) Every tax due upon personal property is a prior lien upon any or all of such property, which lien shall have precedence over any other lien, claim, or demand upon such property, and except as hereinafter provided, every tax upon personal property is also a lien upon the real property of the owner thereof on and after January 1 of each year.

(2) The taxes upon personal property based upon a taxable value up to and including \$1,000 shall be a first and prior lien upon the real property of the owner of such personal property. Taxes upon personal property based upon the taxable value thereof in excess of \$1,000 shall be a first and prior lien upon the real property of the owner unless the owner or holder of any mortgage or other lien upon said real property appearing of record in the office of the clerk and recorder of the county where such real property is situated, at or before the time such personal property tax attached thereto, shall have filed the notice hereinafter provided for, in which event the taxes upon such excess of \$1,000 of taxable value shall not be a lien on the real property of such owner. It shall be the duty of the county treasurer to issue to any mortgagee or lien holder, upon his request, a statement of the personal property tax

due upon the taxable value up to and including \$1,000. Personal property taxes upon a taxable value up to \$1,000 may be paid, redeemed from a tax sale as by law provided, or discharged separately from any personal property taxes in excess of such amount. Payment of such taxes upon a taxable value up to \$1,000, as herein provided, shall operate to discharge the tax lien upon the personal property of the owner to the extent of such payment in the order that the person paying such tax shall direct.

(3) The holder of any mortgage or lien upon real property who desires to obtain the benefits of this section shall file in the office of the county treasurer of said county a notice giving:

(a) the name and address of the mortgagee and holder of the mortgage or lien;

(b) the name of the reputed owner of the land;

(c) the description of the land;

(d) the date of record and expiration of the mortgage or lien;

(e) the amount thereof; and

(f) a statement that he claims the benefit of the provisions of this section.

(4) Such notice shall be ineffectual as to any taxes which shall have become a lien on real property prior to the filing of such notice as aforesaid. If the mortgage be not

1 paid at maturity, such notice shall thereafter be filed  
2 annually unless the mortgage be extended for a definite  
3 period to be stated in such notice.

4 (5) Any owner of a mortgage on real estate upon which  
5 personal property taxes are by this section made a lien,  
6 where the owner of such real estate and personal property  
7 has failed to pay taxes due upon such real estate and  
8 personal property for 1 or more years, may file with the  
9 department of revenue or its agent in the county in which  
10 such property is located a written request to have the  
11 personal property and real estate of the owner separately  
12 assessed. Such request must be made by registered or  
13 certified mail at least 10 days prior to January 1 in the  
14 year for which property is assessed. Upon receipt by the  
15 department or its agent of such request, it is hereby made  
16 the duty of the department or its agent to make a separate  
17 assessment of real and personal property of the owner  
18 thereof, and such personal taxes shall not be a lien upon  
19 the real estate so mortgaged of the owner thereof, and the  
20 personal property taxes shall be collected in the manner  
21 provided by law for other personal property.

22 (6) The provisions of this section do not apply to  
23 property for which delinquent property taxes have been  
24 suspended or canceled under the provisions of [section 11]."

25 **Section 8.** Section 15-16-404, MCA, is amended to read:

1 **"15-16-404. County lien on moneys of taxpayer.** The  
2 county has a general lien, dependent on possession, upon any  
3 moneys in its possession belonging to any taxpayer for any  
4 amounts due the county for any delinquent personal property  
5 taxes that are not a lien on real estate of the taxpayer and  
6 that are not delinquent personal property taxes suspended or  
7 canceled under the provisions of [section 11]. Due notice  
8 shall be given the lien holder, if known."

9 **Section 9.** Section 15-17-122, MCA, is amended to read:

10 **"15-17-122. Notice of pending tax sale.** (1) The county  
11 treasurer shall publish or post a notice of pending tax  
12 sale. The notice must include:

13 (a) the specific time, date, and place an interest in  
14 the property on which the taxes are delinquent will be  
15 offered for sale;

16 (b) a statement that the delinquent taxes, including  
17 penalties, interest, and costs, are a lien upon the property  
18 and that unless the delinquent taxes, penalties, interest,  
19 and costs are paid prior to the time of the tax sale, the  
20 lien will be offered for sale at the time and place  
21 specified in subsection (1)(a).

22 (2) The notice required in subsection (1) must also  
23 include a statement that a list of each property on which  
24 the taxes are delinquent is on file in the office of the  
25 county treasurer and open to inspection. The list must



1 include:

2 (a) the name and address of the person to whom the  
3 delinquent taxes are assessed;

4 (b) the amounts of the delinquent taxes, all accrued  
5 penalties, interest, and other costs; and

6 (c) a statement that penalties, interest, and costs  
7 will be added to delinquent taxes.

8 (3) The notice must be published once a week for 3  
9 consecutive weeks in the newspaper designated for county  
10 printing as provided in 7-5-2411. If no newspaper is  
11 published in the county, the notice must be posted by the  
12 county treasurer in three public places. The notice must be  
13 first published or posted on or before the last Monday in  
14 June.

15 (4) Except as provided in 15-17-211(2), the sale may  
16 not be held less than 21 days or more than 28 days from the  
17 date of first publication or first day the notice is posted.

18 (5) The sale must be held at the county courthouse.

19 (6) Property on which taxes are delinquent but for  
20 which proper notification was not made may not be included  
21 in the current year's notice and sale. In the event of  
22 improper notification, the sale may be held on all property  
23 properly noticed.

24 (7) The provisions of this section do not apply to  
25 property for which delinquent property taxes have been

1 suspended or canceled under the provisions of [section 11]."

2 **Section 10.** Section 15-17-911, MCA, is amended to  
3 read:

4 "15-17-911. Sale of personal property for delinquent  
5 taxes -- fee -- disposition of proceeds -- unsold property.

6 (1) The tax on personal property may be collected and  
7 payment enforced by the seizure and sale of any personal  
8 property in the possession of the person assessed. Seizure  
9 and sale are authorized at any time after the date the taxes  
10 become delinquent or by the institution of a civil action  
11 for its collection in any court of competent jurisdiction.  
12 A resort to one method does not bar the right to resort to  
13 any other method. Any of the methods provided may be used  
14 until the full amount of the tax is collected.

15 (2) The provisions of 15-16-113 and this section apply  
16 to a seizure and sale under subsection (1).

17 (3) A sale under subsection (1) must be at public  
18 auction. The minimum bid for any property offered for sale  
19 must be of a sufficient amount to pay the delinquent taxes,  
20 including penalties, interest, and costs.

21 (4) For seizing and selling personal property, the  
22 treasurer shall charge \$25, plus the mileage allowance  
23 provided by law to the sheriff, plus reasonable expenses for  
24 seizing, handling, keeping, or caring for any property so  
25 seized. The charge and other costs may be charged only when

property is actually seized and offered for sale or sold.

(5) On payment of the price bid for any property sold as provided in this section, delivery of the property, with a bill of sale, vests the title of the property in the purchaser.

