SENATE TAXATION
EXHIBIT NO. 9
DATE 4.24.09
BILL NO. HB658

Amendments to House Bill No. 658
Reference Copy

Requested by Representative Dick Barrett

For the Senate Free Conference Committee

Prepared by Lee Heiman
April 23, 2009 (9:50am)

1. Title, page 1, line 6.
Following: "REAPPRAISAL;"
Insert: "ESTABLISHING THE MONTANA PROPERTY TAX REDUCTION ACT; PROVIDING DEFINITIONS; ESTABLISHING A REFUNDABLE INCOME TAX CREDIT FOR A PORTION OF PROPERTY TAXES PAID; ESTABLISHING A METHOD FOR CALCULATING THE CREDIT; GRANTING THE DEPARTMENT OF REVENUE AUTHORITY TO DENY CERTAIN CLAIMS; ESTABLISHING A PENALTY FOR FALSE OR FRAUDULENT CLAIMS; GRANTING THE DEPARTMENT OF REVENUE RULEMAKING AUTHORITY; ELIMINATING THE EXTENDED PROPERTY TAX ASSISTANCE PROGRAM; CREATING THE MONTANA REAL ESTATE BACKUP WITHHOLDING ACT; REQUIRING WITHHOLDING FOR INCOME TAX PURPOSES ON THE GAIN FROM THE SALE OR EXCHANGE OF CERTAIN MONTANA REAL ESTATE; ESTABLISHING A WITHHOLDING TAX RATE; PROVIDING EXCEPTIONS TO WITHHOLDING; ESTABLISHING REPORTING AND REMITTANCE REQUIREMENTS; REQUIRING THAT CERTAIN INFORMATION BE SUBMITTED WITH THE REALTY TRANSFER CERTIFICATE; PROHIBITING THE RECORDING OF A TRANSFER OF MONTANA REAL ESTATE OR A CHANGE IN OWNERSHIP RECORDS OF MONTANA REAL ESTATE FOR PROPERTY TAX PURPOSES IF THE REQUIRED INFORMATION IS NOT PROVIDED; CLARIFYING THE LIABILITY OF CLERK AND RECORDERS;"

2. Title, page 1, line 30.
Following: "OF"
Insert: "THE"

3. Title, page 2, line 1.
Strike: "ASSISTANCE PROGRAMS"
Insert: "REDUCTION ACT"

4. Title, page 2, line 2 through line 3.
Strike: "THE" on line 2 through "AND" on line 3

5. Title, page 2, line 7.
Following: line 6
Insert: "2-15-122, 5-2-301, 7-4-2623,"

6. Title, page 2, line 8.
Strike: "AND"

Insert: "15-16-102,"
Following: "15-44-103,"
Insert: "47-1-111, 53-4-1103, AND 53-6-1001,"

7. Title, page 2, line 10.
Following: "~~MCA;~~"
Insert: "REPEALING SECTIONS 15-6-191, 15-6-193, 15-6-211, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, AND 15-30-179, MCA;"

8. Title, page 2, line 11.
Strike: "A RETROACTIVE"
Strike: "DATE"
Insert: "DATES"

9. Page 2, line 16.
Insert: "NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Montana Property Tax Reduction Act"."
Insert: "NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 8] is to provide property tax reductions in the form of a refundable income tax credit to certain persons who own or rent a qualified residence."
Insert: "NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 8], the following definitions apply:

(1) "Claimant" means a person who files a claim for property tax reductions as authorized by [sections 1 through 8] and who was a resident of this state for at least 7 months during the calendar year for which the claim was filed. A claimant must have resided, as either an owner or renter, in a qualified residence for at least 7 months during the calendar year for which a claim is filed.

(2) "Deceased veteran" means a person who was killed while on active duty or dies as a result of a service-connected disability.

(3) "Disabled veteran" means a person who:

(a) was honorably discharged from active service in any branch of the armed services; and

(b) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-related disability, as verified by official documentation from the U.S. department of veterans affairs.

(4) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the renter or lessee for the right of occupancy of a qualified residence pursuant to an arm's-length transaction with a property owner or the owner's agent.

