

**HOUSE JOURNAL
58TH LEGISLATURE
THIRTIETH LEGISLATIVE DAY**

Helena, Montana
February 11, 2003

House Chambers
State Capitol

House convened at 1:00 p.m. Mr. Speaker in the Chair. Invocation by Representative D. Brown. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS (Bookout-Reinicke, Chairman): 2/11/2003
Correctly printed: **HB 201, HB 206, HB 303, HB 378, HB 420, HJR 10.**
Correctly engrossed: **HB 226.**
Delivered to the Governor for approval at 2:40 p.m., February 11, 2003: **HB 23, HB 35, HB 43, HB 44, HB 102, HB 167, HB 232.**

FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS (Bitney, Chairman): 2/11/2003
HB 337, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "MUST"

2. Title, line 6.

Following: "STRUCTURE;"

Insert: "PROVIDING AN EXCEPTION;"

Following: "REQUIRING"

Insert: "A"

3. Page 1, line 10 through page 3, line 17.

Strike: everything after the enacting clause

Insert: "**Section 1.** Section 69-4-602, MCA, is amended to read:

"69-4-602. Procedure to give required notice Notice of move -- cost estimate. The person, firm, or corporation moving ~~any~~ a house, building, derrick, or other structure shall give the person, firm, or corporation owning or ~~operating~~ controlling the wires, cables, or poles affected by the movement of a structure, at both ~~their~~ the person's, firm's, or corporation's principal office and ~~their~~ nearest office within the state, not less than 10 days' written notice of the proposed time and place of moving a structure.

(2) The owner of the wires, cables, or poles shall give the mover a written estimate of the total cost of all work related to cutting, raising, or moving the wires or poles or raising the wires or cables or moving the poles, including travel time, at least 3 days prior to the move or within 10 days after receipt of the written notice of the move, whichever time comes sooner.

(3) The estimate of the total cost required under this section must be developed in accordance with the cost schedule filed as provided in subsection (4).

(4) (a) Except as provided in subsection (4)(b), a public utility, cable television company, or unregulated telecommunications provider with wires, cables, or poles in Montana shall file with the commission, by April 1 of each year, a cost schedule for labor and equipment for all work related to cutting or raising wires or cables or moving poles.

(b) An electric or telephone cooperative, as defined in 35-18-102, shall file at the cooperative's main office, by April 1 of each year, a cost schedule for labor and equipment for all work related to cutting or raising wires or cables or moving poles."

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Insert: "Section 2. Section 69-4-603, MCA, is amended to read:

"69-4-603. Procedure to accomplish move -- payment of cost. (1) In order to accomplish moving a house, building, derrick, or other structure through an area in which utility wires, cables, or poles or ~~wires~~ impede the movement, ~~it is the duty of~~ the person, firm, or corporation who owns or controls the poles or wires, cables, or poles and who has received the notice required by 69-4-602 to shall furnish competent workers to raise or cut the wires or cables or move the poles as necessary to facilitate moving the house, building, derrick, or other structure.

~~(2) The necessary and reasonable expense of raising or cutting the wires or of moving the poles for utilities subject to the jurisdiction of the public service commission must be fixed and determined by the public service commission on the average cost per line or pole for time and materials expended. These costs and expenses must be reviewed biennially. Except as provided in subsections (4) and (5), the necessary and reasonable expense of raising or cutting the wires or of moving the poles must be shared equally by the person, firm, or corporation owning the structure and the person, firm, or corporation owning or operating the wires, cables, or poles required to be moved.~~

~~(3) The rates and charges of rural cooperative electric utilities, rural cooperative telephone utilities, and other persons who occupy and use utility or cooperative poles may not exceed the charges established by the public service commission for utilities subject to its jurisdiction. The charges assessed by utilities, other than utilities subject to the jurisdiction of the public service commission, must be apportioned as provided in subsection (2).~~

~~(4)(2) (a) Except as provided in subsection (4)(b) (2)(b), to facilitate the movement of a house, building, derrick, or other structure, the necessary and reasonable actual costs of raising or cutting wires or cables or moving poles to facilitate the movement of a house, building, derrick, or other structure, determined in accordance with the schedule filed under 69-4-602, must be paid by the owner of:~~

~~(i) a prefabricated structure that is intended to be moved from the place of fabrication; or~~
~~(ii) the sixth and each subsequent structure that exceeds 25 feet in height while being moved and that is to be moved from a single site. When structures are moved in a group or in a continuous caravan formation and when only a single line cut or movement is necessary, the move must count as only a single-structure move for purposes of this subsection (4)(a)(ii). For the purposes of this subsection (4)(a)(ii), a single site includes but is not limited to a development complex, housing complex, military base, or institutional complex. The whole of an incorporated municipality is not a single site as the term is used in this subsection mover.~~

~~(b) The necessary and reasonable actual costs of raising or cutting wires or cables or moving poles to facilitate the movement of a structure, determined in accordance with the schedule filed under 69-4-602, must be shared equally by the mover and the owner of the wires, cables, or poles if the structure is:~~

- ~~(i) owned by a person for occupancy or use by that person must be shared equally as provided in subsection (2);~~
~~(ii) when loaded, a height of less than 23 feet; and~~
~~(iii) not moved from the place of fabrication, a storage facility, or a dealer's lot.~~

~~(5) (a) A person, firm, or corporation who owns or moves a house, building, derrick, or other structure may not raise, cut, or in any way interfere with any poles or wires~~

~~(3) A mover may not raise, cut, or in any way interfere with wires, cables, or poles unless the person, firm, or corporation who owns or controls the poles or wires, cables, or poles refuses, after having been notified as required by 69-4-602, to raise or cut the wires or cables or move the poles.~~

~~(b) When the person who owns or controls the poles or wires refuses to raise or cut the wires or move the poles, the person, firm, or corporation who owns or moves the house, building, derrick, or other structure shall ensure that only competent and experienced workers raise or cut the wires or move the poles.~~

~~(c) The following procedure must be followed:~~

~~(i) The necessary and reasonable expense incurred by the owner or mover of the house, building, derrick, or other structure as a result of raising or cutting the wires or moving the poles must be paid by the owners of the poles or wires handled:~~

~~(ii) The work of raising or cutting the wires or moving the poles must be done in a careful manner.~~

~~(iii) The poles and wires must be promptly replaced and any damage to the poles or wires must be promptly repaired:~~

~~(4) The mover shall make a prepayment of a portion of the total cost estimated under 69-4-602 in advance of~~

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the move as follows:

(a) if the structure is moved through or out of the service territory of the owner of the wires, cables, or poles, 100% of the mover's share pursuant to subsection (2); or

(b) if the structure is delivered to a place within the service territory of the owner of the wires, cables, or poles, 50% of the mover's share pursuant to subsection (2).

(5) The owner of the wires, cables, or poles may waive the prepayment requirement or accept a bond or other financial instrument in lieu of payment.

(6) The mover shall pay the mover's share of all actual costs under subsection (2) in excess of any prepayment made under subsection (4) within 30 days of the move.

(7) If the prepayment made under subsection (4) exceeds the mover's share of actual costs under subsection (2), the owner of the wire, cable, or pole shall refund the difference to the mover within 30 days of the move."

Insert: "NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

HB 373, introduced bill, be amended as follows:

1. Page 2, line 22.

Following: "vegetation"

Insert: "composition"

2. Page 3, line 26.

Following: "area;"

Insert: "and"

3. Page 3, line 27 through line 29.

Strike: subsection (d) in its entirety

Renumber: subsequent subsection

4. Page 6, line 18.

Following: "recreation,"

Insert: "or"

Following: "residential"

Strike: ";" through "land"

5. Page 8, line 8.

Following: "department"

Insert: "under a plan approved by the department"

6. Page 9, line 9.

Strike: "a purchaser" through "or"

Insert: "a person who personally conducts farming or ranching operations upon a farm or ranch unit to be directly affected by strip-mining operations or who receives directly a significant portion of income from farming or ranching operations;"

7. Page 9, line 10.

Following: "surface"

Insert: "; or

(d) the appropriate federal land management agency when the United States government owns the surface"

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8. Page 9, line 18 through line 21.

Strike: subsection (53) in its entirety

Renumber: subsequent subsections

9. Page 22, line 1.

Following: "(1)"

Insert: "(a)"

10. Page 22, line 7.

Strike: "(a)"

Insert: "(i)"

Renumber: subsequent subsections

11. Page 22, line 8.

Following: "order to"

Insert: "enhance the postmining land use and"

12. Page 22, line 9.

Following: "stability."

Insert: "and"

13. Page 22, line 10.

Following: "erosion"

Strike: "s" through "uses"

14. Page 22.

Following: line 15

Insert: "(b) Spoil from the first cut is not required to be transported to the last cut if highwalls are eliminated, box cut spoils are graded to blend in with the surrounding terrain, and the approximate original contour of the land is achieved."

15. Page 22, line 16.

Strike: "(e)"

Insert: "(c)"

16. Page 25, line 28 through line 30.

Following: "(8)"

Insert: "(a)"

Strike: "and" on line 28 through "use" on line 30

Insert: "a higher or better use as an alternative postmining land use. If the landowner is not the operator, the operator shall submit written documentation of the concurrence of the landowner or the land management agency with jurisdiction over the land. The department may approve the proposed alternative postmining land use only if it"

17. Page 26, line 1.

Strike: "(a)"

Insert: "(i)"

Renumber: subsequent subsections

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18. Page 26, line 5.

Strike: "(i)"

Insert: "(A)"

Renumber: subsequent subsections

19. Page 26.

Following: line 25

Insert: "(b) As used in this section, the term "landowner" includes a person who has sold the surface estate to the operator with an option to repurchase the surface estate after mining and reclamation are complete."

20. Page 29, line 11.

Following: "cover"

Insert: "and production"

And, as amended, do pass. Report adopted.

HB 417, introduced bill, be amended as follows:

1. Title, line 6.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

2. Page 1, line 13.

Following: "matured,"

Insert: "contracts that were entered into,"

3. Page 1, line 17.

Strike: "the Public" through "1978"

Insert: "16 U.S.C. 824a-3"

4. Page 1, line 18 through line 19.

Strike: "the Public" on line 18 through "1978" on line 19

Insert: "16 U.S.C. 824a-3"

5. Page 1.

Following: line 19

Insert: "NEW SECTION. Section 4. Applicability. [This act] applies to a petition filed with the commission on or after [the effective date of this act]."

And, as amended, do pass. Report adopted.

HB 424, do pass. Report adopted.

JUDICIARY (Shockley, Chairman):

2/10/2003

HB 214, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "SUPERVISE"

Insert: "CONTROL"

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2. Title, page 1, line 8.

Strike: "SUPERVISION"

Insert: "CONTROL"

3. Page 1, line 18.

Strike: "(1)"

4. Page 1, line 19.

Strike: "supervise"

Insert: "control"

5. Page 1, line 21.

Strike: "(a)"

Insert: "(1)"

Strike: "supervise"

Insert: "control"

6. Page 1, line 22.

Strike: "(b)"

Insert: "(2)"

Strike: "supervision"

Insert: "control"

7. Page 1, line 23 through line 24.

Strike: subsection (2) in its entirety

And, as amended, do pass. Report adopted.

HB 456, introduced bill, do pass and be placed on the consent calendar. Report adopted.

NATURAL RESOURCES (Younkin, Chairman):

2/10/2003

HJR 4, introduced joint resolution, be amended as follows:

1. Title, line 7.

Strike: "87-1-703"

Insert: "85-1-703"

2. Page 1, line 20.

Following: "water"

Insert: ", reducing waste, and promoting efficiency"

3. Page 1.

Following: line 27

Insert: "(1) quantitatively evaluate the efficiency of and the waste caused by aging irrigation delivery systems and prescribe options for reducing waste and increasing efficiency;

(2) evaluate measures that promote the efficient use of water;

(3) evaluate the long-term impact of any new ground water appropriations in closed basins;

(4) study water banking as a means to alleviate water shortages;"

Renumber: subsequent subsections

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4. Page 1, line 30.
Strike: "87-1-703"
Insert: "85-1-703"

5. Page 2, line 3.
Following: "Conservation,"
Insert: "the Department of Fish, Wildlife, and Parks,"

And, as amended, be adopted. Report adopted.

MESSAGES FROM THE SENATE

Senate bills passed and transmitted to the House for concurrence: 2/10/2003

SB 128, introduced by Mahlum
SB 130, introduced by McGee
SB 263, introduced by Grimes
SB 284, introduced by Wheat

House bills concurred in and returned to the House: 2/10/2003

HB 136, introduced by Fisher
HB 175, introduced by P. Clark
HB 207, introduced by Laslovich

House bill concurred in as amended and returned to the House for concurrence in Senate amendments: 2/10/2003

HB 128, introduced by Rice

MESSAGES FROM THE GOVERNOR

February 11, 2003

The Honorable Doug Mood
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Representative Mood:

Please be informed that I have signed **House Bill 31** sponsored by Representative Devlin, **House Bill 58** sponsored by Representative Erickson, **House Bill 62** sponsored by Representative Lehman, **House Bill 70** sponsored by Representative Parker, **House Bill 83** sponsored by Representative Peterson, and **House Bill 153** sponsored by Representative Ballantyne on February 11, 2003.

Sincerely,

JUDY MARTZ

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Governor

FIRST READING AND COMMITMENT OF BILLS

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

HB 572, introduced by Lewis, Branae, referred to Education.

HB 573, introduced by Parker, Dowell, Galvin-Halcro, Harris, referred to Education.

HB 574, introduced by Lehman, referred to Natural Resources.

HB 575, introduced by Ballantyne, Branae, Laslovich, Lindeen, Musgrove, Newman, Wanzenried, referred to Business and Labor.

HB 576, introduced by Buzzas, referred to Business and Labor.

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

HB 578, introduced by Shockley, referred to Judiciary.

HB 579, introduced by Shockley, referred to Judiciary.

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

HB 581, introduced by Gutsche, Cobb, referred to Natural Resources.

HB 582, introduced by Juneau, referred to Business and Labor.

HB 583, introduced by R. Brown, referred to Local Government.

HB 584, introduced by Barrett, Brueggeman, Grimes, Gutsche, Stonington, referred to Judiciary.

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

SB 16, introduced by Mangan, Glaser (by request of the Education and Local Government Interim Committee), referred to Education.

SB 41, introduced by Tropila (by request of the Board of Public Education), referred to Education.

SB 42, introduced by Tropila (by request of the Board of Public Education), referred to Education.

SB 43, introduced by Tropila (by request of the Board of Public Education), referred to Education.

SB 96, introduced by Kitzenberg, referred to Education.

SB 202, introduced by Johnson, McCarthy, referred to Education.

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

Representative Brown moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Golie in the chair.

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

HB 331 - Representative Gallus moved **HB 331** do pass.

Representative Harris moved **HB 331**, second reading copy, be amended as follows :

1. Title, page 1, line 8.

Following: "DUE;"

Insert: "CHANGING THE OFFENSE FROM A CRIMINAL OFFENSE TO A CIVIL OFFENSE;"

2. Page 1, line 16.

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Following: "the"
Insert: "civil"

3. Page 1, line 21.
Following: line 20
Insert: "civil"

4. Page 1, line 24.
Following: "the"
Insert: "civil"

5. Page 1, line 29.
Strike: "convicted of failure"
Insert: "who fails"

6. Page 1, line 30.
Strike: "failure"
Insert: "fails"

7. Page 2, line 1 through line 2.
Strike: lines 1 through 2 in their entirety
Insert: "is subject to a civil penalty in an amount not to exceed \$1,500."

8. Page 2, line 3.
Strike: "convicted of failure"
Insert: "who fails"

9. Page 2, line 4.
Strike: "failure"
Insert: "fails"

10. Page 2, line 4 through line 6.
Strike: "shall" on line 4 through "both" on line 6
Insert: "is subject to a civil penalty in an amount not to exceed \$2,000"

11. Page 2, line 7.
Insert: "NEW SECTION. Section 2. Instruction to code commissioner. The code commissioner shall renumber 45-6-309 as an integral part of Title 30, chapter 19, and shall make any other changes necessitated by the renumbering."
Renumber: subsequent section

Amendment adopted as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Branae, D. Brown, R. Brown, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Everett, Facey, Fisher, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Sales, Schrupf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman,

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Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin.
Total 96

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Bookout-Reinicke, Brueggeman, Golie, Mr. Speaker.
Total 4

Motion that **HB 331**, as amended, do pass carried as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Branae, R. Brown, Brueggeman, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Everett, Facey, Forrester, Franklin, Fritz, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Hurwitz, Jacobson, Jent, Juneau, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Ross, Ryan, Sales, Schrupf, Shockley, Sinrud, Small-Eastman, Smith, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 85

Noes: Bookout-Reinicke, D. Brown, E. Clark, Devlin, Fisher, Fuchs, Gallik, Hawk, Jackson, Jayne, Kasten, Maedje, Rome, Steinbeisser.
Total 14

Excused: None.
Total 0

Absent or not voting: Newman.
Total 1

HB 445 - Representative Pattison moved **HB 445** do pass. Motion carried as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Everett, Facey, Fisher, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Gibson, Gillan, Golie, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Kasten, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Sales, Schrupf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 93

Noes: Dowell, Erickson, Galvin-Halcro, Gutsche, Juneau, Kaufmann, Wanzenried.
Total 7

Excused: None.

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Total 0

Absent or not voting: None.

Total 0

HJR 11 - Representative Smith moved **HJR 11** be adopted. Motion carried as follows:

Ayes: Andersen, Ballantyne, Barrett, Becker, Bergren, Bitney, Bixby, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Everett, Facey, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Matthews, McKenney, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schrumpf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.

Total 92

Noes: Balyeat, Bookout-Reinicke, Fisher, Haines, Hawk, Malcolm, Mendenhall, Sales.

Total 8

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HJR 12 - Representative Fuchs moved **HJR 12** be adopted. Motion carried as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dowell, Everett, Facey, Fisher, Forrester, Franklin, Fuchs, Gallik, Gallus, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Kasten, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Sales, Schrumpf, Shockley, Sinrud, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.

Total 91

Noes: Becker, Carney, Dickenson, Erickson, Fritz, Galvin-Halcro, Juneau, Kaufmann, Small-Eastman.

Total 9

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HJR 14 - Representative Bixby moved **HJR 14** be adopted. Motion carried as follows:

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Ayes: Ballantyne, Barrett, Becker, Bergren, Bixby, Bookout-Reinicke, Branae, D. Brown, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Fisher, Forrester, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Lawson, Lenhart, Lewis, Lindeen, Matthews, Morgan, Musgrove, Noennig, B. Olson, Parker, Raser, Rice, Roberts, Ryan, Small-Eastman, Smith, Wagman, Wanzenried, Weiss, Wilson, Windy Boy.

Total 63

Noes: Andersen, Balyeat, Bitney, R. Brown, Brueggeman, E. Clark, Devlin, Everett, Fuchs, Haines, Hawk, Hedges, Kasten, Laszloffy, Lehman, Maedje, Malcolm, McKenney, Mendenhall, Newman, A. Olson, Pattison, Peterson, Ripley, Rome, Ross, Sales, Schrupf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Waitschies, Witt, Younkin, Mr. Speaker.

Total 37

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 448 - Representative Harris moved **HB 448** do pass. Motion carried as follows:

Ayes: Ballantyne, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Everett, Facey, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hawk, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ryan, Sales, Schrupf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.

Total 92

Noes: Andersen, Balyeat, R. Brown, Fisher, Hedges, A. Olson, Ross.

Total 7

Excused: None.

Total 0

Absent or not voting: Devlin.

Total 1

HB 129 - Representative Gutsche moved **HB 129** do pass. Motion carried as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, Brueggeman, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Everett, Facey, Fisher, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hawk, Hurwitz, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Lake, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Peterson, Raser, Ripley, Roberts, Rome, Ryan, Sales, Schrupf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.

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Total 87

Noes: D. Brown, R. Brown, E. Clark, Devlin, Hedges, Jackson, Kasten, Lambert, Morgan, Pattison, Rice, Ross, Waitschies.

Total 13

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 61 - Representative Laslovich moved **HB 61** do pass.

Representative P. Clark moved for cloture. Motion carried.

Motion that **HB 61** do pass carried as follows:

Ayes: Andersen, Ballantyne, Balyeat, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, Brueggeman, Carney, E. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Facey, Forrester, Fritz, Gallik, Haines, Harris, Hurwitz, Jackson, Jayne, Jent, Kaufmann, Keane, Lambert, Laslovich, Lehman, Lenhart, Lindeen, Maedje, Malcolm, Matthews, Morgan, Musgrove, A. Olson, Peterson, Raser, Rice, Ross, Ryan, Schruppf, Small-Eastman, Smith, Steinbeisser, Stoker, Wanzenried, Weiss, Windy Boy, Witt, Mr. Speaker.

Total 57

Noes: Barrett, R. Brown, Buzzas, Callahan, P. Clark, Everett, Fisher, Franklin, Fuchs, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Hawk, Hedges, Jacobson, Juneau, Kasten, Lake, Lange, Laszloffy, Lawson, Lewis, McKenney, Mendenhall, Newman, Noennig, B. Olson, Parker, Pattison, Ripley, Roberts, Rome, Sales, Sinrud, Thomas, Wagman, Waitschies, Wilson, Younkin.

Total 41

Excused: None.

Total 0

Absent or not voting: Gallus, Shockley.

Total 2

HB 184 - Representative Wilson moved **HB 184** do pass. Motion carried as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Everett, Facey, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ross, Ryan, Sales, Schruppf, Shockley, Sinrud, Small-Eastman, Smith, Thomas, Wanzenried, Weiss, Wilson, Windy Boy, Mr. Speaker.

Total 85

Noes: R. Brown, Fisher, Haines, Hawk, Lake, McKenney, Ripley, Roberts, Rome, Steinbeisser, Stoker, Wagman,

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Waitschies, Witt, Younkin.
Total 15

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Representative Brown moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Golie moved the Committee of the Whole report be adopted. Report adopted as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Everett, Facey, Fisher, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Sales, Schruppf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Witt, Younkin, Mr. Speaker.
Total 98

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Golie, Windy Boy.
Total 2

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 201 passed as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Everett, Facey, Fisher, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Golie, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Sales, Schruppf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 99

Noes: None.

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Total 0

Excused: None.

Total 0

Absent or not voting: Gillan.

Total 1

HB 206 passed as follows:

Ayes: Andersen, Ballantyne, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, R. Brown, Buzzas, Callahan, Carney, E. Clark, Cohenour, Cyr, Devlin, Dickenson, Erickson, Facey, Gallik, Gallus, Gibson, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jent, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lenhart, Lindeen, Maedje, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Peterson, Ripley, Roberts, Rome, Ross, Ryan, Schruppf, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Wilson, Windy Boy, Younkin, Mr. Speaker.

Total 71

Noes: Balyeat, Barrett, D. Brown, Brueggeman, P. Clark, Dowell, Everett, Fisher, Forrester, Franklin, Fuchs, Galvin-Halcro, Golie, Jayne, Juneau, Kasten, Lehman, Lewis, Malcolm, Pattison, Raser, Rice, Sales, Shockley, Sinrud, Weiss, Witt.

Total 27

Excused: None.

Total 0

Absent or not voting: Fritz, Gillan.

Total 2

HB 303 passed as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Callahan, E. Clark, Cohenour, Cyr, Devlin, Dowell, Everett, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Haines, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Sales, Schruppf, Shockley, Sinrud, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Witt, Younkin, Mr. Speaker.

Total 88

Noes: Buzzas, Carney, P. Clark, Dickenson, Erickson, Facey, Fisher, Gutsche, Harris, Kaufmann, Small-Eastman, Windy Boy.

Total 12

Excused: None.

Total 0

Absent or not voting: None.

Total 0

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HB 378 passed as follows:

Ayes: Andersen, Ballantyne, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Everett, Facey, Fisher, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Golie, Gutsche, Haines, Harris, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Sales, Schrupf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.

Total 94

Noes: Balyeat, Hawk, Thomas, Wagman.

Total 4

Excused: None.

Total 0

Absent or not voting: Gillan, Stoker.

Total 2

HB 420 passed as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Callahan, Carney, E. Clark, Cohenour, Devlin, Dickenson, Dowell, Everett, Facey, Fisher, Fritz, Fuchs, Gallik, Gallus, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jayne, Jent, Juneau, Kasten, Keane, Lake, Lambert, Lange, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Malcolm, Matthews, McKenney, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Sales, Schrupf, Shockley, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.

Total 82

Noes: Buzzas, P. Clark, Cyr, Erickson, Forrester, Franklin, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Jacobson, Kaufmann, Laslovich, Lindeen, Maedje, Mendenhall, Sinrud.

Total 18

Excused: None.

Total 0

Absent or not voting: None.

Total 0

REPORTS OF STANDING COMMITTEES

BILLS (Bookout-Reinicke, Chairman):

2/11/2003

Correctly engrossed: **HB 214, HB 337, HB 373, HB 417.**

Correctly enrolled: **HB 136, HB 175, HB 207.**

BUSINESS AND LABOR (McKenney, Chairman):

2/11/2003

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HB 359, introduced bill, be amended as follows:

1. Title, line 5.

Following: "FOR"

Insert: "APPROPRIATE"

2. Title, line 6.

Following: "EXCEPTIONS;"

Insert: "PROVIDING A FINE FOR EMPLOYERS NOT PROVIDING APPROPRIATE REST PERIODS;"

3. Page 1, line 11.

Strike: "Rest"

Insert: "Appropriate rest"

Following: "(1)"

Insert: "(a)"

4. Page 1, line 13.

Following: "without"

Strike: "a"

Insert: "an appropriate"

5. Page 1, following line 14.

Insert: "(b) For the purposes of this section, "appropriate rest period" means a period of rest of not less than 10 minutes for every segment of 4 hours worked in one work period without deduction from the employee's pay. The rest period must be in addition to and taken separately from the time allowed for the usual meal period. Insofar as is feasible, considering the nature and circumstances of the work, the rest period is to be taken by the employee in the middle of each 4-hour segment. The rest period is not to be added to the usual meal period or deducted from the beginning or end of the work period to reduce the overall length of the total work period."

6. Page 1, line 18.

Following: "agreement."

Insert: "Except for a claim that a deduction from pay was made by an employer for a rest period, a complaint by an employee pursuant to the provisions of this section may not be treated as a wage claim under Title 39, chapter 3, part 2."

7. Page 1, following line 20.

Insert: "(5) The department may adopt rules to implement the provisions of this section. The rules may address but are not limited to:

(a) appropriate times for employee breaks in light of work conditions and peak work periods;

(b) the fact that breaks are available to employees on a use-it-or-lose-it basis; and

(c) the staggering of breaks among employees in order to not interfere with workflow.

(6) An employer who is subject to the provisions of this section and who receives from the department three notices of violation of the provisions of this section may be fined by the department an amount not to exceed \$500. The employer is entitled to proceed under the contested case provisions of the Montana Administrative Procedure Act."

And, as amended, do pass. Report adopted.

HB 438, introduced bill, be amended as follows:

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1. Title, line 5.

Following: "CONTRACTS;"

Insert: "REVISING DEFINITIONS;"

2. Title, line 10.

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS 28-2-2101 AND"

3. Page 1, following line 14.

Insert: "**Section 1.** Section 28-2-2101, MCA, is amended to read:

"28-2-2101. Definitions. As used in this part, unless the context requires otherwise, the following terms apply:

(1) "Construction contract" means a written agreement between an owner and a contractor for the contractor to construct or improve or to provide construction management for the construction or improvement of an improvement to real property.

(2) "Contractor" means a person who has signed a construction contract with an owner.

(3) "Government entity" means a city, town, county, consolidated municipal-county government, school district, or other special district.

(4) "Improve" means to build, alter, demolish, repair, construct, expand, cover, excavate, grade, fill, clear, plant, landscape, or furnish material or labor, or both for an improvement.

(5) "Improvement" means all or a part of a residential or commercial building, structure, area of real property, quantity of earth or fill material, tree or shrubbery, driveway, roadway, or parking area.

(6) "Owner" means a governmental entity or private entity that has a legal interest in the real property improved or to be improved by the performance of the construction contract. An owner may, in the contract, designate another person to represent the owner for the purpose of overseeing the performance of the construction contract and in handling administrative tasks respecting the construction contract.

~~(7) "Owner's representative" means an architect, engineer, or other person who represents the owner and is designated in the contract as the person representing the owner for the purposes of the administration or oversight of the performance of the construction contract.~~

~~(8)~~(7) "Receipt" or "receive" means actual receipt.

~~(9)~~(8) "Subcontract" means a contract between a contractor and a subcontractor or between a subcontractor and another subcontractor, the purpose of which is the performance of all or a part of the construction contract.

~~(10)~~(9) "Subcontractor" means a person who has contracted with a contractor or another subcontractor for the purposes of performance of all or a part of a subcontract.""

4. Page 1, line 23.

Strike: "or the owner's representative"

5. Page 1, line 25.

Strike: "or owner's"

6. Page 1, line 26.

Strike: "representative"

7. Page 1, line 27.

Strike: "or owner's representative"

Insert: "in the contract"

8. Page 1, line 29.

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Strike: "or the owner's representative"

Insert: "or the person designated in the contract by the owner to receive the payment request"

9. Page 1, line 30.

Strike: "or the owner's representative"

10. Page 2, line 1.

Strike: "or the owner's representative"

11. Page 2, line 2.

Strike: "or the owner's representative"

12. Page 2, line 14.

Strike: "or owner's representative"

13. Page 2, line 15.

Strike: "or the owner's representative"

14. Page 2, line 17.

Strike: "or owner's representative"

15. Page 2, line 19.

Strike: "or the owner's representative"

16. Page 2, line 24 through line 27.

Strike: ", an owner" on line 24 through "paid" on line 27

Insert: "who has not been paid for work in accordance with the provisions of subsection (2), an owner shall notify the subcontractor of a progress payment or final payment made to the general contractor"

17. Page 2, line 28.

Strike: "or the"

18. Page 2, line 29.

Strike: "owner's representative"

19. Page 3, line 6.

Strike: "or the owner's representative"

20. Page 3, line 19.

Strike: "on each" through "construction plans"

Insert: "in the "Information for Bidders" section of the construction documents"

21. Page 3, line 27.

Strike: "on each" through "construction plans"

Insert: "in the "Information for Bidders" section of the construction documents"

22. Page 4, line 8.

Strike: "on each" through "construction plans"

Insert: "in the "Information for Bidders" section of the construction documents"

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23. Page 4, line 17.

Strike: "on each" through "construction plans"

Insert: "in the "Information for Bidders" section of the construction documents"

24. Page 6, line 24.

Strike: "2 through 4"

Insert: "3 through 5"

25. Page 6, line 26.

Strike: "2 through 4"

Insert: "3 through 5"

And, as amended, do pass. Report adopted.

HB 474, do pass. Report adopted.

HB 482, do pass. Report adopted.

JUDICIARY (Shockley, Chairman):

2/11/2003

HB 402, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "PENALTIES"

Insert: "AND REQUIRING OFFENDER REGISTRATION"

2. Title, page 1, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "45-9-132"

Insert: "AND 46-23-502"

3. Page 2, line 4.

Insert: "**Section 2.** Section 46-23-502, MCA, is amended to read:

"46-23-502. Definitions. As used in 46-18-255 and this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(3) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(4) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(5) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct sexual offender and sexually violent predator evaluations.

(6) "Sexual offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302, 45-5-303, 45-5-502(3), 45-5-503, 45-5-504(1) (if the victim is under 18 years of age and the offender is 18 years of age or older), 45-5-504(2)(c), 45-5-507 (if the victim is under 18 years of age and the offender is 3 or more years older than the victim), 45-5-603(1)(b), or 45-5-625; or

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(b) any violation of a law of another state or the federal government reasonably equivalent to a violation listed in subsection (6)(a).

(7) "Sexual or violent offender" means a person who has been convicted of a sexual or violent offense.

(8) "Sexually violent predator" means a person who has been convicted of a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses.

(9) "Violent offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, 45-5-401, ~~or~~ 45-6-103, ~~or~~ 45-9-132; or

(b) any violation of a law of another state or the federal government reasonably equivalent to a violation listed in subsection (9)(a)."

And, as amended, do pass. Report adopted.

HB 453, do pass. Report adopted.

HB 489, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "IMMEDIATE"

2. Page 3, line 18.

Strike: "on passage and approval"

Insert: "July 1, 2003"

And, as amended, do pass and be placed on the consent calendar. Report adopted.

HB 496, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "40-15-402"

Insert: "AND 40-15-403"

2. Page 1, line 26.

Insert: "**Section 2.** Section 40-15-403, MCA, is amended to read:

"40-15-403. Judicial enforcement of order. (1) A person authorized by the law of this state to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a court of this state. The court shall enforce the terms of the order, including terms that provide relief that a court of this state would lack power to provide but for this section. The court shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition, or motion filed by or on behalf of an individual seeking protection. In a proceeding to enforce a foreign protection order, the court shall follow the procedures of this state for the enforcement of protection orders.

(2) A court of this state may not enforce a foreign protection order issued by a court of a state that does not recognize the standing of a protected individual to seek enforcement of the order.

(3) A court of this state shall enforce the provisions of a valid foreign protection order that govern custody and visitation if the order was issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.

(4) A court of this state may not enforce under this part a provision of a foreign protection order with respect

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to support.

(5) A foreign protection order is valid if it:

(a) identifies the protected individual and the respondent;

(b) is currently in effect;

(c) was issued by a court that had jurisdiction over the parties and subject matter under the law of the issuing state; and

(d) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the court issued the order or, in the case of an order ex parte, the respondent was given notice and had an opportunity to be heard before the order was issued or had an opportunity to be heard within a reasonable time after the order was issued, consistent with the rights of the respondent to due process.

(6) A foreign protection order valid on its face is prima facie evidence of its validity.

(7) Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.

(8) A court of this state may enforce provisions of a mutual foreign protection order that favor a respondent only if:

(a) the respondent filed a written pleading seeking a protection order from the court of the issuing state; and

(b) the court of the issuing state made specific findings in favor of the respondent.""

Renumber: subsequent section

And, as amended, do pass and be placed on the consent calendar. Report adopted.

HB 521, introduced bill, be amended as follows:

1. Page 2, line 10.

Following: "peace officer"

Insert: "or detention center facility"

Strike: "the officer's"

2. Page 2, line 11.

Strike: "may"

Insert: "shall"

And, as amended, do pass. Report adopted.

MOTIONS

Representative R. Brown moved **HB 460** be taken from the Committee on Human Services and be rereferred to the Committee on Judiciary. There being no objection, so ordered.

SPECIAL ORDERS OF THE DAY

The following bills were **placed** on the consent calendar: **HB 186, HB 435, HB 456, HB 480, HR 2.**

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ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Brown moved that the House adjourn until 1:00 p.m., Wednesday, February 12, 2003. Motion carried.

House adjourned at 3:19 p.m.

MARILYN MILLER
Chief Clerk of the House

DOUG MOOD
Speaker of the House