(6) (a) All money collected from the sale of property in liquidation of the delinquency, including delinquent taxes, penalties, and interest but not costs, must be credited by the treasurer to the appropriate funds.

(b) Any money collected in excess of the delinquent tax, penalties, interest, costs, and charges must be returned to the person owning the property prior to the sale, if known. If the person does not claim the excess immediately following the sale, the treasurer shall deposit the money in the county treasury for a period of 1 year from the date of sale. If the person has not claimed the excess within 1 year from the date of sale, the county treasurer shall deposit the amount in the county general fund and the person has no claim to it thereafter.

(7) Any property seized for the purpose of liquidating a delinquency by a tax sale that remains unsold following a sale may be left at the place of sale at the risk of the owner.

(8) The provisions of this section do not apply to property for which delinquent property taxes have been

suspended or canceled under the provisions of [section 11]."

NEW SECTION. Section 11. Suspension and cancellation of collection of certain property taxes on commercial property -- local government discretion. (1) The governing body of a county or consolidated local government unit may suspend collection of delinquent property taxes on commercial property to facilitate the purchase and continued operation of a business utilizing the commercial property if the property has not been used in a business for 6 months immediately preceding the date of suspension.

(2) The governing body may refuse to suspend delinquent taxes if it determines that the purchase of the commercial property is not an arm's length transaction or if the purchase otherwise appears to be a restructuring of ownership for the primary purpose of escaping payment of delinquent property taxes.

(3) If a purchaser of such commercial property continuously utilizes the property in a profit-oriented, employment-stimulating business for 3 years from the date of purchase, the governing body may cancel the collection of the suspended delinquent property taxes. The governing body may not cancel the suspended delinquent property taxes if the purchaser is delinquent on taxes for any other property within the governing body's taxing jurisdiction.

(4) In order for the governing body to grant a

suspension or cancellation of delinquent property taxes pursuant to this section, it shall adopt a resolution after due PROVIDING notice, as defined SET FORTH in 76-15-103 7-1-2121, and a public hearing. The resolution must state that the suspension or cancellation is in the best interest of the people of the county or consolidated local government, based on full disclosure of all pertinent financial information by the new owner as required by the local government.

(5) The suspension or cancellation of delinquent property taxes pursuant to this section:

(A) applies to all mills levied in the county or otherwise required under state law, ~~including~~ EXCEPT: INCLUDING

~~(A)~~ levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, and 20-25-423; OR

(B) DOES NOT APPLY TO ASSESSMENTS MADE AGAINST PROPERTY FOR THE PAYMENT OF BONDS ISSUED PURSUANT TO TITLE 7, CHAPTER 12.

**NEW SECTION. Section 12.** Payment of suspended delinquent property taxes. If collection of delinquent property taxes has been suspended in accordance with [section 11] but the purchaser of the commercial property fails to comply with any of the provisions of the resolution granting suspension under [section 11], the governing body

that adopted the resolution may revoke the suspension. Upon revocation, the tax lien for the delinquent taxes, penalties, and interest is reinstated. Penalties and interest are to be calculated from the date of delinquency as if there had been no suspension of collection of the delinquent taxes.

**NEW SECTION. Section 13.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

**NEW SECTION. Section 14.** Codification instruction. (1) [Section 11] is intended to be codified as an integral part of Title 15, chapter 24, and the provisions of Title 15 apply to [section 11].

(2) [Section 12] is intended to be codified as an integral part of Title 15, chapter 16, and the provisions of Title 15 apply to [section 12].

**NEW SECTION. SECTION 15. SEVERABILITY.** IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.

**NEW SECTION. Section 16.** Effective date -- retroactive applicability. [This act] is effective on

HB 0058/03

1 passage and approval and applies retroactively, within the  
2 meaning of 1-2-109, to taxable years beginning after  
3 December 31, 1983.

-End-

SENATE STANDING COMMITTEE REPORT

February 6, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 58 (third reading copy -- blue), respectfully report that HB 58 be amended and as so amended be concurred in:

Sponsor: Driscoll (Walker)

1. Title, line 11.

Following: "MCA;"

Strike: "AND"

2. Title, line 12.

Following: "APPLICABILITY DATE"

Insert: "; AND PROVIDING A TERMINATION DATE"

3. Page 14, line 16.

Following: "taxes"

Insert: "or if the governing body determines the cancellation is not in the best interest of the county"

4. Page 17.

Following: line 3

Insert: "NEW SECTION. Section 17. Termination date. [This act] terminates December 31, 1993."

AND AS AMENDED BE CONCURRED IN

Signed: \_\_\_\_\_

  
Bob Brown, Chairman

SENATE

SCRHB058.206

## 1 HOUSE BILL NO. 58

2 INTRODUCED BY DRISCOLL, ADDY, KILPATRICK,

3 WHALEN, MCDONOUGH, KIMBERLEY

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LOCAL  
6 GOVERNMENT DISCRETION TO SUSPEND OR CANCEL DELINQUENT  
7 PROPERTY TAXES ON COMMERCIAL PROPERTY TO FACILITATE THE  
8 PURCHASE AND CONTINUED OPERATION OF A BUSINESS UTILIZING THE  
9 PROPERTY; AMENDING SECTIONS 15-16-102, 15-16-113, 15-16-117,  
10 15-16-301, 15-16-303, 15-16-401, 15-16-402, 15-16-404,  
11 15-17-122, AND 15-17-911, MCA; AND PROVIDING AN IMMEDIATE  
12 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE; AND  
13 PROVIDING A TERMINATION DATE."

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 15-16-102, MCA, is amended to read:

17 "15-16-102. Time for payment -- penalty for  
18 delinquency. At: Unless suspended or canceled under the  
19 provisions of [section 11], all taxes levied and assessed in  
20 the state of Montana, except assessments made for special  
21 improvements in cities and towns payable under 15-16-103 and  
22 assessments made on interim production and new production as  
23 provided in Title 15, chapter 23, part 6, and payable under  
24 15-16-121, shall be payable as follows:

25 (1) One-half of the amount of such taxes shall be

1 payable on or before 5 p.m. on November 30 of each year or  
2 within 30 days after the tax notice is postmarked, whichever  
3 is later, and one-half on or before 5 p.m. on May 31 of each  
4 year.

5 (2) Unless one-half of such taxes are paid on or  
6 before 5 p.m. on November 30 of each year or within 30 days  
7 after the tax notice is postmarked, whichever is later, then  
8 such amount so payable shall become delinquent and shall  
9 draw interest at the rate of 5/6 of 1% per month from and  
10 after such delinquency until paid and 2% shall be added to  
11 the delinquent taxes as a penalty.

12 (3) All taxes due and not paid on or before 5 p.m. on  
13 May 31 of each year shall be delinquent and shall draw  
14 interest at the rate of 5/6 of 1% per month from and after  
15 such delinquency until paid and 2% shall be added to the  
16 delinquent taxes as a penalty.