(5) "Household" means all individuals residing in a qualified residence who cannot be claimed on another individual's income tax return as a dependent.

(6) "Household income" means the total income of a household as reported on the tax return or returns required by this chapter for the year in which the credit is being claimed excluding losses and before any federal or state adjustments to income. In cases in which the claimant is not required to file a tax return under this chapter, household income means the total household income as it would have been reported had the claimant been required to file a return.

(7) "Property taxes" means taxes billed against a qualified residence, including special assessments and fees but excluding penalties and interest during the claim period. Property taxes do not include special assessments or voted mill levies billed after December 31, 2011.

(8) "Qualified residence" means any class four residential dwelling that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling. A qualified residence must be occupied by a claimant for at least 7 months during the year for which a claim is made.

(9) "Rent constituting property taxes" means 15% of the gross rent actually paid by a claimant for the right of occupancy of a qualified residence for which the claimant has submitted a claim.

(10) "Surviving spouse of a deceased veteran" means, if the surviving spouse has not remarried, an individual who was married to a veteran who, during the course of the marriage:

(a) was killed while on active duty; or

(b) died as a result of a service-connected disability."

Insert: "NEW SECTION. **Section 4. Income tax credit for property taxes paid.** (1) There is a credit against the taxes imposed by this chapter for a portion of the property taxes paid by a claimant as provided by [sections 1 through 8].

(2) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant.

(3) A claimant required to file a tax return under this chapter shall submit a claim for the credit with the claimant's tax return.

(4) A claimant not required to file a tax return under this chapter may submit a claim for the credit.

(5) Claims for the credit must be made on a form prescribed by the department and must be filed no later than April 15 of the year following the year for which credit is sought.

(6) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists.

(7) In the event that an individual who would have a claim under [sections 1 through 8] dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

(8) The department or an individual may revise a return and an individual may make a claim under [sections 1 through 8] within 5 years from the last day prescribed for filing a claim for reduction.

(9) Only one claim may be made with respect to any qualified residence."

Insert: "NEW SECTION. **Section 5. Calculation of credit.** (1) The credit provided for in [section 4] is calculated based on a claimant's income as set out in column A of the table in subsection (6).

(2) A claimant who owned and occupied a qualified residence may claim a credit for property taxes billed to the extent that the property taxes billed exceed the claimant's household income as set out in column B of the table in subsection (6).

(3) A claimant who rented or leased a qualified residence may claim a credit for rent constituting property taxes to the extent that the rent constituting property taxes paid exceeds the claimant's household income as set out in column B of the table in subsection (6).

(4) A claimant who turns 62 years of age or older during the year for which a claim is made may claim a credit for property taxes billed or rent constituting property taxes paid to the extent that the property taxes billed or rent constituting property taxes paid exceeds the claimant's household income as set out in column C of the table in subsection (6).

(5) A claimant who is a disabled veteran or the surviving spouse of a deceased veteran may claim a credit for property taxes billed or rent constituting property taxes paid to the extent that the property taxes billed or rent constituting property taxes paid exceeds the claimant's household income as set out in column D of the table in subsection (6).

(6) The following table must be used to calculate the credit provided for in [section 4]:

Column A Income	Column B Standard	Column C Senior	Column D Veteran
$0 - $10,500	2.5%	0%	0%
$10,501 - $26,000	5%	4%	0%
$26,001 - $39,000	5%	5%	0%
$39,001 - $45,000	6%	6%	1%
$45,001 - $60,000	6%	6%	6%

(7) A claimant who qualifies for a tax credit under more than one subsection of this section may claim the credit that provides the claimant with the greatest benefit.

(8) (a) Unless a claimant is a disabled veteran or the surviving spouse of a deceased veteran entitled to a credit under subsection (5), the maximum credit authorized by this section is $1,500.

(b) The maximum credit authorized for a claimant entitled to

a credit under subsection (5) is $2,000.

