

**SENATE JOURNAL
58TH LEGISLATURE
FORTIETH LEGISLATIVE DAY**

Helena, Montana
February 22, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Wheat, excused. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-ninth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 454, SB 455, SB 456, SB 457, SJR 24.**

Correctly engrossed: **SB 115, SB 282, SB 293, SB 315, SB 363, SB 389, SB 399, SB 401, SB 406, SB 434, SB 439, SJR 13, SJR 16, SJR 17.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/21/2003

HB 190, introduced by Younkin

HB 536, introduced by Brueggeman

MOTIONS

SB 337 - Senator Tropila moved consideration of **SB 337** be passed until the forty-second legislative day, February 25, 2003. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 458, introduced by McNutt, Forrester, Laszloffy, Shea, Sprague, referred to Business and Labor.

SB 459, introduced by McCarthy, DePratu, Elliott, Glaser, Golie, Harrington, Keenan, Mangan, McNutt, F. Thomas, referred to Taxation.

SB 460, introduced by Story, referred to Taxation.

SB 461, introduced by Story, Brueggeman, Stonington, referred to Taxation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 25, introduced by Bohlinger (by request of the Senate Local Government Standing Committee), referred to Local Government.

SJR 26, introduced by Bohlinger (by request of the Senate Local Government Standing Committee), referred to Local Government.

SJR 27, introduced by Johnson, Mahlum, Toole (by request of the Senate Business and Labor Standing Committee), referred to Business and Labor.

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The following House bills were introduced, read first time, and referred to committees:

- HB 17**, introduced by Newman (by request of the Attorney General), referred to Judiciary.
- HB 55**, introduced by Facey (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.
- HB 56**, introduced by B. Thomas (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
- HB 61**, introduced by Laslovich, referred to Judiciary.
- HB 97**, introduced by Jent (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.
- HB 101**, introduced by Jent (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.
- HB 129**, introduced by Gutsche (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.
- HB 152**, introduced by Fisher (by request of the Office of Budget and Program Planning), referred to Finance and Claims.
- HB 158**, introduced by Haines (by request of the Department of Public Health and Human Services), referred to Finance and Claims.
- HB 178**, introduced by Fritz, referred to State Administration.
- HB 184**, introduced by Wilson (by request of the State Auditor), referred to Business and Labor.
- HB 185**, introduced by Wilson (by request of the Department of Justice), referred to Highways and Transportation.
- HB 186**, introduced by Matthews (by request of the Department of Justice), referred to Business and Labor.
- HB 190**, introduced by Younkin (by request of the Secretary of State), referred to State Administration.
- HB 194**, introduced by Barrett (by request of the Secretary of State), referred to State Administration.
- HB 198**, introduced by Lambert, referred to State Administration.
- HB 201**, introduced by Jent (by request of the Secretary of State), referred to State Administration.
- HB 203**, introduced by A. Olson (by request of the Secretary of State), referred to State Administration.
- HB 206**, introduced by Younkin (by request of the Department of Justice), referred to Finance and Claims.
- HB 211**, introduced by Newman (by request of the Department of Corrections), referred to Judiciary.
- HB 214**, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.
- HB 226**, introduced by Gillan, referred to Highways and Transportation.
- HB 247**, introduced by Harris, referred to Judiciary.
- HB 252**, introduced by Hedges, referred to State Administration.
- HB 253**, introduced by Hedges, referred to State Administration.
- HB 262**, introduced by Fuchs, Balyeat, Gallus, Shockley, referred to Fish and Game.
- HB 264**, introduced by Gibson, referred to Local Government.
- HB 269**, introduced by Bergren, Matthews, referred to Local Government.
- HB 270**, introduced by Bergren, referred to Highways and Transportation.
- HB 272**, introduced by Gillan, Buzzas, Forrester, Franklin, Harrington, Jent, Lenhart, Smith, referred to Finance and Claims.
- HB 277**, introduced by Lindeen, Barkus, Branae, R. Brown, Buzzas, Cocchiarella, Esp, Fisher, Gebhardt, Gibson, Haines, Hedges, Laible, Matthews, McCarthy, Mood, Nelson, Pattison, D. Ryan, Shea, Smith, referred to State Administration.
- HB 284**, introduced by Gillan, Buzzas, referred to Judiciary.
- HB 292**, introduced by Younkin, referred to Natural Resources.
- HB 293**, introduced by Smith, Bixby, Cooney, Ellingson, Franklin, Hedges, Jayne, Juneau, Pease, Roush, Small-Eastman, Tropila, Windy Boy, referred to Judiciary.
- HB 303**, introduced by A. Olson, Bales, Keane, Lange, Matthews, McGee, Peterson, referred to Natural Resources.
- HB 304**, introduced by A. Olson, Bales, Lange, Matthews, McGee, Peterson, referred to Energy and Telecommunications.
- HB 305**, introduced by Peterson, Bales, Mood, Nelson, Sprague, Witt, Younkin, referred to State Administration.
- HB 306**, introduced by, Andersen Balyeat, Bitney, Black, Bookout-Reinicke, D. Brown, Brueggeman, P. Clark,

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Cohenour, Everett, Forrester, Fuchs, Gallus, Gibson, Golie, Haines, Jackson, Lake, Lambert, Lange, Laslovich, Laszloffy, Lewis, Maedje, McGee, Mendenhall, Mood, Perry, Roberts, Rome, Sales, Sinrud, Schrupf, Shea, Shockley, Sprague, Tropila, Wagman, Weiss, Wheat, Witt, referred to Fish and Game.

HB 308, introduced by Musgrove, Tester, referred to Judiciary.

HB 325, introduced by Witt, Barrett, Bergren, E. Clark, Fisher, Haines, Hedges, Kasten, Lehman, Lenhart, Matthews, Musgrove, Pattison, Peterson, Ripley, Steinbeisser, Waitschies, referred to Agriculture, Livestock and Irrigation.

HB 326, introduced by Newman, Cyr, Gallus, Harrington, Laslovich, Lewis, McCarthy, Rome, Shea, referred to Natural Resources.

HB 331, introduced by Gallus, DePratu, Grimes, Lawson, B. Ryan, Tester, Younkin, referred to Judiciary.

HB 333, introduced by Waitschies, referred to Local Government.

HB 337, introduced by Ripley, Anderson, Bales, Black, D. Brown, Curtiss, Dowell, Fisher, Fuchs, Galvin-Halcro, Glaser, Golie, Hedges, Kasten, Keenan, Lindeen, Mangan, McGee, McNutt, Mood, Nelson, Peterson, Ross, Roush, D. Ryan, Smith, Sprague, Squires, Tester, Tropila, Wagman, Witt, referred to Energy and Telecommunications.

HB 339, introduced by Pattison, Butcher, Hedges, Peterson, Ross, Smith, Tash, Waitschies, referred to Local Government.

HB 350, introduced by Cohenour, referred to Judiciary.

HB 353, introduced by Laszloffy, McGee, referred to State Administration.

HB 359, introduced by Galvin-Halcro, Bookout-Reinicke, Gillan, Lawson, Wilson, referred to Finance and Claims.

HB 364, introduced by Bergren, Ballantyne, Branae, Hansen, Jacobson, Lambert, Lenhart, Parker, Rice, B. Ryan, Steinbeisser, Tester, Witt, referred to Agriculture, Livestock and Irrigation.