17 (4) If the date on which taxes are due falls on a  
18 holiday or Saturday, taxes may be paid without penalty or  
19 interest on or before 5 p.m. of the next business day in  
20 accordance with 1-1-307.

21 (5) If the taxes become delinquent, the county  
22 treasurer may accept a partial payment equal to the  
23 delinquent taxes, including penalty and interest, for one or  
24 more full taxable years, provided both halves of the current  
25 tax year have been paid. Payment of delinquent taxes must be

1 applied to the taxes that have been delinquent the longest."

2 **Section 2.** Section 15-16-113, MCA, is amended to read:

3 "15-16-113. Personal property -- duty of treasurer --  
4 penalty. (1) The county treasurer shall collect taxes on all  
5 personal property and, in the case provided in 15-16-111,  
6 shall immediately upon receipt of the report prescribed by  
7 15-16-111 notify the person or persons against whom the tax  
8 is assessed and any person who has a properly perfected  
9 security interest of record with the department of justice  
10 that the amount of the tax is due and payable at the county  
11 treasurer's office.

12 (2) The county treasurer shall, at the time of  
13 receiving the report and in any event within 30 days from  
14 the receipt of such report, levy upon and take into his  
15 possession the personal property against which a tax is  
16 assessed or any other personal property in the hands of the  
17 delinquent taxpayer and proceed to sell the same in the same  
18 manner as property is sold on execution by the sheriff.

19 (3) The county treasurer shall, for the purpose of  
20 making the levy and sale, direct the sheriff to make the  
21 levy and sale. The sheriff, undersheriff, or any deputy  
22 sheriff of the county is ex officio a deputy county  
23 treasurer for such purposes, and either may act and receive  
24 payment of such taxes. The sheriff may receive the same fees  
25 as he is entitled to in making a seizure and sale as

1 provided in 15-17-911.

2 (4) The county treasurer and his sureties are liable  
3 on his official bond for all taxes on personal property  
4 remaining uncollected by reason of the willful failure and  
5 neglect of the treasurer to levy upon and sell such personal  
6 property for the taxes levied thereon.

7 (5) Failure by the sheriff, undersheriff, or deputy  
8 sheriff acting as a deputy county treasurer to make the levy  
9 and sale results in a levy against the official bond of the  
10 sheriff, undersheriff, or deputy sheriff for payment of the  
11 delinquent tax.

12 (6) The provisions of this section do not apply to  
13 property for which delinquent property taxes have been  
14 suspended or canceled under the provisions of [section 11]."

15 **Section 3.** Section 15-16-117, MCA, is amended to read:

16 "15-16-117. Personal property -- treasurer's duty to  
17 collect certain taxes. (1) The county treasurer shall demand  
18 payment of poor taxes, authorized by 53-2-321, and road  
19 taxes, authorized by 7-14-2206 or 7-14-2501 through  
20 7-14-2504, of every person liable therefor whose name does  
21 not appear on the assessment lists. On the neglect or  
22 refusal of any such person to pay the same, the treasurer  
23 shall collect the taxes by seizure and sale of any property  
24 owned by the person.

25 (2) These taxes must be added upon the assessment

1 lists to other property taxes of persons paying taxes upon  
2 real and personal property and paid to the county treasurer  
3 at the time of payment of other taxes.

4 (3) The procedure for the sale of such property by the  
5 county treasurer for such taxes must be regulated by  
6 15-16-113 and 15-17-911.

7 (4) The provisions of this section do not apply to  
8 property for which delinquent property taxes have been  
9 suspended or canceled under the provisions of [section 11]."

10 **Section 4.** Section 15-16-301, MCA, is amended to read:

11 "15-16-301. Delinquent list -- list of taxes suspended  
12 or canceled -- real property. (1) On the third Monday of  
13 December and on the third Monday of June of each year, the  
14 county treasurer must make a report to the county clerk and  
15 recorder in detail, showing the amount of taxes collected  
16 and a complete list of all persons and property then owing  
17 taxes.

18 (2) The county treasurer must make a separate report  
19 to the county clerk and recorder showing the amount of taxes  
20 suspended or canceled under the provisions of [section 11]  
21 during the 6-month period immediately preceding the date of  
22 the report.

23 (3) The county clerk and recorder shall compare the  
24 report reports with the books of the county treasurer and  
25 shall keep a record of the report reports in his office."

1 **Section 5.** Section 15-16-303, MCA, is amended to read:

2 "15-16-303. Treasurer charged with delinquent taxes.  
3 After settlement with the county treasurer as prescribed in  
4 15-16-302, the county clerk and recorder must charge the  
5 treasurer with the amount of taxes due on the delinquent tax  
6 list, minus taxes suspended or canceled under the provisions  
7 of [section 11], and within 3 days thereafter deliver the  
8 list, duly certified, to the county treasurer."

9 **Section 6.** Section 15-16-401, MCA, is amended to read:

10 "15-16-401. Tax due as a judgment or lien. Every  
11 Unless suspended or canceled under the provisions of  
12 [section 11], every tax has the effect of a judgment against  
13 the person, and every lien created by this title has the  
14 force and effect of an execution duly levied against all  
15 personal property in the possession of the person assessed  
16 from and after the date the assessment is made. The county  
17 treasurer may issue a writ of execution for delinquent  
18 personal property taxes, unless suspended or canceled under  
19 the provisions of [section 11], and deliver the writ to the  
20 sheriff. The sheriff shall thereupon proceed upon the writ  
21 in all respects, with like effect, and in the same manner  
22 prescribed by law in respect to executions issued against  
23 property upon judgments of a court of record and shall be  
24 entitled to the fees provided for in 15-17-911. The judgment  
25 is not satisfied nor the lien removed until the taxes are



1 paid or the property sold for the payment thereof."

2 **Section 7.** Section 15-16-402, MCA, is amended to read:

3 "15-16-402. Tax on personal property lien on realty --  
4 separate assessment. (1) Every tax due upon personal  
5 property is a prior lien upon any or all of such property,  
6 which lien shall have precedence over any other lien, claim,  
7 or demand upon such property, and except as hereinafter  
8 provided, every tax upon personal property is also a lien  
9 upon the real property of the owner thereof on and after  
10 January 1 of each year.