(9) By November 1 of each year, the department shall multiply the column A income bracket amounts contained in subsection (6) by the inflation factor for that tax year, but using the consumer price index for June 2009, and round the cumulative brackets to the nearest $100. The resulting adjusted brackets are effective for that tax year and must be used as the basis for the determination of the tax credit authorized by this section."

Insert: "NEW SECTION. **Section 6. Denial of claims.** The department may deny claims if the department determines the claims or the claimants do not qualify pursuant to the terms of [sections 1 through 8] or if the department determines that a false or fraudulent claim has been filed."

Insert: "NEW SECTION. **Section 7. False or fraudulent claims.** A claimant who submits a false or fraudulent claim is guilty of false swearing under 45-7-202. In addition to the penalties available under 45-7-202, any claim granted as the result of a false or fraudulent claim may be recaptured by the department."

Insert: "NEW SECTION. **Section 8. Rulemaking authority.** The department may adopt rules necessary to implement, administer, and enforce [sections 1 through 8]."

Insert: "NEW SECTION. **Section 9. Short title.** [Sections 9 through 14] may be cited as the "Montana Real Estate Backup Withholding Act"."

Insert: "NEW SECTION. **Section 10. Definitions.** As used in [sections 9 through 14], the following definitions apply:

(1) "Certified calculated gain" means the gain the transferor certifies in writing to the department, under penalty of false swearing as provided in 45-7-202, that the transferor will realize on a disposition of Montana real estate.

(2) "Improvements" has the meaning provided in 15-1-101.

(3) "Montana real estate" means real estate or improvements located in Montana.

(4) "Principal residence" means a principal residence within the meaning of 26 U.S.C. 121.

(5) "Real estate" has the meaning provided in 15-1-101.

(6) "Sales price" means the total consideration for the transfer of Montana real estate, including the market value of any property transferred to the transferor, and any liability assumed or taken subject to the sales price.

(7) "Transferor" means any person or entity disposing of Montana real estate."

Insert: "NEW SECTION. **Section 11. Withholding required on sale or exchange of Montana real estate -- rate.** Except as provided in [section 12], there must be withheld from the proceeds from a sale or exchange of Montana real estate an amount equal to the lesser of:

(1) 2.5% of the sales price of the Montana real estate conveyed; or

(2) the amount of the transferor's certified calculated gain multiplied by the highest rate of tax provided for in 15-30-103."

Insert: "NEW SECTION. **Section 12. Withholding -- application not required.** Withholding is not required on the transfer of Montana real estate under the provisions of [section 11] if:

(1) the sales price of the Montana real estate conveyed is less than $100,000;

(2) the transfer occurs:

(a) pursuant to a power of sale under a mortgage or deed of trust;

(b) as the result of a decree of foreclosure; or

(c) by deed in lieu of foreclosure; or

(3) the transferor establishes that:

(a) the transferor is an individual who is a Montana resident;

(b) the Montana real estate being transferred is the principal residence of the transferor or was the principal residence of a decedent;

(c) the last use of the property being transferred was by the transferor as the transferor's principal residence;

(d) the Montana real estate has been compulsorily or involuntarily converted within the meaning of 26 U.S.C. 1033 and the transferor intends to acquire property similar or related in service or use so that the gain is not recognized under the provisions of 26 U.S.C. 1033;

(e) the Montana real estate is being relinquished in an exchange in which gain and loss is not recognized pursuant to 26 U.S.C. 1031; or

(f) the transferor is a corporation, a pass-through entity, or a disregarded entity incorporated or organized under the laws of the state of Montana."

Insert: "NEW SECTION. **Section 13. Reporting and remittance.** (1) The transferor shall report to the department under oath, on a form prescribed by the department, all information necessary to compute the amount withheld pursuant to [section 11] or to establish that the transferor is not required to withhold pursuant to [section 12].

(2) Within 5 business days of closing on the sale or exchange of Montana real estate, the transferor shall file the report and remit the amount withheld, if any, to the department.

(3) A copy of the report and a copy of the payment, if any, for withholding must be attached to the realty transfer certificate required by 15-7-305. The county clerk and recorder may not record any deed or other instrument transferring title to Montana real estate if the copies required by this section are not provided.

