

**SENATE JOURNAL
57TH LEGISLATURE
EIGHTY-NINTH LEGISLATIVE DAY**

Helena, Montana
April 20, 2001

Senate Chambers
State Capitol

Senate convened at 11:00 a.m. President Beck presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

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

Mr. President: We, your committee on Bills and Journal, having examined the daily journal for the eighty-fourth legislative day, find the same to be correct.

Miller, Chairman

Senator Ellingson present at this time.

REPORTS OF STANDING COMMITTEES

STATE ADMINISTRATION (Hargrove, Chairman):
SR 7, introduced resolution, be amended as follows:

4/20/2001

1. Title, line 6.

Following: "CONSENTING TO"

Insert: "SOME OF"

2. Page 1, line 15.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

And, as amended, be adopted. Report adopted.

SR 25, be adopted. Report adopted.

REPORTS OF SELECT COMMITTEES

**FREE CONFERENCE COMMITTEE
on **Senate Bill 508**
Report No. 1, April 19, 2001**

Mr. President and Mr. Speaker:

We, your **Free** Conference Committee met and considered **Senate Bill 508** (reference copy – salmon) and recommend this **Free** Conference Committee report be adopted.

And, recommend that **Senate Bill 508** (reference copy – salmon) be amended as follows:

1. Title, page 1, line 8.

Strike: "75"

Insert: "50"

Strike: "FOR IN-STATE USE"

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2. Title, page 1, line 11.

Strike: "INFRASTRUCTURE"

Insert: "GOVERNMENTAL UNITS"

3. Title, page 1, line 12.

Following: " ;"

Insert: "PROVIDING FOR INTERLOCAL IMPACT AGREEMENTS;"

4. Title, line 12.

Following: "PROVIDING"

Strike: "A DELAYED"

Insert: "AN IMMEDIATE"

5. Page 1, line 17.

Following: "(1)"

Insert: "(a)"

Strike: "An"

Insert: "Except as provided in subsections (1)(b) and (3), an"

6. Page 1, line 18.

Following: "act]"

Insert: "and before January 1, 2006,"

7. Page 1, line 22.

Strike: "75%"

Insert: "50%"

8. Page 1, line 23.

Strike: "for use within the state of Montana"

9. Page 1.

Following: line 24

Insert: "(b) The property tax exemption allowed under subsection (1)(a) is limited to a 5-year period for generation facilities powered by oil or gas turbines."

10. Page 1, line 25.

Strike: "75%"

Insert: "50%"

11. Page 1, line 26.

Strike: "Montana"

Following: "extending"

Insert: "5 years to"

Following: "facility,"

Insert: "as determined by the owner, surplus capacity must be offered on a declining contract term basis for the remainder of the contract period at a cost-based rate that includes a rate of return not to exceed 12%. Surplus capacity that is not contracted for in this fashion may be sold at market rates."

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12. Page 1.

Strike: lines 27 and 28 in their entirety

13. Page 1, line 29.

Strike: "(3)(b)"

Insert: "(3)(c)"

Following: "operator"

Insert: "of property exempt from taxation under subsection (1)(a)"

14. Page 1, line 30.

Strike: "within the state"

15. Page 2.

Following: line 2

Insert: "(b) Except as provided in subsection (3)(c), if an owner or operator of property exempt from taxation under subsection (1)(b) signs a contract to sell power as required in subsection (1) and then fails to perform the contract during the first 5-year period, the 5-year property tax exemption in subsection (1) is void and the property is subject to a rollback tax as provided in [section 2]."

Renumber: subsequent subsections

16. Page 2, line 5.

Strike: "10-year"

Strike: "[section 1]"

Insert: "subsection (1)(a) or (1)(b)"

17. Page 2, line 11.

Strike: "includes but"

Strike: "not"

18. Page 2, line 12 through line 13.

Following: "gas turbines," on line 12

Strike: "wind" on line 12 through "cells," on line 13

19. Page 2, line 22.

Strike: "75%"

Insert: "50%"

20. Page 2, line 23.

Strike: "in Montana"

21. Page 2.

Following: line 23

Insert: "(5) The department shall appraise exempt electrical generation facilities for each year that the property is exempt and determine the taxable value of the property as if it were subject to property taxation. The taxable value determined by the department must be included as taxable valuation for the purposes of county classification under 7-1-2111."

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22. Page 3, line 4.

Strike: "land"

Insert: "electrical generation property"

23. Page 3, line 10.

Following: "(1)"

Insert: "(a)"

24. Page 3, lines 12 through 15.

Strike: "infrastructure" on line 12

Following: "fee" on line 12

Strike: the remainder of line 12 through "[section 1]" on line 15

Following: "." on line 15

Insert: "In the first 2 years of construction, the impact fee may not exceed 0.75% of the total cost of constructing the electrical generation facility.

(b) In the case of a generation facility powered by oil or gas turbines, the impact fee may not exceed 0.1% of the total construction cost in the remaining 3 years of the tax exemption period as provided in [section 1].

(c) In the case of any other generation facility, the impact fee may not exceed 0.1% of the total construction cost in the subsequent 4 years and may not exceed 0.08% of the total construction cost in the remaining 4 years of the tax exemption period as provided in [section 1]."

25. Page 3, line 19.

Following: "Thirty"

Strike: "FIFTY percent of the"

Insert: "The"

26. Page 3, line 20.

Strike: "infrastructure"

Insert: "local"

Following: "70%"

Strike: "50% of the impact fee must be distributed to"

27. Page 3, line 22.

Strike: "If"

Insert: "Subject to the conditions of subsection (5) and [section 4], if"

28. Page 3, line 22.

Following: "units"

Insert: "of the county or contiguous counties"

29. Page 3, line 24.

Strike: "which" through "and"

30. Page 3, line 26.

Following: "."

Insert: "The county in which the electrical generation facility is located is authorized to assess the fee under the interlocal agreement."

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31. Page 3, line 27.

Following: "."

Insert: "If an exempt electrical generation facility is located within a tax increment financing district, the tax increment financing district is considered a local government unit and is entitled to the distribution of impact fees under this section. A tax increment financing district may not receive a distribution of impact fees if an exempt electrical generation facility is not located within the district."

32. Page 3.

Following: line 27

Insert: "(6) Impact fees imposed under subsection (4) must be deposited in the county electrical energy generation reserve account established in [section 4] for the county in which the electrical generation facility is located. Money in the account may not be expended until the multiple local governments have entered into an interlocal agreement."

Insert: "NEW SECTION. Section 4. Electrical energy generation impact fee reserve account. (1) The governing body of a county receiving impact fees under [section 3(4)] shall establish an electrical energy generation impact fee reserve account to be used to hold the collections. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose of an interlocal agreement provided for in [section 3]. The county treasurer shall distribute money in the account to each local government unit according to the terms of the interlocal agreement.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the electrical energy generation reserve account must be credited to the account."

Insert: "NEW SECTION. Section 5. Electrical generation impact fund. (1) A local government unit, as defined in [section 3], and a school district that receives impact fees pursuant to [section 3(2)] or [section 4] shall establish an electrical generation impact fund for the deposit of the fees. A local government unit or school district may retain the money in the fund for any time period considered appropriate by the governing body of the local government unit or school district. Money retained in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the fund for any purpose allowed by law.

(3) Money in the fund must be invested as provided by law. Interest and income earned on the investment of money in the fund must be credited to the fund.

(4) The fund must be financially administered as a nonbudgeted fund by a county under the provisions of Title 7, chapter 6, part 23, by a city or town under the provisions of Title 7, chapter 6, part 42, or by a school district under the provisions of Title 20, chapter 9, part 5."

Renumber: subsequent sections

33. Page 3, line 29.

Strike: "3"

Insert: "5"

34. Page 3, line 30.

Strike: "6" in both places

Insert: "24" in both places

Strike: "part 2,"

Strike: the third "part"

35. Page 4, line 1.

Strike: "2,"

Strike: "3"

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Insert: "5"

36. Page 4, line 3.

Following: "effective"

Strike: "January 1, 2002"

Insert: "on passage and approval"

For the Senate:

Cole, Chairman
Halligan
DePratu

For the House:

Story, Vice Chairman
Devlin
Forrester

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:

HB 41, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 47, as amended by the Governor, concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HB 124, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Berry, Bohlinger, Christiaens, Cocchiarella, Doherty, Ekegren, Ellingson, Ellis, Franklin, Grimes, Grosfield, Harrington, Jergeson, Johnson, Kitzenberg, Mahlum, McCarthy, McNutt, Nelson, Ryan, Shea, Stonington, Tash, Taylor, Toole, Waterman, Zook, Mr. President.
Total 28

Nays: Bishop, Butcher, Cobb, Cole, Crismore, DePratu, Elliott, Glaser, Halligan, Hargrove, Holden, Keenan, Miller, Mohl, O'Neil, Pease, Roush, Sprague, Stapleton, Tester, Thomas, Wells.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 208, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 348, as amended by the Governor, concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 50

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 456, as amended by the Governor, concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 609, as amended by the Governor, concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 644, Conference Committee Report No. 1, adopted as follows:

Yeas: Berry, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 49

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Nays: Bishop.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 42, as amended by the Senate, concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman.
Total 45

Nays: Crismore, Keenan, Wells, Zook, Mr. President.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 44 concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 48

Nays: Johnson, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MESSAGES FROM THE GOVERNOR

April 19, 2001

The Honorable Tom Beck

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President of the Senate
State Capitol
Helena, MT 59620

The Honorable Dan McGee
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Beck and Speaker McGee:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments **Senate Bill 179**, "AN ACT GENERALLY REVISING LAWS GOVERNING BUDGETING AND APPROPRIATIONS, etc.", for the following reasons.

My concerns regarding SB 179 are limited to Section 2, which I understand was intended to exempt equipment for highway maintenance from certain provisions governing accruals. I have been advised, however, that the exclusion of the MDT maintenance program will not technically accomplish that objective, as equipment is purchased in a separate equipment program. As a second concern, the proposed revision to the law governing accruals would apply to the current fiscal year, even though agencies may have entered into contracts or purchase orders that will not be completed or delivered prior to July 1, 2001. It is my understanding that, at a minimum, agencies must have at least a year in which to implement any new accrual provisions.

As I'm sure you're aware, agencies must manage their total budget responsibly. Under tight financial circumstances, that means achieving vacancy savings, delivering priority services, paying off vacation and sick leave for retirees, and meeting other priorities before ordering authorized replacement equipment towards the end of the fiscal year. Many extenuating circumstances beyond the control of an agency may cause equipment not to be delivered prior to July 1st -- weather, transportation problems and manufacturing problems, just to name a few.

We are working with the Department of Administration to implement a new SABHRS financial system functionality that will eliminate the expenditures of concern under Section 2 of SB 179 from the budget that we will present to the 58th Legislature. We are confident that the new SABHRS functionality will improve our management practices and will adequately respond to all of the objections that were driven by our former state accounting system (SBAS).

In the meantime, in an effort to address both our concerns and the concerns of the Legislature, I am recommending an amendment to Section 2 of SB 179 that will restrict general fund accruals, require written plans to the Department of Administration, and authorize the Department to delete an encumbrance at fiscal year end. In addition, my amendment will also require the preparation and submission of a fiscal year end report to both OBPP and the Legislative Finance Committee on each general fund encumbrance remaining at fiscal year end.

The sponsor of SB 179, Senator Zook, has been advised of my amendatory recommendation.

Sincerely,
JUDY MARTZ
Governor

c: Legislative Services Division
Office of Budget Program and Planning

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Department of Administration

GOVERNOR'S AMENDMENTS TO SENATE BILL NO. 179

(Reference Bill -- as Amended)

Drafted by the Office of the Governor

April 19, 2001

1. Title, line 18

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

2. Page 2, line 24

Following: "encumbrances"

Strike: "other than those for equipment"

3. Page 2, line 26

Strike: "1" (New amendment per clerical dated 4/23/01)

4. Page 2, line 28

Following: "records"

Strike: "THE EXCLUSION FOR EQUIPMENT DOES NOT APPLY TO EQUIPMENT FOR GOODS AND SERVICES RELATED TO THE MAINTENANCE OF HIGHWAY INFRASTRUCTURE IN THE DEPARTMENT OF TRANSPORTATION MAINTENANCE PROGRAM TO BE PAID FROM THE HIGHWAYS STATE SPECIAL REVENUE FUND."

Insert: "in accordance with the following requirements:

(a) Goods and services, grants, and local assistance that are paid for with the general fund, in whole or in part, may be encumbered. The general fund encumbrances must be reviewed by the department, and a specific extension plan must be presented by the encumbering agency to the department prior to the fiscal yearend. If a valid extension plan is not received and approved, the department shall delete the encumbrance at fiscal yearend. The department shall present a fiscal yearend report to the office of budget and program planning and to the legislative finance committee on each general fund encumbrance remaining at fiscal yearend.

(b) Nongeneral fund encumbrances also require a valid extension plan approved by the department at the end of each fiscal year. After 3 years, approved extensions must be included by the department in its fiscal yearend report to the office of budget and program planning and to the legislative finance committee."

5. Page 15, following line 10

Insert: "NEW SECTION. Section 15. Applicability. [Section 2] applies to fiscal year 2002 and thereafter."

April 19, 2001

The Honorable Tom Beck
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Dan McGee
Speaker of the House

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State Capitol
Helena, MT 59620

Dear President Beck and Speaker McGee:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments **Senate Bill 282**, "AN ACT CREATING THE ASBESTOS CLAIMS COURT; PROVIDING FOR THE APPOINTMENT OF THE ASBESTOS CLAIMS JUDGE; PROVIDING FOR THE PROCEDURES TO BE USED FOR TRYING AN ASBESTOS-RELATED CLAIM; AMENDING SECTIONS 3-5-113, 3-5-115, 3-15-104, 3-15-204, AND 3-15-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE", for the following reasons.

I have no concerns with the objectives of SB 282, or with its specific measures. It is, as you know, intended to address the large number of asbestos-related claims that have arisen and will likely continue to arise in the Nineteenth Judicial District. As you are also aware, however, the recent bankruptcy filing by W.R. Grace has raised numerous questions as to the extent to which, if at all, asbestos-related claims against W.R. Grace will be allowed to proceed in a state court forum. It is my understanding that, at least for the present, all actions arising from exposure to asbestos indirectly or directly caused by Grace and/or its affiliated entities (including those pending in Montana state courts) have been enjoined by the bankruptcy court.

The bankruptcy filing has thus created numerous uncertainties as to the ultimate need for the asbestos claims court. In the event that all asbestos-related claims against Grace and its affiliates have to be litigated in the context of the bankruptcy proceeding, the need for the special court may not arise. On the other hand, it is at least possible that the bankruptcy court may allow some or all of the Montana cases to proceed in state court, or perhaps allow cases to proceed against Grace insurers in state court. In that event, the asbestos court may well prove to be necessary. At this point, however, it is impossible to speculate as to what the future holds.

In light of that uncertainty, I recommend that the bill's effective date be made contingent upon a determination by the Montana Supreme Court that, based on decisions made in the federal bankruptcy proceeding and other circumstances that the Court deems advisable to consider, there is sufficient need to implement the provisions of SB 282. I have enclosed my amendment to that effect.

The sponsor of this bill, Senator Crismore, as well as the Montana Supreme Court have been advised of my amendatory recommendation and have no objections.

Sincerely,
JUDY MARTZ
Governor

c: Legislative Services Division
Office of Budget Program and Planning
Montana Supreme Court

GOVERNOR'S AMENDMENTS TO SENATE BILL NO. 282
(Reference Bill --2nd Reading/2nd House [Tan])
Drafted by the Office of the Governor
April 19, 2001

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1. Title, line 8

Strike: "AN IMMEDIATE"

Insert: "A CONTINGENT"

2. Page 6, line 8

Strike: "Effective"

Insert: "Contingent effective"

3. Page 6, line 8

Following: "[This act]"

Strike: "is effective on passage and approval"

Insert: "is effective contingent on a determination by the Montana supreme court that, based on decisions reached in the federal bankruptcy proceedings involving W.R. Grace and other circumstances that the court deems advisable to consider, there exists sufficient need to implement the provisions of [this act]. The court shall notify the secretary of state and the code commissioner when this contingency is met"

April 19, 2001

The Honorable Tom Beck
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Dan McGee
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Beck and Speaker McGee:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments **Senate Bill 313**, "~~AN ACT TRANSFERRING THE REMAINING BALANCE OF FUNDS IN THE UNIVERSAL SERVICE FUND TO THE TECHNOLOGY ACQUISITION AND DEPRECIATION FUND; AUTHORIZING A DISTRICT TO EXPEND MONEY FOR DEPRECIATION DEPRECIATE TECHNOLOGICAL EQUIPMENT AS AN AUTHORIZED USE OF THE TECHNOLOGY ACQUISITION AND DEPRECIATION FUND; REQUIRING VOTER APPROVAL FOR A LEVY TO INCREASE THE DISTRICT'S FUNDS TO SUPPORT TECHNOLOGY; ACCELERATING THE TERMINATION DATE OF THE UNIVERSAL SERVICE FUND FOR TELECOMMUNICATIONS; AMENDING SECTIONS 20-9-375 AND 20-9-533 AND 69-3-845, MCA, SECTION 41, CHAPTER 349, LAWS OF 1997, AND SECTIONS 4 AND 6, CHAPTER 187, LAWS OF 1999; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE~~", for the following reasons.

As you know, SB 313 authorizes school districts to depreciate technological equipment as a permissible use of the already-existing technology fund under §20-9-533, MCA. By virtue of that change, however, districts will also be authorized to impose a voter-approved levy to assist in funding that depreciation.

My recommended amendments to SB 313 are intended to (1) avoid any potential conflict with SB 117, which I've already signed into law and (2) clarify that SB 313 contemplates only one levy, which is subject to voter approval. In terms of the first item, SB 117 broadly removes all school levies under Title 20, MCA from the operation of § 15-10-

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420, MCA. It is my understanding (and the understanding of the sponsor, Senator Thomas), however, that the proponents of SB 313 intended that its voter-approved levy remain subject to § 15-10-420, MCA. Accordingly, amendments 2 and 4 on the attached are intended to clarify that the levy contemplated by SB 313 remains subject to Title 15, MCA, notwithstanding the general language of SB 117.