HB 369, introduced by Younkin, Newman, referred to Highways and Transportation.

HB 372, introduced by Cyr, Bergren, P. Clark, Fuchs, Keane, Laslovich, Newman, Windy Boy, referred to Fish and Game.

HB 373, introduced by A. Olson, Bales, Ballantyne, Brueggeman, E. Clark, Devlin, Forrester, Gebhardt, Gillan, Keane, Lange, Lenhart, Maedje, Mangan, Matthews, McGee, McNutt, Mendenhall, B. Olson, Peterson, Ripley, Roberts, Rome, B. Ryan, Sinrud, Story, Zook, referred to Natural Resources.

HB 378, introduced by Small-Eastman, referred to Agriculture, Livestock and Irrigation.

HB 384, introduced by McKenney, referred to Business and Labor.

HB 385, introduced by Fritz, referred to Business and Labor.

HB 390, introduced by Gallik, referred to Judiciary.

HB 392, introduced by Weiss, referred to Energy and Telecommunications.

HB 396, introduced by Gibson, P. Clark, Golie, Weiss, referred to Fish and Game.

HB 400, introduced by Gillan, Forrester, Galvin-Halcro, Golie, A. Olson, referred to Education and Cultural Resources.

HB 402, introduced by Parker, Ballantyne, Becker, Bergren, Branae, Carney, Cocchiarella, Cooney, Dickenson, Dowell, Everett, Facey, Franklin, Gallus, Galvin-Halcro, Gibson, Golie, Hansen, Harris, Jacobson, Jent, Keane, Lange, Laslovich, Lawson, Lehman, Lenhart, Maedje, Malcolm, Mangan, McKenney, Musgrove, Newman, A. Olson, Raser, Ripley, B. Ryan, Schmidt, Shea, Squires, Stoker, Tester, B. Thomas, Wanzenried, Weiss, Wilson, referred to Judiciary.

HB 408, introduced by Peterson, Cyr, Devlin, Lawson, Witt, referred to Local Government.

HB 410, introduced by Younkin, referred to Business and Labor.

HB 414, introduced by Balyeat, Everett, Fuchs, Sales, referred to Highways and Transportation.

HB 420, introduced by Lake, Barrett, Jackson, Keane, Lambert, Mendenhall, Morgan, Peterson, referred to Agriculture, Livestock and Irrigation.

HB 424, introduced by Jent, referred to Energy and Telecommunications.

HB 427, introduced by Gutsche, referred to Natural Resources.

HB 428, introduced by Keane, Barrett, Forrester, Gallus, Grimes, Laslovich, Lenhart, Matthews, McCarthy, Mendenhall, Newman, Olson, B. Ryan, Shea, Smith, F. Thomas, referred to Natural Resources.

HB 433, introduced by P. Clark, Butcher, Cobb, Elliott, Windy Boy, referred to Natural Resources.

HB 435, introduced by Sinrud, Ballantyne, Barkus, Bookout-Reinicke, D. Brown, E. Clark, Dowell, Golie, Haines,

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Lake, Lewis, Mood, Morgan, Roberts, Ross, Sales, Witt, referred to Legislative Administration.

HB 436, introduced by A. Olson, Andersen, Bales, Barrett, Forrester, Gillan, Hurwitz, Jackson, Keane, Laible, Lake, Lambert, Lange, Laszloffy, Lehman, Lindeen, Maedje, Matthews, McNutt, B. Olson, Rice, Ripley, Roberts, Rome, Ross, Steinbeisser, Stoker, B. Thomas, Wagman, referred to Natural Resources.

HB 438, introduced by Forrester, Glaser, D. Ryan, referred to Business and Labor.

HB 443, introduced by Lange, A. Olson, referred to Natural Resources.

HB 445, introduced by Pattison, Barkus, Hedges, Peterson, Witt, referred to Agriculture, Livestock and Irrigation.

HB 448, introduced by Harris, referred to Judiciary.

HB 450, introduced by Newman, referred to State Administration.

HB 451, introduced by E. Clark, referred to Judiciary.

HB 453, introduced by Raser, referred to Judiciary.

HB 455, introduced by Lake, Branae, Haines, Hawk, Hurwitz, Mendenhall, Morgan, Ripley, Schrupf, referred to Agriculture, Livestock and Irrigation.

HB 456, introduced by Parker, Facey, Franklin, Mangan, Newman, referred to Judiciary.

HB 458, introduced by Musgrove, Hansen, Ripley, Tester, referred to Highways and Transportation.

HB 471, introduced by Wanzenried, Stapleton, Tester, referred to Finance and Claims.

HB 474, introduced by Weiss, Gallik, referred to Business and Labor.

HB 478, introduced by Peterson, referred to Judiciary.

HB 480, introduced by Steinbeisser, Lawson, B. Olson, Rome, Smith, Stoker, referred to Judiciary.

HB 489, introduced by Lehman, referred to Judiciary.

HB 490, introduced by Buzzas, Bookout-Reinicke, Callahan, E. Clark, Cohenour, Erickson, Facey, Fisher, Franklin, Fritz, Gallik, Gallus, Gillan, Gutsche, Haines, Harris, Kaufmann, Lawson, Raser, Wilson, referred to Taxation.

HB 496, introduced by Becker, Newman, Harris, referred to Judiciary.

HB 501, introduced by Noennig, referred to Business and Labor.

HB 507, introduced by Brueggeman, referred to Business and Labor.

HB 511, introduced by Everett, Barkus, Brueggeman, DePratu, Keenan, Lange, Lewis, Sales, referred to Local Government.

HB 521, introduced by Balyeat, Shockley, referred to Judiciary.

HB 525, introduced by Keane, E. Clark, Cooney, Jacobson, A. Olson, referred to Business and Labor.

HB 532, introduced by Stoker, referred to State Administration.

HB 536, introduced by Brueggeman, referred to Judiciary.

HB 539, introduced by Brueggeman, referred to Business and Labor.

HB 546, introduced by Wagman, Parker, Shockley, referred to Judiciary.

HB 548, introduced by Jent, referred to State Administration.

HB 549, introduced by Dickenson, Barrett, Bergren, Callahan, Forrester, Golie, Jacobson, Jent, Kaufmann, Laslovich, Lewis, Malcolm, Tropila, Younkin, referred to Highways and Transportation.

HB 552, introduced by B. Ryan, referred to Taxation.

HB 555, introduced by Bitney, referred to Business and Labor.

HB 562, introduced by Ballantyne, referred to Energy and Telecommunications.

HB 577, introduced by Brueggeman, referred to Business and Labor.

HB 580, introduced by Bitney, referred to Energy and Telecommunications.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 3, introduced by B. Lawson (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

HJR 4, introduced by Lange, referred to Natural Resources.

HJR 8, introduced by Juneau, Bixby, Smith, referred to Education and Cultural Resources.

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HJR 9, introduced by Smith, Bixby, Cooney, Ellingson, Franklin, Hedges, Jayne, Juneau, Lenhart, Pease, Roush, Small-Eastman, Tropila, Windy Boy, referred to Public Health, Welfare and Safety.

HJR 10, introduced by Lawson, referred to Education and Cultural Resources.

HJR 11, introduced by Smith, Bixby, Bohlinger, Buzzas, Gallik, Hedges, Lenhart, Parker, Pease, Roberts, Roush, referred to Education and Cultural Resources.