11 (2) The taxes upon personal property based upon a  
12 taxable value up to and including \$1,000 shall be a first  
13 and prior lien upon the real property of the owner of such  
14 personal property. Taxes upon personal property based upon  
15 the taxable value thereof in excess of \$1,000 shall be a  
16 first and prior lien upon the real property of the owner  
17 unless the owner or holder of any mortgage or other lien  
18 upon said real property appearing of record in the office of  
19 the clerk and recorder of the county where such real  
20 property is situated, at or before the time such personal  
21 property tax attached thereto, shall have filed the notice  
22 hereinafter provided for, in which event the taxes upon such  
23 excess of \$1,000 of taxable value shall not be a lien on the  
24 real property of such owner. It shall be the duty of the  
25 county treasurer to issue to any mortgagee or lien holder,

1 upon his request, a statement of the personal property tax  
2 due upon the taxable value up to and including \$1,000.  
3 Personal property taxes upon a taxable value up to \$1,000  
4 may be paid, redeemed from a tax sale as by law provided, or  
5 discharged separately from any personal property taxes in  
6 excess of such amount. Payment of such taxes upon a taxable  
7 value up to \$1,000, as herein provided, shall operate to  
8 discharge the tax lien upon the personal property of the  
9 owner to the extent of such payment in the order that the  
10 person paying such tax shall direct.

11 (3) The holder of any mortgage or lien upon real  
12 property who desires to obtain the benefits of this section  
13 shall file in the office of the county treasurer of said  
14 county a notice giving:

15 (a) the name and address of the mortgagee and holder  
16 of the mortgage or lien;

17 (b) the name of the reputed owner of the land;

18 (c) the description of the land;

19 (d) the date of record and expiration of the mortgage  
20 or lien;

21 (e) the amount thereof; and

22 (f) a statement that he claims the benefit of the  
23 provisions of this section.

24 (4) Such notice shall be ineffectual as to any taxes  
25 which shall have become a lien on real property prior to the

1 filing of such notice as aforesaid. If the mortgage be not  
2 paid at maturity, such notice shall thereafter be filed  
3 annually unless the mortgage be extended for a definite  
4 period to be stated in such notice.

5 (5) Any owner of a mortgage on real estate upon which  
6 personal property taxes are by this section made a lien,  
7 where the owner of such real estate and personal property  
8 has failed to pay taxes due upon such real estate and  
9 personal property for 1 or more years, may file with the  
10 department of revenue or its agent in the county in which  
11 such property is located a written request to have the  
12 personal property and real estate of the owner separately  
13 assessed. Such request must be made by registered or  
14 certified mail at least 10 days prior to January 1 in the  
15 year for which property is assessed. Upon receipt by the  
16 department or its agent of such request, it is hereby made  
17 the duty of the department or its agent to make a separate  
18 assessment of real and personal property of the owner  
19 thereof, and such personal taxes shall not be a lien upon  
20 the real estate so mortgaged of the owner thereof, and the  
21 personal property taxes shall be collected in the manner  
22 provided by law for other personal property.

23 (6) The provisions of this section do not apply to  
24 property for which delinquent property taxes have been  
25 suspended or canceled under the provisions of [section 11]."

1 **Section 8.** Section 15-16-404, MCA, is amended to read:

2 "15-16-404. County lien on moneys of taxpayer. The  
3 county has a general lien, dependent on possession, upon any  
4 moneys in its possession belonging to any taxpayer for any  
5 amounts due the county for any delinquent personal property  
6 taxes that are not a lien on real estate of the taxpayer and  
7 that are not delinquent personal property taxes suspended or  
8 canceled under the provisions of [section 11]. Due notice  
9 shall be given the lien holder, if known."

10 **Section 9.** Section 15-17-122, MCA, is amended to read:

11 "15-17-122. Notice of pending tax sale. (1) The county  
12 treasurer shall publish or post a notice of pending tax  
13 sale. The notice must include:

14 (a) the specific time, date, and place an interest in  
15 the property on which the taxes are delinquent will be  
16 offered for sale;

17 (b) a statement that the delinquent taxes, including  
18 penalties, interest, and costs, are a lien upon the property  
19 and that unless the delinquent taxes, penalties, interest,  
20 and costs are paid prior to the time of the tax sale, the  
21 lien will be offered for sale at the time and place  
22 specified in subsection (1)(a).

23 (2) The notice required in subsection (1) must also  
24 include a statement that a list of each property on which  
25 the taxes are delinquent is on file in the office of the

1 county treasurer and open to inspection. The list must  
2 include:

3 (a) the name and address of the person to whom the  
4 delinquent taxes are assessed;

5 (b) the amounts of the delinquent taxes, all accrued  
6 penalties, interest, and other costs; and

7 (c) a statement that penalties, interest, and costs  
8 will be added to delinquent taxes.

9 (3) The notice must be published once a week for 3  
10 consecutive weeks in the newspaper designated for county  
11 printing as provided in 7-5-2411. If no newspaper is  
12 published in the county, the notice must be posted by the  
13 county treasurer in three public places. The notice must be  
14 first published or posted on or before the last Monday in  
15 June.

16 (4) Except as provided in 15-17-211(2), the sale may  
17 not be held less than 21 days or more than 28 days from the  
18 date of first publication or first day the notice is posted.

19 (5) The sale must be held at the county courthouse.

20 (6) Property on which taxes are delinquent but for  
21 which proper notification was not made may not be included  
22 in the current year's notice and sale. In the event of  
23 improper notification, the sale may be held on all property  
24 properly noticed.

25 (7) The provisions of this section do not apply to

1 property for which delinquent property taxes have been  
2 suspended or canceled under the provisions of [section 11]."

3 **Section 10.** Section 15-17-911, MCA, is amended to  
4 read:

5 "15-17-911. Sale of personal property for delinquent  
6 taxes -- fee -- disposition of proceeds -- unsold property.  
7 (1) The tax on personal property may be collected and  
8 payment enforced by the seizure and sale of any personal  
9 property in the possession of the person assessed. Seizure  
10 and sale are authorized at any time after the date the taxes  
11 become delinquent or by the institution of a civil action  
12 for its collection in any court of competent jurisdiction.  
13 A resort to one method does not bar the right to resort to  
14 any other method. Any of the methods provided may be used  
15 until the full amount of the tax is collected.

16 (2) The provisions of 15-16-113 and this section apply  
17 to a seizure and sale under subsection (1).

18 (3) A sale under subsection (1) must be at public  
19 auction. The minimum bid for any property offered for sale  
20 must be of a sufficient amount to pay the delinquent taxes,  
21 including penalties, interest, and costs.

22 (4) For seizing and selling personal property, the  
23 treasurer shall charge \$25, plus the mileage allowance  
24 provided by law to the sheriff, plus reasonable expenses for  
25 seizing, handling, keeping, or caring for any property so

1 seized. The charge and other costs may be charged only when  
2 property is actually seized and offered for sale or sold.

3 (5) On payment of the price bid for any property sold  
4 as provided in this section, delivery of the property, with  
5 a bill of sale, vests the title of the property in the  
6 purchaser.

7 (6) (a) All money collected from the sale of property  
8 in liquidation of the delinquency, including delinquent  
9 taxes, penalties, and interest but not costs, must be  
10 credited by the treasurer to the appropriate funds.

11 (b) Any money collected in excess of the delinquent  
12 tax, penalties, interest, costs, and charges must be  
13 returned to the person owning the property prior to the  
14 sale, if known. If the person does not claim the excess  
15 immediately following the sale, the treasurer shall deposit  
16 the money in the county treasury for a period of 1 year from  
17 the date of sale. If the person has not claimed the excess  
18 within 1 year from the date of sale, the county treasurer  
19 shall deposit the amount in the county general fund and the  
20 person has no claim to it thereafter.