In terms of the second issue, the bill in its current form arguably creates both a permissive levy (i.e., non-voted) and an additional voted levy. Again, it is my and Senator Thomas' understanding that the bill was always intended to contemplate only one levy, subject voter approval and to the 20%/150% limits of Section 2(3). Accordingly, my amendments 1 and 3 on the attached are intended to make that clear.

Finally, I am also recommending a coordination instruction to ensure that the voted levy contemplated under SB 313 will be conducted in conformity with HB 179, which establishes uniform procedures for local governments to follow in conducting voted mill levy elections. House Bill 179 contemplates that voted school levies of the type embodied in SB 313 will be conducted under its new provisions.

The sponsor of SB 313, Senator Thomas, has been advised of and agrees with my amendatory recommendations.

Sincerely,
JUDY MARTZ
Governor

c: Legislative Services Division
Office of Budget Program and Planning
Office of Public Instruction

GOVERNOR'S AMENDMENTS TO SENATE BILL NO. 313

(Reference Bill --2nd Reading/2nd House [Tan])

Drafted by the Office of the Governor

April 19, 2001

1. Page 2, line 12

Following: "BUDGET,"

Insert: "contingent upon voter approval of a levy under subsection (6) and"

2. Page 2, line 19

Following: second "and"

Strike: "SUBJECT TO 15-10-420,"

3. Page 2, lines 24 and 25

Following: "subsection (2)"

Strike: "and the amount levied pursuant to subsection (4)"

4. Page 3, line 3

Following: first "levy."

Strike: "Upon approval by the electors, any additional levy increasing the amount approved by the electors is subject to the provisions of 15-10-420."

Insert: "Notwithstanding any other provision of law, the levy under subsection (6) is subject to 15-10-420."

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5. Page 5, following line 27

Insert: "**NEW SECTION. Section 3. Coordination instruction.** If House Bill No. 179 is passed and approved, then [Section 2(6) of this act] shall read as follows:

~~"(6) In addition to the funds received pursuant to subsection (2) and the amount levied pursuant to subsection (4), the trustees of a school district may submit a proposition to the qualified electors of the district to approve an additional levy to fund the depreciation of technological equipment authorized under this section. The election must be called and conducted in the manner prescribed by this title for school elections and in the manner prescribed by [Section 1 of House Bill No. 179]. The ballot for a proposition must provide for and against provisions stating whether the trustees are authorized to impose a levy of (state the approximate number of mills and dollars) dollars and (state the approximate number of mills) mills and dollars to fund the depreciation of technological equipment in the school district"~~

April 19, 2001

The Honorable Tom Beck
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Dan McGee
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Beck and Speaker McGee:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments **Senate Bill 442**, "AN ACT CREATING A REVOLVING FUND FOR LOANS FOR LOW-INCOME FAMILIES, USING TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT FUNDS" for the following reasons.

I have no concerns with the objectives of SB 442 or with its specific provisions. As you know, the bill creates a revolving loan account in the Department of Public Health and Human Services [DPHHS] to provide loans to individuals eligible for TANF-funded programs for various purposes, including job training expenses, weatherization/energy conservation work on homes, business start-up costs, etc.

I would, however, recommend that the current language in Section 1(2) of the bill mandating that DPHHS access TANF funds for purposes of the program be amended to allow the Department the discretion to make the threshold determination as to the viability of the program. That objective can be accomplished by simply changing the word "must" to "may", which I've proposed in the attached amendment. That change will afford DPHHS the flexibility to determine whether there is in fact a demand for this type of program before having to access the TANF funds.

The sponsor of SB 442, Senator Cobb, has been advised of my amendatory recommendation and it is my understanding that he has no objection.

Sincerely,
JUDY MARTZ

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Governor

c: Legislative Services Division
Office of Budget Program and Planning
Department of Public Health and Human Services

GOVERNOR'S AMENDMENTS TO SENATE BILL NO. 442

(Reference Bill as Amended)

Drafted by the Office of the Governor

April 19, 2001

1. Page 1, line 12

Following: "department"

Strike: "shall"

Insert: "may"

MOTIONS

HB 226 - Senator Elliott moved that he be allowed to change his vote on **HB 226**, from nay to yea on third reading the previous legislative day. Upon objection, motion denied by President Beck.

HB 573 - Senator Butcher moved that he be allowed to change his vote on **HB 573**, second reading the previous legislative day, from nay to yea. Motion carried.

SB 437 - Senator Cole moved that the rules of the Senate be suspended to allow the Senate to reconsider action on House amendments to SB 437. Motion carried as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Elliott, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Wells, Zook, Mr. President.

Total 43

Nays: Doherty, Ellingson, Franklin, Ryan, Toole, Waterman.

Total 6

Absent or not voting: McNutt.

Total 1

Excused: None.

Total 0

SB 437 - Senator Cole moved that the Senate **reconsider its action** in rejecting the House amendments to **SB 437** on day seventy-six, April 4, 2001, and that the House amendments to **SB 437** be placed on second reading this legislative day. Motion carried unanimously.

Senator Doherty excused at this time.

SECOND READING OF BILLS

SENATE JOURNAL
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(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 Hargrove in the chair.

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

HB 600 - Free Conference Committee Report No. 1 - Senator Cole moved the Free Conference Committee report to **HB 600** be adopted. Motion carried unanimously.

HB 625 - Conference Committee Report No. 1 - Senator Glaser moved the Conference Committee report to **HB 625** be adopted. Motion carried as follows:

Yeas: Bohlinger, Christiaens, Cobb, Cocchiarella, DePratu, Ekegren, Ellingson, Franklin, Glaser, Halligan, Holden, Jergeson, Johnson, Mahlum, McNutt, Mohl, Pease, Roush, Ryan, Shea, Sprague, Stonington, Taylor, Tester, Thomas, Wells, Zook.

Total 27

Nays: Berry, Bishop, Butcher, Cole, Crismore, Elliott, Ellis, Grimes, Grosfield, Hargrove, Harrington, Keenan, Kitzenberg, McCarthy, Miller, Nelson, O'Neil, Stapleton, Tash, Toole, Waterman, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: Doherty.

Total 1

HB 637 - Free Conference Committee Report No. 1 - Senator Grimes moved the Free Conference Committee report to **HB 637** be adopted. Motion carried unanimously.

HB 645 - Free Conference Committee Report No. 1 - Senator McNutt moved the Free Conference Committee report to **HB 645** be adopted. Motion carried unanimously.

SB 19 - Free Conference Committee Report No. 1 - Senator Halligan moved the Free Conference Committee report to **SB 19** be adopted. Motion carried with Senator K. Miller voting nay.

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

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 142**

SENATE JOURNAL
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Report No. 2, April 20, 2001

Mr. Speaker and Mr. President:

We, your **Free** Conference Committee on **House Bill 142**, met April 20, 2001, and considered:

1. Senate Committee on Fish and Game amendments to third reading copy, dated March 9, 2001.

We recommend that **House Bill 142** (reference copy – salmon) be amended as follows:

1. Title, line 7.

Following: "~~REGION 1~~"

Insert: "IN ADMINISTRATIVE REGION 1"

2. Page 1.

Following: line 8

Insert: "WHEREAS, the Legislature finds that there are unique and special circumstances associated with lion hunting in Region 1 that have created intense hunting pressure, competition, and biological management problems that are unacceptable to the general public."

3. Page 2, line 22.

Following: "~~REGION 1~~"

Insert: "in the administrative region designated by the department as region 1"

4. Page 2, line 24.

Following: "~~REGION 1~~"

Insert: "in the administrative region designated by the department as region 1"

5. Page 2, lines 26 and 27.

Strike: "Rules" on line 26 through "." on line 27

6. Page 4, line 10.

Following: "~~REGION 1~~"

Insert: "in the administrative region designated by the department as region 1"

7. Page 4, line 12.

Following: "~~REGION 1~~"

Insert: "in the administrative region designated by the department as region 1"

8. Page 4, lines 14 and 15.

Strike: "Rules" on line 14 through "." on line 15

For the House:

Fuchs, Vice Chairman
Laszloffy
P. Clark

For the Senate:

Crismore, Chairman
Ekegren
Roush

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FREE CONFERENCE COMMITTEE
on **House Bill 573**
Report No. 2, April 20, 2001

Mr. Speaker and Mr. President:

We, your **Free** Conference Committee on **House Bill 573**, met April 20, 2001, and considered:

1. Senate Committee on Natural Resources amendments to third reading copy, dated March 29, 2001; and
2. Senate Committee of the Whole amendments to second house, second reading copy, dated March 30, 2001.

We recommend that **House Bill 573** (reference copy – salmon) be amended as follows:

1. Title, line 5 through line 6.

Strike: "THE" on line 5 through "WELLS" on line 6

Insert: "COAL BED METHANE WELLS THAT INVOLVE PRODUCTION OF GROUND WATER;
PROVIDING THAT CERTAIN MANAGEMENT PRACTICES FOR GROUND WATER PRODUCED
IN ASSOCIATION WITH A COAL BED METHANE WELL MAY NOT BE CONSTRUED AS
WASTE; AMENDING SECTION 85-2-505, MCA"

Strike: "A" through "DATE" on line 6

Insert: "EFFECTIVE DATES"

2. Page 1, line 10.

Strike: "4"

Insert: "3"

3. Page 1, line 13 through line 15.

Strike: "the" on line 13 through the second "development" on line 15

Insert: "a delay in the development of certain coal bed methane wells"

4. Page 1, line 20 through line 24.

Strike: subsection (3) in its entirety

Renumber: subsequent subsection

5. Page 1, line 25.

Following: "legislature"

Insert: "further"

6. Page 2, line 7.

Following: "program"

Insert: "and [section 4]"

7. Page 2, line 13 through line 18.

Strike: "authorized" on line 13 through "2" on line 18

Insert: "that involve the production of ground water must comply with this section"

8. Page 2, line 20.

Strike: "The" through "ground"

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Insert: "Ground"
Strike: "the development of"

9. Page 2, line 23.

Following: "3"
Strike: ", if" through "PURPOSE"

10. Page 2, line 27 through line 28.

Strike: "rules" through "82-11-111"
Insert: "applicable law"

11. Page 2, line 30.

Strike: "75-5-401"
Insert: "Title 75, chapter 5"

12. Page 3, line 1.

Strike: "DISPOSAL"
Strike: "AS PROVIDED"
Insert: "allowed"

13. Page 3.

Following: line 1

Insert: "(3) (a) Prior to the development of a coal bed methane well that involves the production of ground water from an aquifer that is a source of supply for appropriation rights or permits to appropriate under this chapter, the developer of the coal bed methane well shall notify and offer a reasonable mitigation agreement to each appropriation of water who holds an appropriation right or a permit to appropriate under this chapter that is for ground water and for which the point of diversion is within:

(i) 1 mile of the coal bed methane well; or

(ii) one-half mile of a well that is adversely affected by the coal bed methane well.

(b) The mitigation agreement must address the reduction or loss of water resources and must provide for prompt supplementation or replacement of water from any natural spring or water well adversely affected by the coal bed methane well. The mitigation agreement is not required to address a loss of water well productivity that does not result from a reduction in the amount of available water because of production of ground water from the coal bed methane well."

Insert: "**Section 5.** Section 85-2-505, MCA, is amended to read:

"85-2-505. Waste and contamination of ground water prohibited. (1) No ground water may be wasted. The department shall require all wells producing waters ~~which~~ that contaminate other waters to be plugged or capped. It shall also require all flowing wells to be so capped or equipped with valves that the flow of water can be stopped when the water is not being put to beneficial use. Likewise, both flowing and nonflowing wells ~~shall~~ must be so constructed and maintained as to prevent the waste, contamination, or pollution of ground water through leaky casings, pipes, fittings, valves, or pumps either above or below the land surface, ~~provided, however,~~ However, in the following cases the withdrawal or use of ground water ~~shall~~ may not be construed as waste under this part:

(a) the withdrawal of reasonable quantities of ground water in connection with the construction, development, testing, or repair of a well or other means of withdrawal of ground water;

(b) the inadvertent loss of ground water owing to breakage of a pump, valve, pipe, or fitting, if reasonable diligence is shown by the person in effecting the necessary repair;

(c) the disposal of ground water without further beneficial use that must be withdrawn for the sole purpose of improving or preserving the utility of land by draining the same or that must be removed from a mine to

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permit mining operations or to preserve the mine in good condition;

(d) the disposal of ground water used in connection with producing, reducing, smelting, and milling metallic ores and industrial minerals or that displaced from an aquifer by the storage of other mineral resources; and

(e) the management, discharge, or reinjection of ground water produced in association with a coal bed methane well in accordance with [section 4(2)(b) through (2)(d)].

(2) The department at any time may hold a hearing on its own motion or upon petition signed by a representative body of users of ground water in any area or subarea to determine whether the water supply within ~~such~~ that area or subarea is used in compliance with this part."

Renumber: subsequent sections

14. Page 3, line 3.

Following: "Notification to"

Insert: "federal and"

15. Page 3, line 4.

Strike: "and"

Insert: ", "

16. Page 3, line 5.

Following: "Chippewa"

Insert: ", and to the U.S. secretary of the interior"

17. Page 3, line 7.

Following: "instruction."

Insert: "(1)"

Strike: "4"

Insert: "3"

18. Page 3, line 9.

Strike: "4"

Insert: "3"

Following: line 9

Insert: "(2) [Section 4] is intended to be codified as an integral part of Title 85, chapter 2, part 5, and the provisions of Title 85, chapter 2, part 5, apply to [section 4]."

19. Page 3.

Following: line 9

Insert: "NEW SECTION. Section 8. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Renumber: subsequent section

20. Page 3, line 11.

Strike: "CONTINGENT" through "date"

Insert: "Effective dates -- contingency"

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

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21. Page 3, line 12.

Following: "~~2002~~"

Insert: "on passage and approval.

(2) [Section 3] is effective"

For the House:

Bales, Vice Chairman

Olson

Matthews (Unsigned)

For the Senate:

Cole, Chairman

Crismore

Roush

SPECIAL ORDERS OF THE DAY

**A PROCLAMATION OF THE SENATE AND THE HOUSE OF
REPRESENTATIVES OF THE STATE OF MONTANA**

WHEREAS, Gary Cooper was born Frank James Cooper in Helena, Montana on May 7th, 1901, and his father Charles was an attorney and a Montana Supreme Court Justice; and Gary spent many years of his childhood on the Seven-Bar-Nine, a 600-acre ranch near Craig, Montana where he learned to ride; and

WHEREAS, Gary Cooper was a budding artist and had his political cartoons published in the Helena Independent newspaper in 1924; and

WHEREAS, Gary Cooper appeared in many western movies, including The Hanging Tree which is based on Montana author Dorothy Johnson's book of the same name; and

WHEREAS, Gary Cooper became an internationally known movie star, acting in over 100 films, including over 20 Westerns, portraying a pioneer, a cowboy, a doughboy, a legionnaire, a pilot, an idealist, and an athlete, all with the same strength and grace; and he won two Academy Awards for his work in Sergeant York (1941) and High Noon (1952), in addition to an honorary Oscar in 1961; and

WHEREAS, Gary Cooper portrayed the quintessential American silent hero—the honest, courageous man who epitomized his Western heritage; and

WHEREAS, Gary Cooper was named honorary governor of Montana in 1949 by Governor John Bonner; and

WHEREAS, Gary Cooper was named an honorary member of the Blackfoot tribe in 1957 and given the name Eagle Cloud; and

WHEREAS, Gary Cooper was chosen to be among the first nine honorees in the Montana State Legislature's "Gallery of Outstanding Montanans"; and

WHEREAS, the Montana Historical Society, the Myrna Loy Center for the Arts, and Downtown Helena, Inc., have planned a day-long celebration to commemorate the 100th anniversary of his birth.

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF
REPRESENTATIVES OF THE STATE OF MONTANA:**

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That May 5, 2001 be declared "Gary Cooper Day" across the state of Montana in recognition of the 100th anniversary of his birth.

TOM BECK
Senate President

DAN MCGEE
Speaker of the House

STEVE DOHERTY
Senate Minority Leader
Leader

KIM GILLAN
House Minority

MOTIONS

HB 625 - Senator Taylor moved he be allowed to change his vote on **HB 625**, Conference Committee, second reading this day, from nay to yea. Motion carried.

Majority Leader Thomas moved that the Senate stand in recess until the hour of 3:15 p.m. this legislative day. Motion carried.

Senate recessed at 12:06 p.m.

Senate reconvened at 4:04 p.m.

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

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman):

4/20/2001

Correctly printed: SR 24, SR 25.

Correctly enrolled: SB 48, SB 135, SB 151, SB 185, SB 327, SB 423, SB 427, SB 441, SB 457, SB 514, SJR 21, SJR 22.

Examined by the sponsor and found to be correct: SB 28, SB 135, SB 151, SB 185, SB 327, SB 423, SB 427, SB 441, SB 457, SB 514, SJR 21, SJR 22.

Signed by the Speaker at 9:55 a.m., April 20, 2001: SB 65, SB 129, SB 348, SB 394, SB 445, SB 483, SB 510.

Signed by the Secretary of Senate at 11:45 a.m., April 20, 2001: SB 65, SB 129, SB 348, SB 394, SB 445, SB 483, SB 510.

Signed by the President at 6:51 p.m., April 20, 2001: SB 28, SB 135, SB 151, SB 185, SB 327, SB 423, SB 427, SB 441, SB 457, SB 514, SJR 21, SJR 22.

Delivered to the Secretary of State at 12:40 p.m., April 20, 2001: SR 23.

Delivered to the Governor for approval at 10:00 a.m., April 20, 2001: SB 80, SB 168, SB 191, SB 258, SB 263, SB 264, SB 281, SB 303, SB 315, SB 346, SB 350, SB 376, SB 393, SB 484.