HJR 12, introduced by Fuchs, Balyeat, Bookout-Reinicke, Everett, Fisher, Gallus, Gillan, Haines, Hawk, Hedges, Jackson, Jacobson, Lake, Lambert, Lange, Maedje, Matthews, Mendenhall, Mood, Morgan, A. Olson, Peterson, Rice, Ross, B. Ryan, Sales, Schrumpf, Steinbeisser, Stoker, B. Thomas, Wagman, Witt, referred to Judiciary.

HJR 13, introduced by Hurwitz, Buzzas, Grimes, Keenan, A. Olson, referred to Public Health, Welfare and Safety.

HJR 14, introduced by Bixby, referred to Public Health, Welfare and Safety.

HJR 15, introduced by Wagman, Andersen, Barrett, Brueggeman, P. Clark, Fisher, Fuchs, Haines, Hawk, Hurwitz, Jackson, Lake, Lambert, Lange, Lawson, Lehman, Lewis, Maedje, Mendenhall, Pattison, Rice, Ripley, Roberts, Rome, Ross, Sales, Schrumpf, Sinrud, Steinbeisser, Stoker, B. Thomas, referred to Agriculture, Livestock and Irrigation.

HJR 16, introduced by Mendenhall, F. Thomas, referred to Energy and Telecommunications.

HJR 17, introduced by Peterson, Ballantyne, Becker, Bergren, Bixby, Bookout-Reinicke, D. Brown, Brueggeman, Callahan, Cyr, Devlin, Dickenson, Fritz, Fuchs, Galvin-Halcro, Golie, Haines, Hawk, Hedges, Jacobson, Jent, Kasten, Lake, Laszloffy, Lehman, Lewis, Lindeen, Malcolm, Mendenhall, Morgan, Musgrove, Newman, Pattison, Raser, Rice, Ross, Sales, Schrumpf, Sinrud, Shockley, Small-Eastman, Wanzenried, Waitschies, Windy Boy, Witt, Younkin, referred to Agriculture, Livestock and Irrigation.

HJR 18, introduced by Waitschies, Andersen, Anderson, Bales, Ballantyne, Barkus, Becker, Bergren, Bixby, Bohlinger, Bookout-Reinicke, Branae, Butcher, Callahan, Carney, E. Clark, P. Clark, Cobb, Curtiss, Dowell, Facey, Fisher, Forrester, Fritz, Galvin-Halcro, Gebhardt, Gibson, Gillan, Glaser, Golie, Grimes, Haines, Harris, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Kitzenberg, Laible, Lake, Laslovich, Laszloffy, Lawson, Lehman, Malcolm, Matthews, McNutt, Mendenhall, Musgrove, Newman, A. Olson, Peterson, Raser, Rice, Ripley, Roberts, Ross, Roush, Schrumpf, Shockley, Sinrud, Steinbeisser, Stoker, Taylor, F. Thomas, Wagman, Wanzenried, Witt (by request of the House Agriculture Standing Committee), referred to Agriculture, Livestock and Irrigation.

HJR 20, introduced by Roberts, D. Brown, referred to Business and Labor.

HJR 22, introduced by Ripley, Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, Cohenour, Fisher, Franklin, Gallik, Gallus, Galvin-Halcro, Gibson, Golie, Gutsche, Haines, Harris, Hurwitz, Juneau, Keane, Lake, Laszloffy, Lehman, Lenhart, Morgan, Musgrove, A. Olson, Parker, Pattison, Raser, Roberts, Schrumpf, Smith, Steinbeisser, Stoker, Windy Boy, Younkin, referred to State Administration.

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 8:45 p.m. this legislative day for purpose of party caucuses. Motion carried.

Senate recessed at 8:09 a.m.

Senate reconvened at 8:55 a.m.

Roll call. All members present. Quorum present.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 364 passed as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Cromley.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 254 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 44

Nays: Curtiss, DePratu, Glaser, McGee, O'Neil, Mr. President.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 275 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 31

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila, Wheat.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 306 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: McGee, O'Neil, Thomas.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 308 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Butcher, Ryan.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 326 passed as follows:

Yeas: Anderson, Bales, Barkus, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

Nays: Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 345 passed as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 46

Nays: Anderson, Curtiss, Gebhardt, Mr. President.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 355 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 384 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Esp, Johnson, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

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Total 0

SB 393 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Cobb.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 408 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 15 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Butcher, Esp.

Total 2

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

MOTIONS

SB 275 - Senator McCarthy moved she be allowed to change her vote on **SB 275**, third reading this legislative day, from yea to nay. Motion carried.

SB 326 - Senator Stonington moved she be allowed to change her vote on **SB 326**, third reading this legislative day, from yea to nay. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 1

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 340 - Senator Grimes moved **SB 340** do pass. Motion carried with Senator Tropila voting nay.

SB 343 - Senator Laible moved **SB 343** do pass. After discussion, Senator Stonington made a **substitute motion** that **SB 343**, second reading copy, be amended as follows :

1. Title, page 1, line 4.

Strike: "85"

Insert: "60"

2. Title, page 1, line 6.

Strike: "35"

Insert: "50"

3. Page 1, line 14.

Strike: "85%"

Insert: "60%"

4. Page 1.

Following: line 20

Insert: "(4) Upon petition of 60% of the affected freeholders, the board of county commissioners may annex a district into an existing and adjoining planning and zoning district."

Renumber: subsequent subsections

5. Page 1, line 21.

Strike: "(5)"

Insert: "(6)"

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6. Page 1, line 24.

Strike: "35%"

Insert: "50%"

Amendment **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 24

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 343 - Senator Laible moved **SB 343** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Johnson, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 205 - Senator Cobb moved **SB 205** do pass. Motion carried with Senators Esp and Stapleton voting nay.

Senator Grimes rose on a point of personal privilege saying he objected to remarks made by Senator Butcher towards the High School Association.

Senator Butcher rose on a point of personal privilege and apologized to the High School Association and the Senate for his earlier remarks during debate.

SB 373 - Senator Laible moved **SB 373**, second reading copy, be amended as follows :

1. Page 1, line 20.

Following: "a"

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Insert: "generally recognized"

Following: "private"

Insert: "or public"

Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Taylor, Tester, Thomas, Zook, Mr. President.

Total 30

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Toole, Tropila, Wheat.

Total 19

Absent or not voting: Tash.

Total 1

Excused: None.

Total 0

SB 373 - Senator Laible moved **SB 373**, as amended, do pass. Motion **failed** as follows:

Yeas: Anderson, Barkus, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Taylor, Thomas, Mr. President.

Total 19

Nays: Bales, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat, Zook.

Total 31

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 373 - Senator Tester moved SB 373 be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat, Zook.

Total 33

Nays: Barkus, Black, Butcher, Curtiss, DePratu, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Taylor, Thomas, Mr. President.

Total 17

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ryan rose on a point of personal privilege to clarify that the Montana S.A.T. scores for public schools had an above average rating.

Chairman McGee explained that personal privilege was reserved for comments concerning a Senator, not for any other point.

Senator Cocchiarella rose on a point of personal privilege and said Senator Laible, in his closing, stated she was against public schooling, which she disagreed with, and said she definitely supports public schooling.