(4) The department may not change any ownership records used for the assessment or taxation of Montana real estate unless the copies required by subsection (3) are attached to the realty

transfer certificate.

(5) Any amount required to be paid pursuant to [section 11] and remitted to the department pursuant to this section is considered a payment on the account of the transferor for the purposes of individual income tax under Title 15, chapter 30, or for the purposes of the corporation license tax or corporation income tax under Title 15, chapter 31. If the transferor is a pass-through entity, the payment is considered a payment on the account of the pass-through entity's shareholders, partners, or members, as applicable."

Insert: "NEW SECTION. **Section 14. Rulemaking.** The department shall adopt rules to implement and administer [sections 9 through 14]."

Insert: "Section 15. Section 2-15-122, MCA, is amended to read:

"2-15-122. Creation of advisory councils. (1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that the official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. The creating authority shall file a record of each council created by it in the office of the governor and the office of the secretary of state in accordance with subsection (9).

(2) Each advisory council created under this section must be known as the ".... advisory council".

(3) The creating authority shall:

(a) prescribe the composition and advisory functions of each advisory council created;

(b) appoint its members, who shall serve at the pleasure of the creating authority; and

(c) specify a date when the existence of each advisory council ends.

(4) Advisory councils may be created only for the purpose of acting in an advisory capacity, as defined in 2-15-102.

(5) (a) Unless an advisory council member is a full-time salaried officer or employee of this state or of any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the department head, not to exceed $50 for each day in which the member is actually and necessarily engaged in the performance of council duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through

2-18-503, incurred while in the performance of council duties. The maximum daily pay rate must be adjusted for inflation annually using the formula provided in ~~15-6-134(2)(b)(ii) and (2)(b)(iii), except that the base income level and appropriate dollar amount must be $50 a day~~ subsection (11).

(b) Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503.

(6) Unless otherwise specified by the creating authority, at its first meeting in each year, an advisory council shall elect a presiding officer and other officers that it considers necessary.

(7) Unless otherwise specified by the creating authority, an advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.

(8) A majority of the membership of an advisory council constitutes a quorum to do business.

(9) Except as provided in subsection (1)(c), an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor shall file in the governor's office and in the office of the secretary of state a record of the council created showing:

(a) the council's name, in accordance with subsection (2);

(b) the council's composition;

(c) the appointed members, including names and addresses;

(d) the council's purpose; and

(e) the council's term of existence, in accordance with subsection (10).

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the appointing authority in the manner set forth in subsection (1). If the existence of an advisory council is extended, the appointing authority shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

(11) (a) The income levels contained in subsection (5) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying $50 by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(ii) rounding the product obtained to the nearest whole dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

{*Internal References to 2-15-122:*

2-15-123	*2-15-225*	*2-15-1016*	*2-15-1311*
2-15-1520	*2-15-1524*	*2-15-1530*	*2-15-2005*
2-15-2017	*2-15-2106*	*2-15-2107*	*2-15-2110*
2-15-2511	*2-15-3405*	*10-4-102*	*23-2-536*
33-17-1204	*33-17-1204*	*37-42-201*	*44-5-501*
50-60-115	*52-2-303*	*53-10-203*	*53-21-702*
60-2-601	*80-7-903*	*80-11-510*	*87-5-708*
90-14-104			

}"

Insert: "Section 16. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning $10.33 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional $5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost of living increase to reflect inflation that is calculated pursuant to ~~15-6-134~~ subsection (8), or 5%, whichever is less. The expense allowance is effective when the next regular session of the

legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session.