Delivered to the Governor for approval at 12:20 p.m., April 20, 2001: SB 65, SB 129, SB 348, SB 394, SB 445, SB 483, SB 510.

MESSAGES FROM THE GOVERNOR

April 19, 2001

The Honorable Tom Beck

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President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Beck:

Please be informed that I have signed **Senate Bill 245** sponsored by Senator R. Holden, **Senate Bill 253** sponsored by Senator Cocchiarella, **Senate Bill 286** sponsored by Senator Stonington, and **Senate Bill 405** sponsored by Senator Jergeson on April 19, 2001.

Sincerely,
JUDY MARTZ
Governor

April 20, 2001

The Honorable Tom Beck
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Beck:

Please be informed that I have signed **Senate Bill 3** sponsored by Senator Kitzenberg, **Senate Bill 104** sponsored by Senator Sprague, **Senate Bill 138** sponsored by Senator Nelson, **Senate Bill 203** sponsored by Senator Cole, **Senate Bill 241** sponsored by Senator J. Wells, **Senate Bill 279** sponsored by Senator McNutt, **Senate Bill 305** sponsored by Senator Cocchiarella, **Senate Bill 319** sponsored by Senator Cole, **Senate Bill 373** sponsored by Senator Halligan, **Senate Bill 377** sponsored by Senator Grimes, and **Senate Bill 408** sponsored by Senator McCarthy on April 20, 2001.

Sincerely,
JUDY MARTZ
Governor

April 20, 2001

The Honorable Tom Beck
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Beck:

Please be informed that I have signed **Senate Bill 50** sponsored by Senator Waterman, **Senate Bill 132** sponsored by Senator Halligan, **Senate Bill 152** sponsored by Senator Mahlum, **Senate Bill 167** sponsored by Senator Stonington, **Senate Bill 170** sponsored by Senator Halligan, **Senate Bill 197** sponsored by Senator Tester, **Senate Bill 204** sponsored by Senator Cobb, **Senate Bill 210** sponsored by Senator Waterman, **Senate Bill 221** sponsored by Senator R. Johnson, **Senate Bill 229** sponsored by Senator Cocchiarella, **Senate Bill 300** sponsored by Senator

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R. Holden, **Senate Bill 340** sponsored by Senator Berry, **Senate Bill 357** sponsored by Senator Ryan, **Senate Bill 358** sponsored by Senator DePratu, and **Senate Bill 360** sponsored by Senator Waterman on April 20, 2001.

Sincerely,
JUDY MARTZ
Governor

April 20, 2001

The Honorable Tom Beck
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Dan McGee
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Beck and Speaker McGee:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments **Senate Bill 77**, "AN ACT GENERALLY REVISING THE LAWS GOVERNING PUBLIC ASSISTANCE"; etc., for the following reasons.

With the exception of one specific provision, I have no concerns with the objectives or contents of SB 77, which generally revises our public assistance laws. I do, however, disagree with that discrete provision in Section 22 that extends, under certain conditions, public assistance eligibility to individuals who have been convicted of a felony involving controlled substances, as that term is defined by federal law. I recommend that specific provision be stricken from SB 77 and that the current prohibition against such an extension of eligibility remain in place. I have attached my amendment to that effect.

The sponsor of SB 77, Senator Hargrove, has been advised of my amendatory recommendations.

Sincerely,
JUDY MARTZ
Governor

c: Legislative Services Division
Office of Budget Program and Planning
Department of Public Health and Human Services

GOVERNOR'S AMENDMENTS TO SENATE BILL NO. 77
(Reference Bill -- 2nd House/2nd Reading [Tan])
Drafted by the Office of the Governor
April 20, 2001

1. Page 27, lines 16 through 25

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Strike: Subsection (3) in its entirety
Renumber: subsequent subsections

2. Page 28, line 15

Following: "608;"

Strike: "and"

3. Page 28, line 21.

Following: "~~802(6).~~"

Insert: "(j) an individual convicted after August 22, 1996, of any offense that is classified as a felony and that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6)."

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

Session II

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

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

Senator Stonington excused at this time.

SB 242 - Free Conference Committee Report No. 2 - Senator K. Miller moved the Free Conference Committee report to **SB 242** be adopted. Motion carried as follows:

Yeas: Berry, Butcher, Crismore, DePratu, Elliott, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Keenan, Mahlum, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.
Total 25

Nays: Bishop, Bohlinger, Christiaens, Cobb, Cocchiarella, Cole, Ekegren, Ellingson, Franklin, Halligan, Harrington, Jergeson, Johnson, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Tester, Toole, Waterman.
Total 23

Absent or not voting: None.
Total 0

Excused: Doherty, Stonington.
Total 2

Senator Cobb excused at this time.
Senator Stonington present at this time.

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SB 386 - Free Conference Committee Report No. 1 - Senator Waterman moved the Free Conference Committee report to **SB 386** be adopted. Motion carried unanimously.

HB 146 - Free Conference Committee Report No. 1 - Senator Grimes moved the Free Conference Committee report to **HB 146** be adopted. Motion carried unanimously.

SB 521 - Senator Beck moved consideration of **SB 521** be placed below SB 176 on the second reading board. Motion carried.

SB 4 - House Amendments - Senator Grimes moved House amendments to **SB 4** be concurred in. Motion carried with Senators Cocchiarella, Ellingson, and Toole voting nay.

SB 432 - Free Conference Committee Report No. 2 - Senator Taylor moved the Free Conference Committee report to **SB 432** be adopted. Motion carried as follows:

Yeas: Berry, Bohlinger, Butcher, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harrington, Holden, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, O'Neil, Shea, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.
Total 31

Nays: Bishop, Christiaens, Ellingson, Elliott, Franklin, Halligan, Jergeson, Johnson, McCarthy, Nelson, Pease, Roush, Ryan, Stonington, Tester, Toole, Waterman.
Total 17

Absent or not voting: None.
Total 0

Excused: Cobb, Doherty.
Total 2

SB 436 - Governor's Amendments - Senator Ellis moved Governor's amendments to **SB 436** be concurred in. Motion carried unanimously.

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

MOTIONS

Majority Leader Thomas moved that the Senate stand in recess until the hour of 6:25 p.m. this legislative day. Motion carried.

Senate recessed at 6:04 p.m.

Senate reconvened at 6:30 p.m.

Roll Call. All members present except Senators Cobb and Doherty, excused. Quorum present.

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MESSAGES FROM THE GOVERNOR

April 20, 2001

The Honorable Tom Beck
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Beck:

Please be informed that I have signed **Senate Bill 31** sponsored by Senator Berry, **Senate Bill 51** sponsored by Senator Hargrove, **Senate Bill 60** sponsored by Senator McCarthy, **Senate Bill 96** sponsored by Senator Mahlum, **Senate Bill 130** sponsored by Senator F. Thomas, **Senate Bill 289** sponsored by Senator Tester, **Senate Bill 431** sponsored by Senator Stonington, **Senate Bill 443** sponsored by Senator Butcher, and **Senate Bill 459** sponsored by Senator Franklin on April 20, 2001.

Sincerely,
JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

Governor's amendments to Senate bills concurred in and returned to the Senate: 4/20/2001

SB 82, introduced by Keenan
SB 274, introduced by Keenan
SB 494, introduced by Cobb

Senate amendments to House bill concurred in: 4/20/2001

HB 554, introduced by Sliter

Conference committee report #1 adopted: 4/20/2001

HB 226, introduced by Bales
HB 290, introduced by Waddill
HB 359, introduced by P. Clark
HB 360, introduced by P. Clark
HB 625, introduced by Musgrove
HB 644, introduced by Pattison

Free conference committee report #1 adopted: 4/20/2001

SB 19, introduced by Halligan
SB 322, introduced by Shea
SB 386, introduced by Waterman
SB 398, introduced by K. Miller

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SB 521, introduced by Doherty
HB 41, introduced by Witt
HB 124, introduced by Story
HB 146, introduced by Shockley
HB 208, introduced by Harris
HB 600, introduced by Bookout-Reinicke

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

Session III

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

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

HB 247 - Governor's Amendments - Senator Cole moved Governor's amendments to **HB 247** be concurred in. Motion carried unanimously.

SB 176 - Free Conference Committee Report No. 1 - Senator Grosfield moved the Free Conference Committee report to **SB 176** be adopted. Motion carried unanimously.

SB 521 - Free Conference Committee Report No. 1 - Senator McNutt moved the Free Conference Committee report to **SB 521** be adopted. Motion carried as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.

Total 30

Nays: Christiaens, Cocchiarella, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.

Total 18

Absent or not voting: None.

Total 0

Excused: Cobb, Doherty.

Total 2

SB 506 - Free Conference Committee Report No. 1 - Senator Halligan moved the Free Conference Committee report to **SB 506** be adopted. Motion carried unanimously.

SB 179 - Governor's Amendments - Senator Zook moved Governor's amendments to **SB 179** be concurred in. Motion carried unanimously.

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SB 282 - Governor's Amendments - Senator Crismore moved Governor's amendments to **SB 282** be concurred in. Motion carried unanimously.

SB 313 - Governor's Amendments - Senator F. Thomas moved Governor's amendments to **SB 313** be concurred in. Motion carried unanimously.

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

SPECIAL ORDERS OF THE DAY

SR 7 - Senator Franklin moved that **SR 7** concurring in, confirming, and consenting to the nominations and appointments made by the Governor and submitted to the Senate of Ms. Deborah Wetsit and Ms. Jessica Kobos as members of the Board of Regents of Higher Education be adopted and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb, Doherty.
Total 2

SR 25 - Senator Franklin moved that **SR 25** concurring in, confirming and consenting to the nomination and appointment made by the Governor and submitted to the Senate of Mr. Mark Semmens as a member of the Board of Regents of Higher Education be adopted and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cocchiarella, Cole, Crismore, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Toole, Waterman, Zook.
Total 44

Nays: DePratu, O'Neil, Thomas, Wells, Mr. President.
Total 5

Paired: Doherty, Aye; O'Neil, No.

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Absent or not voting: None.

Excused: Cobb.

Total 1

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on House Bill 2

Report No. 1, April 20, 2001

Mr. Speaker and Mr. President:

We, your **Free** Conference Committee on **House Bill 2**, met and considered (reference copy – salmon) and recommend this **Free** Conference Committee report be adopted.

We recommend that **House Bill 2** (reference copy – salmon) be amended as follows:

1. Page BP-2, line 14.

Following: "**REDUCTION.**"

Strike: "(1)"

2. Page BP-2, line 15.

Following: "**MONTHS**"

Insert: "and that are not seasonal, already filled, or newly classified"

3. Page BP-2, line 18.

Strike: "120.62"

Insert: "49.27"

4. Page BP-2, line 19.

Strike: "19.28"

Insert: "2.03"

5. Page BP-2, line 20.

Strike: "3.34"

Insert: "4.84"

6. Page BP-2, line 21.

Strike: "42.61"

Insert: "19.26"

7. Page BP-2, line 22.

Strike: "13.29"

Insert: "5.02"

8. Page BP-2, line 23.

Strike: "17.75"

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Insert: "7.75"

9. Page BP-2, line 24.

Strike: "2.00"

Insert: "1.00"

10. Page BP-2, line 25.

Strike: "13.15"

Insert: "9.27"

11. Page BP-3, line 1.

Strike: "10.61"

Insert: "1.00"

12. Page BP-3, line 2.

Strike: "16.00"

Insert: "2.00"

13. Page BP-3, line 3.

Strike: "5.25"

Insert: "4.00"

14. Page BP-3, line 4.

Strike: "1.50"

Insert: "0.50"

15. Page BP-3, line 5.

Strike: "31.30"

Insert: "0.65"

16. Page BP-3, line 6.

Strike: "10.25"

Insert: "7.25"

17. Page BP-3, line 7.

Strike: line 7 in its entirety

18. Page BP-3, line 8.

Strike: "1.50"

Insert: "1.00"

19. Page BP-3, line 9 through line 12.

Strike: subsection (2) in its entirety

20. Page BP-3.

Strike: line 17 through line 22 in their entirety

Renumber: subsequent sections

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21. Page BP-4, following line 10.

Insert: "NEW SECTION. Section 12. Accruals analysis -- 2005 biennium. The legislative fiscal division shall include an analysis of accruals for budget base year fiscal year 2002 and shall include a summary table and narrative in the Legislative Fiscal Division 2005 Biennium Budget Analysis that provides a listing by agency of total accruals and the amount that is recommended to be removed from the base budget."

Insert: "NEW SECTION. Section 13. Energy costs reserve. A total of \$3.2 million must be set aside in the general fund for contingencies related to cost increases in electricity and natural gas expenditures by state government significantly above the amounts appropriated for this purpose in [this act] or to support litigation to secure affordable electricity or natural gas. The amount is classified as unreserved, designated general fund balance."

Renumber: subsequent sections

22. Page A-1, following line 8.

Insert: "a. Health Care Access (Biennial/OTO)
29,403" [General Fund FY02]
"b. Northwest River Governance (Biennial/OTO)
10,000" [General Fund FY02]

23. Page A-1, following line 10.

Insert: "a. Legislative Finance Committee Interim Studies (Restricted/Biennial)
19,000" [General Fund FY02]

24. Page A-2, line 2.

Strike: "1,106,011 1,108,068" [State Special Revenue FY02 and FY03]
Insert: "1,006,011 1,008,068" [State Special Revenue FY02 and FY03]

25. Page A-2.

Following: line 2

Insert: "a. Caseload Contingency Fund (Restricted)
200,000 200,000" [State Special Revenue FY02 and FY03]

26. Page A-2, line 11.

Strike: "2,860,201 2,875,865" [General Fund FY02 and FY03]
Insert: "2,988,085 3,005,436" [General Fund FY02 and FY03]

Strike: "183,725 183,725" [Federal Funds FY02 and FY03]

Insert: "363,725 363,725" [Federal Funds FY02 and FY03]

27. Page A-2, line 16.

Strike: "82,182 82,182" [General Fund FY02 and FY03]

Insert: "50,000 50,000" [General Funds FY02 and FY03]

Strike: "190,000" [Federal Funds FY02]

Insert: "100,000" [Federal Funds FY02]

28. Page A-2, following line 22.

Insert: "a. SB 282 -- Asbestos Court
190,157 186,157 [General Fund FY02 and FY03]
b. District Court Judges for Ravalli and Cascade Counties

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129,000 [General Fund FY03]
c. State Assumption of District Courts (Restricted/Biennial)
800,500"[General Fund in FY02]

29. Page A-3.

Following: line 13

Insert: "Item 4a contains general fund money for an asbestos court. If federal funds are received for the purpose of funding a court to manage asbestos cases, the general fund appropriation in item 4a is reduced by a like amount.

Item 4b is contingent upon passage and approval of House Bill No. 214.

Item 4c is contingent upon passage and approval of House Bill No. 124."

30. Page A-3, line 22.

Strike: "0 0" [Federal Special Revenue FY02 and FY03]

Insert: "29,605 30,104" [Federal Special Revenue FY02 and FY03]

31. Page A-3, line 24.

Strike: "1,173,706 1,176,439" [General Fund FY02 and FY03]

Insert: "1,234,434 1,237,063" [General Fund FY02 and FY03]

32. Page A-4.

Following: line 1

Insert: "b. Extradition and Transportation of Prisoners

177,724 178,936 [General Fund FY02 and FY03]

c. Consensus Council Matching Funds for Grants (Biennial/OTO)

75,000 75,000 [General fund FY 02 and FY 03]

d. Flathead Basin Commission -- Flathead Valley Ground Water Quality Assessment (OTO)

99,992 [Federal Special Revenue FY02]

e. Office of Economic Development

850,000 850,000" [General Fund FY02 and FY03]

33. Page A-4, line 13.

Strike: "3,299,912"

Insert: "0"

34. Page A-4, line 23.

Strike: "261,307 258,196" [General Fund FY02 and FY03]

Insert: "200,579 197,572" [General Fund FY02 and FY03]

Strike: "0 0" [State Special Revenue FY02 and FY03]

Insert: "7,200 7,200" [State Special Revenue FY02 and FY03]

35. Page A-4, line 25.

Strike: "29,605 30,104" [Federal Special Revenue FY02 and FY03]

36. Page A-5.

Following: line 13

Insert: "General fund money up to \$51,000 for the 2003 biennium in item 1b not used for the extradition and

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transportation of prisoners may be used to purchase vans for county sheriffs and peace officers to transport prisoners.

The legislature recognizes that the cost for extradition and transportation of prisoners is dependent upon factors beyond the control of the agency and may exceed the appropriation provided. In that event, the agency will need to request a supplemental appropriation from the 2003 legislature to provide required extradition and transportation of prisoners.

Item 1b and the accompanying language are contingent upon passage and approval of Senate Bill No. 328.

If Senate Bill No. 445 is not passed and approved, the appropriation in item 1e is void and the appropriation in item 4c is increased by \$1,700,000 in general fund money in fiscal year 2002."

37. Page A-6.

Following: line 20

Insert: "c. SB 373 -- Licensing Captive Insurers (Restricted)

20,000 20,000 [State Special Revenue FY02 an FY03]

d. HB 542 -- Surplus Lines Fees (Restricted)

52,115 49,615" [State Special Revenue FY02 and FY03]

38. Page A-7.

Following: line 12

Insert: "Item 2c is contingent upon passage and approval of Senate Bill No. 373."

39. Page A-7, line 22.

Strike: "~~16,452,584~~ 16,520,894"[State Special Revenue in FY02 and FY03]

Insert: "16,468,534 16,536,844"[State Special Revenue in FY02 and FY03]

40. Page A-8, line 17.

Strike: "748,611 763,054"[State Special Revenue in FY02 and FY03]

Insert: "752,611 767,054"[State Special Revenue in FY02 and FY03]

41. Page A-8, line 19.

Strike: "450,000"[State Special Revenue in FY02]

Insert: "750,000"[State Special Revenue in FY02]

42. Page A-9, following line 4.

Insert: "c. Transportation of Seniors and Persons With Disabilities

171,093 347,318"[State Special Revenue in FY02 and FY03]

43. Page A-9, following line 24.

Insert: "Item 5 includes \$4,000 of state special revenue in fiscal year 2002 and \$4,000 of state special revenue in fiscal year 2003 that are contingent upon passage and approval of House Bill No. 430.