Senator Laible rose on a point of personal privilege and apologized to Senator Cocchiarella for anything he said that was offensive to her.

SB 377 - Senator Mahlum moved **SB 377** do pass. Motion carried unanimously.

SB 397 - Senator Curtiss moved **SB 397** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Laible, Mahlum, McGee, O'Neil, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.
Total 19

Nays: Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat.
Total 31

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 397 - Senator Ellingson moved **SB 397** be **indefinitely postponed**. Motion carried as follows:

Yeas: Barkus, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tester, Toole, Tropila, Wheat.
Total 34

Nays: Anderson, Bales, Black, Butcher, Curtiss, DePratu, Glaser, Mahlum, McGee, O'Neil, Sprague, Tash, Taylor, Thomas, Zook, Mr. President.
Total 16

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SB 374 - Senator Laible moved **SB 374** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 374 - Senator Nelson moved **SB 374** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 298 - Senator F. Thomas moved **SB 298** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 31

Nays: Cobb, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 19

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise, report and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

NATURAL RESOURCES (Tash, Chairman):

2/22/2003

SB 194, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "TRIBAL"

Insert: "INDIAN"

2. Page 2, line 5.

Strike: "tribal"

Insert: "Indian"

3. Page 2, line 7.

Strike: "tribal"

Insert: "Indian"

Following: "rights."

Insert: "Any interim agreement entered into pursuant to this subsection (4):

(a) must provide for new ground water uses for domestic and municipal purposes. Except for the criterion in 85-2-311(1)(a)(ii), an interim agreement must establish criteria for new water uses that incorporate the criteria listed in 85-2-311.

(b) must provide for changes in existing appropriation rights within the exterior boundaries of the reservation. An interim agreement must establish criteria for changes in existing appropriation rights that incorporate the criteria listed in 85-2-402.

(c) must provide a secure right to use water to an appropriation of water under the interim agreement in the event of the termination of the interim agreement, quantification of reserved water rights, or termination of negotiations of reserved water rights under 85-2-704;

(d) must maintain the jurisdictional claims of each party to the interim agreement;

(e) must protect each party against a waiver of the right to challenge the claims of each party at any time;

(f) may not prejudice the regulatory or adjudicatory jurisdiction of either party;

(g) must provide that none of the activities of each party in the negotiation or implementation of an interim agreement may be used to affect the equitable or legal position of either party in any future litigation; and

(h) must provide that nothing in the negotiation or implementation of an interim agreement may be considered as enlarging or diminishing the jurisdiction or authority of either party within the reservation."

And, as amended, do pass. Report adopted.

SB 321, do pass. Report adopted.

SB 410, introduced bill, be amended as follows:

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1. Title, line 7.

Strike: "REDUCING THE MANDATORY"

Insert: "REMOVING THE MAXIMUM"

2. Title, line 8.

Following: "UNDERTAKING"

Insert: "AND PROVIDING A MINIMUM AMOUNT OF A WRITTEN UNDERTAKING"

3. Page 2, line 2.

Strike: "may"

Insert: "shall"

Following: "undertaking"

Insert: "at the amount of the anticipated expenses and income loss"

And, as amended, do pass. Report adopted.

SB 416, do pass. Report adopted.

SB 417, introduced bill, be amended as follows:

1. Title, page 1, line 8 through line 9.

Strike: "PROVIDING" through "COMPACT;"

2. Page 1, line 18.

Strike: "(10)"

Insert: "(9)"

3. Page 3, line 24 through line 25.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

4. Page 4, line 7.

Strike: "(10)"

Insert: "(9)"

And, as amended, do pass. Report adopted.

SJR 7, introduced joint resolution, be amended as follows:

1. Page 1, line 11.

Following: "wildfires"

Insert: "and changed forest ecosystem conditions"

2. Page 1, line 17.

Strike: "that all" through "fires;"

3. Page 2, line 10.

Strike: "within a 10-year period"

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4. Page 2, line 20.

Following: "fuel"

Insert: "based on desired future forest conditions"

5. Page 2, line 22.

Following: "forest"

Strike: "succession"

Insert: "processes"

And, as amended, be adopted. Report adopted.

SJR 19, be adopted. Report adopted.

SJR 22, introduced joint resolution, be amended as follows:

1. Page 1, line 19 through line 20.

Strike: "strike" on line 19 through "East has" on line 20

Insert: "events in Venezuela and other international problems have"

2. Page 2, line 10.

Following: "WHEREAS,"

Insert: "environmentally responsible"

And, as amended, be adopted. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

2/22/2003

SB 192, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "REPEALING" through "REQUIRING"

Insert: "ELIMINATING THE REQUIREMENT FOR"

2. Title, page 1, line 5.

Strike: "CERTAIN"

Insert: "A HOME"

Strike: "CARE FACILITIES"

Insert: "AGENCY TO EXPAND ITS GEOGRAPHICAL SERVICE AREA; REVISING THE DEFINITION OF
"HEALTH CARE FACILITY" BY OMITTING NONFEDERAL HOME HEALTH AGENCY FROM THE
DEFINITION"

3. Title, page 1, line 5 through line 6.

Following: "AMENDING" on line 5

Strike: "SECTIONS" on line 5 through "SECTIONS" on line 6

Insert: "SECTION"

4. Title, page 1, line 7.

Strike: "50-5-302" through "50-5-310,"

5. Page 1, line 12 through page 12, line 24.

Strike: everything after the enacting clause

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Insert: "Section 1. Section 50-5-301, MCA, is amended to read:

"50-5-301. When certificate of need is required -- definitions. (1) Unless a person has submitted an application for and is the holder of a certificate of need granted by the department, the person may not initiate any of the following:

(a) the incurring of an obligation by or on behalf of a health care facility for any capital expenditure that exceeds \$1.5 million, other than to acquire an existing health care facility. The costs of any studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort, consulting, and other services) essential to the acquisition, improvement, expansion, or replacement of any plant with respect to which an expenditure is made must be included in determining if the expenditure exceeds \$1.5 million.

(b) a change in the bed capacity of a health care facility through an increase in the number of beds or a relocation of beds from one health care facility or site to another, unless:

(i) the number of beds involved is 10 or less or 10% or less of the licensed beds, if fractional, rounded down to the nearest whole number, whichever figure is smaller, and no beds have been added or relocated during the 2 years prior to the date on which the letter of intent for the proposal is received;

(ii) a letter of intent is submitted to the department; and

(iii) the department determines that the proposal will not significantly increase the cost of care provided or exceed the bed need projected in the state health care facilities plan;

(c) the addition of a health service that is offered by or on behalf of a health care facility that was not offered by or on behalf of the facility within the 12-month period before the month in which the service would be offered and that will result in additional annual operating and amortization expenses of \$150,000 or more;

(d) the incurring of an obligation for a capital expenditure by any person or persons to acquire 50% or more of an existing health care facility unless:

(i) the person submits the letter of intent required by 50-5-302(2); and

(ii) the department finds that the acquisition will not significantly increase the cost of care provided or increase bed capacity;

(e) the construction, development, or other establishment of a health care facility that is being replaced or that did not previously exist, by any person, including another type of health care facility;

~~(f) the expansion of the geographical service area of a home health agency;~~

~~(g)(f)~~ the use of hospital beds in excess of five to provide services to patients or residents needing only skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as those levels of care are defined in 50-5-101;

~~(h)(g)~~ the provision by a hospital of services for home health care, long-term care, or inpatient chemical dependency treatment; or

~~(i)(h)~~ the construction, development, or other establishment of a facility for ambulatory surgical care through an outpatient center for surgical services in a county with a population of 20,000 or less according to the most recent federal census or estimate.