(8) (a) The income levels contained in subsection (4) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying the appropriate dollar amount by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(ii) rounding the product obtained to the nearest whole dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

{*Internal References to 5-2-301:*

2-15-212	*2-17-803*	*2-18-501*	*2-18-503*
5-2-302	*5-3-101*	*50-4-810*	} "

Insert: "Section 17. Section 7-4-2623, MCA, is amended to read:

"7-4-2623. Liability of clerk relating to duties as recorder. A county clerk is liable to the party aggrieved for three times the amount of the damages that may result and is punishable as provided in this code if the county clerk to whom an instrument is delivered for record:

(1) neglects or refuses to record the instrument within reasonable time after receipt, except when the information required by law to record the instrument is not provided;

(2) falsely records an instrument or records an instrument in any other manner than as directed in this part;

(3) neglects or refuses to keep in the clerk's office indexes that are required by this part or to make the proper entries in the indexes; or

(4) alters, changes, or obliterates any records deposited in the clerk's office or inserts any new matter in the records."

{*Internal References to 7-4-2623: None.*}"

Renumber: subsequent sections

10. Page 2, line 25.
Strike: "(1)(f) and"
Insert: "(1)(e) through"

11. Page 2, line 27.
Strike: "(1)(f) and"
Insert: "(1)(e) through"

12. Page 2, line 30 through page 3, line 7.
Strike: subsection (c) in its entirety
Renumber: subsequent subsections

13. Page 3, line 14.
Following: "units;"
Insert: "and"

14. Page 3, line 17.
Strike: "(iv)"
Insert: "(f)"
Renumber: subsequent subsection

15. Page 3, line 22.
Strike: "(1)(e)"
Insert: "(1)(d)"

16. Page 3, line 29 through page 4, line 18.
Strike: subsection (b) in its entirety
Renumber: subsequent subsection

17. Page 4, line 19.
Strike: "(1)(d)"
Insert: "(1)(c)"

18. Page 4, line 28.
Insert: "(4) For the purposes of this section, a vacant residential lot is a lot that does not have a residential dwelling or does not have any other type of improvement that has a market value of $20,000 or more."

19. Page 9, line 22.
Strike: "(1)(e)"
Insert: "(1)(d)"
Strike: "(1)(f)"
Insert: "(1)(e)"

20. Page 9, line 29.
Strike: "<u>FOR SINGLE-FAMILY RESIDENTIAL DWELLINGS, THE</u>"
Insert: "The"

21. Page 9.
Following: line 30
Insert: "(2) The amount of 34% of the market value of vacant residential lots described in 15-6-134(1)(f) is exempt from property taxation."
Renumber: subsequent subsection

22. Page 10, line 28 through line 30.
Strike: the first "assistance" on line 28 through "15-30-179" on line 30
Insert: "reduction provisions in [sections 1 through 8]"

23. Page 18, line 16.
Strike: "(iv)"
Insert: "(vi)"

24. Page 18, line 17 through line 19.
Strike: the first "assistance" on line 17 through "15-30-179" on line 19
Insert: "reduction provisions in [sections 1 through 8]"

25. Page 19, line 2.
Insert: "Section 28. Section 15-16-102, MCA, is amended to read:
"15-16-102. Time for payment -- penalty for delinquency. Unless suspended or canceled under the provisions of 10-1-606 or Title 15, chapter 24, part 17, 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, are payable as follows:

(1) One-half of the taxes are 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 are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the 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, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must 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 are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) ~~(a)~~ 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.

~~(b) If taxes on property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c) and 15-6-191 are paid within 20 calendar days of the date on which the taxes~~

~~are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.~~

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of $5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207."

{*Internal References to 15-16-102:*

7-8-2301 x	*7-8-2303 x*	*7-12-4188 x*	*15-16-103x*
15-16-103x	*15-16-103 x*	*15-16-103x*	*15-16-203x*
15-16-203 x	*15-16-611 x*	*15-17-131 x*	*15-17-326x*
15-17-326 x	*15-17-326x*	*15-18-112 x*	*15-18-112x*
15-18-114 x	*15-23-115 x*	*15-23-214 x*	*15-23-214x*
15-23-507 x	*15-23-507 x*	*15-23-804 x*	*15-23-804x*
15-24-202 x	*15-24-202 x*	*15-24-202 x*	*15-24-1402x*
15-24-1501x	*15-24-1502x*	*15-24-1607x*	*15-24-1802x*
15-24-1902x	*15-24-2002x*	*15-24-2404x*	*85-7-2136x*
85-7-2136x	*85-8-601x* } "		

26. Page 24, line 13.

Insert: "Section 30. Section 47-1-111, MCA, is amended to read:

"47-1-111. Eligibility -- determination of indigence -- rules. (1) (a) ~~Beginning July 1, 2006, when~~ When a court orders the office to assign counsel, the office shall immediately assign counsel prior to a determination under this section.

(b) If the person for whom counsel has been assigned is later determined pursuant to this section to be ineligible for public defender services, the office shall immediately notify the court so that the court's order may be rescinded.

(c) A person for whom counsel is assigned is entitled to the full benefit of public defender services until the court's order requiring the assignment is rescinded.

(d) Any determination pursuant to this section is subject

to the review and approval of the court.

(2) (a) An applicant who is eligible for a public defender only because the applicant is indigent shall also provide a detailed financial statement and sign an affidavit.

(b) The application, financial statement, and affidavit must be on a form prescribed by the commission.

(c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant for perjury or false swearing.

(d) The office may not withhold the timely provision of public defender services for delay or failure to fill out an application. However, a court may find a person in civil contempt of court for a person's unreasonable delay or failure to comply with the provisions of this subsection (2).

(3) An applicant is indigent if:

(a) the applicant's gross household income~~, as defined in 15-30-171,~~ is at or less than 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2); or

(b) the disposable income and assets of the applicant and the members of the applicant's household are insufficient to retain competent private counsel without substantial hardship to the applicant or the members of the applicant's household.

(4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or solely because the applicant is employed.

(5) A determination may be modified by the office or the court if additional information becomes available or if the applicant's financial circumstances change.

(6) The commission shall establish procedures and adopt rules to implement this section. Commission procedures and rules:

(a) must ensure that the eligibility determination process is fair and consistent statewide;

(b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the members of the applicant's household;

(c) may provide for the use of other public or private agencies or contractors to conduct eligibility screening under this section;

(d) must avoid unnecessary duplication of processes; and

(e) must prohibit individual public defenders from performing eligibility screening pursuant to this section.

<u>(7) For the purposes of this section, the following definitions apply:</u>

(a) "Gross household income" means all income received by all individuals of a household while they are members of the household.

(b) (i) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

(ii) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(c) "Household income" means the amount obtained by subtracting $6,300 from gross household income.

(d) "Income" means federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code, plus all nontaxable income, including but not limited to:

(i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability benefits;

(ii) the amount of capital gains excluded from adjusted gross income;

(iii) alimony;

(iv) support money;

(v) nontaxable strike benefits;

(vi) cash public assistance and relief;

(vii) interest on federal, state, county, and municipal bonds; and

(viii) all payments received under federal social security except social security income paid directly to a nursing home."

{*Internal References to 47-1-111:*
41-3-425 x *46-8-101x* *47-1-103x* *47-1-104x*
53-20-112 x}"

Insert: "Section 31. Section 53-4-1103, MCA, is amended to read:

"53-4-1103. Definitions. For purposes of this part, the following definitions apply:

(1) "Comprehensive" means health insurance having benefits at least as extensive as those provided under the children's health insurance program.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Enrollee" means a child who is enrolled or in the process of being enrolled in the plan, including children already enrolled in the programs described in 53-4-1104(2).

(4) (a) "Enrollment partner" means an organization or individual approved by the department to assist in enrolling eligible children in the plan.

(b) An enrollment partner may be but is not limited to:

(i) a licensed health care provider;

(ii) a school;

(iii) a community-based organization; or

(iv) a government agency.

(5) "Health coverage" means a program administered by the department or a disability insurance plan, referred to in

33-1-207(1)(b), that provides public or private health insurance for children.

(6) "Income" has the meaning provided in ~~15-30-171(9)(a)~~ 47-1-111.

(7) "Plan" means the healthy Montana kids plan established in 53-4-1104.

(8) "Premium" means the amount of money charged to provide coverage under a public or private health coverage plan.

(9) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355."