Item 5a includes \$300,000 of state special revenue in fiscal year 2002 that is contingent upon passage and approval of Senate Bill No. 280."

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44. Page A-9, following line 25.

Insert: "Item 6c is contingent upon passage and approval of Senate Bill No. 448."

45. Page A-10, following line 5.

Insert: "b. SB 512 -- Impose Electrical Energy Excess Revenue Tax (Restricted)
123,357 124,856 [General Fund in FY02 and FY03]

c. SB 512 -- Legal and Litigation Expenses (Restricted/Biennial)
150,000 [General Fund in FY02]

d. SB 512 -- Personal Computers and Computer Equipment(Restricted/OTO)
19,000"[General Fund in FY02]

46. Page A-10, line 13.

Strike: "4,273,801 4,295,041"[General Fund FY02 and FY03]

Insert: "3,715,801 3,737,041"[General Fund FY02 and FY03]

Strike: "234,975 225,791"[Proprietary Fund FY02 and FY03]

Insert: "749,075 739,891"[Proprietary Fund FY02 and FY03]

47. Page A-10, line 20.

Strike: "72,644,529 72,725,167"[General Fund in FY02 and FY03]

Insert: "17,710,137 17,790,775"[General Fund in FY02 and FY03]

48. Page A-10, following line 20.

Insert: "a. Salary Upgrades for Auditors (Biennial) 208,144" [General Fund FY02]

b. SB 512 -- Impose Electrical Energy Excess Revenue Tax (Restricted)
193,720 195,845 [General Fund in FY02 and FY03]

c. SB 512 -- Personal Computers(Restricted/OTO) 6,000"[General Fund in FY02]

49. Page A-11, following line 13.

Insert: "Items 1b, 1c, 1d, 5b, and 5c are contingent upon passage and approval of Senate Bill No. 512.

Item 4 includes a reduction of \$558,000 in general fund money in fiscal year 2002 and \$558,000 in fiscal year 2003 and an increase in proprietary funds of \$514,100 in fiscal year 2002 and \$514,100 in fiscal year 2003. These reductions and increases are contingent upon passage and approval of House Bill No. 399."

50. Page A-11, following line 16.

Insert: "Item 5 includes reductions of \$54,934,392 of general fund money in fiscal year 2002 and of \$54,934,392 of general fund money in fiscal year 2003 that are contingent upon passage and approval of House Bill No. 124."

51. Page A-12, line 1.

Strike: "52,052" [General Fund FY02]

Insert: "53,571" [General Fund FY02]

52. Page A-12, following line 5.

Insert: "d. Special Purpose District Reports 28,446[General Fund in FY03]

e. Local Government Services Division 422,204 423,300 [General Fund FY02 and FY03]

f. Consumer Affairs Division 266,248 266,117 [General Fund FY02 and FY03]
74,505 74,503 [State Special FY02 and FY03]

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g. Telemarketing/Lemon Law Programs Fund Switch (Restricted/OTO)
56,354 56,354" [General Fund FY02 and FY03]

53. Page A-12.

Following: line 19

Insert: "6. Banking and Financial Division (14)	1,485,063	1,490,815 [State Special FY02 and FY03]
a. Legislative Audit (Restricted/Biennial)		2,821 [State Special FY02]
7. Montana State Lottery (15)	8,574,656	8,904,330 [Proprietary FY02 and FY03]
a. Legislative Audit (Restricted/Biennial)		8,265 [Proprietary FY02]

 b. Online Terminals (OTO) 345,000" [Proprietary FY02]

Renumber: subsequent subsections

54. Page A-13, line 1.

Strike: "331,812 333,714"

Insert: "273,523 275,231"

55. Page A-13.

Following: line 16

Insert: "Items 1e, 1f, 1g, 6, 6a, 7, 7a, and 7b and \$1,519 of general fund money in fiscal year 2002 in item 1a are contingent upon passage and approval of Senate Bill No. 445. The department is appropriated in each of the fiscal years 2002 and 2003 up to \$500,000 of state special revenue that is deposited in the account established for the purpose of processing charter applications and for the chartering, examination, and regulation of each foreign capital depository that obtains a charter under the provisions of 32-8-205.

The department is appropriated up to \$56,354 in state special revenue authority in each year of the biennium for operations within the telemarketing and lemon law programs and shall seek and use state special revenue received from consumer affairs' settlements as authorized by a district court order to offset and minimize use of the general fund money within the telemarketing and lemon law programs, as provided in 17-2-108. The department shall report to the 2003 legislature on the status and results related to the purchase and placement of additional online terminals funded in item 7b."

56. Page A-13, line 17.

Strike: "6"

Insert: "8"

57. Page A-13, line 22.

Strike: "0"[general fund in FY03]

Insert: "178,901"[General Fund in FY03]

58. Page A-13, line 23.

Strike: "178,901"[State Special Revenue in FY03]

Insert: "0"[State Special Revenue in FY03]

59. Page A-14, following line 2.

Insert: "Item 1 includes an increase of \$178,901 of general fund money in fiscal year 2003 and a reduction of \$178,901 of state special revenue in fiscal year 2003 that are contingent upon passage and approval of House Bill No. 124."

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60. Page B-1, line 4.

Strike: "17,887,271 18,034,422"[General Fund in FY02 and FY03]

Insert: "21,740,259 22,040,543"[General Fund in FY02 and FY03]

Strike: "3,357,733 3,377,316"[State Special Revenue in FY02 and FY03]

Insert: "1,127 1,129"[State Special Revenue in FY02 and FY03]

61. Page B-1, line 6.

Strike: "135,562,099 138,496,958" [Federal Funds FY02 and FY03]

Insert: "135,556,093 138,478,330" [Federal Funds FY02 and FY03]

62. Page B-1, line 9.

Strike: "1,312,497" [Federal Funds FY02]

Insert: "1,331,183" [Federal Funds FY02]

63. Page B-1, line 12.

Strike: "2,466,550" [Federal Funds FY02]

Insert: "2,489,360" [Federal Funds FY02]

64. Page B-1, line 15.

Strike: "1,123,102 1,064,997" [Federal Funds FY02 and FY03]

Insert: "1,139,093 1,116,468" [Federal Funds FY02 and FY03]

65. Page B-1, line 18.

Strike: "829,582" [Federal Funds FY02]

Insert: "841,394" [Federal Funds FY02]

66. Page B-1, line 21.

Strike: "975,979" [Federal Funds FY02]

Insert: "989,875" [Federal Funds FY02]

67. Page B-1, line 24.

Strike: "487,990" [Federal Funds FY02]

Insert: "494,937" [Federal Funds FY02]

68. Page B-2, line 2.

Strike: "1,077,633 1,021,879" [Federal Funds FY02 and FY03]

Insert: "1,092,974 1,071,267" [Federal Funds FY02 and FY03]

69. Page B-2, line 5.

Strike: "620,723" [Federal Funds FY02]

Insert: "629,560" [Federal Funds FY02]

70. Page B-2, line 8.

Strike: "585,588" [Federal Funds FY02]

Insert: "593,924" [Federal Funds FY02]

1. Page B-2, line 11.

Strike: "487,990" [Federal Funds FY02]

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Insert: "494,937" [Federal Funds FY02]

72. Page B-2, line 14.

Strike: "390,392" [Federal Funds FY02]

Insert: "395,950" [Federal Funds FY02]

73. Page B-2, line 17.

Strike: "3,415,928" [Federal Funds FY02]

Insert: "3,464,561" [Federal Funds FY02]

74. Page B-2, line 20.

Strike: "780,784" [Federal Funds FY02]

Insert: "791,899" [Federal Funds FY02]

75. Page B-2, line 23.

Strike: "1,211,727 1,149,036" [Federal Funds FY02 and FY03]

Insert: "1,228,979 1,204,570" [Federal Funds FY02 and FY03]

76. Page B-3, line 1.

Strike: "1,011,115 261,567" [Federal Funds FY02 and FY03]

Insert: "1,025,510 274,209" [Federal Funds FY02 and FY03]

77. Page B-3, line 4.

Strike: "175,676" [Federal Funds FY02]

Insert: "178,178" [Federal Funds FY02]

78. Page B-3, line 7.

Strike: "136,794 129,717" [Federal Funds FY02 and FY03]

Insert: "138,742 135,986" [Federal Funds FY02 and FY03]

79. Page B-3, line 11.

Strike: "1,939,948" [Federal Funds FY02]

Insert: "1,979,874" [Federal Funds FY02]

80. Page B-3, line 14.

Strike: "975,979 462,743" [Federal Funds FY02 and FY03]

Insert: "989,875 485,107" [Federal Funds FY02 and FY03]

81. Page B-3, line 21.

Strike: "487,990 462,742" [Federal Funds FY02 and FY03]

Insert: "494,937 485,108" [Federal Funds FY02 and FY03]

82. Page B-3, line 24 and 25.

Strike: line 24 and line 25 in their entirety

Insert: "v. Children's Trust Fund (Biennial) 250,000 250,000" [Federal Funds FY02 and FY03]

83. Page B-4, line 2.

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Strike: "3,442,032 3,471,984"[state special revenue in FY02 and FY03]
Insert: "1,269,954 1,336,670"[state special revenue in FY02 and FY03]

84. Page B-4, line 3.

Strike: "18,195,626 19,360,361" [General Fund FY02 & FY03]
Insert: "20,339,215 21,541,204" [General Fund FY02 & FY03]
Strike: "24,060,700 24,213,980" [Federal Funds FY02 & FY03]
Insert: "23,954,881 24,109,036" [Federal Funds FY02 & FY03]

85. Page B-4, line 15.

Strike: "538,820 542,713"[General Fund in FY02 and FY03]
Insert: "1,134,318 1,141,783"[General Fund in FY02 and FY03]
Strike: "1,288,540 1,350,933"[State Special Revenue in FY02 and FY03]
Insert: "1,198,077 1,259,907"[State Special Revenue in FY02 and FY03]
Strike: "746,866 751,828"[Federal Funds FY02 and FY03]
Insert: "1,726,992 1,732,421"[Federal Funds FY02 and FY03]

86. Page B-4, line 19.

Strike: "2,666,222 2,680,929" [State Special Revenue FY02 and FY03]
Insert: "2,798,222 2,812,929" [State Special Revenue FY02 and FY03]
Strike: "5,986,365 6,015,763" [Federal Funds FY02 and FY03]
Insert: "6,242,600 6,271,998" [Federal Funds FY02 and FY03]

87. Page B-5, line 4.

Strike: "57,483,855 61,672,929"[General Fund in FY02 and FY03]
Insert: "63,683,731 68,017,693"[General Fund in FY02 and FY03]
Strike: "13,905,743 14,642,885"[State Special - FY02 and FY03]
Insert: "7,188,743 7,780,885"[State Special - FY02 and FY03]
Strike: "232,273,781 247,344,430"[Federal Funds FY02/03]
Insert: "233,165,988 248,236,170"[Federal Funds FY02/03]

88. Page B-5, line 18.

Strike: "100,000" [State Special Revenue FY02]
Insert: "84,010" [General Fund FY02]

89. Page B-5, line 20.

Strike: "1,804,114 1,815,086"[General Fund in FY02 and FY03]
Insert: "2,006,639 2,025,415"[General Fund in FY02 and FY03]
Strike: "423,981 415,382"[State Special Revenue in FY02 and FY03]
Insert: "219,622 209,982"[State Special Revenue in FY02 and FY03]

90. Page B-6, line 1.

Strike: "10,385,987 10,132,250"[General Fund in FY02 and FY03]
Insert: "11,430,755 11,202,569"[General Fund in FY02 and FY03]
Strike: "2,567,695 3,167,089"[State Special Revenue in FY02 and FY03]
Insert: "1,530,252 2,111,463"[State Special Revenue in FY02 and FY03]

91. Page B-6, line 8.

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Strike: "42,106,078 42,219,724"[General Fund in FY02 and FY03]
Insert: "42,100,426 42,214,056"[General Fund in FY02 and FY03]

92. Page B-7, line 3.

Strike: "49,890,155 51,783,923" [General Fund FY02/FY03]
Insert: "49,801,020 51,713,723" [General Fund FY02/FY03]

93. Page B-7.

Following: line 19

Insert: "i. SB 107 -- Teleconferencing During Mental Health Proceedings
7,800 8,190" [General Fund FY02 and FY03]

94. Page B-8, line 8.

Following: "z"

Insert: "The office of budget and program planning may authorize a transfer of appropriation authority from grants or benefits and claims to another category of expenditure under one of the following conditions:
(1) the department certifies to the office of budget and program planning that federal law or regulations require that funds appropriated in grants or benefits and claims must be expended in a different category of expenditure; or
(2) the department certifies to the office of budget and program planning that there will be savings if funds appropriated in grants or benefits and claims are transferred and expended in another category of expenditure.

The office of budget and program planning shall report to the legislative finance committee on transfers approved subject to these two conditions."

95. Page B-8.

Following: line 16

Insert: "The office of budget and program planning may proportionally reduce the funding in items 1a through 1t and item 1v if any of the following conditions exist:
(1) the department certifies to the office of budget and program planning that the balance of unexpended TANF funds on June 30, 2001, is less than \$30 million;
(2) actual or projected cash assistance expenditures are greater than \$24,067,328 in fiscal year 2002 or \$23,763,854 in fiscal year 2003;
(3) the amount of TANF grant funds awarded to Montana by congress is reduced below the level anticipated by the legislature; or
(4) the department certifies to the office of budget and program planning that the reduction is necessary in order to maintain public assistance programs that were supported by federal TANF and state TANF maintenance of effort funds in fiscal year 2001."

96. Page B-8, following line 18.

Insert: "Item 1 includes increases of \$3,852,988 of general fund money in fiscal year 2002 and of \$4,006,121 of general fund money in fiscal year 2003 and reductions of \$3,356,606 of state special revenue in fiscal year 2002 and of \$3,376,187 of state special revenue in fiscal year 2003 that are contingent upon passage and approval of House Bill No. 124.

Funds in item 1 include \$68,422 in fiscal year 2002 and \$69,606 in fiscal year 2003 that the department

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shall use to reimburse the Montana department of corrections, Montana correctional enterprises, for costs incurred to operate the Montana food bank network canning and wild game processing facility."

97. Page B-8, line 20.

Following: "TRIBE"

Insert: "whose reservation lies"

98. Page B-9, line 4.

Strike: line 4 in its entirety

99. Page B-9.

Following: line 4

Insert: "The department shall transfer funds in item 1v to the children's trust fund to fund eligible child abuse and neglect prevention activities."

100. Page B-9

Following: line 15

Insert: "Item 2 includes increases of \$2,206,194 of general fund money in fiscal year 2002 and of \$2,241,893 of general fund money in fiscal year 2003 and reductions of \$2,172,078 of state special revenue in fiscal year 2002 and of \$2,135,314 of state special revenue in fiscal year 2003 that are contingent upon passage and approval of House Bill No. 124."

101. Page B-9.

Following: line 19

Insert: "Item 3 includes \$1,482,291 in fiscal year 2002 and \$1,482,748 in fiscal year 2003 for the tobacco prevention and control program. It is the intent of the legislature that the interagency coordinating council on prevention administer the tobacco control and prevention program.

Item 3 includes increases of \$93,333 of general fund money in fiscal year 2002 and of \$96,915 of general fund money in fiscal year 2003 and reductions of \$90,463 of state special revenue in fiscal year 2002 and of \$91,028 of state special revenue in fiscal year 2003 that are contingent upon passage and approval of House Bill No. 124."

102. Page B-9.

Following: following line 22

Insert: "Items 5, 9, and 10 include appropriations of state special revenue for provider rate increases funded from the interest income on the tobacco settlement trust fund provided for in Article XII, section 4, of the Montana constitution. If the interest income on the tobacco settlement trust fund provided for in Article XII, section 4, of the Montana constitution is insufficient to fully fund the state special revenue appropriations in items 5, 9, and 10, the legislature intends that the department find alternative funding sources to fully fund the provider rate increases. Alternative sources may include but are not limited to enhanced medicaid intergovernmental transfer programs and transfers of general fund money from other appropriations.

Item 5 includes increases of \$6,717,000 of general fund money in fiscal year 2002 and of \$6,862,000 of general fund money in fiscal year 2003 and reductions of \$6,717,000 of state special revenue in fiscal year 2002 and of \$6,862,000 of state special revenue in fiscal year 2003 that are contingent upon passage and approval of

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House Bill No. 124.

The health policy and services division is authorized to pursue up to \$1.5 million in federal special revenue each year of the biennium in item 5 to enhance or improve division services or programs to public schools. This additional federal special revenue may be expended on services by the division as long as those actions do not require or commit the state to additional general fund expenditures beyond the amount appropriated by the legislature to the division."

103. Page B-10.

Following: line 8

Insert: "Item 6 includes increases of \$211,082 of general fund money in fiscal year 2002 and of \$218,916 of general fund money in fiscal year 2003 and reductions of \$204,359 of state special revenue in fiscal year 2002 and of \$205,400 of state special revenue in fiscal year 2003 that are contingent upon passage and approval of House Bill No. 124.

Item 7 includes increases of \$1,044,768 of general fund money in fiscal year 2002 and of \$1,070,319 of general fund money in fiscal year 2003 and reductions of \$1,037,443 of state special revenue in fiscal year 2002 and of \$1,055,626 of state special revenue in fiscal year 2003 that are contingent upon passage and approval of House Bill No. 124."

104. Page C-1.

Following: line 15

Insert: "c. SB 285 -- Revise Conservation License Laws (OTO)
802,000" [State Special FY03]

105. Page C-1.

Following: line 24

Insert: "d. Echo Lake Fish Planting (OTO)
7,500 7,500 [State Special FY02 and FY03]
22,500 22,500" [Federal Special FY02 and FY03]

106. Page C-2.

Following: line 6

Insert: "c. HB 419 -- Create Natural Resources Enforcement Program in Attorney General's Office
41,600 41,600" [State Special FY02 and FY03]

107. Page C-5.

Following: line 8

Insert: "Item 4c is contingent upon passage and approval of House Bill No. 419."