(2) For purposes of this part, the following definitions apply:

(a)(i) "Health care facility" or "facility" means ~~a nonfederal home health agency~~; a long-term care facility; or an inpatient chemical dependency facility.

(ii) The term does not include:

~~(i)(A)~~ a hospital, except to the extent that a hospital is subject to certificate of need requirements pursuant to subsection ~~(i)(h)~~ ~~(1)(g)~~;

~~(ii)(B)~~ an office of a private physician, dentist, or other physical or mental health care professionals, including chemical dependency counselors; or

~~(iii)(C)~~ a rehabilitation facility or an outpatient center for surgical services.

(b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or more individuals.

(ii) The term does not include residential care facilities, as defined in 50-5-101; community homes for persons with developmental disabilities, licensed under 53-20-305; community homes for persons with severe disabilities, licensed

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under 52-4-203; boarding or foster homes for children, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals not requiring institutional health care; or juvenile and adult correctional facilities operating under the authority of the department of corrections.

(3) This section may not be construed to require a health care facility to obtain a certificate of need for a nonreviewable service that would not be subject to a certificate of need if undertaken by a person other than a health care facility."

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

Insert: "NEW SECTION. Section 3. Applicability. [This act] applies to a person who has submitted a letter of intent or an application for a certificate of need received by the department of public health and human services pursuant to Title 50, chapter 5, part 3, before, on, or after [the effective date of this act]."

And, as amended, do pass. Report adopted.

SB 347, introduced bill, be amended as follows:

1. Title, line 13.

Strike: the second "AND"

2. Title, line 14.

Following: "MCA"

Insert: "; AND PROVIDING EFFECTIVE DATES"

3. Page 1, line 18.

Strike: "5"

Insert: "6"

4. Page 1, line 30.

Following: "agencies"

Strike: "and"

Insert: ", "

Following: "authorities"

Strike: ". "

Insert: ", mental health professionals, and other entities providing services to persons with mental illness.

(3) shall specifically address:

(a) provider contracting and credentialing;

(b) service planning;

(c) preadmission screening and discharge planning;

(d) quality management;

(e) utilization management and review;

(f) consumer and family education; and

(g) rights protection;"

Renumber: subsequent subsections

5. Page 2, line 7.

Strike: "must"

Insert: "may"

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6. Page 2, line 22.

Following: "for"

Strike: "mental illness"

Insert: "the mentally ill"

Following: the second "illness,"

Insert: "mental health professionals, county commissioners,"

7. Page 2, line 25.

Strike: the first "mental health"

Following: "services"

Insert: "for the mentally ill"

Strike: "consumers of mental health services"

Insert: "persons with mental illness"

8. Page 3, line 3.

Strike: "5"

Insert: "6"

9. Page 3, line 18.

Strike: "5"

Insert: "6"

10. Page 3, line 20.

Strike: "and"

11. Page 3, line 22.

Following: "board"

Insert: "; and

(i) shall either include a county commissioner or work closely with county commissioners in the service area"

12. Page 4, line 17.

Insert: "(4) The department or a service area authority shall develop contracts to be bid competitively under guidelines adopted by the department of administration pursuant to 18-4-133, 18-4-305, or 18-4-306 for all services provided by licensed mental health centers to ensure accountability and that necessary services are delivered in all areas of the state."

13. Page 4, line 18.

Following: "through"

Strike: "5"

Insert: "6"

14. Page 4, line 19.

Following: "centers"

Insert: "or of any other appropriately certified or licensed mental health center or mental health professional"

15. Page 4, line 20.

Insert: "NEW SECTION. **Section 6. Availability of services.** (1) The services funded by the department are available without discrimination on the basis of race, color, creed, religion, or ability to pay and must comply with Title VI of the Civil Rights Act of 1964.

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(2) Services available to individuals unable to pay may be limited by the department based upon availability of funding."

Insert: "NEW SECTION, Section 7. Policy directive on transition to service area authorities. (1) The department shall develop a plan by January 31, 2004, for the transition to the administration of the delivery of public mental health services by service area authorities beginning July 1, 2004. It is expected that service area authorities will be implemented statewide over a 4-year period.

(2) By June 1, 2004, the department shall define the role of the existing community mental health centers, which must be licensed mental health centers, as a part of the transition plan. If the role includes any special designation, the department shall define the special designation and the reasons for any special designation by administrative rule, and the rule proceedings must include a public hearing that specifically includes persons with mental illness and their family members from across the state.

(3) The department shall report on the transition plan to the children, families, health, and human services interim committee at each committee meeting and provide the transition plan to the committee by January 31, 2004."

Renumber: subsequent sections

16. Page 6, line 3.

Strike: "5"

Insert: "6"

17. Page 7, line 21.

Strike: "5"

Insert: "6"

18. Page 11, line 12.

Following: "~~(a)~~"

Insert: "(a)"

19. Page 11, line 21.

Following: line 20

Insert: "(b) The professional person in charge of the facility shall submit a written response to the board within 10 working days of the receipt of the board's written findings provided for in subsection (7)(a) that includes an explanation of the facility's point of view regarding the board's concerns, including areas of disagreement and agreement. If the facility is in full or partial agreement with the board's concerns, its written response must include actions that it has taken or that it plans to take to address the concerns.

(c) If the facility's written response does not resolve the concerns to the board's satisfaction, the board and the professional person in charge of the facility shall meet in person within 15 working days of the board's receipt of the facility's response to arrive at a mutually agreed upon resolution."

20. Page 12, line 8 through line 9.

Following: "~~community~~" on line 8

Strike: remainder of line 8 through "center" on page 9

Following: "~~53-21-201~~" on line 9

Insert: "qualified mental health care provider as arranged by the county"

21. Page 12, line 19.

Following: "**Repealer.**"

Insert: "(1)"

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Strike: "53-21-201,"

Strike: "53-21-204,"

22. Page 12, line 21.

Insert: "(2) Sections 53-21-201 and 53-21-204, MCA, are repealed."

23. Page 12, line 22.

Strike: "5"

Insert: "6"

24. Page 12, line 24.

Strike: "5"

Insert: "6"

25. Page 12, line 28.

Following: line 27

Insert: "NEW SECTION. Section 16. Effective dates. (1) [Sections 1 through 12, 13(1), and 14 and this section] are effective October 1, 2003.

(2) [Section 13(2)] is effective July 1, 2004."

And, as amended, do pass. Report adopted.

SB 348, introduced bill, be amended as follows:

1. Page 1, line 25.

Following: "available"

Insert: "and agree to accept transfer of the patient based on admission criteria"

2. Page 2, line 6.

Following: "provide"

Strike: "intensive"

Insert: "inpatient"

3. Page 2, line 10.

Following: ";

Insert: "and"

4. Page 2, line 11 through line 12.

Strike: subsection(b) in its entirety

Renumber: subsequent subsections

5. Page 3, line 2.

Following: "providing"

Strike: "intensive"

6. Page 10, line 11.

Following: "available"

Insert: "and agree to accept transfer of the patient based on admission criteria"

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And, as amended, do pass. Report adopted.