21 (7) Any property seized for the purpose of liquidating  
22 a delinquency by a tax sale that remains unsold following a  
23 sale may be left at the place of sale at the risk of the  
24 owner.

25 (8) The provisions of this section do not apply to

1 property for which delinquent property taxes have been  
2 suspended or canceled under the provisions of [section 11]."

3 NEW SECTION. Section 11. Suspension and cancellation  
4 of collection of certain property taxes on commercial  
5 property -- local government discretion. (1) The governing  
6 body of a county or consolidated local government unit may  
7 suspend collection of delinquent property taxes on  
8 commercial property to facilitate the purchase and continued  
9 operation of a business utilizing the commercial property if  
10 the property has not been used in a business for 6 months  
11 immediately preceding the date of suspension.

12 (2) The governing body may refuse to suspend  
13 delinquent taxes if it determines that the purchase of the  
14 commercial property is not an arm's length transaction or if  
15 the purchase otherwise appears to be a restructuring of  
16 ownership for the primary purpose of escaping payment of  
17 delinquent property taxes OR IF THE GOVERNING BODY  
18 DETERMINES THE CANCELLATION IS NOT IN THE BEST INTEREST OF  
19 THE COUNTY.

20 (3) If a purchaser of such commercial property  
21 continuously utilizes the property in a profit-oriented,  
22 employment-stimulating business for 3 years from the date of  
23 purchase, the governing body may cancel the collection of  
24 the suspended delinquent property taxes. The governing body  
25 may not cancel the suspended delinquent property taxes if

1 the purchaser is delinquent on taxes for any other property  
2 within the governing body's taxing jurisdiction.

3 (4) In order for the governing body to grant a  
4 suspension or cancellation of delinquent property taxes  
5 pursuant to this section, it shall adopt a resolution after  
6 due PROVIDING notice, as defined SET FORTH in 76-15-103  
7 7-1-2121, and a public hearing. The resolution must state  
8 that the suspension or cancellation is in the best interest  
9 of the people of the county or consolidated local  
10 government, based on full disclosure of all pertinent  
11 financial information by the new owner as required by the  
12 local government.

13 (5) The suspension or cancellation of delinquent  
14 property taxes pursuant to this section:

15 (A) applies to all mills levied in the county or  
16 otherwise required under state law, including EXCEPT:  
17 INCLUDING

18 (A) levies or assessments required under Title 15,  
19 chapter 10, 20-9-331, 20-9-333, and 20-25-423; OR

20 (B) DOES NOT APPLY TO ASSESSMENTS MADE AGAINST  
21 PROPERTY FOR THE PAYMENT OF BONDS ISSUED PURSUANT TO TITLE  
22 7, CHAPTER 12.

23 NEW SECTION. Section 12. Payment of suspended  
24 delinquent property taxes. If collection of delinquent  
25 property taxes has been suspended in accordance with

1 [section 11] but the purchaser of the commercial property  
2 fails to comply with any of the provisions of the resolution  
3 granting suspension under [section 11], the governing body  
4 that adopted the resolution may revoke the suspension. Upon  
5 revocation, the tax lien for the delinquent taxes,  
6 penalties, and interest is reinstated. Penalties and  
7 interest are to be calculated from the date of delinquency  
8 as if there had been no suspension of collection of the  
9 delinquent taxes.

10 NEW SECTION. Section 13. Extension of authority. Any  
11 existing authority to make rules on the subject of the  
12 provisions of [this act] is extended to the provisions of  
13 [this act].

14 NEW SECTION. Section 14. Codification instruction.  
15 (1) [Section 11] is intended to be codified as an integral  
16 part of Title 15, chapter 24, and the provisions of Title 15  
17 apply to [section 11].

18 (2) [Section 12] is intended to be codified as an  
19 integral part of Title 15, chapter 16, and the provisions of  
20 Title 15 apply to [section 12].

21 NEW SECTION. SECTION 15. SEVERABILITY. IF A PART OF  
22 [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE  
23 FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS  
24 ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART  
25 REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE

1 SEVERABLE FROM THE INVALID APPLICATIONS.

2 NEW SECTION. Section 16. Effective date --  
3 retroactive applicability. [This act] is effective on  
4 passage and approval and applies retroactively, within the  
5 meaning of 1-2-109, to taxable years beginning after  
6 December 31, 1983.

7 NEW SECTION. SECTION 17. TERMINATION DATE. [THIS ACT]  
8 TERMINATES DECEMBER 31, 1993.

-End-

GOVERNOR'S AMENDMENTS  
TO HOUSE BILL NO. 58  
(Reference Copy)  
March 7, 1989

1. Page 15, line 17.  
Strike: "INCLUDING"  
Insert: "Except:"
2. Page 15, line 19.  
Following: "20-9-333,"  
Strike: "and"  
Following: "20-25-423"  
Insert: "20-9-352, 20-9-439, 20-9-501"  
Following: ";"  
Insert: "and"
3. Page 15, line 20.  
Following: "(B)"  
Strike: "DOES NOT APPLY TO"

-END-

Free Conference Committee Report  
on HB 58  
Report No. 1, March 21, 1989  
page 1 of 2

CONFERENCE COMMITTEE ON HB 58  
page 2 of 2

Mr President and Mr. Speaker:

We, your Free Conference Committee on HB 58, considered and recommend that HB 58 (reference copy -- salmon) be amended as follows:

1. Strike: The Governor's amendments in their entirety

2. Page 15, line 3.

Following: "(4)"

Insert: "(a)"

3. Page 15, line 5.

Following: "after"

Insert: ";

4. Page 15, line 6.

Following: "due"

Insert: "(i)"

5. Page 15, line 7.

Following: "7-1-2121"

Strike: ", and"

Insert: "; (ii) holding"

Following: "hearing"

Insert: "; and (iii) notifying the governor's office of budget and program planning and the department of revenue about a proposed action to suspend or cancel delinquent property taxes. The governor's office of budget and program planning and the department of revenue shall consult with the governing body regarding the impact on programs that would result from the proposed granting of the suspension or cancellation of the delinquent property taxes and the governing body shall consider the information before reaching a final decision"

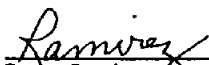
Following: ";

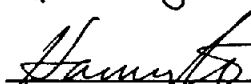
Insert: "(b)"

And that this Conference Committee Report be adopted.