{*Internal References to 53-4-1103: None.*}"

Insert: "Section 32. Section 53-6-1001, MCA, is amended to read:

"53-6-1001. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Average wholesale price" means the wholesale price charged on a specific drug that is assigned by the drug manufacturer and is listed in a nationally recognized drug pricing file.

(2) "Department" means the department of public health and human services provided for in Title 2, chapter 15, part 22.

(3) "Discounted price" means a price set by the department by rule pursuant to 53-6-1002.

(4) "Gross household income" has the meaning provided in ~~15-30-171~~ 47-1-111.

(5) "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer.

(6) "Participating retail pharmacy" means a retail pharmacy located in this state or another business licensed to dispense prescription drugs in this state that is medicaid-approved.

(7) "Program" means the prescription drug plus discount program provided for in 53-6-1002.

(8) "Secondary discounted price" means the discounted price less any further discounts funded by manufacturer rebates for medication purchased by participants in the program."

{*Internal References to 53-6-1001: None.*}"

Renumber: subsequent sections

27. Page 24, line 24 through line 29.

Strike: section 13 in its entirety

Renumber: subsequent sections

28. Page 25, line 8.

Following: "INSTRUCTION."

Insert: "(1) [Sections 1 through 14] are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 1 through 14].

(2)"

Strike: "5"

Insert: "22"

29. Page 25, line 10.
Strike: "5"
Insert: "22"

30. Page 25, line 15.
Insert: "NEW SECTION. **Section 37. {standard} Repealer.** Sections 15-6-191, 15-6-193, 15-6-211, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, and 15-30-179, MCA, are repealed.
{*Internal References to 15-6-191: 15-16-102 A*
Internal References to 15-6-193: None.
Internal References to 15-6-211: None.
Internal References to 15-30-171: 15-30-171 r 15-30-172* r 15-30-173* r 15-30-174*r*
15-30-174 r 15-30-175* r 15-30-176* r 15-30-177*r*
15-30-179 r 47-1-111 a 53-4-1103 a 53-6-1001 a*
Internal References to 15-30-172: 15-30-171 r 15-30-171 r 15-30-172*r 15-30-173*r*
15-30-174 r 15-30-174* r 15-30-175* r 15-30-176*r*
15-30-177 r 15-30-179* r*
Internal References to 15-30-173: 15-30-171 r 15-30-172* r 15-30-173* r 15-30-174*r*
15-30-174 r 15-30-175* r 15-30-176* r 15-30-177*r*
15-30-179 rr*
*Internal References to 15-30-174: 15-30-171*r 15-30-172* r 15-30-173*r 15-30-174*r*
15-30-174 r 15-30-175* r 15-30-176* r 15-30-177*r*
15-30-179 r*
*Internal References to 15-30-175: 15-30-171*r 15-30-172* r 15-30-173* r 15-30-174*r*
15-30-174 r 15-30-175*r 15-30-176* r 15-30-177*r*
15-30-179 r*
Internal References to 15-30-176: 15-30-171 r 15-30-172*r 15-30-173* r 15-30-174*r*
15-30-174 r 15-30-175* r 15-30-176* r 15-30-177*r*
15-30-179 r*
*Internal References to 15-30-177: 15-30-171*r 15-30-172* r 15-30-173* r 15-30-174*r*
15-30-174 r 15-30-175* r 15-30-176* r 15-30-177*r*
15-30-179 r*
Internal References to 15-30-178: 15-30-171 r 15-30-172* r 15-30-173*r 15-30-174*r*
15-30-174 r 15-30-175* r 15-30-176* r 15-30-177*r*
15-30-179 r*
Internal References to 15-30-179: 15-30-171r 15-30-172 r 15-30-173 r 15-30-174r
15-30-174 r 15-30-175 r 15-30-176 r 15-30-177r
15-30-179 r}"

31. Page 25, line 18.
Strike: "Retroactive applicability"
Insert: "Applicability"
Following: "applicability."
Strike: "[This"
Insert: "(1) Except as provided in subsection (2), [this"

32. Page 25.

Following: line 19
Insert: "(2) [Sections 9 through 14] apply to transfers of Montana real estate occurring after September 30, 2009."

- END -