HB 150, be concurred in. Report adopted.

SELECT COMMITTEE ON REDISTRICTING AND APPORTIONMENT (Barkus, Chairman): 2/22/2003
SB 445, do pass. Report adopted.
SJR 23, be adopted. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman): 2/22/2003
SB 322, introduced bill, be amended as follows:

1. Title, line 18.

Strike: "PROVIDING A FUND TRANSFER;" on line 18

2. Page 2, lines 10 through 17.

Strike: subsections (a) through (d) in their entirety

Renumber: subsequent subsections

3. Page 7, line 3.

Following: "."

Insert: "The commissioner shall deposit the qualifying contribution in the public money election campaign fund."

4. Page 7, line 27.

Following: "funding."

Insert: "The commissioner's determination must be based on the documentation provided by the candidate applying for public money funding."

5. Page 8, line 4.

Following: "commissioner."

Insert: "The commissioner's determination must be based upon a finding made in a contested case proceeding held pursuant to Title 2, chapter 4, part 6."

6. Page 12, line 14.

Strike: "prompt"

7. Page 14, lines 29 and 30.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

8. Page 15, lines 8 through 11.

Strike: subsection (6) in its entirety

Renumber: subsequent subsection

9. Page 15, line 19.

Strike: "30"

Insert: "45"

10. Page 15, line 27.

Following: "fees"

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Insert: "from the other party"

11. Page 16, line 1.

Following: "fees"

Insert: "from the other party"

12. Page 16, line 7.

Strike: subsection (b) in its entirety

Renumber: subsequent subsections

13. Page 16, line 18.

Following: "obligation"

Insert: ", as follows:

- (a) for amounts up to 105% of the permissible amount, the excess expenditures;
- (b) for amounts between 105% and 115% of the permissible amount, twice the amount of the excess expenditures; and
- (c) for amounts in excess of 115% of the permissible amount, five times the amount of the excess expenditures"

14. Page 17, line 8.

Insert: "(4) Fines paid must be deposited in the public money election campaign fund."

15. Page 17, line 9.

Strike: "The"

Insert: "If the money in the public money election campaign fund is inadequate to fund all requests for public funding, the"

16. Page 17, line 28.

Following: "(3)"

Insert: "(a)"

Strike: "Money"

Insert: "Except as provided in subsection (3)(b), money"

17. Page 17.

Following: line 30

Insert: "(b) If the balance in the public money election campaign fund, except amounts borrowed under [section 25], is \$200,000 or more, then the money received under this section must be deposited in the state general fund."

18. Page 18, line 21.

Following: "(3)"

Insert: "(a)"

Strike: "Money"

Insert: "Except as provided in subsection (3)(b), money"

19. Page 18.

Following: line 23

Insert: "(b) If the balance in the public money election campaign fund, except amounts borrowed under [section 25], is \$200,000 or more, then the money received under this section must be deposited in the state general fund."

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20. Page 22, line 21 through line 24.

Strike: section 32 in its entirety

Renumber: subsequent sections

21. Page 23, line 2.

Strike: "through 33, 35, and 36"

Insert: ", 32, 34, and 35"

22. Page 23, line 4.

Following: "applicability"

Insert: "-- applicability"

Following: "applicability."

Insert: "(1)"

23. Page 23, line 6.

Following: line 5

Insert: "(2) [Sections 1 through 25] apply to judicial elections after the balance in the public money election campaign fund reaches \$200,000. The state treasurer shall notify the secretary of state, the commissioner of political practices, and the code commissioner of the date that the public money election campaign fund reaches \$200,000."

And, as amended, do pass. Report adopted.

SB 405, introduced bill, be amended as follows:

1. Page 1, line 25.

Following: "more"

Insert: "a year"

And, as amended, do pass. Report adopted.

SB 423, introduced bill, be amended as follows:

1. Page 1, line 20.

Strike: "\$1,000"

Insert: "\$500"

2. Page 1, line 22.

Strike: "\$500"

Insert: "\$250"

3. Page 1, line 23.

Strike: "\$250"

Insert: "\$130"

4. Page 2, line 9.

Strike: "\$37,500"

Insert: "\$18,000"

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5. Page 2, line 11.

Strike: "\$12,500"

Insert: "\$6,500"

6. Page 2, line 12.

Strike: "\$5,000"

Insert: "\$2,600"

7. Page 2, line 13.

Strike: "\$2,000"

Insert: "\$1,050"

8. Page 2, line 14.

Strike: "\$1,250"

Insert: "\$650"

9. Page 2, line 22.

Following: "2003."

Insert: "The resulting figure must be rounded up or down to the nearest \$50 increment."

10. Page 2, line 26.

Strike: "\$2,500"

Insert: "\$1,300"

11. Page 2, line 28.

Strike: "\$1,500"

Insert: "\$800"

12. Page 3, line 2.

Strike: "off"

Insert: "up or down"

13. Page 3, line 11.

Strike: "\$75"

Insert: "\$50"

14. Page 3, line 26.

Strike: "\$75"

Insert: "\$50"

15. Page 4, line 6.

Following: "2003."

Insert: "The resulting figure must be rounded up or down to the nearest \$50 increment."

16. Page 4, line 29.

Strike: "\$375,000"

Insert: "\$195,000"

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17. Page 5, line 1.

Strike: "\$10,000"

Insert: "\$6,500"

18. Page 5, line 6.

Following: "2003."

Insert: "The resulting figure must be rounded up or down to the nearest \$50 increment."

And, as amended, do pass. Report adopted.

SB 431, introduced bill, be amended as follows:

1. Page 5, lines 15 and 16.

Strike: subsection (c) in its entirety

And, as amended, do pass. Report adopted.

HB 87, be concurred in. Report adopted.

MOTIONS

SB 373 - Senator Black moved he be allowed to change his vote on **SB 373**, second reading this legislative day, from yea to nay. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Stapleton introduced the Senate pages, gave a brief overview of their activities and their future plans, and thanked them for attending the Senate this week.

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 12:45 p.m. this legislative day. Motion carried.

Senate recessed at 12:05 p.m.

Senate reconvened at 12:49 p.m.

Roll Call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

2/22/2003

SB 335, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "SECTIONS"

Insert: "SECTION"

2. Title, page 1, line 7.

Strike: "35-18-102 AND"

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3. Page 1, line 11 through page 2, line 5.

Strike: section 1 in its entirety

Renumber: subsequent section

4. Page 2, line 12.

Following: "(2)"

Insert: "(a)"

5. Page 2, line 13.

Strike: "for those areas"

Following: the first "the"

Insert: "telecommunications"

6. Page 2, line 14.

Following: "successor"

Insert: "telecommunications"

7. Page 2.

Following: line 16

Insert: "(b) A cooperative and foreign corporation described in subsection (2)(a) may not charge more than the maximum allowable rate pursuant to the telecommunications formulas provided in the pole attachment rules of the federal communications commission or successor telecommunications formulas."

And, as amended, do pass. Report adopted.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Esp in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 419 - Senator McNutt moved **SB 419** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.

Total 36

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, McCarthy, O'Neil, Pease, Schmidt, Squires, Stonington, Toole, Wheat.

Total 14

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 195, House Amendments - Senator Grimes moved House amendments to **SB 195** be concurred in. Motion carried unanimously.