FOR THE HOUSE

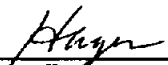
  
Rep. Driscoll

  
Rep. Ramirez

  
Rep. Harrington

FOR THE SENATE

  
Sen. Clibben, Chairman

  
Sen. Hoyer

  
Sen. Reagan

ADOPT

REJECT

continued

fcchb058.321

HB 58



## 1 HOUSE BILL NO. 58

2 INTRODUCED BY DRISCOLL, ADDY, KILPATRICK,

3 WHALEN, MCDONOUGH, KIMBERLEY

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LOCAL  
6 GOVERNMENT DISCRETION TO SUSPEND OR CANCEL DELINQUENT  
7 PROPERTY TAXES ON COMMERCIAL PROPERTY TO FACILITATE THE  
8 PURCHASE AND CONTINUED OPERATION OF A BUSINESS UTILIZING THE  
9 PROPERTY; AMENDING SECTIONS 15-16-102, 15-16-113, 15-16-117,  
10 15-16-301, 15-16-303, 15-16-401, 15-16-402, 15-16-404,  
11 15-17-122, AND 15-17-911, MCA; AND PROVIDING AN IMMEDIATE  
12 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE; AND  
13 PROVIDING A TERMINATION DATE."

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 15-16-102, MCA, is amended to read:

17 "15-16-102. Time for payment -- penalty for  
18 delinquency. All Unless suspended or canceled under the  
19 provisions of [section 11], all taxes levied and assessed in  
20 the state of Montana, except assessments made for special  
21 improvements in cities and towns payable under 15-16-103 and  
22 assessments made on interim production and new production as  
23 provided in Title 15, chapter 23, part 6, and payable under  
24 15-16-121, shall be payable as follows:

25 (1) One-half of the amount of such taxes shall be

1 payable on or before 5 p.m. on November 30 of each year or  
2 within 30 days after the tax notice is postmarked, whichever  
3 is later, and one-half on or before 5 p.m. on May 31 of each  
4 year.

5 (2) Unless one-half of such taxes are paid on or  
6 before 5 p.m. on November 30 of each year or within 30 days  
7 after the tax notice is postmarked, whichever is later, then  
8 such amount so payable shall become delinquent and shall  
9 draw interest at the rate of 5/6 of 1% per month from and  
10 after such delinquency until paid and 2% shall be added to  
11 the delinquent taxes as a penalty.

12 (3) All taxes due and not paid on or before 5 p.m. on  
13 May 31 of each year shall be delinquent and shall draw  
14 interest at the rate of 5/6 of 1% per month from and after  
15 such delinquency until paid and 2% shall be added to the  
16 delinquent taxes as a penalty.

17 (4) If the date on which taxes are due falls on a  
18 holiday or Saturday, taxes may be paid without penalty or  
19 interest on or before 5 p.m. of the next business day in  
20 accordance with 1-1-307.

21 (5) If the taxes become delinquent, the county  
22 treasurer may accept a partial payment equal to the  
23 delinquent taxes, including penalty and interest, for one or  
24 more full taxable years, provided both halves of the current  
25 tax year have been paid. Payment of delinquent taxes must be

1 applied to the taxes that have been delinquent the longest."

2 **Section 2.** Section 15-16-113, MCA, is amended to read:

3 "15-16-113. Personal property -- duty of treasurer --  
4 penalty. (1) The county treasurer shall collect taxes on all  
5 personal property and, in the case provided in 15-16-111,  
6 shall immediately upon receipt of the report prescribed by  
7 15-16-111 notify the person or persons against whom the tax  
8 is assessed and any person who has a properly perfected  
9 security interest of record with the department of justice  
10 that the amount of the tax is due and payable at the county  
11 treasurer's office.

12 (2) The county treasurer shall, at the time of  
13 receiving the report and in any event within 30 days from  
14 the receipt of such report, levy upon and take into his  
15 possession the personal property against which a tax is  
16 assessed or any other personal property in the hands of the  
17 delinquent taxpayer and proceed to sell the same in the same  
18 manner as property is sold on execution by the sheriff.

19 (3) The county treasurer shall, for the purpose of  
20 making the levy and sale, direct the sheriff to make the  
21 levy and sale. The sheriff, undersheriff, or any deputy  
22 sheriff of the county is ex officio a deputy county  
23 treasurer for such purposes, and either may act and receive  
24 payment of such taxes. The sheriff may receive the same fees  
25 as he is entitled to in making a seizure and sale as

1 provided in 15-17-911.

2 (4) The county treasurer and his sureties are liable  
3 on his official bond for all taxes on personal property  
4 remaining uncollected by reason of the willful failure and  
5 neglect of the treasurer to levy upon and sell such personal  
6 property for the taxes levied thereon.

7 (5) Failure by the sheriff, undersheriff, or deputy  
8 sheriff acting as a deputy county treasurer to make the levy  
9 and sale results in a levy against the official bond of the  
10 sheriff, undersheriff, or deputy sheriff for payment of the  
11 delinquent tax.

12 (6) The provisions of this section do not apply to  
13 property for which delinquent property taxes have been  
14 suspended or canceled under the provisions of [section 11]."

15 **Section 3.** Section 15-16-117, MCA, is amended to read:

16 "15-16-117. Personal property -- treasurer's duty to  
17 collect certain taxes. (1) The county treasurer shall demand  
18 payment of poor taxes, authorized by 53-2-321, and road  
19 taxes, authorized by 7-14-2206 or 7-14-2501 through  
20 7-14-2504, of every person liable therefor whose name does  
21 not appear on the assessment lists. On the neglect or  
22 refusal of any such person to pay the same, the treasurer  
23 shall collect the taxes by seizure and sale of any property  
24 owned by the person.

25 (2) These taxes must be added upon the assessment

1 lists to other property taxes of persons paying taxes upon  
2 real and personal property and paid to the county treasurer  
3 at the time of payment of other taxes.

4 (3) The procedure for the sale of such property by the  
5 county treasurer for such taxes must be regulated by  
6 15-16-113 and 15-17-911.

7 (4) The provisions of this section do not apply to  
8 property for which delinquent property taxes have been  
9 suspended or canceled under the provisions of [section 11]."

10 **Section 4.** Section 15-16-301, MCA, is amended to read:

11 "15-16-301. **Delinquent list -- list of taxes suspended**  
12 **or canceled -- real property.** (1) On the third Monday of  
13 December and on the third Monday of June of each year, the  
14 county treasurer must make a report to the county clerk and  
15 recorder in detail, showing the amount of taxes collected  
16 and a complete list of all persons and property then owing  
17 taxes.

18 (2) The county treasurer must make a separate report  
19 to the county clerk and recorder showing the amount of taxes  
20 suspended or canceled under the provisions of [section 11]  
21 during the 6-month period immediately preceding the date of  
22 the report.

23 (3) The county clerk and recorder shall compare the  
24 report reports with the books of the county treasurer and  
25 shall keep a record of the report reports in his office."

1 **Section 5.** Section 15-16-303, MCA, is amended to read:

2 "15-16-303. **Treasurer charged with delinquent taxes.**  
3 After settlement with the county treasurer as prescribed in  
4 15-16-302, the county clerk and recorder must charge the  
5 treasurer with the amount of taxes due on the delinquent tax  
6 list, minus taxes suspended or canceled under the provisions  
7 of [section 11], and within 3 days thereafter deliver the  
8 list, duly certified, to the county treasurer."

9 **Section 6.** Section 15-16-401, MCA, is amended to read:

10 "15-16-401. Tax due as a judgment or lien. Every  
11 Unless suspended or canceled under the provisions of  
12 [section 11], every tax has the effect of a judgment against  
13 the person, and every lien created by this title has the  
14 force and effect of an execution duly levied against all  
15 personal property in the possession of the person assessed  
16 from and after the date the assessment is made. The county  
17 treasurer may issue a writ of execution for delinquent  
18 personal property taxes, unless suspended or canceled under  
19 the provisions of [section 11], and deliver the writ to the  
20 sheriff. The sheriff shall thereupon proceed upon the writ  
21 in all respects, with like effect, and in the same manner  
22 prescribed by law in respect to executions issued against  
23 property upon judgments of a court of record and shall be  
24 entitled to the fees provided for in 15-17-911. The judgment  
25 is not satisfied nor the lien removed until the taxes are

1 paid or the property sold for the payment thereof."

2 **Section 7.** Section 15-16-402, MCA, is amended to read:

3 "15-16-402. Tax on personal property lien on realty --  
4 separate assessment. (1) Every tax due upon personal  
5 property is a prior lien upon any or all of such property,  
6 which lien shall have precedence over any other lien, claim,  
7 or demand upon such property, and except as hereinafter  
8 provided, every tax upon personal property is also a lien  
9 upon the real property of the owner thereof on and after  
10 January 1 of each year.

11 (2) The taxes upon personal property based upon a  
12 taxable value up to and including \$1,000 shall be a first  
13 and prior lien upon the real property of the owner of such  
14 personal property. Taxes upon personal property based upon  
15 the taxable value thereof in excess of \$1,000 shall be a  
16 first and prior lien upon the real property of the owner  
17 unless the owner or holder of any mortgage or other lien  
18 upon said real property appearing of record in the office of  
19 the clerk and recorder of the county where such real  
20 property is situated, at or before the time such personal  
21 property tax attached thereto, shall have filed the notice  
22 hereinafter provided for, in which event the taxes upon such  
23 excess of \$1,000 of taxable value shall not be a lien on the  
24 real property of such owner. It shall be the duty of the  
25 county treasurer to issue to any mortgagee or lien holder,

1 upon his request, a statement of the personal property tax  
2 due upon the taxable value up to and including \$1,000.  
3 Personal property taxes upon a taxable value up to \$1,000  
4 may be paid, redeemed from a tax sale as by law provided, or  
5 discharged separately from any personal property taxes in  
6 excess of such amount. Payment of such taxes upon a taxable  
7 value up to \$1,000, as herein provided, shall operate to  
8 discharge the tax lien upon the personal property of the  
9 owner to the extent of such payment in the order that the  
10 person paying such tax shall direct.

11 (3) The holder of any mortgage or lien upon real  
12 property who desires to obtain the benefits of this section  
13 shall file in the office of the county treasurer of said  
14 county a notice giving:

- 15 (a) the name and address of the mortgagee and holder
- 16 of the mortgage or lien;
- 17 (b) the name of the reputed owner of the land;
- 18 (c) the description of the land;
- 19 (d) the date of record and expiration of the mortgage
- 20 or lien;
- 21 (e) the amount thereof; and
- 22 (f) a statement that he claims the benefit of the
- 23 provisions of this section.

24 (4) Such notice shall be ineffectual as to any taxes  
25 which shall have become a lien on real property prior to the

filing of such notice as aforesaid. If the mortgage be not paid at maturity, such notice shall thereafter be filed annually unless the mortgage be extended for a definite period to be stated in such notice.

(5) Any owner of a mortgage on real estate upon which personal property taxes are by this section made a lien, where the owner of such real estate and personal property has failed to pay taxes due upon such real estate and personal property for 1 or more years, may file with the department of revenue or its agent in the county in which such property is located a written request to have the personal property and real estate of the owner separately assessed. Such request must be made by registered or certified mail at least 10 days prior to January 1 in the year for which property is assessed. Upon receipt by the department or its agent of such request, it is hereby made the duty of the department or its agent to make a separate assessment of real and personal property of the owner thereof, and such personal taxes shall not be a lien upon the real estate so mortgaged of the owner thereof, and the personal property taxes shall be collected in the manner provided by law for other personal property.

(6) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of [section 11]."

**Section 8.** Section 15-16-404, MCA, is amended to read:

**"15-16-404. County lien on moneys of taxpayer.** The county has a general lien, dependent on possession, upon any moneys in its possession belonging to any taxpayer for any amounts due the county for any delinquent personal property taxes that are not a lien on real estate of the taxpayer and that are not delinquent personal property taxes suspended or canceled under the provisions of [section 11]. Due notice shall be given the lien holder, if known."

**Section 9.** Section 15-17-122, MCA, is amended to read:

**"15-17-122. Notice of pending tax sale.** (1) The county treasurer shall publish or post a notice of pending tax sale. The notice must include:

(a) the specific time, date, and place an interest in the property on which the taxes are delinquent will be offered for sale;

(b) a statement that the delinquent taxes, including penalties, interest, and costs, are a lien upon the property and that unless the delinquent taxes, penalties, interest, and costs are paid prior to the time of the tax sale, the lien will be offered for sale at the time and place specified in subsection (1)(a).

(2) The notice required in subsection (1) must also include a statement that a list of each property on which the taxes are delinquent is on file in the office of the

1 county treasurer and open to inspection. The list must  
2 include:

3 (a) the name and address of the person to whom the  
4 delinquent taxes are assessed;

5 (b) the amounts of the delinquent taxes, all accrued  
6 penalties, interest, and other costs; and

7 (c) a statement that penalties, interest, and costs  
8 will be added to delinquent taxes.

9 (3) The notice must be published once a week for 3  
10 consecutive weeks in the newspaper designated for county  
11 printing as provided in 7-5-2411. If no newspaper is  
12 published in the county, the notice must be posted by the  
13 county treasurer in three public places. The notice must be  
14 first published or posted on or before the last Monday in  
15 June.

16 (4) Except as provided in 15-17-211(2), the sale may  
17 not be held less than 21 days or more than 28 days from the  
18 date of first publication or first day the notice is posted.

19 (5) The sale must be held at the county courthouse.

20 (6) Property on which taxes are delinquent but for  
21 which proper notification was not made may not be included  
22 in the current year's notice and sale. In the event of  
23 improper notification, the sale may be held on all property  
24 properly noticed.

25 (7) The provisions of this section do not apply to

1 property for which delinquent property taxes have been  
2 suspended or canceled under the provisions of [section 11]."

3 **Section 10.** Section 15-17-911, MCA, is amended to  
4 read:

5 "15-17-911. Sale of personal property for delinquent  
6 taxes -- fee -- disposition of proceeds -- unsold property.

7 (1) The tax on personal property may be collected and  
8 payment enforced by the seizure and sale of any personal  
9 property in the possession of the person assessed. Seizure  
10 and sale are authorized at any time after the date the tax  
11 become delinquent or by the institution of a civil action  
12 for its collection in any court of competent jurisdiction.  
13 A resort to one method does not bar the right to resort to  
14 any other method. Any of the methods provided may be used  
15 until the full amount of the tax is collected.

16 (2) The provisions of 15-16-113 and this section apply  
17 to a seizure and sale under subsection (1).

18 (3) A sale under subsection (1) must be at public  
19 auction. The minimum bid for any property offered for sale  
20 must be of a sufficient amount to pay the delinquent taxes,  
21 including penalties, interest, and costs.

22 (4) For seizing and selling personal property, the  
23 treasurer shall charge \$25, plus the mileage allowance  
24 provided by law to the sheriff, plus reasonable expenses for  
25 seizing, handling, keeping, or caring for any property so

1 seized. The charge and other costs may be charged only when  
2 property is actually seized and offered for sale or sold.

3 (5) On payment of the price bid for any property sold  
4 as provided in this section, delivery of the property, with  
5 a bill of sale, vests the title of the property in the  
6 purchaser.

7 (6) (a) All money collected from the sale of property  
8 in liquidation of the delinquency, including delinquent  
9 taxes, penalties, and interest but not costs, must be  
10 credited by the treasurer to the appropriate funds.

11 (b) Any money collected in excess of the delinquent  
12 tax, penalties, interest, costs, and charges must be  
13 returned to the person owning the property prior to the  
14 sale, if known. If the person does not claim the excess  
15 immediately following the sale, the treasurer shall deposit  
16 the money in the county treasury for a period of 1 year from  
17 the date of sale. If the person has not claimed the excess  
18 within 1 year from the date of sale, the county treasurer  
19 shall deposit the amount in the county general fund and the  
20 person has no claim to it thereafter.

21 (7) Any property seized for the purpose of liquidating  
22 a delinquency by a tax sale that remains unsold following a  
23 sale may be left at the place of sale at the risk of the  
24 owner.

25 (8) The provisions of this section do not apply to

1 property for which delinquent property taxes have been  
2 suspended or canceled under the provisions of [section 11]."

3 NEW SECTION. Section 11. Suspension and cancellation  
4 of collection of certain property taxes on commercial  
5 property -- local government discretion. (1) The governing  
6 body of a county or consolidated local government unit may  
7 suspend collection of delinquent property taxes on  
8 commercial property to facilitate the purchase and continued  
9 operation of a business utilizing the commercial property if  
10 the property has not been used in a business for 6 months  
11 immediately preceding the date of suspension.

12 (2) The governing body may refuse to suspend  
13 delinquent taxes if it determines that the purchase of the  
14 commercial property is not an arm's length transaction or if  
15 the purchase otherwise appears to be a restructuring of  
16 ownership for the primary purpose of escaping payment of  
17 delinquent property taxes OR IF THE GOVERNING BODY  
18 DETERMINES THE CANCELLATION IS NOT IN THE BEST INTEREST OF  
19 THE COUNTY.

20 (3) If a purchaser of such commercial property  
21 continuously utilizes the property in a profit-oriented,  
22 employment-stimulating business for 3 years from the date of  
23 purchase, the governing body may cancel the collection of  
24 the suspended delinquent property taxes. The governing body  
25 may not cancel the suspended delinquent property taxes if

1 the purchaser is delinquent on taxes for any other property  
2 within the governing body's taxing jurisdiction.

3 (4) (A) In order for the governing body to grant a  
4 suspension or cancellation of delinquent property taxes  
5 pursuant to this section, it shall adopt a resolution after:  
6 due

7 (I) PROVIDING notice, as defined SET FORTH in  
8 76-15-103 7-1-21217-and;

9 (II) HOLDING a public hearing; AND

10 (III) NOTIFYING THE GOVERNOR'S OFFICE OF BUDGET AND  
11 PROGRAM PLANNING AND THE DEPARTMENT OF REVENUE ABOUT A  
12 PROPOSED ACTION TO SUSPEND OR CANCEL DELINQUENT PROPERTY  
13 TAXES. THE GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING  
14 AND THE DEPARTMENT OF REVENUE SHALL CONSULT WITH THE  
15 GOVERNING BODY REGARDING THE IMPACT ON PROGRAMS THAT WOULD  
16 RESULT FROM THE PROPOSED GRANTING OF THE SUSPENSION OR  
17 CANCELLATION OF THE DELINQUENT PROPERTY TAXES, AND THE  
18 GOVERNING BODY SHALL CONSIDER THE INFORMATION BEFORE  
19 REACHING A FINAL DECISION.

20 (B) The resolution must state that the suspension or  
21 cancellation is in the best interest of the people of the  
22 county or consolidated local government, based on full  
23 disclosure of all pertinent financial information by the new  
24 owner as required by the local government.

25 (5) The suspension or cancellation of delinquent

1 property taxes pursuant to this section;

2 (A) applies to all mills levied in the county or  
3 otherwise required under state law, including EXCEPT  
4 INCLUDING

5 (A) levies or assessments required under Title 15,  
6 chapter 10, 20-9-331, 20-9-333, and 20-25-423; OR

7 (B) DOES NOT APPLY TO ASSESSMENTS MADE AGAINST  
8 PROPERTY FOR THE PAYMENT OF BONDS ISSUED PURSUANT TO TITLE  
9 7, CHAPTER 12.

10 NEW SECTION. Section 12. Payment of suspended  
11 delinquent property taxes. If collection of delinquent  
12 property taxes has been suspended in accordance with  
13 [section 11] but the purchaser of the commercial property  
14 fails to comply with any of the provisions of the resolution  
15 granting suspension under [section 11], the governing body  
16 that adopted the resolution may revoke the suspension. Upon  
17 revocation, the tax lien for the delinquent taxes,  
18 penalties, and interest is reinstated. Penalties and  
19 interest are to be calculated from the date of delinquency  
20 as if there had been no suspension of collection of the  
21 delinquent taxes.

22 NEW SECTION. Section 13. Extension of authority. Any  
23 existing authority to make rules on the subject of the  
24 provisions of [this act] is extended to the provisions of  
25 [this act].



NEW SECTION. Section 14. Codification instruction.

(1) [Section 11] is intended to be codified as an integral part of Title 15, chapter 24, and the provisions of Title 15 apply to [section 11].

(2) [Section 12] is intended to be codified as an integral part of Title 15, chapter 16, and the provisions of Title 15 apply to [section 12].

NEW SECTION. SECTION 15. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.

NEW SECTION. Section 16. Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1983.

NEW SECTION. SECTION 17. TERMINATION DATE. [THIS ACT] TERMINATES DECEMBER 31, 1993.

-End-