108. Page C-7.

Following: line 4

Insert: "d. Flathead Lake Biological Monitoring Station
100,000" [Federal Special Revenue FY02]
e. SB 506 -- Alternative Energy Revolving Loan Account
60,000 60,000" [State Special FY02 and FY03]

109. Page C-8, lines 18 and 19.

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Strike: line 18 and line 19 in their entirety

Insert: "g. SB 449 -- Environmental Rehabilitation and Response (Restricted/Biennial)
125,000" [State Special FY02]

110. Page C-9.

Following: line 6

Insert: "n. SB 484 -- Hard-Rock Mining Reclamation, Operation, and Maintenance (Restricted/Biennial)
4,000,000 [State Special FY02]

o. SB 167 -- Sanitation in Subdivision Grants to Counties (Restricted)
204,000 204,000" [State Special FY02 and FY03]

111. Page C-9.

Following: line 13

Insert: "Item 2d is contingent upon receipt of environmental protection agency 104b(3) ecosystem protection grant funds for the purposes of water quality monitoring and assessment activities. Upon receipt, the department shall contract with the Flathead Lake biological monitoring station for up to \$100,000 of these funds in support of department priority total maximum daily load monitoring and assessment projects.

Item 2e is contingent upon passage and approval of Senate Bill No. 506. The funds appropriated in item 2d are from the alternative energy revolving loan account created in Senate Bill No. 506. The funding must be spent for administration of the loan program subject to restrictions provided in Senate Bill No. 506."

112. Page C-9.

Following: line 24

Insert: "Item 5g is contingent upon passage and approval of Senate Bill No. 449."

113. Page C-10.

Following: line 4

Insert: "Item 5n is contingent upon passage and approval of Senate Bill No. 484.
Item 5o is contingent upon passage and approval of Senate Bill No. 167."

114. Page C-10.

Following: line 15

Insert: "c. Board of Horseracing 237,913 241,877 [State Special FY02 and FY03]
d. Legislative Audit -- Board of Horseracing (Restricted/Biennial) 450"
[State Special FY02]

115. Page C-12.

Following: line 9

Insert: "Items 1c and 1d are contingent upon passage and approval of Senate Bill No. 445."

116. Page C-12, line 19.

Following: "Restricted"

Strike: "OTO"

117. Page C-13, line 9.

Strike: "150,000" [General Fund FY02]

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Insert: "140,000" [General Fund FY02]

118. Page C-14, line 2.

Strike: "1,078,253 1,051,340" [State Special FY02 and FY03]

Insert: "1,016,253 1,019,340" [State Special FY02 and FY03]

119. Page C-14.

Following: line 13

Insert: "f. Broadwater Hydropower Facility (OTO) 62,000 32,000 [State Special FY02 and FY03]
g. HB 397 -- Clark Fork River Task Force (OTO) 120,000" [State Special Revenue FY03]

120. Page C-15.

Following: line 16

Insert: "k. SB 31 -- Revise State Trust Land Laws 5,000 5,000 [State Special FY02 and FY03]
l. SB 354 -- Full Compensation for School Trust for Natural Areas
35,000 [State Special Revenue FY03]
m. SB 495 -- Purchase of Public School Fund Mineral Production Rights (Restricted/Biennial/OTO)
75,000,000" [General Fund FY02]

121. Page C-15.

Following: line 21

Insert: "All remaining proceeds in excess of \$100 million in the resource indemnity trust, up to \$100,000, must be appropriated in fiscal year 2003 to the department based upon a split of two-thirds for conservation district grant projects and one-third for irrigation grants. The appropriation is contingent upon the governor's certification that the trust balance is in excess of \$100 million. Upon meeting the contingency in fiscal year 2003, the office of budget and program planning is authorized to transfer up \$100,000 in cash from the resource indemnity trust fund to a state special revenue fund to be used for these purposes. Further, the cash for these purposes cannot be transferred until \$500,000 has been transferred for the purpose of weed eradication, \$540,000 has been transferred for the purpose of purchasing securities for water treatment at the former Zortman and Landusky mines, and \$120,000 has been transferred to conduct the Clark Fork study."

122. Page C-17.

Following: line 6

Insert: "Item 4g is contingent upon passage and approval of House Bill No. 397. Item 4g is an appropriation from state special revenue funds in fiscal year 2003 that have been transferred from the resource indemnity trust fund. The appropriation is contingent upon the governor's certification that the trust balance is in excess of \$100 million. Upon meeting the contingency in fiscal year 2003, the office of budget and program planning is authorized to transfer the \$120,000 in cash from the resource indemnity trust fund to a state special revenue fund to be used for this purpose. The cash for this purpose cannot be transferred until \$500,000 has been transferred for the purpose of weed eradication and \$540,000 has been transferred for the purpose of purchasing securities for water treatment at the former Zortman and Landusky mines.

State special revenue appropriations in item 6 may be used for firefighting costs. It is the intent of the legislature to replace any state special revenue expenditures with a general fund supplemental appropriation in the next legislative session."

123. Page C-17.

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Following: line 11

Insert: "Item 6k is contingent upon passage and approval of Senate Bill No. 31.

Item 6l is contingent upon passage and approval of Senate Bill No. 354.

Item 6m is limited to the amount borrowed from the coal tax permanent fund and may be used only for the purpose of purchasing public school fund mineral production rights from the trust and legacy account."

124. Page C-17, line 23.

Strike: "4,454,865 4,437,272" [State Special FY02 and FY03]

Insert: "4,554,865 4,537,272" [State Special FY02 and FY03]

125. Page C-18.

Following: line 6

Insert: "e. SB 326 -- Weed Control Program (Restricted/OTO) 500,000" [State Special FY03]

126. Page C-19.

Following: line 4

Insert: "Item 2 contains \$100,000 each year of the 2003 biennium from the department of transportation highway state special revenue fund for use in the weed control program. This appropriation is contingent upon passage and approval of Senate Bill No. 326."

127. Page C-19.

Following: line 6

Insert: "Item 2e contains a \$500,000 appropriation in fiscal year 2003 from state special revenue funds that are to be transferred from the resource indemnity trust fund. The \$500,000 appropriation is contingent upon the governor's certification that the trust balance is in excess of \$100 million. Upon meeting the contingency in fiscal year 2003, the office of budget and program planning is authorized to transfer the \$500,000 in cash from the resource indemnity trust fund to a state special revenue fund to be used for this purpose. Item 2e is contingent upon passage and approval of Senate Bill No. 326."

128. Page C-19.

Strike: line 9 through line 12 in their entirety

Strike: line 14 through line 17 in their entirety

Strike: line 19 through line 21 in their entirety

129. Page C-19, line 24.

Strike: "147,755 149,021"

Insert: "119,300 120,469"

130. Page C-20, line 5.

Strike: "1,165,124 1,171,914" [General Fund FY02 and FY03]

Insert: "1,179,577 1,186,368" [General Fund FY02 and FY03]

131. Page C-20, line 14.

Strike: "435,473 440,266 [General Fund FY02 and FY03] 1,835,393 1,895,408" [State Special FY02 and FY03]

Insert: "430,411 435,204 [General Fund FY02 and FY03] 1,885,393 1,945,408" [State Special FY02 and FY03]

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132. Page C-20.

Strike: line 20 through line 23 in their entirety

Strike: line 25 in its entirety

133. Page C-21.

Strike: line 1 through line 5 in their entirety

Strike: line 12 through line 18 in their entirety

Strike: line 20 through line 23 in their entirety

Strike: line 25 in its entirety

134. Page C-22.

Strike: line 1 through line 5 in their entirety

135. Page C-22, line 8.

Strike: "18,721 [General Fund FY02] 11,913 [State Special FY02] 8,973" [Proprietary FY02]

Insert: "14,389 [General Fund FY02] 1,701 [State Special FY02] 0" [Proprietary FY02]

136. Page C-22, line 10.

Strike: "70,338" [State Special FY03]

Insert: "57,838" [State Special FY03]

137. Page C-22, line 12.

Strike: "10,000 32,000" [State Special FY02 and FY03]

Insert: "0 30,000" [State Special FY02 and FY03]

138. Page C-22.

Strike: line 18 through line 19 in their entirety

139. Page C-22.

Following: line 24

Insert: "The reduction in funding for items 1, 2, 3, 8, 9, 11, 12, and 13 are contingent upon passage and approval of Senate Bill No. 445. If Senate Bill No. 445 is not passed and approved, the department is appropriated \$746,325 in general fund money, \$11,179,874 in state special revenue, and \$8,927,921 in proprietary authority in fiscal year 2002 and \$745,771 in general fund money, \$11,104,944 in state special revenue, and \$8,904,330 in proprietary authority in fiscal year 2003. The allocation among divisions and the realignment of language associated with the reallocation will be outlined in the Legislative Fiscal Division's 2003 Biennium Legislative Fiscal Report if Senate Bill No. 445 is not passed and approved."

140. Page C-23.

Strike: line 12 through line 19 in their entirety

141. Page D-1, line 5.

Strike: "856,271 867,926" [General Fund FY02 and FY03]

Insert: "678,872 691,889" [General Fund FY02 and FY03]

142. Page D-1.

Strike: lines 10 and 11 in their entirety

Renumber: subsequent subsection

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143. Page D-2, line 1.

Strike: "2,495,448 2,513,448"

Insert: "2,672,847 2,689,485"

144. Page D-2, following line 3.

Insert: "b. Crime Victim Benefits (Biennial) 579,398 581,300 [General Fund FY02 and FY03]

225,000 225,000 [Federal Fund FY02 and FY03]

c. HB 419 -- Natural Resources Enforcement Program 41,600 41,600"[State Special Revenue FY02
and FY03]

145. Page D-2, line 5.

Strike: "0 0"[Proprietary Fund FY02 and FY03]"

Insert: "611,103 613,766"[Proprietary Fund FY02 and FY03]"

146. Page D-2, line 6.

Strike: "947,203 949,866"[General Fund FY02 and FY03]

Insert: "380,000 380,000"[General Fund FY02 and FY03]

147. Page D-2, line 9.

Strike: "8,186,167"[General Fund in FY02]

Insert: "8,191,905"[General Fund in FY02]

148. Page D-2, following line 9.

Insert: "a. HB 577 -- Motor Vehicle IT Account (Biennial) 960,000 [State Special Revenue]

b. SB 334 -- Driver Rehabilitation and Improvement Program 33,148 32,778" [State Special
Revenue FY02 and FY03]

149. Page D-2, following line 12.

Insert: "a. SB 358 -- Access to Traffic Accident Reports 16,574 13,946 [State Special Revenue FY02 and FY03]

b. HB 256 -- Reckless or Careless Driving 12,073 12,073"[General Fund FY02 and FY03]

150. Page D-3, line 4.

Strike: "2,793,463 2,807,583"

Insert: "2,700,395 2,714,182"

151. Page D-3.

Strike: lines 5 and 6 in their entirety

Renumber: subsequent subsection

152. Page D-3, following line 10.

Insert: "a. HB 359 -- Expand Collection of DNA Evidence

24,150 24,150"[General Fund FY02 and FY03]

153. Page D-3, following line 24.

Insert: "Item 1c is contingent upon passage and approval of House Bill No. 419."

154. Page D-4, following line 5.

Insert: "Item 2 includes a reduction of \$567,203 in general fund money in fiscal year 2002 and \$569,866 in fiscal

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year 2003 and an increase in proprietary funds of \$611,103 in fiscal year 2002 and \$613,766 in fiscal year 2003. These reductions and increases are contingent upon passage and approval of House Bill No. 399."

155. Page D-4, following line 8.

Insert: "Item 3 includes \$5,738 of general fund money in fiscal year 2002 that is contingent upon passage and approval of House Bill No. 124.

Item 3a is contingent upon passage and approval of House Bill No. 577 and is for:

- (1) debt service payments or repayment of any loan incurred for the creation of a new information technology system for motor vehicles; or
- (2) payment of costs directly incurred in the creation and support of the new motor vehicle information technology system.

Item 4a is contingent upon passage and approval of Senate Bill No. 358.

Item 4b is contingent upon passage and approval of House Bill No. 256."

156. Page D-4.

Strike: line 19 through line 23 in their entirety

157. Page D-4, following line 23.

Insert: "If Senate Bill No. 328 is not passed and approved, the extradition and transportation of prisoners program will remain in the department of justice as program 30 and there is appropriated \$177,724 of general fund money in fiscal year 2002 and \$178,936 of general fund money in fiscal year 2003. In addition, if Senate Bill No. 328 is not passed and approved, the amendment to the reference copy of [this act] striking the language accompanying the extradition and transportation of prisoners program in the department of justice is void."

158. Page D-4, line 24.

Strike: "11"

Insert: "10"

159. Page D-4, following line 25.

Insert: "Item 10a is contingent upon passage and approval of House Bill No. 359."

160. Page D-5, line 6.

Strike: "2,450,387 2,430,951"[State Special Revenue FY02 & 03]

Insert: "2,525,654 2,505,912"[State Special Revenue FY02 & 03]

161. Page D-5, line 25.

Strike: "14,800,869 14,409,598"

Insert: "14,797,936 14,406,654"

162. Page D-6, line 7.

Strike: "32,634,379 34,358,528"

Insert: "32,621,208 34,345,320"

163. Page D-6, line 9.

Strike: "51,083,654"[General Fund Fiscal 2003]

Insert: "47,083,654"[General Fund Fiscal 2003]

164. Page D-7.

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Strike: line 8 in its entirety

165. Page D-7, following line 8.

Insert: "If Senate Bill No. 489 is not passed and approved, general fund money in item 3 is increased by \$4 million in fiscal year 2003."

166. Page D-7.

Following: line 20

Insert: "d. SB 322 -- Natural Resource Worker Education and Retraining 150,000" [State Special FY03]

167. Page D-8.

Following: line 15

Insert: "5. Professional and Occupational Licensing (05) 5,272,276 5,202,573 [State Special FY02 and FY03]

a. Legal Contingency (Restricted/OTO)
70,000 70,000 [State Special FY02 and FY03]

6. Weights and Measures Bureau (06) 678,238 679,843 [State Special FY02 and FY03]

a. Legislative Audit (Restricted/Biennial)
1,573" [State Special FY02]

Renumber: subsequent subsections

168. Page D-8.

Following: line 20

Insert: "8. Building Codes Bureau (08)
3,278,325 3,295,263 [State Special FY02 and FY03]

a. Legislative Audit (Restricted/Biennial)
6,427 [State Special FY02]

b. Building Codes Vehicle Replacement (OTO)
45,118 46,118" [State Special FY02 and FY03]"

Renumber: subsequent subsection

169. Page D-9, line 6.

Following: "for"

Strike: "these"

Insert: "centralized services"

170. Page D-9.

Following: line 7

Insert: "Item 1d is contingent upon passage and approval of Senate Bill No. 322."

171. Page D-9.

Following: line 18

Insert: "The professional and occupational licensing staff and operating budget designated as proprietary will transfer into this department with professional and occupational licensing (05).

Items 5, 5a, 6, 6a, 8, 8a, and 8b are contingent upon passage and approval of Senate Bill No. 445.

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It is the intent of the legislature that the internal service rates charged for program 05, program 06, and program 08 will be approximately 9% and 10% of a program's actual personal services costs incurred in fiscal year 2002 and fiscal year 2003.

The department shall report to the 2003 legislature on options for a fleet management plan to stabilize vehicle replacement costs within the building codes division.

Item 8 contains state special revenue authority of \$70,389 in fiscal year 2002 and \$52,889 in fiscal year 2003, including funding for 1.5 full-time equivalent employees each year, that is contingent upon passage and approval of House Bill No. 437.

Item 8 contains state special revenue authority of \$100,925 in fiscal year 2002 and \$151,950 in fiscal year 2003, including funding for 1.5 full-time equivalent employees in fiscal year 2002 and 3 full-time equivalent employees in fiscal year 2003, that is contingent upon passage and approval of Senate Bill No. 242."

172. Page D-10.

Following: line 25

Insert: "b. Firefighters Retirement (Restricted/Biennial) 5,686" [Federal Special FY02]

173. Page D-12.

Following: line 8

Insert: "Item 5b is contingent upon passage and approval of Senate Bill No. 289."

174. Page E-1, line 6.

Strike: "169,100 169,178" [State Special Revenue FY02 & FY03]

Insert: "181,100 181,178" [State Special Revenue FY02 & FY03]

Strike: "4,291,310 4,311,387" [General Fund in FY01 and FY03]

Insert: "4,328,810 4,323,887" [General Fund in FY01 and FY03]

175. Page E-1, line 25.

Strike: "432,677,022 440,553,781" [General Fund FY02 and FY03]

Insert: "440,776,000 443,890,000" [General Fund FY02 and FY03]

176. Page E-2, lines 7 and 8.

Strike: lines 7 and 8 in their entirety

Re-number: subsequent subsections

177. Page E-3, following line 12.

Insert: "p. SB 390 -- Transfer to School Flexibility Account (Restricted/Biennial/OTO)

5,000,000 [General Fund FY03]

q. School Flexibility Account (Restricted/Biennial/OTO) 5,083,000" [State Special FY03]

178. Page E-4, following line 7.

Insert: "Item 1 includes \$37,500 of general fund money in fiscal year 2002 and \$12,500 of general fund money in fiscal year 2003 that are contingent upon passage and approval of House Bill No. 124."

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179. Page E-4, line 11.

Strike: "2k"

Insert: "2j"

Strike: "2M"

Insert: "2l"

Strike: "2P"

Insert: "2o"

180. Page E-4, lines 12 and 13.

Strike: lines 12 and 13 in their entirety.

181. Page E-4, following line 13.

Insert: "Money deposited in the general fund for fiscal year 2001 under 20-9-343(3)(a)(ii) must be transferred to the school technology account in the state special revenue fund in fiscal year 2002.

If House Bill No. 41 is not passed and approved in the form that statutorily appropriates timber harvest funds to schools for technology acquisitions, there is a restricted, biennial general fund appropriation of \$1,250,000 in fiscal year 2002 and \$1,600,000 in fiscal year 2003. In addition, if House Bill No. 41 is not passed and approved, the amendment to the reference copy of [this act] striking the language accompanying the timber harvest appropriation and inserting language is void."

182. Page E-4, line 14

Strike: "2f"

Insert: "2e"

183. Page E-4, lines 14 and 15.

Following: "costs of" on line 14

Strike: remainder of line 14 through "services" on line 15

Insert: "children with significant behavioral or physical needs"

184. Page E-4, following line 15.

Insert: "If Senate Bill No. 495 is enjoined before April 1, 2002, items 2p and 2q are void."

185. Page E-4, line 17 through page E-5, line 3.

Strike: line 17 on page E-4 through line 3 on page E-5 in their entirety

186. Page E-6, line 14.

Strike: "1,832,762 1,833,174"

Insert: "1,891,051 1,891,657"

187. Page E-8, line 4.

Strike: "470,348" [State Special FY02]

Insert: "495,348" [State Special FY02]

188. Page E-8, line 6.

Strike: "140,487" [State Special FY02]

Insert: "115,487" [State Special FY02]

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Strike: "475,000" [Federal Special FY02]
Insert: "0" [Federal Special FY02]

189. Page E-8, line 8.

Strike: "0" [Federal Special FY02]
Insert: "475,000" [Federal Special FY02]

190. Page E-11, line 9.

Strike: "24,000 48,000" [State Special Revenue FY02/03]
Insert: "0 0" [State Special Revenue FY02/03]

191. Page E-11, line 14.

Strike: "5,646,013 5,674,378" [FY02 & FY03 General Fund]
Insert: "5,651,748 5,679,546" [FY02 & FY03 General Fund]

192. Page E-11, line 23.

Strike: "12,426,336 12,594,548"[State Special Revenue in FY02 and FY03]
Insert: "12,232,248 12,400,460"[State Special Revenue in FY02 and FY03]

193. Page E-11, line 24.

Strike: "99,963,345 100,475,675" [FY02 & FY03 General Fund]
Insert: "99,801,741 100,312,988" [FY02 & FY03 General Fund]

194. Page E-12, line 6.

Strike: "9,672,791 9,708,352" [FY02 & FY03 General Fund]
Insert: "9,830,460 9,866,810" [FY02 & FY03 General Fund]

195. Page E-12, line 11.

Strike: "3,988,784 4,004,537" [FY02 & FY03 General Fund]
Insert: "4,087,026 4,102,993" [FY02 & FY03 General Fund]

196. Page E-12.

Following: line 11

Insert: "f. Montana Beef Network (Restricted/Biennial/OTO)
90,000 [FY02 General Fund]
90,000" [FY03 General Fund]

Renumber: subsequent subsections

197. Page E-12, line 13.

Strike: "897,300 900,600" [FY02 & FY03 General Fund]
Insert: "897,428 900,784" [FY02 & FY03 General Fund]

198. Page E-12, line 16.

Strike: "1,524,204 1,529,018" [FY02 & FY03 General Fund]
Insert: "1,533,807 1,538,621" [FY02 & FY03 General Fund]

199. Page E-12, line 18.

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Strike: "497,580 507,176" [FY02 & FY03 General Fund]

Insert: "497,630 507,250" [FY02 & FY03 General Fund]

200. Page E-12, lines 19 and 20.

Strike: line 19 through line 20 in their entirety

201. Page E-12.

Following: line 20

Insert: "j. Flathead Lake Biological Station -- University of Montana-Missoula (Restricted/Biennial/OTO)

100,000 [FY02 General Fund]

100,000"[FY03 General Fund]

Insert: "8. Tribal College Assistance Program (11) (Biennial)

100,000"

[General Fund FY02]

Renumber: subsequent subsections

202. Page E-14, line 17.

Strike: "\$110,421,986"

Insert: "\$110,420,878"

Strike: "\$109,776,960"

Insert: "\$109,775,339"

203. Page E-15, following line 1.

Insert: "Item 7 includes increases of \$194,088 of general fund money in fiscal year 2002 and of \$194,088 of general fund money in fiscal year 2003 and reductions of \$194,088 of state special revenue in fiscal year 2002 and of \$194,088 of state special revenue in fiscal year 2003 that are contingent upon passage and approval of House Bill No. 124."

204. Page E-16, line 7.

Strike: "\$2,122,369"

Insert: "\$2,022,369"

Strike: "\$2,130,499"

Insert: "\$2,030,499"

205. Page E-16, line 8.

Strike: "\$993,627"

Insert: "\$937,627"

Strike: "\$998,135"

Insert: "\$942,135"

206. Page E-16.

Following: line 15

Insert: "General fund money of \$90,000 each year of the 2003 biennium in item 7f is a biennial, one-time-only appropriation for one staff person and for expenses for the Montana beef network within the extension service."

207. Page E-16, line 17.

Following: "item"

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Strike: "7f"
Insert: "7g"

208. Page E-16, line 19.

Following: "item"
Strike: "7g"
Insert: "7h"

209. Page E-16, line 21.

Following: "item"
Strike: "7h"
Insert: "7i"

210. Page R-6.

Following: line 16

Insert: "e. SB 445 Indirect Costs - The department is authorized to spend up to \$294,208 in fiscal year 2002 and \$296,509 in fiscal year 2003 (proprietary funds) to implement the reorganization specified in Senate Bill No. 445."

211. Page R-9.

Strike: line 18 through line 19 in their entirety
Renumber: subsequent subsections

212. Page R-9, line 21.

Strike: "1.38% 1.38%"
Insert: "1.70% 1.70%"

213. Page R-9, line 24.

Strike: "\$2,765,200 \$2,710,200"
Insert: "\$2,860,200 \$2,805,200"

214. Page R-10, line 1.

Strike: "10.25% 10.25%"
Insert: "15.50% 15.50%"

215. Page R-10.

Following: line 6

Insert: "1. Secure Facilities

a. Cook/chill rate to MSP	\$1.80/meal	\$1.78/meal
b. Cook/chill rate to MSH	\$1.83/meal	\$1.82/meal
c. Cook/chill rate to TSCTC	\$1.83/meal	\$1.81/meal
d. Cook/chill rate to Riverside	\$2.79/meal	\$2.86/meal
e. Cook/chill rate to DUI facility	\$1.86/meal	\$1.84/meal
f. Cook/chill rate to Helena prerelease	\$2.43/meal	\$2.47/meal"

Renumber: subsequent subsection

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216. Page R-10.

Following: line 13

Insert: "2. Professional and Occupational Licensing

a. House Bill No. 2 Programs Recharge Rate 38% 38%"

For the House:

Vick, Vice Chairman
Lewis
McCann

For the Senate:

Keenan, Chairman
Nelson
Zook

FREE CONFERENCE COMMITTEE
on **House Bill 5**
Report No. 1, April 20, 2001

Mr. Speaker and Mr. President:

We, your **Free** Conference Committee on **House Bill 5**, met April 20, 2001 and considered:

1. Senate Committee on Finance amendments to third reading copy, dated April 7, 2001.

We recommend that **House Bill 5** (reference copy – salmon) be amended as follows:

1. Page 2.

Following: line 19

Insert: "Chemistry Building Addition, UM-Missoula 3,200,000 [Other Funding Sources] Federal, Donations, Grants, Nonstate Funds, Plant Funds"

Insert: "All operating and maintenance expenses of the chemistry building addition are to be paid by the university of Montana-Missoula. Appropriation authority in excess of funds pledged for this project as of June 30, 2003, must be reverted."

2. Page 3.

Following: line 17

Insert: "Appropriation authority in excess of funds pledged for this project as of June 30, 2005, must be reverted. All operating and maintenance expenses of the school of journalism building are to be paid by the university of Montana-Missoula."

3. Page 3, line 19.

Strike: "2,000,000"

Insert: "3,000,000"

4. Page 4.

Following: line 12

Insert: "The legislature consents to the construction of the good shepherd chapel at the Montana developmental center in Boulder with donated funds. The construction of the chapel is exempt from provisions of Title

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18."

For the House:

Vick, Vice Chairman
Brueggeman (Unsigned)
McCann

For the Senate:

Tash, Chairman
Stapleton
Tester

FREE CONFERENCE COMMITTEE
on **House Bill 474**
Report No. 1, April 20, 2001

Mr. Speaker and Mr. President:

We, your **Free** Conference Committee on **House Bill 474**, met April 20, 2001, and considered:

1. Senate Committee on Energy and Telecommunications amendments to third reading copy, dated April 9, 2001.

We recommend that **House Bill 474** (reference copy – salmon) be amended as follows:

1. Title, line 8.

Strike: "A LIMITED"

Insert: "AN"

2. Title, line 18.

Following: "SUPPLIER"

Insert: "OR A MONTANA INDUSTRY"

3. Title, line 21.

Following: "SUPPLIER;"

Insert: "EXTENDING THE DURATION OF THE UNIVERSAL SYSTEM BENEFITS CHARGE;"

4. Title, line 22.

Following: line 21

Insert: "CREATING A CONSUMER ELECTRICITY SUPPORT PROGRAM; PROVIDING THAT AN ELECTRICITY BUYING COOPERATIVE MAY SERVE AS A SUPPLIER OR PROMOTER OF ALTERNATIVE ENERGY AND CONSERVATION PROGRAMS; DEFINING "ELECTRICITY SUPPLY COSTS"; CLARIFYING THE DEFINITION OF "UNIVERSAL SYSTEM BENEFITS PROGRAMS" TO INCLUDE IRRIGATED AGRICULTURE; PROVIDING FOR PROCEDURES FOR A TRANSITION TO CUSTOMER CHOICE; PROVIDING FOR THE DEFAULT SUPPLIER'S RECOVERY OF ELECTRICITY SUPPLY COSTS; REVISING THE UNIVERSAL SYSTEM BENEFITS PROGRAMS FUNDING LEVEL TO INCLUDE IRRIGATED AGRICULTURE; ESTABLISHING A MONTANA POWER AUTHORITY; ALLOWING THE AUTHORITY TO PURCHASE, CONSTRUCT, AND OPERATE ELECTRICAL GENERATION FACILITIES OR ELECTRICAL ENERGY TRANSMISSION OR DISTRIBUTION SYSTEMS AND TO ENTER INTO JOINT VENTURES FOR THESE PURPOSES; AUTHORIZING THE BOARD OF EXAMINERS TO ISSUE REVENUE BONDS FOR THE MONTANA POWER AUTHORITY TO ACQUIRE ELECTRICAL GENERATION FACILITIES AND TO BUILD ELECTRICAL ENERGY

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TRANSMISSION OR DISTRIBUTION SYSTEMS; PROVIDING THAT THE PRINCIPAL AND INTEREST ON THE BONDS IS PAYABLE FROM THE SALE OF ELECTRICAL ENERGY FROM THE FACILITIES AND FROM ELECTRICAL ENERGY TRANSMISSION AND DISTRIBUTION CHARGES; "

Following: "SECTIONS"

Insert: "17-7-502, 35-19-104, 69-8-103, 69-8-104,"

Following: "69-8-201"

Strike: "AND 69-8-416"

Insert: ", 69-8-203, 69-8-210, 69-8-211, 69-8-402, 69-8-403, 69-8-412, AND 69-8-414"

5. Title, line 23.

Following: "MCA;"

Insert: "REPEALING SECTIONS 35-19-103, 69-8-416, AND 69-8-417, MCA;"

Strike: "AN"

Strike: "DATE"

Insert: "DATES"

6. Page 5, line 12.

Strike: "250"

Insert: "450"

7. Page 5, line 21.

Following: line 20

Insert: "(2) "Montana industry" means a commercial enterprise located within Montana that would have consumed more than 5 megawatts of electrical energy on an average during the last 12 months if the enterprise had not closed due to electrical prices."

Renumber: subsequent subsection

8. Page 5, line 23.

Following: "15 U.S.C. 79Z-5A"

Insert: ", or as provided for in 16 U.S.C. 796(17)(A)"

9. Page 6, line 14.

Following: "SUPPLIER"

Insert: "or a Montana industry"

10. Page 6, line 16.

Following: "ASSIGNEE"

Insert: "or a Montana industry"

11. Page 6, line 18.

Following: "SUPPLIER"

Insert: "or a Montana industry"

12. Page 6, line 22.

Following: "INTEREST"

Insert: "or with a Montana industry"

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13. Page 6, line 25.

Insert: "Section 6. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; [section 19]; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005.)"

Insert: "Section 7. Section 35-19-104, MCA, is amended to read:

"35-19-104. Permissible purpose of incorporation. A buying cooperative may be organized under this chapter only for the purpose of supplying electricity to small customers as ~~a default~~ an electrical energy supplier, pursuant to ~~69-8-403~~ Title 69, chapter 8, parts 1 through 5, or for serving as a supplier or promoter of alternative energy and conservation programs."

Insert: "Section 8. Section 69-8-103, MCA, is amended to read:

"69-8-103. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Aggregator" or "market aggregator" means an entity, licensed by the commission, that aggregates retail customers, purchases ~~electric~~ electrical energy, and takes title to ~~electric~~ electrical energy as an intermediary for sale to retail customers.

(2) "Assignee" means any entity, including a corporation, partnership, board, trust, or financing vehicle, to which a utility assigns, sells, or transfers, other than as security, all or a portion of the utility's interest in or right to transition property. The term also includes an entity, corporation, public authority, partnership, trust, or financing vehicle to which an assignee assigns, sells, or transfers, other than as security, the assignee's interest in or right to transition property.

(3) "Board" means the board of investments created by 2-15-1808.

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(4) "Broker" or "marketer" means an entity, licensed by the commission, that acts as an agent or intermediary in the sale and purchase of ~~electric~~ electrical energy but that does not take title to ~~electric~~ electrical energy.

(5) "Cooperative utility" means:

(a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

(b) an existing municipal electric utility as of May 2, 1997.

(6) "Customer" or "consumer" means a retail electric customer or consumer. The university of Montana, pursuant to 20-25-201(1), and Montana state university, pursuant to 20-25-201(2), are each considered a single retail electric customer or consumer with a single individual load.

(7) "Customer-generator" means a user of a net metering system.

(8) "Default supplier" means a customer's distribution services provider ~~or a person that has received a default supplier license from the commission.~~

(9) "Distribution facilities" means those facilities by and through which electricity is received from a transmission services provider and distributed to the customer and that are controlled or operated by a distribution services provider.

(10) "Distribution services provider" means a utility owning distribution facilities for distribution of electricity to the public.

(11) "Electricity supplier" means any person, including aggregators, market aggregators, brokers, and marketers, offering to sell electricity to retail customers in the state of Montana.

(12) (a) "Electricity supply costs" means actual costs of the electricity. Actual costs include fuel, ancillary service costs, transmission costs including congestion and losses, and any other costs directly related to the purchase of electricity and management of electricity costs or a related service.

(b) Revenue from the sale of surplus electricity must be deducted from the costs included under subsection (12)(a). Total transmission costs are recoverable only once in electricity supply costs.

(c) The terms used in this subsection (12) must be construed according to industry standards.

~~(14)~~(13) "Financing order" means an order of the commission adopted in accordance with 69-8-503 that authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.

~~(13)~~(14) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not limited to:

(i) distribution;

(ii) connection;

(iii) disconnection; and

(iv) termination rates and charges that are authorized by the commission in a financing order to permit recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs and of acquiring transition property through a plan approved by the commission in the financing order, including the costs of issuing, servicing, and retiring transition bonds.

(b) If requested by the utility in the utility's application for a financing order, fixed transition amounts must include nonbypassable rates or charges to recover federal and state taxes in which the transition cost recovery period is modified by the transactions approved in the financing order.

~~(14)~~(15) "Functionally separate" means a utility's separation of the utility's electricity supply, transmission, distribution, and unregulated retail energy services assets and operations.

~~(15)~~(16) "Interested person" means a retail electricity customer, the consumer counsel established in 5-15-201, the commission, or a utility.

~~(16)~~(17) "Large customer" means, for universal system benefits programs purposes, a customer with an individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that individual load.

~~(17)~~(18) "Local governing body" means a local board of trustees of a rural electric cooperative.

~~(18)~~(19) "Low-income customer" means those energy consumer households and families with incomes at or below industry-recognized levels that qualify those consumers for low-income energy-related assistance.

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~~(19)~~(20) "Net metering" means measuring the difference between the electricity distributed to and the electricity generated by a customer-generator that is fed back to the distribution system during the applicable billing period.

~~(20)~~(21) "Net metering system" means a facility for the production of ~~electric~~ electrical energy that:

- (a) uses as its fuel solar, wind, or hydropower;
- (b) has a generating capacity of not more than 50 kilowatts;
- (c) is located on the customer-generator's premises;
- (d) operates in parallel with the distribution services provider's distribution facilities; and
- (e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.

~~(21)~~(22) "Nonbypassable rates or charges" means rates or charges that are approved by the commission and imposed on a customer to pay the customer's share of transition costs or universal system benefits programs costs even if the customer has physically bypassed either the utility's transmission or distribution facilities.

~~(22)~~(23) "Pilot program" means a program using a representative sample of residential and small commercial customers to assist in developing and offering customer choice of electricity supply for all residential and commercial customers.

~~(23)~~(24) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on May 2, 1997, including the public utility's successors or assignees.

~~(24)~~(25) "Qualifying load" means, for payments and credits associated with universal system benefits programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in which the customer qualifies as a large customer.

~~(25)~~(26) "Small customer" means a residential customer or a small commercial customer who has an individual account with an average monthly demand in the previous calendar year of less than 100 kilowatts or a new commercial customer with an estimated average monthly demand of less than 100 kilowatts of a public utility distribution services provider that has opened access on its distribution system pursuant to Title 35, chapter 19, or this chapter.

~~(26)~~(27) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents, and other entities acting for the benefit of that holder.

~~(27)~~(28) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust certificate, or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer that is secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds must be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.

~~(28)~~(29) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of transition costs.

~~(29)~~(30) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when a utility customer does not have any liability for payment of transition costs.

~~(30)~~(31) "Transition costs" means:

- (a) a public utility's net verifiable generation-related and electricity supply costs, including costs of capital, that become unrecoverable as a result of the implementation of this chapter or of federal law requiring retail open access or customer choice;
- (b) those costs that include but are not limited to:
 - (i) regulatory assets and deferred charges that exist because of current regulatory practices and can be accounted for up to the effective date of the commission's final order regarding a public utility's transition plan and conservation investments made prior to universal system benefits charge implementation;
 - (ii) nonutility and utility power purchase contracts, including qualifying facility contracts;
 - (iii) existing generation investments and supply commitments or other obligations incurred before May 2, 1997, and costs arising from these investments and commitments;
 - (iv) the costs associated with renegotiation or buyout of the existing nonutility and utility power purchase contracts, including qualifying facilities and all costs, expenses, and reasonable fees related to issuing transition bonds; and

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(v) the costs of refinancing and retiring of debt or equity capital of the public utility and associated federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

~~(31)(32)~~ "Transition period" means the period beginning on July 1, 1998, and ending on July 1, 2002, unless otherwise extended pursuant to this chapter, during which utilities may phase in customer choice of electricity supplier 2007.

~~(32)(33)~~ "Transition property" means the property right created by a financing order, including without limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue, collections, claims, payments, money, or proceeds of or arising from or constituting fixed transition amounts that are the subject of a financing order, including those nonbypassable rates and other charges and fixed transition amounts that are authorized by the commission in the financing order to recover transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition property, including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the transition property before the utility's sale or transfer or any other right created under this section or created in the financing order and assignable under this chapter or assignable pursuant to a financing order is only a contract right.

~~(33)(34)~~ "Transmission facilities" means those facilities that are used to provide transmission services as determined by the federal energy regulatory commission and the commission.

(35) "Transmission services provider" means a person controlling or operating transmission facilities.

~~(35)(36)~~ "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of universal system benefits programs costs.

~~(36)(37)~~ "Universal system benefits programs" means public purpose programs for:

(a) cost-effective local energy conservation;

(b) low-income customer weatherization;

(c) reducing energy costs of irrigated agriculture in Montana through conservation and efficiency measures;

~~(c)(d)~~ renewable resource projects and applications, including those that capture unique social and energy system benefits or that provide transmission and distribution system benefits;

~~(d)(e)~~ research and development programs related to energy conservation and renewables;

~~(e)(f)~~ market transformation designed to encourage competitive markets for public purpose programs; and

~~(f)(g)~~ low-income energy assistance.

~~(37)(38)~~ "Utility" means any public utility or cooperative utility."

Insert: "Section 9. Section 69-8-104, MCA, is amended to read:

"69-8-104. Pilot programs. (1) Except as provided in ~~69-8-201(4)~~ 69-8-201(5) and 69-8-311, beginning July 1, 1998, utilities shall conduct pilot programs using a representative sample of their residential and small commercial customers. A report describing and analyzing the results of the pilot programs must be submitted to the commission and the transition advisory committee established in 69-8-501 on or before July 1, 2000.

(2) Utilities shall use pilot programs to gather necessary information to determine the most effective and timely options for providing customer choice. Necessary information includes but is not limited to:

(a) the level of demand for electricity supply choice and the availability of market prices for smaller customers;

(b) the best means to encourage and support the development of sufficient markets and bargaining power for the benefit of smaller customers;

(c) the electricity suppliers' interest in serving smaller customers and the opportunities in providing service to smaller customers; and

(d) experience in the broad range of technical and administrative support matters involved in designing and delivering unbundled retail services to smaller customers."

{Internal References to 69-8-104:

69-8-201 x}"

Renumber: subsequent sections

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14. Page 6, line 29.

Strike: "(6)"

Insert: "(4)"

15. Page 7, lines 5 through 8.

Following: "(2)" on line 5

Strike: remainder of line 5 through "(b)" on line 8

16. Page 7, line 11.

Strike: "(i)"

Insert: "(a)"

Renumber: subsequent subsections

17. Page 7, line 22.

Following: "z"

Insert: "A distribution services provider has an ongoing regulated default supply obligation beyond the end of the transition period."

18. Page 7, line 23.

Following: line 22

Insert: "(4) The commission shall establish procedures and terms under which customers may choose an electricity supplier other than the default supplier or may choose to be served by the default supplier. The choice must be available for the period beginning July 1, 2002. The procedures must provide for an orderly process of choice during the transition period and provide conditions for leaving and returning to the default supplier. The procedures must take into account electricity supply contracts for supplying customers during the transition period. The procedures must provide for the recovery of costs associated with those customers who choose an alternative electricity supplier and who wish to return to the default supplier."

Renumber: subsequent subsections

19. Page 8, lines 4 through 8.

Strike: subsection (6) in its entirety

20. Page 8, line 10 through page 9, line 7.

Strike: section 7 in its entirety

Insert: "**Section 11.** Section 69-8-203, MCA, is amended to read:

"69-8-203. Public utility -- customer choice -- ~~continued service~~ -- education of customers. (1) A customer is permitted to choose an electricity supplier pursuant to the deadlines established in 69-8-201. Public utilities shall propose a method for customers to choose an electricity supplier.

~~(2) If a customer has not chosen an electricity supplier by the end of the transition period, a city, county, or consolidated government that is licensed as an electricity supplier may, upon application to and approval by the commission, become the default supplier to residential and commercial customers of a public utility within its jurisdiction. For customers that are not within the jurisdiction of a licensed and approved city, county, or consolidated government electricity supplier area, a public utility shall propose a method in the public utility's transition plans for assigning that customer to an electricity supplier. The commission shall establish an application process and guidelines for the designation of one or more default suppliers for the distribution area of each public utility.~~

~~(3) A public utility may phase in customer choice to promote the orderly transition to a competitive market environment pursuant to the deadlines in 69-8-201.~~

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~~(4)(2)~~ Public utilities shall educate their customers about customer choice so that customers may make an informed choice of an electricity supplier. This education process must give special emphasis to education efforts during the transition period."

Insert: "Section 12. Section 69-8-210, MCA, is amended to read:

"69-8-210. Public utilities -- electricity supply. (1) On the effective date of a commission order implementing a public utility's transition plan pursuant to 69-8-202, the public utility shall remove its generation assets from the rate base.

~~(2) During the transition period, the commission may establish cost-based prices for electricity supply service for customers that do not have a choice of electricity supply service or that have not yet chosen an electricity supplier.~~

~~(3)(2) If During the transition period, is extended, then the customers' distribution services provider, acting as the default supplier, shall:~~

~~(a) beginning July 1, 2002, extend any cost-based contract with the distribution services provider's affiliate supplier for a term of not more than 3 years; or~~

~~(b) purchase electricity from the market; and~~

~~(c) use a mechanism that recovers electricity supply costs in rates to ensure that those costs are fully recovered as provided in subsection (4).~~

~~(3) (a) The default supplier shall provide for the full electricity supply requirements of all default supply customers. To meet these requirements, the default supplier shall procure a portfolio of electricity supply using industry-accepted procurement practices, which may include negotiated contracts or competitive bidding. The commission may develop reasonable requirements for the use of competitive bidding in the procurement process.~~

~~(b) A default supplier may submit material related to proposed bids or contracts concerning electricity supply to the commission before the default supplier enters into the contract. The commission may comment on the material.~~

~~(c) In reviewing electricity supply contracts, the commission shall consider only those facts that were known or should reasonably have been known by the default supplier at the time the contract was entered into and that would have materially affected the cost or reliability of the electricity supply to be procured.~~

~~(4) (a) The commission shall use an electricity cost recovery mechanism that ensures that all prudently incurred electricity supply costs are fully recoverable in rates. The cost recovery mechanism must provide for prospective rate adjustments for cost differences resulting from cost changes, load changes, and the time value of money on the differences.~~

~~(b) The default supplier shall submit a proposed electricity supply cost recovery mechanism to the commission for approval on or before July 1, 2001. A mechanism must be adopted by the commission before March 30, 2002.~~

~~(c) The commission shall establish a method to provide for the full recovery of electricity supply costs that extend beyond the end of the transition period.~~

~~(4)(5) If a public utility intends to be an electricity supplier through an unregulated division, then the public utility must be licensed as an electricity supplier pursuant to 69-8-404.~~

~~(6) A public utility shall offer its customers an opportunity to purchase a separately marketed product composed of power from renewable resources. This product may be priced differently from the standard electricity product authorized in this section. For the purposes of this section, "renewable resources" means biomass, wind, solar, or geothermal resources."~~

{Internal References to 69-8-210:

69-8-201*x}""

Insert: "Section 13. Section 69-8-211, MCA, is amended to read:

"69-8-211. Public utilities -- transition costs and charges -- rate moratorium. (1) Subject to the provisions of this section, the commission shall allow recovery of the following categories of transition costs:

(a) the unmitigable costs of qualifying facility contracts, including reasonable buyout or buydown costs,

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for which the contract price of generation is above the market price for generation;

(b) the unmitigable costs of energy supply-related regulatory assets and deferred charges that exist because of current regulatory practices and that can be accounted for up to the effective date of the commission's final order regarding a public utility's transition plan, including costs, expenses, and reasonable fees related to issuing of transition bonds;

(c) the unmitigable transition costs related to public utility-owned generation and other power purchase contracts, except that recovery of those costs is limited to the amount accruing during the first 4 years after the commission enters an order pursuant to 69-8-202(3); and

(d) other transition costs as may qualify for recovery under this section.

(2) Transition costs as determined by the commission upon an affirmative showing by a public utility must meet the following requirements:

(a) Transition costs must reflect all reasonable mitigation by the public utility, including but not limited to good faith efforts to renegotiate contracts, buying out or buying down contracts, and refinancing through transition bonds.

(b) The value of all generation-related assets and liabilities and electricity supply costs must be reasonably demonstrable and must be considered on a net basis, and methods for determining value must include but are not limited to:

(i) estimating future market values of electricity and ancillary services provided by the assets;

(ii) appraisal by independent third-party professionals; or

(iii) a competitive bid sale.

(c) Investments and power purchase contracts must have been previously allowed in rates or, if not previously in rates, must be determined to be used and useful to ratepayers in connection with the commission's approval of the utility's transition plan.

(d) Unless otherwise provided for in this chapter, only costs related to existing investments and power purchase contracts identified in subsection (2)(c) and costs arising from those investments and power purchase contracts may be included as transition costs.

(3) (a) On commission approval of the amount of a public utility's transition costs, those costs must be recovered through the imposition of a transition charge.

(b) A transition charge may not be collected from customers for:

(i) new or additional loads of 1,000 kilowatts or greater that were first served by the public utility after December 31, 1996; or

(ii) loads served by that customer's own generation.

(c) Subject to commission approval, a utility and a customer may agree to alter the customer's transition charge payment schedule. Public utilities may file with the commission tariffs for electric service rates that foster economic development or retention of existing customers within the state, including generally available rate schedules. Transition charges are the only charges that may be imposed upon a customer class to recover transition costs under this section. A separate exit fee may not be charged.

(4) Transition charges must be imposed within a transition cost recovery period approved by the commission on a case-by-case basis. Except for transition costs recovered under subsection (1)(c), categories of transition costs may have varying transition cost recovery periods.

(5) Approval of transition costs and collection of those transition costs through transition charges is a settlement of all transition costs claims by a public utility. A public utility seeking to recover transition costs through any means not authorized by this chapter may not collect transition charges with respect to these transition costs.

(6) Except as provided in subsection (7), public utilities shall implement a rate moratorium ~~during the transition period as follows:~~

~~_____ (a) From July 1, 1998, through June 30, 2000, public utilities may not charge rates higher than those rates in effect on July 1, 1998.~~

~~_____ (b) From from July 1, 2000, through June 30, 2002, ~~and~~ only for those customers subject to the provisions~~

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of 69-8-201(1)(b); During that period, public utilities may not increase that increment of rates normally allocated to electric supply-related costs above the increment associated with electric supply-related costs reflected in rates in effect on July 1, 1998. Beginning on July 1, 2000, public utilities may propose increases to those increments of rates normally allocated to transmission and distribution costs.

(7) Excepted from the provisions of subsection (6) are:

(a) increased costs related to universal system benefits programs greater than those currently in rates, including the treatment of universal system benefits program costs as an expense;

(b) increased costs necessary to implement full customer choice, including but not limited to metering, billing, and technology. Those costs must be recovered from the customers on whose behalf the increased costs are incurred.

(c) subject to commission approval, an extraordinary event resulting in either:

(i) a 4% annual revenue requirement increase from July 1, 1998, through June 30, 2000; or

(ii) an 8% power supply-related annual revenue requirement increase from July 1, 2000, through June 30, 2002;

(d) the increase or decrease in the annual state and local property tax expense that has occurred since May 2, 1997.

(8) Notwithstanding subsections (6) and (7), during the transition period, public utilities may not charge rates or collect costs that include costs reallocated to transition costs at a level higher than the public utility would reasonably expect to recover in rates had the current regulatory system remained intact.

(9) Public utilities shall apply savings resulting under 69-8-503 toward the rate moratorium pursuant to subsection (6).

(10) ~~During the 4-year transition period~~ Before July 1, 2002, public utilities may accelerate the amortization of accumulated deferred investment tax credits associated with transmission, distribution, and the general plant as an adjustment to earnings if electric earnings fall below 9.5% earned return on average equity. The public utility may include the flow through of investment tax credits so that the public utility's earned return on equity is maintained at 9.5%. Accumulated deferred investment tax credits amortized under this subsection may not be reflected in operating income for ratemaking purposes.

(11) The commission shall issue the accounting orders necessary to align rate moratorium timing and requirements to actual transition bonds savings. ""

Insert: Section 14. Section 69-8-402, MCA, is amended to read:

"69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, energy conservation measures for irrigated agriculture, and low-income energy assistance during the transition period and into the future.

(2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives. Except as provided in subsection ~~(7)~~ (8), these universal system benefits charge rates must remain in effect until ~~July 1, 2003~~ December 31, 2005.

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

(b) Utilities must receive credit toward annual funding requirements for a utility's internal programs or activities that qualify as universal system benefits programs, including those portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, conservation and efficiency measures for irrigated agriculture, or low-income energy assistance, and for large customers' programs or activities as provided in subsection ~~(7)~~ (8). The department of revenue shall review claimed

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credits of the utilities and large customers pursuant to 69-8-414.

(c) A utility's distribution services provider at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

(d) A customer's distribution services provider shall collect universal system benefits funds less any allowable credits.

(e) For a utility to receive credit for low-income related expenditures and conservation and efficiency measures for irrigated agriculture, the activity must have taken place in Montana.

(f) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund established in 69-8-412 for any difference.

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs, conservation and efficiency measures for irrigated agriculture, and low-income energy assistance.

(4) A utility's transition plan must describe how the utility proposes to provide for universal system benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to measure the utility's level of contribution to each program.

(5) A utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 17% of the utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(a) A utility must receive credit toward the utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities.

(b) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412.

(6) An individual customer may not bear a disproportionate share of the local utility's funding requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

(7) (a) Except for those utilities that have not filed a transition plan, a utility's minimum annual funding requirement for reducing energy costs through conservation and efficiency measures for irrigated agriculture is established at 6% of the utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(b) A utility must receive credit toward the utility's irrigated agriculture assistance annual funding requirement for the utility's internal irrigated agriculture assistance programs or activities.

(c) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the irrigated agriculture energy assistance fund established in 69-8-412.

~~(7)~~(8) (a) A large customer:

(i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying load equal to the lesser of:

(A) \$500,000, less the large customer credits provided for in this subsection ~~(7)~~ (8); or

(B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour purchases, less large customer credits with respect to that qualifying load provided for in this subsection ~~(7)~~ (8);

(ii) must receive credit toward that large customer's universal system benefits charge for internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's facility; and

(B) those portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) Large customers making these expenditures must receive a credit against the large customer's

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universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that large customer's universal system benefits charge for the calendar year must be used as a credit against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

~~(8)~~(9) A public utility shall prepare and submit an annual summary report of the public utility's activities relating to all universal system benefits programs to the commission, the department of revenue, and the transition advisory committee provided for in 69-8-501. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the transition advisory committee. The statewide cooperative utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of revenue and to the transition advisory committee. The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

- (a) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;
- (b) the level of funding for those programs relative to the annual funding requirements prescribed in subsection (2); and
- (c) any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements.

~~(9)~~(10) A utility or large customer filing for a credit shall develop and maintain appropriate documentation to support the utility's or the large customer's claim for the credit.

~~(10)~~(11) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of its universal system benefits programs activities and expenditures to the department of revenue and to the large customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the utility is not required, except as provided in subsection ~~(10)~~(b) (11)(b).

(b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the large customer is financially responsible for the disallowance. A large customer and the large customer's utility may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility approves the large customer credit, the utility may be financially responsible for any subsequent disallowance." {Internal References to 69-8-402:

69-8-201x 69-8-201x 69-8-311x 69-8-412x`
69-8-414x 69-8-414x 69-8-501x }"

Insert: "Section 15. Section 69-8-403, MCA, is amended to read:

"69-8-403. Commission authority -- rulemaking authority. (1) Beginning on the effective date of a commission order regarding a public utility's transition plan, the commission shall regulate the public utility's retail transmission and distribution services within the state of Montana, as provided in this chapter, and may not regulate the price of electricity supply except as electricity supply may be procured as provided in this section:

- (a) by one or more default suppliers for those customers not being served by a competitive supplier; or
- (b) by the distribution function of a public utility for those customers that are not being served by a competitive electricity supplier as provided by commission rules. During the transition period, those procurements may include a cost-based contract from a supply affiliate or an unregulated division.

(2) The commission shall decide if there is workable competition in the electricity supply market by determining whether competition is sufficient to inhibit monopoly pricing or anticompetitive price leadership. In reaching a decision, the commission may not rely solely on market share estimates.

(3) The commission shall license electricity suppliers and enforce licensing provisions pursuant to 69-8-404.

(4) The commission shall promulgate rules that identify the licensees and ensure that the offered electricity supply is provided as offered and is adequate in terms of quality, safety, and reliability.

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(5) The commission shall establish just and reasonable rates through established ratemaking principles for public utility distribution and transmission services and shall regulate these services. The commission may approve rates and charges for electricity distribution and transmission services based on alternative forms of ratemaking such as performance-based ratemaking, on a demonstration by the public utility that the alternative method complies with this chapter, and on the public utility's transition plan.

(6) The commission shall certify that a cooperative utility has adopted a transition plan that complies with this chapter. A cooperative utility's transition plan is considered certified 60 days after the cooperative utility files for certification.

(7) The commission shall promulgate rules that protect consumers, distribution services providers, and electricity suppliers from anticompetitive and abusive practices.

~~(8) The commission shall license default suppliers and enforce default licensing provisions pursuant to 69-8-416.~~

~~(9) The commission shall promulgate rules for the licensing of default suppliers on or before December 1, 1999.~~

(8) The commission shall establish electricity supply rates for individual customer classes, which may vary based on cost factors associated with classifications of service or customers and any other reasonable consideration. Collectively, the individual electricity supply rates must reflect the full level of electricity supply costs that the default supplier incurs on behalf of its customers.

~~(10)~~(9) Until the commission has determined that workable competition has developed for small customers, a default supplier's obligation to serve remains.

~~(11)~~(10) In addition to promulgating rules expressly provided for in this chapter, the commission may promulgate any other rules necessary to carry out the provision of this chapter.

~~(12)~~(11) This chapter does not give the commission the authority to:

(a) regulate cooperative utilities in any manner other than reviewing certification filings for compliance with this chapter; or

(b) compel any change to a cooperative utility's certification filing made pursuant to this chapter."

{ Internal References to 69-8-403:

35-19-103 35-19-103 35-19-104 }

Insert: "Section 16. Section 69-8-412, MCA, is amended to read:

"69-8-412. Funds established -- fund administrators designated -- purpose of funds -- department rulemaking authority to administer funds. (1) If, pursuant to 69-8-402(2)(f) or (5)(b), there is any positive difference between credits and the annual funding requirement, the department of revenue shall establish one or ~~both~~ all of the following funds:

(a) a fund to provide for universal system benefits programs other than low-income energy assistance. The department of environmental quality shall administer this fund.

(b) a fund to provide universal low-income energy assistance. The department of public health and human services shall administer this fund.

(c) a fund to provide for reductions in the energy costs of irrigated agriculture through energy conservation and efficiency measures. The department of agriculture shall administer this fund.

(2) The purpose of these funds is to fund universal system benefits programs.

(3) The department of environmental quality and the department of public health and human services may adopt rules that administer and expend the money in each respective fund based on an annual statewide funding assessment that identifies funding needs in universal system benefits programs. The annual assessment must take into account existing utility and large customer universal system benefits programs expenditures.""

Insert: "Section 17. Section 69-8-414, MCA, is amended to read:

"69-8-414. Universal system benefits programs credit review process. (1) All annual reports required pursuant to ~~69-8-402(8) and (10)~~ 69-8-402(9) and (11) must be filed with the department of revenue on March 1 of each year.

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(2) Except as provided in 69-8-413, upon a challenge by an interested person, the department of revenue shall ensure that the credit claimed is consistent with this chapter. An interested person may file comments challenging the claim, including supporting documentation, with the department of revenue. A challenge of any claimed credit must be filed within 60 days of the department of revenue's receipt of the credit claimant's annual reports required pursuant to ~~69-8-402(8) and (10)~~ 69-8-402(9) and (11).

(3) Claimed credits are presumed to be correct unless challenged by an interested person. If a challenge is filed by an interested person, the department of revenue shall conduct an initial review of a challenged credit and shall make a determination as to the likelihood that the challenged credit qualifies for universal system benefits programs. If the department of revenue finds that the challenged credit is not likely to qualify for universal system benefits programs, the department of revenue shall formally review the challenge; otherwise, the department of revenue shall dismiss the challenge and provide a statement of the reasons supporting dismissal of the challenge. The department of revenue may request additional information from the credit claimant or interested person. The department of revenue shall complete the initial review within 30 days of the challenge.

(4) If the department of revenue determines that a formal review of a challenged credit is necessary, the department of revenue shall provide public notice of the opportunity to comment to the credit claimant and interested persons. The department of revenue may also schedule an oral hearing. If a hearing is scheduled, the department of revenue shall provide public notice of the hearing to the credit claimant and interested persons.

(5) For a formal credit review challenge, the following procedures apply:

(a) The credit claimant shall provide documentation supporting the credit claimed to the department of revenue and to all interested persons, subject to department of revenue protective orders for confidential or sensitive materials, upon a showing of a privacy interest by the credit claimant.

(b) The department of revenue shall make all materials related to the claim, the challenge, and the submitted comments available to the credit claimant and for public inspection and photocopying, subject to any department of revenue protective orders.

(c) The credit claimant may respond in writing to any comments and other documents filed by an interested person.

(d) The department of revenue may ask for additional detailed information to implement this section.

(6) Upon completing a formal review of a challenged credit, the department of revenue shall make a decision to certify or to deny the credit claimed, providing a statement of the reasons supporting the department of revenue's decision. The formal review of a challenged credit, including the department of revenue's final decision, must be completed within 60 days of the department of revenue's public notice of the opportunity to comment on the challenged credit."''

Renumber: subsequent sections

21. Page 13, line 18.

Insert: "NEW SECTION. Section 18. Consumer electricity support program. (1) There is a consumer electricity support program. The purpose of the program is to provide an affordable and reliable electricity supply to customers of the default supplier from July 1, 2002, until June 30, 2007. The consumer electricity support program consists of financial support or the assignment and subsequent disposition of electricity supply.

(2) There is a consumer electricity support account in the state special revenue fund. The account must be used for the deposit of any of the financial sources dedicated to the account. Distributions from the account must be in accordance with rules adopted by the department of administration for the program. Financial sources for funding the account may include:

(a) allocations from the state as provided by law; and

(b) other financial sources as identified in rules adopted by the department of administration.

(3) Electricity supply made available for the program must be either disposed of, with the resulting revenue deposited to the consumer electricity support account, or assigned to the distribution services provider to serve default supply customers. The electricity supply providers must be reimbursed for electricity supply

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contributed and used in accordance with rules adopted by the department of administration for this program. Electricity supply sources include:

- (a) electricity provided by electricity suppliers;
- (b) electricity available in the electrical energy pool established in [section 1 of House Bill No. 645];
- (c) government power authorities;
- (d) qualifying facility electricity supply as provided by law; and
- (e) any other source of electricity supply as identified in rules adopted by the department of

administration.

(4) The consumer electricity support program must be administered by the department of administration. The department shall adopt rules necessary to operate the program and to allocate the consumer electricity support resources beginning July 1, 2002. The rules must provide for the equitable distribution of program resources for default supply customers and for the reimbursement of the electricity supply providers. The rules must balance the short-term considerations of cost mitigation with the longer-term interests of encouraging customer demand response by establishing accurate electricity supply price signals. The department shall implement the consumer electricity support program in coordination with the default supplier.

(5) The department of administration may recover the costs of administering the program from the consumer electricity support account."

Insert: "NEW SECTION. Section 19. Funding of consumer electricity support program. (1) Up to \$100 million each year from the revenue derived from the electrical energy excess revenue tax imposed by [sections 1 through 10 of Senate Bill No. 512] must be transferred from the general fund into the consumer electricity support account.

(2) Pursuant to rules adopted by the department of administration under [section 18], at least 80% of the money in the account must be used to promote price stability of the supply of electrical energy in Montana:

(a) for default customers of a public utility that has submitted a transition plan pursuant to parts 1 through 5 of this chapter on or before July 1, 2001; and

(b) for customers that chose an electrical energy supplier as provided in Title 69, chapter 8, part 2.

(3) Pursuant to rules adopted by the department of administration under [section 18], the amount remaining in the account after promoting price stability of the supply of electrical energy under subsection (2) of this section may be used for the following purposes:

(a) assisting in the recruitment of new employers with 100 employees or more and in the promotion of the expansion of employment by 100 employees or more by existing employers who need a reasonable and stable supply of electrical energy;

(b) funding universal system benefits programs provided for in this chapter;

(c) providing low-interest loans for new transmission facilities or for improvements to existing transmission facilities;

(d) providing low-interest loans for the construction of new temporary or permanent electrical generation facilities

and for the expansion of the net generation capacity of existing electrical generation facilities. The electrical generation facilities referred to in this subsection must have an electrical generation capacity of 60 megawatts or less.

(4) In adopting rules, the department of administration shall consult with the commission and the consumer counsel. The department may contract with the commission for the administration of portions of the program.

(5) The funds deposited in the account under this section but not expended for the purposes established in this section must be transferred to the general fund after the end of each biennium.

(6) The money in the state special revenue account is statutorily appropriated, as provided in 17-7-502, for the purposes of [section 18] and this section."

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Insert: "NEW SECTION. Section 20. Short title. [Sections 20 through 28] may be cited as the "Montana Power Authority Act"."

Insert: "NEW SECTION. Section 21. Purpose. The legislature finds and declares that:

(1) the economic viability and security of the state of Montana is directly linked to reliable and affordable electrical energy;

(2) electrical energy has become a basic and irreplaceable necessity that impacts the public health, safety, and welfare of all Montana citizens;

(3) Montana's residential, agricultural, governmental, commercial, and industrial consumers of electrical energy are entitled to cost-based prices for electrical energy; and

(4) it is in the public interest that the Montana power authority have the ability to:

(a) purchase electrical energy from any supplier in the wholesale market for the purpose of providing reliable, cost-based power exclusively to Montana consumers;

(b) construct, acquire, or enter into joint ventures to construct or acquire electrical generation facilities that will provide cost-based power to consumers in Montana;

(c) construct, acquire, or enter into joint ventures to construct or acquire electrical energy transmission or distribution systems;

(d) sell electrical energy to a default supplier and to any municipal utility, cooperative utility, or investor-owned utility that serves Montana customers;

(e) contract with public or private entities for the operation and maintenance of state-owned power facilities; and

(f) encourage and support energy conservation to mitigate consumer costs and detrimental impacts on the environment."

Insert: "NEW SECTION. Section 22. Definitions. As used in [sections 20 through 28], unless the context requires otherwise, the following definitions apply:

(1) "Cost-based" means the price charged to a distribution services provider that is sufficient to meet the operating costs, including commodity costs, of the Montana power authority and to ensure timely repayment of bonds issued on behalf of or any other debt incurred by the Montana power authority.

(2) "Default supplier" means a distribution services provider.

(3) "Department" means the department of natural resources and conservation established in 2-15-3301.

(4) "Montana power authority" or "authority" means the citizen board established in [section 23]."

Insert: "NEW SECTION. Section 23. Montana power authority -- board composition -- procedures. (1)

There is a Montana power authority consisting of a seven-member citizen board appointed by the governor with the consent of the senate.

(2) In selecting the members, the governor shall:

(a) consider each prospective member's knowledge and understanding of the structural and financial dimensions of the electrical energy sector of the state's economy;

(b) ensure that two of the members broadly represent, as evidenced by their background, experience, and livelihood, the following categories of electrical energy consumption:

(i) irrigated agriculture;

(ii) commercial and industrial enterprise; and

(iii) residential;

(c) choose an at-large member with academic or business credentials that indicate that the person has substantial experience in energy markets in the region of the western states; and

(d) choose an at-large member with substantial experience in financial, banking, and bonding matters.

(3) The members shall elect the presiding officer by majority vote.

(4) Members of the Montana power authority shall serve staggered 4-year terms. The governor shall designate two of the initial members to serve 2-year terms and three of the initial members to serve 3-year terms. Vacancies must be filled by appointment for the unexpired term. A member may not serve more than two

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consecutive terms.

(5) The Montana power authority shall meet at least twice a year and may meet more frequently as required by circumstances or at the request of any two or more members of the authority.

(6) Decisions of the Montana power authority require a simple majority of the whole membership.

(7) The Montana power authority is attached to the department for administrative purposes, and the department shall provide staff support and a liaison between the authority and other state or federal agencies."

Insert: "NEW SECTION. Section 24. Powers and duties. (1) The Montana power authority may:

(a) purchase electrical energy from any wholesale power supplier, on a contractual basis, without limitation on the duration of any contract, to meet the aggregated load requirements of consumers in the service territory of a distribution services provider in Montana;

(b) purchase, construct, and operate electrical generation facilities or electrical energy transmission or distribution systems in the state;

(c) enter into joint ventures with any municipality, a cooperative, an investor-owned utility, or any other public or licensed private entity in Montana for the purpose of financing the construction of an electrical generation facility or an electrical energy transmission or distribution system;

(d) request that the legislature authorize revenue bonds to be issued by the board of examiners pursuant to Title 17, chapter 5, for the purpose of:

(i) constructing electrical generation facilities or electrical energy transmission or distribution systems in the state; or

(ii) purchasing an electrical generation facility or an electrical energy transmission or distribution system;

or

(e) sell electrical energy to any distribution services provider in the state;

(f) participate in a regional transmission organization established in response to or in compliance with an order of the federal energy regulatory commission; and

(g) participate with any municipality in an electrical energy generation project as provided in Title 90, chapter 5, part 1. The bonds may be publicly or privately sold, bear interest at rates and times, and mature at times not exceeding 40 years from the date of issuance as the board shall determine. The board may issue the bonds pursuant to a resolution or indenture of trust with a financial institution having the powers of a trust company. The resolution or indenture may contain provisions for protecting and enforcing the rights of bondholders that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the state, the board of examiners, the authority, or agencies of the state in relation to the acquisition, construction, improvements, maintenance, operation, repair, and insurance of the project financed with the proceeds of the bonds and the custody and application of all money. The trust indenture may set forth the rights and remedies of the bondholders as is customary in trust indentures, deeds of trust, and mortgages securing bonds.

(2) The Montana power authority shall, subsequent to the purchase of electrical energy from the wholesale market or the generation of power from an in-state generation facility, offer cost-based electrical energy to Montana consumers, including to a default supplier and to any municipal utility, cooperative utility, or investor-owned utility in the state."

Insert: "NEW SECTION. Section 25. Bond authorization. (1) The board of examiners may issue and sell bonds of the state in an aggregate principal amount not to exceed \$500 million for the purposes authorized in [section 26]. The bonds are revenue obligations in which the net revenue from the sale of the electrical energy produced from the electrical generation facilities acquired or built pursuant to [section 26] or revenue from electrical energy transmission and distribution charges is pledged for payment of the principal and interest on the bonds. The board may issue the bonds in accordance with the applicable provisions contained in 17-5-921 through 17-5-930.

(2) The proceeds of the bonds, other than any premiums and accrued interest received, must be deposited in an account in the state special revenue fund. Premiums and accrued interest must be deposited in the debt service fund established in 17-2-102. Proceeds of bonds deposited in the account may be used to pay the costs of

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issuing the bonds and to fulfill the purposes authorized in [section 26]. For the purposes of 17-5-803 and 17-5-804, the account constitutes a capital projects account. The bond proceeds must be available to the Montana power authority and may be used for the purposes authorized in this section without further budgetary authorization.

(3) (a) In authorizing the sale and issuance of the bonds, the board of examiners, upon request of the Montana power authority, may create separate accounts or subaccounts to provide for the payment and security of the bonds, including a debt service reserve account. The net revenue from the sale of the electrical energy produced from the electrical generation facilities acquired pursuant to [section 26] must be pledged to these accounts.

(b) The electrical energy produced from the electrical generation facilities must be offered to in-state customers before the electrical energy may be offered to other customers."

Insert: "NEW SECTION. Section 26. Use of bond proceeds. The Montana power authority shall use the proceeds of the bonds authorized in [section 25] to purchase the electrical generation facilities and associated water rights for those facilities, to build electrical energy generation facilities, to design and build new state-owned electrical energy transmission or distribution systems, or to pay capitalized interest during construction, to fund a debt service reserve, and to pay costs associated with the sale and security of the bonds. The Montana power authority may not acquire a facility or system that is associated with a superfund project."

Insert: "NEW SECTION. Section 27. Interagency cooperation. (1) State agencies shall cooperate with the Montana power authority in the planning of electrical energy purchases or the permitting or constructing of electrical generation facilities.

(2) Within the limits of available resources, state agencies shall provide scientific, economic, and other relevant data requested by the Montana power authority."

Insert: "NEW SECTION. Section 28. Pledge. In accordance with constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the state and the holders of the bonds issued by the state."

Insert: "NEW SECTION. Section 29. Adoption of rules. Because the supply and price of electricity constitute a threat to the public health, safety, and welfare, the commission and the department of administration may begin proceedings to adopt rules immediately upon passage and approval of [this act]. The rules must be adopted by July 1, 2001."

Insert: "NEW SECTION. Section 30. Repealer. Sections 35-19-103, 69-8-416, and 69-8-417, MCA, are repealed."

Renumber: subsequent sections

22. Page 13, line 24.

Following: "~~¶~~"

Insert: "(1)"

23. Page 13, line 27.

Insert: "(2) [Sections 18 and 19] are intended to be codified as an integral part of Title 69, chapter 8, and the provisions of Title 69, chapter 8, apply to [sections 18 and 19].

(3) [Sections 20 through 28] are intended to be codified as an integral part of Title 69, and the provisions of Title 69 apply to [sections 20 through 28]."

24. Page 13, line 28.

Strike: "date"

Insert: "dates"

Following: "date."

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

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25. Page 13, line 29.

Insert: "(2) [Sections 29 and 31 and this section] are effective on passage and approval."

For the House:

D. Mood, Vice Chairman
Dell(Unsigned)
R. Brown

For the Senate:

McNutt, Chairman
Ellis
Ryan

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 9:00 a.m., Saturday, April 21, 2001. Motion carried.

Senate adjourned at 7:20 p.m.

ROSANA SKELTON
Secretary of Senate

TOM BECK
President of the Senate