SB 376 - Senator Elliott moved **SB 376** do pass. Motion carried unanimously.

HB 108 - Senator Gebhardt moved **HB 108** be concurred in. Motion carried unanimously.

SB 270 - Senator Harrington moved **SB 270**, second reading copy, be amended as follows :

1. Title, line 5.

Strike: "TO"

2. Title, line 10 through line 12.

Following: "CLARIFYING"

Strike: remainder of line 10 through "INDUSTRY" on line 12

3. Title, line 18.

Strike: "SECTIONS 39-71-120 AND"

Insert: "SECTION"

4. Page 1, line 23 through page 2, line 1.

Strike: section 1 in its entirety

Renumber: subsequent sections

Amendment **adopted** unanimously.

SB 270 - Senator Harrington moved **SB 270**, as amended, do pass. Motion carried as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 26

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 184 - Senator Butcher moved **SB 184** do pass. Motion carried with Senators Harrington and Mangan voting nay.

SB 250 - Senator Kitzenberg moved **SB 250** do pass. Motion carried unanimously.

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SB 253 - Senator Elliott moved **SB 253** do pass. Motion carried unanimously.

SB 287 - Senator Sprague moved consideration of **SB 287** be placed below SB 221 for purpose of amendment. Motion carried unanimously.

SB 304 - Senator Johnson moved **SB 304**, second reading copy, be amended as follows :

1. Page 1, line 17.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

Amendment **adopted** unanimously.

Senator Grimes excused at this time.

SB 304 - Senator Johnson moved **SB 304**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 43

Nays: Anderson, Barkus, DePratu, Gebhardt, Mangan, McGee.

Total 6

Absent or not voting: None.

Total 0

Excused: Grimes.

Total 1

Senator Grimes present at this time.

SB 307 - Senator D. Ryan moved **SB 307** do pass. Motion carried unanimously.

SB 331 - Senator Squires moved **SB 331** do pass. Motion carried unanimously.

SB 339 - Senator Taylor moved **SB 339**, second reading copy, be amended as follows :

1. Page 2, line 5.

Strike: "\$1"

Insert: "\$2.5"

2. Page 2, line 6.

Strike: "\$150,000"

Insert: "\$300,000"

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3. Page 2, line 7.
Strike: "\$50,000"
Insert: "\$100,000"

4. Page 2, line 8.
Strike: "\$15,000"
Insert: "\$30,000"

5. Page 2, line 9.
Strike: "\$7,500"
Insert: "\$15,000"

6. Page 2, line 10.
Strike: "\$20,000"
Insert: "\$40,000"

Senator Pease excused at this time.

Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Elliott, Esp, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Roush, Shea, Stapleton, Story, Tash, Taylor, Thomas, Toole, Zook, Mr. President.
Total 33

Nays: Cobb, Curtiss, Ellingson, Gebhardt, Harrington, Laible, Mangan, Nelson, Ryan, Schmidt, Sprague, Squires, Stonington, Tester, Tropila, Wheat.
Total 16

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

Senator Pease present at this time.

SB 339 - Senator Cooney moved **SB 339**, as amended, do pass. Motion carried as follows:

Yeas: Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Schmidt, Shea, Squires, Stonington, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 32

Nays: Anderson, Bales, Barkus, Cobb, Curtiss, Esp, Gebhardt, Glaser, Laible, McGee, McNutt, O'Neil, Perry, Ryan, Sprague, Stapleton, Story, Tash.
Total 18

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Harrington excused at this time.

SB 380 - Senator Bales moved **SB 380** do pass. Motion carried with Senators Barkus and DePratu voting nay.

SB 414 - Senator Pease moved **SB 414** do pass. Motion carried unanimously.

HB 299 - Senator Bales moved consideration of **HB 299** be passed for the day. Motion carried unanimously.

Senator Cobb excused at this time.

SB 115 - Senator Mahlum moved **SB 115** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 43

Nays: Butcher, Johnson, Mangan, O'Neil, Story.
Total 5

Absent or not voting: None.
Total 0

Excused: Cobb, Harrington.
Total 2

SB 221 - Senator Kitzenberg moved **SB 221** do pass. Motion carried unanimously.

SB 287 - Senator Sprague moved **SB 287**, second reading copy, be amended as follows :

1. Page 1, line 17.

Following: "not"

Insert: "launch, retrieve, or"

2. Page 1, line 17 through line 18.

Strike: "on" on line 17 through "waters" on line 18

Insert: "at a public access site"

3. Page 2, line 12.

Strike: "OR"

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4. Page 2, line 14.

Following: "state"

Insert: "; or

(f) a vessel launched or retrieved from private property or a private facility"

Amendment **adopted** unanimously.

SB 287 - Senator Sprague moved **SB 287**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Hansen, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook, Mr. President.

Total 41

Nays: Curtiss, Glaser, Grimes, Mahlum, McGee, O'Neil, Roush, Thomas.

Total 8

Absent or not voting: None.

Total 0

Excused: Harrington.

Total 1

Senator Pease excused at this time.

SB 293 - Senator Wheat moved **SB 293** do pass. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Johnson, Mangan, McCarthy, Nelson, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 22

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: Harrington, Pease.

Total 2

SB 293 - Senator Thomas moved **SB 293** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Shea, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 27

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Johnson, Mangan, McCarthy, Nelson,

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Ryan, Schmidt, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 21

Absent or not voting: None.
Total 0

Excused: Harrington, Pease.
Total 2

Senator Pease present at this time.

SB 315 - Senator Schmidt moved **SB 315** do pass. Motion carried unanimously.

Senator Elliott excused at this time.

SB 336 - Senator Mahlum moved **SB 336** do pass. Motion carried as follows:

Yeas: Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Hansen, Kitzenberg, Laible, Mahlum, McCarthy, Nelson, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Tester, Toole, Tropila, Wheat, Mr. President.
Total 28

Nays: Anderson, Bales, Butcher, Cobb, Curtiss, Esp, Gebhardt, Glaser, Grimes, Johnson, Mangan, McGee, McNutt, O'Neil, Roush, Stapleton, Story, Taylor, Thomas, Zook.
Total 20

Absent or not voting: None.
Total 0

Excused: Elliott, Harrington.
Total 2

Senator Elliott present at this time.
Senator Schmidt excused at this time.

SB 363 - Senator McNutt moved **SB 363** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 35

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, McCarthy, O'Neil, Shea, Squires, Stonington, Tester, Toole, Wheat.
Total 13

Absent or not voting: None.
Total 0

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Excused: Harrington, Schmidt.
Total 2

Senators Wheat and Tropila excused at this time.

SB 399 - Senator Bohlinger moved **SB 399** do pass. Motion carried unanimously.

SB 413 - Senator Kitzenberg moved **SB 413** do pass. Motion carried unanimously.

SB 438 - Senator DePratu moved **SB 438** do pass. Motion carried unanimously.

SJR 17 - Senator Tester moved **SJR 17** be adopted. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Esp moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

2/22/2003

SB 303, introduced bill, be amended as follows:

1. Title, line 4 through line 7.

Strike: "PROVIDING" on line 4 through "ADMINISTRATION;" on line 7

2. Title, line 15.

Following: "20-9-104,"

Insert: "20-9-161, 20-9-162,"

3. Page 1, line 20 through page 2, line 5.

Strike: section 1 in its entirety

Renumber: subsequent sections

4. Page 2, line 10.

Strike: "2004"

Insert: "2003"

Strike: "103.33%"

Insert: "102%"

5. Page 2, line 11.

Strike: "2005"

Insert: "2004"

Strike: "101.05%"

Insert: "101%"

6. Page 2, line 12.

Strike: "(a)"

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7. Page 2, line 14.

Strike: "(i)"

Insert: "(a)"

8. Page 2, line 16.

Strike: "(ii)"

Insert: "(b)"

9. Page 2, line 18 through line 20.

Strike: subsection (b) in its entirety

10. Page 3, line 7.

Strike: "and"

Insert: "or"

11. Page 3.

Following: line 18

Insert: "**Section 3.** Section 20-9-161, MCA, is amended to read:

"20-9-161. Definition of budget amendment for budgeting purposes. As used in this title, unless the context clearly indicates otherwise, the term "budget amendment" for the purpose of school budgeting means an amendment to an adopted budget of the district for the following reasons:

(1) an increase in the enrollment of an elementary or high school district that is beyond what could reasonably have been anticipated at the time of the adoption of the budget for the current school fiscal year whenever, because of the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school, by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering school property unfit for its present school use;

(3) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district;

(5) the receipt of:

(a) a settlement of taxes protested in a prior school fiscal year;

(b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents;

(c) delinquent taxes from a prior school fiscal year; and

(d) a determination by the trustees that it is necessary to expend all or a portion of the taxes received under subsection (5)(a), (5)(b), or (5)(c) for a project or projects that were deferred from a previous budget of the district;

(6) expenditures from the reserve account established in 20-9-104(4); or

~~(6)~~(7) any other unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting the safety of the students and district employees or the educational functions of the district."

Insert: "**Section 4.** Section 20-9-162, MCA, is amended to read:

"20-9-162. Authorization for budget amendment adoption. (1) (a) Notwithstanding the provisions of subsections (2) and (3), a budget amendment may be adopted at any time of the school fiscal year, except that a budget amendment required by an enrollment increase as provided in 20-9-161(1) may not be adopted until after October 1.

(b) The trustees may approve a budget amendment pursuant to 20-9-161(2) through ~~(6)~~ (7) by a resolution.

(c) Whenever the trustees of a district decide that a budget amendment is necessary, they may proclaim the need for the budget amendment by a majority vote of the trustees. The proclamation must state the facts constituting the need for the budget amendment, the funds affected by the budget amendment, the anticipated source of financing, the estimated amount of money required to finance the budget amendment, and the time and place the trustees will meet for the purpose

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of considering and adopting the budget amendment for the current school fiscal year.

(2) The trustees shall send a copy of the proclamation to the county superintendent and to the board of county commissioners of the county.

(3) The trustees shall submit a budget amendment for an enrollment increase to the superintendent of public instruction for approval in the manner provided in 20-9-163."

Renumber: subsequent sections

12. Page 4, line 10.

Strike: "[section 2]"

Insert: "[section 1]"

13. Page 5, line 4.

Strike: "[section 2]"

Insert: "[section 1]"

14. Page 7, line 27.

Strike: "district"

Insert: "budget unit"

15. Page 9, line 21 through page 12, line 8.

Strike: section 7 through section 10 in their entirety

Renumber: subsequent sections

16. Page 12, line 10 through line 13.

Strike: "(1)" on line 10 through "[Section 2]" on line 13

Insert: "[Section 1]"

17. Page 12, line 14.

Strike: "[section 2]"

Insert: "[section 1]"

And, as amended, do pass. Report adopted.

SB 424, introduced bill, be amended as follows:

1. Title, line 8.

Strike: "CERTAIN SCHOOL DISTRICT FUNDS"

Insert: "ANY BUDGETED FUND OF THE DISTRICT"

2. Page 7, line 23 through line 24.

Strike: "for" on line 23 through "funds" on line 24

3. Page 7, line 28.

Following: "any"

Strike: "district"

Insert: "budgeted"

4. Page 7, line 28 through line 29.

Following: "district fund" on line 28

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Strike: "that" on line 28 through "fund" on line 29
Insert: "of the district"

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Tash, Chairman):
SB 366, introduced bill, be amended as follows:

2/22/2003

1. Page 2, line 18.

Following: "provide"

Insert: "sufficient measures"

2. Page 2, line 20 through page 3, line 1.

Strike: "(i)" on page 2, line 20 through "section" on page 3, line 1

Insert: "(i) of stability structurally competent to withstand geologic and climatic conditions without significant failure that would be a threat to public safety and the environment;

(ii) that affords some utility to humans or the environment; (iii) that mitigates postreclamation visual contrasts between reclamation lands and adjacent lands; and

(iv) that mitigates or prevents undesirable offsite environmental impacts.

(c) The use of backfilling as a reclamation measure is neither required nor prohibited in all cases. A department decision to require any backfill measure must be based on whether and to what extent the backfilling is appropriate under the site- specific circumstances and conditions in order to achieve the standards described in subsection (9)(b)"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):
SB 239, introduced bill, be amended as follows:

2/22/2003

1. Title, page 1, line 4.

Following: "EMPLOYER"

Insert: "OR RETIREE"

2. Title, page 1, line 6.

Strike: "IMMEDIATE"

3. Page 1, line 10.

Strike: "A"

Insert: "Upon termination of employment between July 1, 2003, and October 1, 2003, a"

4. Page 1, line 11.

Following: "retirement"

Strike: ", terminates employment"

Insert: "by having reached normal retirement age, as defined in 19-2-303"

Following: "and"

Insert: "who"

5. Page 1, line 13.

Following: "2-18-703"

Insert: "or payment of the retiree-only premium, whichever is less,"

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Following: "service"

Insert: "or until the employee is eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, et seq., or meets other provisions of 2-18-704(1)(a)"

6. Page 1, line 14.

"NEW SECTION. Section 2. Legislative intent. The legislature intends that the retirement incentive provided under [section 1] be offset by vacancy savings within each agency of state government, as defined in 2-18-101, and the Montana university system, and that a position that becomes vacant under the retirement incentive must be filled at the entry-level salary for that position, pursuant to 2-18-303(1)(b), unless the position is filled by a person who transfers laterally at the same grade and longevity level.

Renumber: subsequent sections

7. Page 1, line 14.

"NEW SECTION. Section 3. Contingent voidness. If [this act] and House Bill No. 2 are both passed and approved and if the appropriations contained in House Bill No. 2 are not accompanied by a narrative stating that appropriated amounts for personal services reflect reductions totaling at least the cost of the incentive projected for [this act], then [this act] is void.

Renumber: subsequent sections

8. Page 1, line 18.

Following: "effective"

Strike: "on passage and approval"

Insert: "July 1, 2003"

And, as amended, do pass. Report adopted.

MOTIONS

HB 299 - Senator Bales moved **HB 299** be taken from the second reading board and rereferred to the committee on Judiciary.

SB 184 - Senator Ryan moved he be allowed to change his vote on **SB 184**, second reading this day, from nay to aye. Motion carried.

SB 419 - Senator Ryan moved he be allowed to change his vote on **SB 419**, second reading this day, from nay to aye. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, February 24, 2003. Motion carried.

Senate adjourned at 5:12 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate