

**HOUSE JOURNAL
58TH LEGISLATURE
SIXTY-NINTH LEGISLATIVE DAY**

Helena, Montana
April 1, 2003

House Chambers
State Capitol

House convened at 12:00 p.m. Mr. Speaker in the Chair. Invocation by Representative A. Olson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Representative Noennig, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS (Bookout-Reinicke, Chairman): 4/1/2003
Correctly printed: **HB 767, HJR 38, SB 135, SB 217, SB 243, SB 360, SB 414, SJR 14.**
Correctly engrossed: **HB 714, SB 37, SB 86, SB 130, SB 263, SB 282, SB 295, SB 304, SB 326, SB 400, SB 447, SJR 17.**
Correctly enrolled: **HB 196, HB 323, HB 340, HB 354, HB 458, HB 467, HB 549, HB 554.**
Examined by the sponsor and found to be correct: **HB 196, HB 323, HB 340, HB 354, HB 467, HB 458, HB 549, HB 554.**
Signed by the Speaker at 11:55 a.m., April 1, 2003: **HB 196, HB 323, HB 340, HB 354, HB 458, HB 467, HB 549, HB 554.**
Delivered to the Governor for approval at 9:00 a.m., April 1, 2003: **HB 272, HB 285, HB 333, HB 350, HB 414, HB 428, HB 548, HB 557, HB 583, HB 585, HB 639, HB 700.**
Delivered to the Governor for approval at 12:20 p.m., April 1, 2003: **HB 467.**

APPROPRIATIONS (Lewis, Chairman): 3/31/2003
SB 35, be concurred in. Report adopted.

BUSINESS AND LABOR (McKenney, Chairman): 3/31/2003
SB 337, be concurred in. Report adopted.

HUMAN SERVICES (Thomas, Chairman): 4/1/2003
SB 95, be amended as follows:

1. Title, line 6.

Following: "CHILD"

Insert: "SOLELY"

2. Title, line 10 through line 11.

Following: "HEARING;"

Strike: remainder of line 10 through "AGREEMENTS;" on line 11

3. Title, line 13.

Strike: "THE DEPARTMENT CONSENTS AND INFORMS"

4. Title, line 14.

Following: "COURT"

Strike: "OF"

Insert: "FINDS AFTER A HEARING THAT THE EXPENDITURE IS REASONABLE AND RESOURCES ARE"

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Following: "AVAILABLE"
Strike: "RESOURCES"

5. Title, line 15 and line 16.
Strike: "DEPARTMENT" on line 15 through "INCLUDING" on line 16

6. Title, line 26.
Strike: "41-3-423,"

7. Page 3, line 23.
Following: "department"
Insert: "solely"

8. Page 6, line 12.
Following: "supervision"
Insert: "solely"

9. Page 12, line 12.
Strike: "informal parental agreements or other"

10. Page 12, line 13.
Following: "agency"
Insert: "for the care of the child"
Following: "made"
Strike: remainder of line 13
Insert: "by the parents."

11. Page 14, line 2.
Following: "(6)"
Insert: "(a)"

12. Page 14, line 7.
Following: line 6
Insert: "(b) Copies of all other petitions must be served by certified mail. If service is by certified mail, the department must receive a return receipt signed by the person to whom the notice was mailed for the service to be effective. Service of the notice is considered to be effective if, in the absence of a return receipt, the person to whom the notice was mailed appears at the hearing."

13. Page 16, line 2 through page 17, line 22.
Strike: section 8 in its entirety
Renumber: subsequent sections

14. Page 18, line 29.
Following: "unless"
Strike: the second "the department"

15. Page 18, line 30.
Strike: "consents and informs"
Following: "the court"

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Insert: "finds after notice and a hearing that the expenditure is reasonable and"

16. Page 21, line 2 through line 3.

Strike: "department and the" on line 2

Strike: "a parent or parents," on line 2 through "custody" on line 3

Insert: "the parties"

17. Page 21, line 27.

Strike: "AT THE DISCRETION OF THE PRESIDING JUDGE"

Insert: "according to the Montana Rules of Evidence"

18. Page 23, line 1 through line 2.

Following: "unless"

Strike: remainder of line 1 through "informs" on line 2

Following: "the court" on line 2

Insert: "finds after notice and a hearing that the expenditure is reasonable and"

19. Page 25, line 24 through line 25.

Following: "department"

Strike: remainder of line 24 through "care" on line 25

Insert: "allows the department to place a child in care provided by a custodial or noncustodial parent, kinship foster home, youth foster home, youth group home, youth shelter care facility, or institution"

20. Page 25, line 28.

Following: "months,"

Insert: ", not to exceed 6 months,"

21. Page 26, line 26.

Following: "shall"

Insert: "conduct a hearing and"

22. Page 27, line 17.

Following: "unless"

Strike: "the department"

23. Page 27, line 18.

Strike: "consents and informs"

Following: "the court"

Insert: "finds after notice and a hearing that the expenditures are reasonable and"

And, as amended, be concurred in. Report adopted.

SB 111, be amended as follows:

1. Title, line 8.

Following: "LEVEL;"

Insert: "DEFINING ELIGIBILITY IN TERMS OF FEDERAL TRADE ADJUSTMENT ASSISTANCE;"

Strike: "AND"

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Insert: ", "

2. Title, line 9.

Following: "33-22-1502,"

Insert: "33-22-1513, 33-22-1516, AND 33-22-1524,"

3. Page 1, line 26.

Following: "(7)"

Insert: "(a)"

4. Page 1, line 27.

Strike: "(a)"

Insert: "(i)"

5. Page 1, line 28.

Strike: "(b)"

Insert: "(ii)"

6. Page 1, line 29.

Strike: "(i)"

Insert: "(A)"

7. Page 1, line 30.

Strike: "(ii)"

Insert: "(B)"

8. Page 2, line 4.

Strike: "(c)"

Insert: "(iii)"

9. Page 2, line 5.

Strike: "(i)"

Insert: "(A)"

10. Page 2, line 8.

Strike: "(ii)"

Insert: "(B)"

11. Page 2, line 12.

Following: line 11

Insert: "(b) The term does not apply to an individual who is certified as eligible for federal trade adjustment assistance or for pension benefit guarantee corporation assistance, as provided by the federal Trade Adjustment Assistance Reform Act of 2002, and is eligible for the association portability plan."

12. Page 3, line 16.

Following: line 15

Insert: "(15) "Qualified TAA-eligible individual" means an individual and any dependent of that individual, in addition to meeting the requirements specified in subsection (17):

(a) who has 3 months of prior creditable coverage;

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(b) whose application for association portability plan coverage is made within 63 days following termination of the applicant's most recent prior creditable coverage; and

(c) who, if eligible for COBRA, is not required to elect or exhaust continuation coverage under the COBRA continuation provision or under a similar state program."

Renumber: subsequent subsection

13. Page 3, line 18.

Following: line 17

Insert: "(17) "TAA-eligible individual" means an individual and any dependent of that individual enrolling in the association portability plan:

(a) who is a resident of this state on the date of application to the pool;

(b) who has been certified as eligible for federal trade adjustment assistance and a health insurance tax credit or for pension benefit guarantee corporation assistance, as provided by the federal Trade Adjustment Assistance Reform Act of 2002;

(c) who does not have other health insurance coverage; and

(d) who is not covered under a group health plan maintained by an employer, including a group health plan available through a spouse, if the employer contributes 50% or more to the total cost of coverage."

14. Page 3, line 23.

Strike: "(b)(ii)"

Insert: "(a)(ii)(B)"

15. Page 4, line 2.

Insert: "**Section 3.** Section 33-22-1513, MCA, is amended to read:

"33-22-1513. Operation of association plan and association portability plans. (1) Upon acceptance by the lead carrier under 33-22-1516, an eligible person may enroll in the association plan by payment of the association plan premium to the lead carrier.

(2) Upon application by a federally defined eligible individual or a TAA-eligible individual to the lead carrier for an association portability plan, the association may not:

(a) decline to offer an association portability plan; or

(b) except as provided in subsection (3), impose a preexisting condition exclusion with respect to an individual's association portability plan coverage if application for association portability plan coverage is made within 63 days following termination of the applicant's most recent prior creditable coverage.

(3) The association may impose a preexisting condition exclusion as provided in 33-22-1516 with respect to a TAA-eligible individual's association portability plan coverage if that individual does not meet the requirements defining a qualified TAA-eligible individual.

~~(3)~~(4) Not less than 88% of the association plan premiums paid to the lead carrier may be used to pay claims and not more than 12% may be used for payment of the lead carrier's direct and indirect expenses as specified in 33-22-1514.

~~(4)~~(5) Any income in excess of the costs incurred by the association in providing reinsurance or administrative services must be held at interest and used by the association to offset past and future losses because of claims expenses of the association plan and the association portability plan or be allocated to reduce association plan premiums.

~~(5)~~(6) (a) Each participating member of the association shall share the losses because of claims expenses of the association plan and the association portability plan for plans issued or approved for issuance by the association and shall share in the operating and administrative expenses incurred or estimated to be incurred by the association incident to the conduct of its affairs in the following manner:

(i) Each participating member of the association must be assessed by the association on an annual basis an amount not to exceed 1% of the association member's total disability insurance premium received from or on behalf of Montana residents as determined by the commissioner. Assessments made under this subsection ~~(5)(a)~~ (6)(a) or funds

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from any other source must be allocated to the association plan and the association portability plan in proportion to the needs of the two plans. If the needs of the association plan and the association portability plan exceed the funds generated by the 1% assessment, the association is then authorized to spend any funds appropriated by the legislature for the support of the plans. Any appropriation to the association may be expended for the operation of the association plan or the association portability plan.

(ii) (A) Payment of an assessment is due within 30 days of receipt by a member of a written notice of the annual assessment. After 30 days, the association shall charge a member:

(I) a late payment penalty of 1.5% a month or fraction of a month on the unpaid assessment, not to exceed 18% of the assessment due;

(II) interest at the rate of 12% a year on the unpaid assessment, to be accrued at 1% a month or fraction of a month; or

(III) both of the charges in subsections ~~(5)(a)(ii)(A)(I)~~ (6)(a)(ii)(A)(I) and ~~(5)(a)(ii)(A)(II)~~ (6)(a)(ii)(A)(II).

(B) Failure by a contributing member to tender the association assessment within the 30-day period is grounds for termination of membership. A member terminated for failure to tender the association assessment is ineligible to write health care benefit policies or contracts in this state under 33-22-1503(2).

(iii) An associate member that ceases to do disability insurance business within the state remains liable for assessments through the calendar year in which the member ceased doing disability insurance business. The association may decline to levy an assessment against an association member if the assessment, as determined pursuant to this section, would not exceed \$50.

(b) For purposes of this subsection ~~(5)~~ (6), "total disability insurance premium" does not include premiums received from disability income insurance, credit disability insurance, disability waiver insurance, life insurance, medicare risk or other similar medicare health maintenance organization payments, or medicaid health maintenance organization payments.

(c) Any income in excess of the incurred or estimated claims expenses of the association plan and the association portability plan and the operating and administrative expenses of the association must be held at interest and used by the association to offset past and future losses because of claims expenses of the association plan and the association portability plan or be allocated to reduce association plan premiums.

~~(6)(7)~~ The proportion of the annual assessment allocated to the operation and expenses of the association plan, not to include any amount of late payment penalty or interest charged, may be offset by an association member against the premium tax payable by that association member pursuant to 33-2-705 for the year in which the annual assessment is levied. The commissioner shall report to the office of budget and program planning, as a part of the information required by 17-7-111, the total amount of premium tax offset claimed by association members during the preceding biennium. The proportion of the annual assessment allocated to the operation and expenses of the association portability plan and levied against an association member may not be offset against the premium tax payable by that association member."

Insert: "Section 4. Section 33-22-1516, MCA, is amended to read:

"33-22-1516. Enrollment by eligible person. (1) The association plan must be open for enrollment by eligible persons. An eligible person may enroll in the plan by submission of a certificate of eligibility to the lead carrier. The certificate must provide:

(a) the name, address, and age of the applicant and length of the applicant's residence in this state;

(b) the name, address, and age of spouse and children, if any, if they are to be insured;

(c) written evidence that the person fulfills all of the elements of an eligible person, as defined in 33-22-1501;

and

(d) a designation of coverage desired.

(2) Within 30 days of receipt of the certificate, the lead carrier shall either reject the application for failing to comply with the requirements of subsection (1) or forward the eligible person a notice of acceptance and billing information. Insurance is effective on the first of the month following acceptance.

(3) An eligible person may not purchase more than one policy from the association plan.

(4) A person who obtains coverage under the association plan may not be covered for any preexisting condition

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during the first 12 months of coverage under the association plan if the person was diagnosed or treated for that condition during the 3 years immediately preceding the filing of an application. The association may not apply a preexisting condition exclusion to coverage under the association portability plan if application for association portability plan coverage is made by a federally defined eligible individual or a qualified TAA-eligible individual within 63 days following termination of the applicant's most recent prior creditable coverage. The association shall waive any time period applicable to a preexisting condition exclusion for the period of time that any other eligible individual, including an individual who is eligible pursuant to 33-22-1501(7)(a)(ii)(B), was covered under the following types of coverage if the coverage was continuous to a date not more than 30 days prior to submission of an application for coverage under the association plan:

(a) an individual health insurance policy that includes coverage by an insurance company, a fraternal benefit society, a health service corporation, or a health maintenance organization that provides benefits similar to or exceeding the benefits provided by the association plan; or

(b) an employer-based health insurance benefit arrangement that provides benefits similar to or exceeding the benefits provided by the association plan."

Insert: "Section 5. Section 33-22-1524, MCA, is amended to read:

"33-22-1524. Association authority for borrowing. (1) If the amount of the annual assessment collected under 33-22-1513~~(5)~~(6) and other available funds is insufficient to meet incurred or estimated claims expenses of the association plan and the association portability plan and the operating and administrative expenses of the association, the association may borrow from the board of investments for a period not to exceed 2 years any funds necessary for the continued operation of the association plan and the association portability plan. The loaned funds may be used only to pay incurred or estimated claims expenses of the association plan and the association portability plan and the operating and administrative expenses of the association.

(2) Whenever the association accepts a loan from the board of investments pursuant to this section, it shall repay the loan and any interest required under the terms of the loan through assessments and premium income. In accordance with the constitutions of the United States and the state of Montana, the state pledges that it may not in any way impair the obligations of any loan agreement between the association and the board of investments by repealing the assessment imposed by 33-22-1513~~(5)~~(6) or by reducing it below the amount necessary to make annual loan payments."

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

SB 191, be concurred in. Report adopted.

SB 314, be amended as follows:

1. Title, line 6.

Strike: "17"

Insert: "18"

2. Page 1, line 16.

Strike: "17"

Insert: "18"

3. Page 1, line 30.

Following: "(1)(b)"

Insert: "or (5)"

4. Page 2, line 3.

Strike: "ABOVE 150% AND"

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5. Page 2, line 4.

Following: "~~(1)(A)~~"

Insert: "and (1)(c)"

6. Page 2, line 7.

Following: line 6

Insert: "(c) Monetary settlement proceeds from stipulations, agreed settlements, consent orders, or defaults involving an agency or the state that are in excess of \$543,000 for fiscal year 2003 or \$534,000 for fiscal year 2004 and no more than \$3 million for each fiscal year may be allocated to the program for use as nonstate matching funds for the purposes of subsection (5)(a)."

And, as amended, be concurred in. Report adopted.

SB 347, be amended as follows:

1. Title, line 15.

Following: "DATES"

Insert: "AND A TERMINATION DATE"

2. Page 1, line 19.

Strike: "6"

Insert: "8"

3. Page 1, line 23.

Strike: "3"

Insert: "4"

4. Page 1, line 24.

Strike: "provision"

Insert: "planning, oversight, and administration"

5. Page 1, line 26.

Insert: "NEW SECTION. Section 2. Definitions. As used in [sections 1 through 8], the following definitions apply:

(1) "Community mental health center" means a licensed mental health center that:

(a) provides comprehensive public mental health services in a multicounty region under contract with the department, counties, or one or more service area authorities;

(b) has been established as of October 1, 2003, by boards of county commissioners of contiguous counties who have appointed membership on the board and includes at-large membership, chosen according to corporate bylaws, that include but are not limited to:

(i) persons with severe and disabling mental illness;

(ii) family members of persons with severe and disabling mental illness;

(iii) parents of children with serious emotional disturbances;

(iv) advocates of mental health services for the elderly;

(v) organizations that provide community support services, such as food, housing, and clothing to persons with severe and disabling mental illnesses.

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

(3) "Licensed mental health center" means an entity licensed by the department of public health and human services to provide mental health services and has the same meaning as mental health center as defined in 50-5-101.

(4) "Service area" means a region of the state as defined by the department by rule within which mental health

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services are administered.

(5) "Service area authority" means an entity, as provided for in [section 4], that has incorporated to contract with the department for the planning, oversight, and administration of mental health services within a service area."

Renumber: subsequent sections

6. Page 2, line 4.

Strike: "AND CREDENTIALING"

7. Page 2, line 25.

Strike: "3"

Insert: "4"

8. Page 3, line 2.

Strike: "THE MENTALLY ILL"

Insert: "persons with mental illness"

9. Page 3, line 4.

Following: "include"

Insert: "but is not limited to"

10. Page 3, line 5.

Strike: "THE MENTALLY ILL and"

Insert: "persons with mental illness,"

11. Page 3, line 6.

Following: "ILLNESS"

Insert: ", and a mental health services provider"

Strike: "staff and support"

Insert: "assistance"

12. Page 3, line 10.

Strike: "approval"

Insert: "review"

13. Page 3, line 13.

Strike: "6"

Insert: "8"

14. Page 3, line 16.

Following: "including" on line 16

Insert: ":

- (i) provider contracting;
- (ii) quality and outcome management;
- (iii) service planning;
- (iv) utilization management and review;
- (v) preadmission screening and discharge planning;
- (vi) consumer advocacy and family education and rights protection;
- (vii)"

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15. Page 3, line 17.

Following: "infrastructure"

Strike: ", "

Insert: ";
(viii)"

Following: "information system requirements"

Strike: ", "

Insert: ";

Following: "and"

Insert: "(ix)"

16. Page 3, line 18 through line 19.

Strike: subsection (b) in its entirety

Renumber: subsequent subsections

17. Page 3, line 23.

Strike: "provide and"

Following: "services"

Insert: "for children and adults"

18. Page 3, line 24.

Following: "within the service area"

Insert: ", including proposals within existing allocations and specifically outlining any new funding proposals,"

19. Page 3, line 25.

Strike: "must"

Insert: "may"

20. Page 3, line 28.

Strike: "6"

Insert: "8"

21. Page 3, line 29 through line 30.

Strike: subsection (g) in its entirety

Renumber: subsequent subsections

22. Page 4, line 5 through line 11.

Strike: subsection (6) in its entirety

Renumber: subsequent subsections

23. Page 4, line 12.

Following: "plan"

Insert: "and budget proposal provided for in subsection (5)(d)"

24. Page 4, line 13.

Following: "(5)"

Insert: "(a)"

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25. Page 4, line 14.

Following: "that"

Strike: "service"

Insert: "duty and may provide for a gradual assumption of the duties by a service area authority within the department's 4-year transition plan"

26. Page 4, line 17.

Strike: "center"

Insert: "services"

27. Page 4, line 29.

Following: line 28

Insert: "(4) The department shall make efforts to promote the rights of persons with mental illness who are eligible for services to have a choice among qualified providers of mental health services or support services that are administered or funded by the department or contracted with a service area authority by the department."

Renumber: subsequent subsection

28. Page 4, line 30.

Following: "UNDER"

Strike: "GUIDELINES ADOPTED BY THE DEPARTMENT OF ADMINISTRATION"

Insert: "the Montana Procurement Act"

Strike: "18-4-133."

Insert: "18-4-304,"

29. Page 5, line 1.

Following: "FOR"

Strike: "ALL" through "CENTERS"

Insert: "any service administered or funded by the department that will limit a client's choice of a provider of that service in order"

30. Page 5, line 2.

Following: "STATE."

Insert: "Except for the purposes of this section and the department's ability to contract solely with service area authorities, the exception for human services as provided in 18-4-123(18) does not apply."

31. Page 5, line 3.

Following: line 2

Insert: "NEW SECTION. **Section 6. County commissioners -- community mental health centers -- licensed mental health centers.** (1) The county commissioners in each of the counties in the region or service area that are designated as participating counties pursuant to subsection (4) may appoint, upon request, a person from their respective county to serve as a representative of the county on a community mental health center board or other licensed mental health center board.

(2) A community mental health center board or other licensed mental health center board may establish a recommended proportionate level of financial participation for each of the counties within the region for the provision of mental health services within the limits of financial participation authorized by this section.

(3) Prior to June 10 of each year, the board of a community mental health center or other licensed mental health center may submit an annual budget to the board of county commissioners of each of the counties within their mental health region or service area, specifying each county's recommended proportionate share.

(4) If a board of county commissioners includes in the county budget the county's proportionate share of the

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community mental health center or other licensed mental health center board's budget, the county must be designated as a participating county. Funds for each participating county's proportionate share for the operation of mental health services within the region must be derived from the county's general fund. Subject to 15-10-420, if the general fund is insufficient to meet the approved budget, a levy may be made on the taxable valuation of the county in addition to all other taxes allowed by law to be levied on that property.

(5) Each board of county commissioners, after determining the amount of county general fund money to be used for mental health services, may contract with a community mental health center or another licensed mental health center or provider for mental health services in the county."

Renumber: subsequent sections

32. Page 5, line 4.

Strike: "6"

Insert: "8"

33. Page 5, line 16.

Following: "2004."

Insert: "The plan must address delivery of mental health services for both the child and adult mental health systems."

34. Page 7, line 9.

Strike: "6"

Insert: "8"

35. Page 8, line 27.

Strike: "6"

Insert: "8"

36. Page 9, line 7.

Following: line 6

Insert: "(o) services of psychologists licensed under Title 37, chapter 17;"

Renumber: subsequent subsections

37. Page 9, line 22.

Strike: "(3)(p)"

Insert: "(3)(q)"

38. Page 13, line 5.

Strike: "ARRIVE AT"

Insert: "seek"

39. Page 14, line 3.

Insert: "NEW SECTION. Section 15. Legislative intent. If the department of public health and human services is unable to obtain the federal medicaid waivers necessary to obtain federal matching funds to administer the medicaid program for mental health services as provided in Title 53, chapter 6, and [sections 1 through 8], then the legislature intends that the department shall identify the sections of [this act] that are contrary to federal law in its transition plan as required under [section 9] and that the department shall present recommendations for an alternative plan and suggested legislation to the 2005 legislature for consideration."

40. Page 14, line 9.

Strike: "6"

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Insert: "8"

41. Page 14, line 11.

Strike: "6"

Insert: "8"

42. Page 14, line 16.

Following: "(1)"

Strike: remainder of line 16 through "ARE" on line 17

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

43. Page 14, line 18.

Strike: "[SECTION 13(2)] IS"

Insert: "[Sections 2, 6, 10, and 16(2)] are"

44. Page 14, line 19.

Following: line 18

Insert: "NEW SECTION. Section 20. Termination. [Section 1] terminates June 30, 2005."

And, as amended, be concurred in. Report adopted.

SB 449, be concurred in. Report adopted.

SJR 11, be concurred in and be placed on the consent calendar. Report adopted.

SJR 18, be amended as follows:

1. Page 1, line 22.

Following: "persons"

Insert: "; and"

WHEREAS, tribal governments are interested in seeking similar waivers for family care, federal regulations and the Centers for Medicare and Medicaid Services require three formal consultations with tribal governments regarding any major changes within the existing Medicaid program and related programs, and a tribal government presents a possibility as a partner in a pilot program"

2. Page 1, line 30.

Following: "pilot program"

Insert: "with a tribal government and a second pilot program"

And, as amended, be concurred in and be placed on the consent calendar. Report adopted.

TAXATION (Fuchs, Chairman):

4/1/2003

HB 355, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "\$1"

Insert: "70 CENTS"

2. Title, page 1, line 6.

Strike: "AND" through "FUND"

Following: "FUND;"

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Insert: "REVISING THE DISTRIBUTION OF THE CIGARETTE TAX;"

3. Title, page 1, line 8.

Strike: "50"

Insert: "25"

Following: "PERCENT;"

Insert: "IMPOSING A SEPARATE TAX ON MOIST SNUFF;"

4. Title, line 9.

Following: line 8

Insert: "PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA;"

5. Title, page 1, line 9.

Following: "16-11-119,"

Insert: "16-11-201,"

6. Page 1, line 17.

Strike: "\$1"

Insert: "70 cents"

7. Page 2, line 19.

Strike: "1.08%"

Insert: "1.66%"

8. Page 2, line 21.

Strike: "0.72%"

Insert: "1.11%"

9. Page 2, line 23.

Strike: "0.54%"

Insert: "0.83%"

10. Page 2, line 26.

Following: "taxes"

Insert: "(1)"

11. Page 2, line 28.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsections

12. Page 2, line 29.

Strike: "2.55%"

Insert: "4.7%"

13. Page 3, line 1.

Strike: "93.8%"

Insert: "90.9%"

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14. Page 3, line 3.

Strike: "3.65%"

Insert: "4.4%"

15. Page 3.

Following: line 4

Insert: "(2) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds \$695,000 at the end of the fiscal year, the excess must be transferred to the state general fund."

16. Page 3.

Following: line 5

Insert: "**Section 4.** Section 16-11-201, MCA, is amended to read:

"16-11-201. Definitions. As used in this part, the following definitions apply, unless the context requires otherwise:

(1) "Moist snuff" means any finely cut, ground, or powdered tobacco, other than dry snuff, that is intended to be placed in the oral cavity.

(2) "Retailer" means any person other than a wholesaler who is engaged in the business of selling tobacco products to the ultimate consumer.

~~(2)~~(3) "Sale" or "sell" means any transfer of tobacco products for a consideration, exchange, barter, gift, offer for sale, or distribution, in any manner or by any means.

~~(3)~~(4) "Tobacco product" means a substance other than cigarettes that is intended for human consumption and that contains tobacco.

~~(4)~~(5) "Wholesale price" means the established price for which a manufacturer sells a tobacco product to a wholesaler or any other person before any discount or other reduction.

~~(5)~~(6) "Wholesaler" means any person who purchases tobacco products directly from the manufacturer or from any other person who purchases from the manufacturer and who acquires the products for sale to retail dealers.""

Renumber: subsequent sections

17. Page 3, line 15.

Strike: "50%"

Insert: "25%"

18. Page 3, line 16.

Following: "price"

Insert: ", to the wholesaler,"

Following: "tobacco products"

Strike: "to the wholesaler"

Insert: ", other than moist snuff"

Following: "wholesaler."

Insert: "The tax on moist snuff is 35 cents an ounce based upon the net weight of the package listed by the manufacturer. For packages of moist snuff that are less than or greater than 1 ounce, the tax must be proportional to the size of the package."

19. Page 3, line 21.

Strike: "1.2%"

Insert: "2.5%"

20. Page 4, line 5.

Strike: "[This act]"

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Insert: "If approved by the electorate, this act"

21. Page 4, line 9.

Insert: "NEW SECTION, **Section 11. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at a special election to be held on June 10, 2003, by printing on the ballot the full title of this act and the following:

- FOR increasing the cigarette tax and the tax on other tobacco products and imposing a separate tax on moist snuff.
- AGAINST increasing the cigarette tax and the tax on other tobacco products and imposing a separate tax on moist snuff."

And, as amended, do pass. Report adopted.

HB 758, introduced bill, be amended as follows:

1. Title, page 1.

Following: line 6

Insert: "PROVIDING THAT THE FEE BE DEPOSITED IN THE STATE GENERAL FUND;"

2. Page 2, line 11 through line 12.

Strike: "[in" on line 11 through "]" on line 12

Insert: "in the state general fund"

3. Page 2, line 17 through line 20.

Strike: section 4 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

MESSAGES FROM THE SENATE

Senate bills passed and transmitted to the House for concurrence:

3/31/2003

SB 462, introduced by DePratu

SB 478, introduced by Story

SB 480, introduced by Black

House bills concurred in and returned to the House:

3/31/2003

HB 41, introduced by Noennig

HB 160, introduced by Haines

HB 287, introduced by Lindeen

HB 389, introduced by Gibson

HB 417, introduced by Golie

HB 467, introduced by Barrett

HB 479, introduced by Gillan

HB 496, introduced by Becker

HB 507, introduced by Brueggeman

HB 617, introduced by Mendenhall

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House bills concurred in as amended and returned to the House for concurrence in Senate amendments:

3/31/2003

HB 67, introduced by Kaufmann
HB 155, introduced by Jent
HB 218, introduced by Bookout-Reinicke
HB 224, introduced by Shockley
HB 269, introduced by Bergren
HB 277, introduced by Lindeen
HB 308, introduced by Musgrove
HB 388, introduced by Lake
HB 433, introduced by P. Clark
HB 435, introduced by Sinrud
HB 453, introduced by Raser
HB 499, introduced by Franklin
HB 521, introduced by Balyeat
HB 527, introduced by Mendenhall
HB 532, introduced by Stoker
HB 653, introduced by Lambert
HB 681, introduced by E. Clark

MESSAGES FROM THE GOVERNOR

March 28, 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 30** sponsored by Representative Hurwitz, **House Bill 60** sponsored by Representative McKenney, and **House Bill 656** sponsored by Representative Bitney on March 28, 2003.

Sincerely,

JUDY MARTZ
Governor

March 31, 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 154** sponsored by Representative Lenhart, **House Bill 621** sponsored

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by Representative Sinrud et al., and **House Bill 635** sponsored by Representative Forrester et al. on March 31, 2003.

Sincerely,

JUDY MARTZ
Governor

FIRST READING AND COMMITMENT OF BILLS

The following House bill was introduced, read first time, and referred to committee:

HB 774, introduced by Mendenhall, F. Thomas, referred to Taxation.

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

SB 462, introduced by DePratu, referred to Taxation.

SB 478, introduced by Story, Anderson, DePratu, Devlin, Forrester, Fuchs, Glaser, Jackson, Keenan, Lambert, Matthews, McNutt, Mood, A. Olson, Peterson, F. Thomas, Waitschies, referred to Taxation.

SB 480, introduced by Black, referred to Taxation.

**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 McKenney in the chair.

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

HB 381 - Representative Fuchs moved **HB 381** do pass. Motion carried as follows:

Ayes: Andersen, Balyeat, Barrett, Becker, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, E. Clark, Cyr, Devlin, Everett, Fisher, Forrester, Gallus, Gillan, Golie, Haines, Hawk, Hedges, Hurwitz, Jackson, Kasten, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Newman, Noennig, A. Olson, B. Olson, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Sales, Schrupf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.

Total 65

Noes: Ballantyne, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Dickenson, Dowell, Erickson, Facey, Franklin, Fritz, Gallik, Galvin-Halcro, Gibson, Gutsche, Harris, Jacobson, Jayne, Jent, Juneau, Kaufmann, Lindeen, Musgrove, Parker, Small-Eastman, Smith, Wanzenried, Weiss, Wilson, Windy Boy.

Total 34

Voted Absentee: Noennig, Aye.

Excused: None.

Total 0

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Absent or not voting: Fuchs.
Total 1

HB 757 - Representative Witt moved **HB 757** do pass.

Representative Bergren moved **HB 757**, second reading copy, be amended as follows:

1. Page 8, line 7.

Strike: "and"

2. Page 8.

Following: line 7

Insert: "(b) \$500,000 must be allocated each fiscal year to the department of public health and human services for the development and implementation of a program for the treatment of addictive disorders related to gambling; and"

Renumber: subsequent subsection

3. Page 8, line 8.

Strike: "90%"

Insert: "the remaining amount"

Amendment adopted as follows:

Ayes: Ballantyne, Barrett, Becker, Bergren, Bixby, Carney, E. Clark, P. Clark, Cyr, Devlin, Dowell, Everett, Forrester, Fuchs, Gallus, Galvin-Halcro, Hedges, Hurwitz, Jacobson, Jayne, Juneau, Keane, Lambert, Lange, Laslovich, Lenhart, Lindeen, Maedje, Malcolm, Matthews, McKenney, Morgan, Musgrove, Newman, A. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Ryan, Shockley, Small-Eastman, Smith, Steinbeisser, Wanzenried, Weiss, Windy Boy, Witt, Younkin.

Total 52

Noes: Andersen, Balyeat, Bitney, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Cohenour, Dickenson, Erickson, Facey, Fisher, Franklin, Fritz, Gallik, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hawk, Jackson, Jent, Kasten, Kaufmann, Lake, Laszloffy, Lawson, Lehman, Lewis, Mendenhall, B. Olson, Pattison, Rome, Sales, Schrupf, Sinrud, Stoker, Thomas, Wagman, Waitschies, Wilson, Mr. Speaker.

Total 47

Excused: Noennig.

Total 1

Absent or not voting: None.

Total 0

Representative Jackson moved **HB 757**, second reading copy, be further amended as follows:

1. Page 8, line 7.

Strike: "and"

2. Page 8.

Following: line 7

Insert: "(b) \$500,000 must be allocated each fiscal year to the department of public health and human services for the

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development and implementation of a program for the treatment of addictive disorders related to gambling; and"
Renumber: subsequent subsection

3. Page 8, line 8.

Strike: "90%"

Insert: "the remaining amount"

Amendment 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, 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, 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.

Total 0

Excused: Noennig.

Total 1

Absent or not voting: None.

Total 0

Motion that **HB 757**, as amended, do pass **failed** as follows:

Ayes: Barrett, Becker, Bergren, Bixby, Carney, Cohenour, Cyr, Devlin, Facey, Forrester, Fuchs, Gallus, Galvin-Halcro, Hedges, Hurwitz, Jayne, Juneau, Keane, Lambert, Lange, Laslovich, Lehman, Lenhart, Lindeen, Maedje, Malcolm, Newman, A. Olson, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Ryan, Small-Eastman, Smith, Steinbeisser, Windy Boy, Witt.

Total 41

Noes: Andersen, Ballantyne, Balyeat, Bitney, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, E. Clark, P. Clark, Dickenson, Dowell, Erickson, Everett, Fisher, Franklin, Fritz, Gallik, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hawk, Jackson, Jacobson, Jent, Kasten, Kaufmann, Lake, Laszloffy, Lawson, Lewis, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Noennig, B. Olson, Parker, Raser, Sales, Schruppf, Shockley, Sinrud, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Younkin, Mr. Speaker.

Total 59

Voted Absentee: Noennig, No.

Excused: None.

Total 0

Absent or not voting: None.

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Total 0

HB 714 - Representative Balyeat moved **HB 714** do pass. Motion **failed** as follows:

Ayes: Andersen, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, P. Clark, Devlin, Everett, Fisher, Forrester, Fuchs, Haines, Hawk, Jackson, Jayne, Jent, Kasten, Lake, Lambert, Lange, Laszloffy, Lehman, Lewis, Maedje, Malcolm, McKenney, Mendenhall, Morgan, Newman, Pattison, Peterson, Rice, Roberts, Rome, Ross, Sales, Schrupf, Shockley, Sinrud, Steinbeisser, Stoker, Wagman, Witt, Younkin, Mr. Speaker.

Total 48

Noes: Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, E. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Hedges, Hurwitz, Jacobson, Juneau, Kaufmann, Keane, Laslovich, Lawson, Lenhart, Lindeen, Matthews, Musgrove, Noennig, A. Olson, B. Olson, Parker, Raser, Ripley, Ryan, Small-Eastman, Smith, Thomas, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy.

Total 52

Voted Absentee: Noennig, No.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 152 - Representative Morgan moved **SB 152** be concurred in. 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, Devlin, Dickenson, Dowell, Everett, Facey, Fisher, Forrester, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Kasten, Kaufmann, Lake, Lambert, Lange, Laslovich, Laszloffy, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Sales, Schrupf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Witt, Younkin, Mr. Speaker.

Total 90

Noes: Cyr, Juneau, Keane, Lawson, Newman, Stoker, Thomas, Windy Boy.

Total 8

Voted Absentee: Noennig, Aye.

Excused: None.

Total 0

Absent or not voting: Erickson, Franklin.

Total 2

SB 220 - Representative Fuchs moved **SB 220** be concurred in. Motion carried as follows:

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Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, Cyr, Devlin, Dickenson, Dowell, Everett, Facey, Fisher, Forrester, Fritz, Fuchs, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Keane, Lake, Lambert, Lange, Laszloffy, Lawson, Lehman, Lenhart, Lindeen, Maedje, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schruppf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 86

Noes: P. Clark, Cohenour, Erickson, Franklin, Gallik, Kaufmann, Laslovich, Lewis, Malcolm, Sales, Small-Eastman, Smith, Wanzenried, Weiss.
Total 14

Voted Absentee: Noennig, Aye.

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 McKenney moved the Committee of the Whole report be adopted.

Representative Balyeat made a **substitute motion** that **HB 714** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Report adopted as follows:

Ayes: Andersen, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, P. Clark, Devlin, Everett, Fisher, Fuchs, Gallik, Haines, Hawk, Hedges, Hurwitz, Jackson, Jayne, Jent, Kasten, Lake, Lambert, Lange, Laszloffy, Lehman, Lewis, Maedje, Malcolm, McKenney, Mendenhall, Morgan, A. Olson, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Sales, Schruppf, Shockley, Sinrud, Steinbeisser, Stoker, Wagman, Witt, Younkin, Mr. Speaker.
Total 51

Noes: Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, E. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Jacobson, Juneau, Kaufmann, Keane, Laslovich, Lawson, Lenhart, Lindeen, Matthews, Musgrove, Newman, B. Olson, Parker, Raser, Ryan, Small-Eastman, Smith, Thomas, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy.
Total 48

Excused: Noennig.
Total 1

Absent or not voting: None.
Total 0

THIRD READING OF BILLS

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

HB 748 passed as follows:

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

Total 87

Noes: Bixby, Callahan, P. Clark, Franklin, Juneau, Kaufmann, Lindeen, A. Olson, Smith, Wanzenried, Weiss, Windy Boy.

Total 12

Excused: Noennig.

Total 1

Absent or not voting: None.

Total 0

SB 22 concurred in 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, 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, 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.

Total 0

Excused: Noennig.

Total 1

Absent or not voting: None.

Total 0

SB 34 concurred in as follows:

Ayes: Andersen, Ballantyne, Barrett, Bergren, Bitney, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Erickson, Everett, Facey, Fisher, Forrester, Fritz, Fuchs,

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Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jent, Kasten, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Ripley, Roberts, Rome, Ross, Ryan, Schruppf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 86

Noes: Balyeat, Becker, Bixby, Bookout-Reinicke, Dowell, Franklin, Jayne, Juneau, Lindeen, Rice, Sales, Wanzenried, Weiss.
Total 13

Excused: Noennig.
Total 1

Absent or not voting: None.
Total 0

SB 76 concurred in 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, Golie, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jent, Juneau, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schruppf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 96

Noes: Jayne, Kasten, Sales.
Total 3

Excused: Noennig.
Total 1

Absent or not voting: None.
Total 0

SB 101 concurred in as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Everett, Facey, Fisher, Forrester, Fritz, Fuchs, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, 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, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schruppf, Shockley, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 91

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Noes: Buzzas, Franklin, Gallik, Gallus, Kaufmann, Sales, Sinrud, Wanzenried.
Total 8

Excused: Noennig.
Total 1

Absent or not voting: None.
Total 0

SB 133 concurred in as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Carney, E. Clark, Cohenour, Devlin, Dickenson, Dowell, Erickson, Everett, Facey, Fisher, Forrester, Fritz, Fuchs, Gallus, Gibson, Gillan, Golie, Haines, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lehman, Lenhart, Lewis, Maedje, Malcolm, Matthews, McKenney, Morgan, Musgrove, A. Olson, B. Olson, Parker, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schrupf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 82

Noes: Buzzas, Callahan, P. Clark, Cyr, Franklin, Gallik, Galvin-Halcro, Gutsche, Harris, Kaufmann, Lawson, Lindeen, Mendenhall, Newman, Raser, Sales, Wanzenried.
Total 17

Excused: Noennig.
Total 1

Absent or not voting: None.
Total 0

SB 145 concurred in as follows:

Ayes: Ballantyne, Balyeat, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, R. Brown, Brueggeman, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Jackson, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Laslovich, Lenhart, Lewis, Lindeen, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, B. Olson, Parker, Peterson, Raser, Ryan, Schrupf, Shockley, Small-Eastman, Smith, Stoker, Thomas, Wagman, Wanzenried, Weiss, Wilson, Windy Boy, Younkin.
Total 69

Noes: Andersen, Barrett, D. Brown, E. Clark, Devlin, Everett, Fisher, Hawk, Hurwitz, Kasten, Lake, Lambert, Lange, Laszloffy, Lawson, Lehman, Maedje, A. Olson, Pattison, Rice, Ripley, Roberts, Rome, Ross, Sales, Sinrud, Steinbeisser, Waitschies, Witt, Mr. Speaker.
Total 30

Excused: Noennig.
Total 1

Absent or not voting: None.

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Total 0

REPORTS OF STANDING COMMITTEES

BUSINESS AND LABOR (McKenney, Chairman):
SB 349, be amended as follows:

4/1/2003

1. Page 2, line 3 through line 5.

Strike: "means" on line 3 through "insurance" on line 5

Insert: "includes:

(a) cancellation, denial, or nonrenewal of personal insurance coverage;
(b) charging a higher insurance premium for personal insurance that would have been offered if the credit information or insurance score would have been more favorable whether the increase is caused by:

(i) application of a rating rule;

(ii) assignment to a rating tier that does not have the lowest rates; or

(iii) placement with an affiliate insurer that does not offer the lowest rates available to the consumer within the affiliated group of insurance companies;

(c) any reduction or change in terms of the coverage or amount of any personal insurance that is unfavorable to the consumer and is due to the consumer's credit information or insurance score. A reduction or unfavorable change occurs when:

(i) coverage provided to the consumer is not as broad as coverage requested by the consumer and is available to other insureds of the insurer or any affiliate insurer; or

(ii) the consumer is not eligible for benefits, such as dividends that are available through the insurer or an affiliate insurer"

2. Page 2, line 26.

Following: "insured."

Insert: "The term includes the term "credit score"."

3. Page 2, following line 26.

Insert: "(9) "Substantially weighing" means weighing by an insurer of a consumer's credit information with all other applicable underwriting factors with the result that the consideration of all other applicable factors clearly outweighs consideration of the consumer's credit information."

4. Page 3, line 2.

Strike: "solely"

5. Page 3, line 3.

Strike: "any"

Insert: "and substantially weighing"

Strike: "factor"

Insert: "factors"

6. Page 3, line 5.

Strike: "renewal"

Strike: "solely"

7. Page 3, line 6.

Strike: "any"

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Insert: "and substantially weighing"

Strike: "factor"

Insert: "factors"

8. Page 3, line 7.

Strike: "solely"

9. Page 3, line 8.

Strike: "any"

Insert: "and substantially weighing"

Strike: "factor"

Insert: "factors"

10. Page 3, line 10 through line 14.

Strike: "unless" on line 10 through "criteria" on line 14

11. Page 3, line 15 through line 16.

Strike: "unless" on line 15 through "uses" on line 16

Insert: "obtained from"

12. Page 3, line 16.

Strike: "within"

Insert: "more than"

13. Page 3, line 24.

Following: "period"

Insert: "except as described in [section 6]"

14. Page 3, line 29.

Strike: subsection (i) in its entirety

Renumber: subsequent subsections

15. Page 4, lines 9 and 10.

Following: "(a)" on line 9

Insert: "the number of"

Strike: "not" on line 9 through "information" on line 10

16. Page 4, line 15.

Strike: "or"

17. Page 4, line 18.

Following: "considered"

Insert: "; or

(f) the consumer's use of a particular type of credit card, charge card, or debit card"

18. Page 5, line 14.

Strike: "and"

19. Page 5, line 17.

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Strike: "up to"
Insert: "at least"
Following: "four"
Insert: "negative"

20. Page 5, line 21.

Following: "section"
Insert: "if at least four negative factors are used in the explanation"

21. Page 5, following line 21.

Insert: "(3) inform the consumer that the consumer is entitled to a free copy of the consumer's consumer report under the Fair Credit Reporting Act, 15 U.S.C. 1681, et seq. The insurer shall provide the consumer with the name and telephone number of the credit reporting agency that the insurer used to determine the credit score. This information must be prominently displayed as part of the information provided to the consumer pursuant to subsection (2)."

22. Page 5, line 25.

Strike: "may"
Insert: "must"

23. Page 5, line 26.

Following: "information"
Insert: "as a rating or underwriting criterion as required in 33-16-203 and a certification by an officer of the insurer that the model is in compliance with the Montana Insurance Code"

24. Page 6, line 12 through line 14.

Strike: subsection (2) in its entirety
Renumber: subsequent subsection

25. Page 9, line 5.

Strike: "July 1, 2004"
Insert: "October 1, 2003"

And, as amended, be concurred in. Report adopted.

SB 450, be concurred in. Report adopted.

FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS (Bitney, Chairman): 4/1/2003
HJR 35, be adopted. Report adopted.
SB 77, be concurred in. Report adopted.
SB 138, be amended as follows:

1. Page 3.

Following: line 18

Insert: "NEW SECTION. Section 5. Coordination instruction. (1) If House Bill No. 391 and [this act] are both passed and approved, then [section 2 of House Bill No. 391], amending 15-32-402, is void.

(2) If Senate Bill No. 146 and [this act] are both passed and approved then:

(a) [section 4 of Senate Bill No. 146], amending 15-32-402, is void; and

(b) the reference to 90-4-102 in [section 4 of this act], amending 15-32-402, is changed to 15-6-225."

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Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

SB 247, be amended as follows:

1. Title, line 7.

Following: "FOR THE"

Insert: "DEFAULT SUPPLIER FOR DEFAULT SUPPLY PLANNING, PORTFOLIO MANAGEMENT, AND RESOURCE"

Strike: "PROCESS"

2. Title, line 8.

Following: "REQUIREMENTS FOR"

Insert: "COMMENT BY THE PUBLIC AND THE"

Strike: "ACTION"

3. Title, line 9 through line 11.

Strike: "REQUIRING" on line 9 through "RATES" on line 11

Insert: "PROVIDING A PROCESS FOR DEFAULT SUPPLY PROCUREMENT FILINGS AND COMMISSION APPROVAL; REQUIRING THE COMMISSION TO ESTABLISH AN ELECTRICITY COST RECOVERY MECHANISM FOR PRUDENTLY INCURRED ELECTRICITY SUPPLY COSTS; REQUIRING THE COMMISSION TO REQUIRE THE DEFAULT SUPPLIER TO OFFER MULTIPLE SERVICE OPTIONS; REQUIRING THE DEFAULT SUPPLIER TO OFFER ITS CUSTOMERS THE OPTION OF PURCHASING A PRODUCT COMPOSED OF CERTIFIED ENVIRONMENTALLY PREFERRED RESOURCES"

Strike: "SECTION" on line 11

Insert: "SECTIONS 69-1-114 AND"

4. Title, line 12.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

5. Page 1, line 16 through page 4, line 25.

Strike: everything after the enacting clause

"NEW SECTION. Section 1. Default supply resource planning and procurement -- duties of default supplier -- objectives -- commission rules. (1) The default supplier shall:

- (a) plan for future default supply resource needs;
- (b) manage a portfolio of default supply resources; and
- (c) procure new default supply resources when needed.

(2) The default supplier shall pursue the following objectives in fulfilling its duties pursuant to subsection (1):

- (a) provide adequate and reliable default supply services at the lowest long-term total cost;
- (b) conduct an efficient default supply resource planning and procurement process that evaluates the full range of cost-effective electricity supply and demand-side management options;
- (c) identify and cost-effectively manage and mitigate risks related to its obligation to provide default electricity supply service;

- (d) use open, fair, and competitive procurement processes whenever possible; and
- (e) provide default supply services at just and reasonable rates.

(3) By December 31, 2003, the commission shall adopt rules that guide the default supply resource planning and procurement processes used by the default supplier and facilitate the achievement of the objectives in subsection (2)

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by the default supplier. The rules must establish:

(a) goals, objectives, and guidelines that are consistent with the objectives in subsection (2) for:

- (i) planning for future default supply resource needs;
- (ii) managing the portfolio of default supply resources; and
- (iii) procuring new default supply resources;

(b) standards for the evaluation by the commission of the reasonableness of a power supply purchase agreement proposed by the default supplier; and

(c) minimum filing requirements for an application by the default supplier for advanced approval of a proposed power supply purchase agreement."

Insert: "NEW SECTION. Section 2. Default supply resource procurement plans -- comment on plans. (1) The default supplier shall develop default supply resource procurement plans. The plans must be submitted to the commission at intervals determined in rules adopted by the commission pursuant to [section 1].

(2) A default supply resource procurement plan must demonstrate the default supplier's achievement of the objectives provided in [section 1] and compliance with the rules adopted pursuant to [section 1].

(3) The commission shall:

- (a) review the default supply resource procurement plan;
- (b) provide an opportunity to the public to comment on the plan; and
- (c) issue written comments that identify:

(i) any concerns of the commission regarding the default supplier's compliance with the rules adopted pursuant to [section 1]; and

(ii) ways to remedy any concerns."

Insert: "NEW SECTION. Section 3. Default supply filings -- commission processing and approval. (1) A default supplier may apply to the commission for advanced approval of a power supply purchase agreement that is:

(a) not executed; or

(b) executed with a provision that allows termination of the agreement if the commission does not find the agreement reasonable.

(2) (a) The commission shall issue an order on the default supplier's application for advanced approval of a power supply purchase agreement in a timely manner as provided in this subsection (2).

(b) In establishing an administrative procedure for reviewing an application for advanced approval, the commission shall consider any financing and market constraints and the due process rights of affected persons.

(c) Within 45 days of the default supplier's submission of an application for advanced approval, the commission shall determine whether or not the application is adequate and in compliance with the commission's minimum filing requirements. If the commission determines that the application is inadequate, it shall explain how the filing fails to comply with the objectives in [section 1] and the rules adopted pursuant to [section 1].

(d) The commission shall issue an order within 180 days of receipt of an adequate application unless it determines that extraordinary circumstances require additional time.

(e) To facilitate timely consideration of an application, the commission may initiate proceedings to evaluate planning and procurement activities related to a potential resource procurement prior to the default supplier's submission of an application for approval.

(3) (a) The commission may approve or deny, in whole or in part, an application for advanced approval of a power supply purchase agreement.

(b) The commission may consider all relevant information known up to the time that the administrative record in the proceeding is closed in the evaluation of an application for advanced approval of a power supply purchase agreement.

(c) A commission order granting advanced approval of a power supply purchase agreement must include the following findings:

(i) advanced approval of all or part of the agreement is in the public interest;

(ii) the agreement resulted from a reasonable effort by the default supplier to comply with the objectives in [section 1] and the rules adopted pursuant to [section 1]; and

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(iii) the price, quantity, duration, and other contract terms directly related to the price, quantity, and duration of the power supply purchase agreement are reasonable.

(d) The commission order may include other findings that the commission determines are necessary.

(e) A commission order that denies advanced approval must describe why the findings required in subsection (3)(c) could not be reached.

(4) Notwithstanding any provision of this chapter to the contrary, if the commission has issued an order containing the findings required under subsection (3)(c), the commission may not subsequently disallow the recovery of costs incurred under the agreement based on contrary findings.

(5) If a default supplier does not apply for advanced approval of a power supply purchase agreement, the commission shall consider the prudence of the default supplier's resource procurement actions in the context of a default supplier's cost recovery filing pursuant to 69-8-210 or in a separate proceeding. The commission's decisions in these proceedings must be based on facts that were known or should reasonably have been known by the default supplier at the time of its procurement decisions.

(6) Nothing limits the commission's ability to subsequently, in any future cost recovery proceeding, inquire into the manner in which the default supplier has managed a power supply purchase agreement as part of its overall portfolio. The commission may subsequently disallow default supply costs that result from the failure of a default supplier to reasonably administer power supply purchase agreements in the context of its overall default supply portfolio management and service obligations.

(7) The commission may engage independent consultants or advisory services to evaluate a utility's default supply resource procurement plans and proposed power supply purchase agreements. The consultants must have demonstrated knowledge and experience with electricity supply procurement and resource portfolio management, modeling, and risk management practices. The commission shall charge a fee to the default supplier to pay for the costs of consultants or advisory services. These costs are recoverable in default supply rates."

Insert: "Section 4. Section 69-1-114, MCA, is amended to read:

"69-1-114. Fees. (1) Each fee charged by the commission must be commensurate with the costs incurred in administering the function for which the fee is charged except those fees set by federal statute.

(2) ~~No~~ Except for a fee assessed pursuant to [section 3(7)], no fee set by the commission may exceed \$500.

(3) All fees collected by the department under [section 3(7)] must be deposited in an account in the special revenue fund. Funds in this account must be used as provided in [section 3(7)]."

Insert: "Section 5. 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) If the transition period is extended, then the customers' distribution services provider shall:~~

~~———— (a) 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.~~

(1) A public utility's distribution services provider shall provide default supply service.

(2) The commission shall establish an electricity cost recovery mechanism that allows a default supplier to fully recover prudently incurred electricity supply costs, subject to the provisions of [sections 1 and 2]. 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.

(3) The commission may direct a default supplier to offer its customers multiple default supply service options if the commission determines that those options are in the public interest and are consistent with the provisions of 69-8-104 and 69-8-201.

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(4) Notwithstanding any service options that the commission may require pursuant to subsection (3), a default supplier shall offer its customers the option of purchasing a product composed of or supporting power from certified environmentally preferred resources that include but are not limited to wind, solar, geothermal, and biomass, subject to review and approval by the commission. The commission shall ensure that these resources have been certified as meeting industry-accepted standards.

~~(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."

Insert: "NEW SECTION. Section 6. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 69, chapter 8, part 4, and the provisions of Title 69, chapter 8, part 4, apply to [sections 1 through 3]."

Insert: "NEW SECTION. Section 7. Coordination instruction. If [this act] and House Bill No. 509 are both passed and approved, then [section 14 of House Bill No. 509], amending 69-8-210, is void."

Insert: "NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval."

Insert: "NEW SECTION. Section 9. Applicability. [Sections 1 through 3] apply only to power supply purchase agreements for which the procurement process begins on or after [the effective date of this act]."

And, as amended, be concurred in. Report adopted.

SB 387, be amended as follows:

1. Title, line 5.

Following: "2000"

Insert: "AND AN AGREEMENT AMONG STATES FOR SOURCING OF OTHER TELECOMMUNICATIONS SERVICES"

Strike: "SECTION"

Insert: "SECTIONS"

2. Title, line 6.

Following: "15-53-129"

Insert: "AND 15-53-130"

Strike: "IMMEDIATE"

3. Page 1.

Following: line 13

Insert: "(1) "Call-by-call basis" means any method of charging for telecommunications services that measures the price by individual calls."

Renumber: subsequent subsections

4. Page 1, line 21.

Strike: "(2)(b)"

Insert: "(3)(b)"

5. Page 2, line 6.

Strike: the last "the"

6. Page 2, line 7 through line 8.

Strike: "mobile" on line 7

Strike: ":", on line 7 through "(a)" on line 8

Strike: ":", and" on line 8

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Insert: "."

7. Page 2, line 9.

Strike: "(b)"

Insert: "For mobile telecommunications services, the place of primary use must be"

8. Page 2.

Following: line 9

Insert: "(7) "Postpaid calling basis" means that telecommunications services are obtained by making a payment on a call-by-call basis, either through the use of a card or payment mechanism, such as a bank card, travel card, credit card, or debit card, or by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(8) "Private communications service" means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and other associated services that are provided in connection with the use of the channel or channels."

Renumber: subsequent subsections

9. Page 2, line 15.

Strike: "(7)(b)"

Insert: "(10)(b)"

10. Page 2, line 17.

Strike: "billed"

Insert: "charged"

11. Page 2, line 22.

Following: "long-distance,"

Insert: "private communications,"

12. Page 2, line 23.

Following: "services"

Insert: ", regardless of whether the services are paid for on a call-by-call basis or postpaid calling basis"

13. Page 3, line 13.

Strike: "(9)(b),"

Insert: "(12)(b)"

14. Page 3, line 14 through line 15.

Strike: the first "where" on line 14 through "received; or" on line 15

Insert: "of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of the location to which the bill for the call is sent or the location from which the payment of the bill is received;"

15. Page 3, line 16 through line 17.

Strike: the first "where" on line 16 through "mailed" on line 17

Insert: "if the location in subsection (12)(a)(i) is not known, the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or, if the system used to transport the signal is not that of the seller, in information received by the seller from its service provider; or

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(iii) if the location in subsection (12)(a)(i) or (12)(a)(ii) is not known, the location of the customer's place of primary use"

16. Page 3, line 24.

Insert: "**Section 2.** Section 15-53-130, MCA, is amended to read:

"15-53-130. Imposition of retail telecommunications excise tax -- rate. An excise tax of 3.75% is imposed on the sales price of retail telecommunications services. ~~The Subject to [sections 3 and 4],~~ the tax is imposed on the purchaser and must be collected by the telecommunications services provider."

Renumber: subsequent sections

17. Page 4, line 21.

Insert: "**NEW SECTION. Section 4. Telecommunications services other than mobile telecommunications services.** (1) Except as provided in subsection (2), the sale of a telecommunications service paid for on a call-by-call basis is taxable in this state if the service address is located within the state.

(2) The sale of a telecommunications service paid for on a postpaid calling basis is taxable in this state if the origination point of the telecommunications signal as first identified by either the seller's telecommunications system or, if the system used to transport the signal is not that of the seller, the information received by the seller from its service provider is within the state.

(3) The sale of a private communications service is taxable in this state in the following manner:

(a) all charges related to a customer channel termination point located within the state are taxable within the state;

(b) all charges for service where all of the customer channel termination points are located entirely within the state are taxable within the state;

(c) charges for a segment of a channel between two taxpayer channel termination points, one located inside the state and one located outside the state, and for which the segment is separately charged are apportioned 50% to this state for taxation purposes; and

(d) charges for segments of a channel located in this state and one or more other states and for which the segments are not separately billed are apportioned to this state for taxation purposes based on the percentage determined by dividing the number of taxpayer channel termination points in this state by the total number of taxpayer channel termination points.

(4) In the case of a bundled transaction of telecommunications services, if the charges are attributable to services that are taxable and services that are nontaxable, the portion of the price attributable to the nontaxable services is subject to tax unless the provider can reasonably identify the portion of nontaxable services from its books and records kept in the regular course of business."

Renumber: subsequent sections

18. Page 4, line 22.

Strike: "[Section 2] is"

Insert: "[Sections 3 and 4] are"

19. Page 4, line 23.

Strike: "[section 2]"

Insert: "[sections 3 and 4]"

20. Page 4, line 25.

Strike: "on" through "approval"

Insert: "July 1, 2003"

And, as amended, be concurred in. Report adopted.

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SJR 22, be amended as follows:

1. Page 1, line 24.

Strike: "an"

Insert: "a significant"

Following: "gasoline"

Strike: "to" through "gallon"

And, as amended, be concurred in. Report adopted.

NATURAL RESOURCES (Younkin, Chairman):

4/1/2003

SB 194, be amended as follows:

1. Page 2, line 9.

Following: "MUST"

Strike: "PROVIDE FOR"

Insert: "address how and whether"

Following: "PURPOSES"

Insert: "will be granted"

2. Page 2, line 10.

Following: "AGREEMENT"

Insert: "that grants new ground water uses"

3. Page 2, line 12.

Following: "MUST"

Strike: "PROVIDE FOR"

Insert: "address how and whether"

4. Page 2, line 13.

Following: "RESERVATION"

Insert: "will be granted"

Following: "AGREEMENT"

Insert: "that grants changes"

5. Page 2, line 15.

Following: "MUST"

Strike: "PROVIDE" through "OF WATER"

Insert: "address how and whether water use will be authorized"

6. Page 2, line 16.

Following: "AGREEMENT"

Insert: "and how the use will be secure and valid"

And, as amended, be concurred in. Report adopted.

SB 366, be amended as follows:

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1. Page 3.

Following: line 19

Insert: "NEW SECTION. Section 2. 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 sections

And, as amended, be concurred in. Report adopted.

SB 375, be amended as follows:

1. Title, line 5.

Strike: "AND A RETROACTIVE APPLICABILITY DATE"

2. Page 1, line 12 through line 13.

Strike: "AS" on line 12 through "PROPERTIES" on line 13

Insert: "for any aboveground purpose unless they are encased in concrete or a similar material that will maintain the integrity of the bale upon failure of the bale restraining devices"

3. Page 1, line 15 through line 16.

Strike: "BE" on line 15 through "PROJECTS" on line 16

Insert: "not be placed under water under any circumstances"

4. Page 1, line 21 through line 23.

Strike: section 3 in its entirety

Renumber: subsequent section

5. Page 1, line 27 through line 28.

Strike: section 5 in its entirety

And, as amended, be concurred in. Report adopted.

SB 409, be amended as follows:

And, as amended, be concurred in. Report adopted.

SB 434, be amended as follows:

1. Page 1, line 17 through line 18.

Strike: "EXCEPT" on line 17 through "THE" on line 18

Insert: "The"

2. Page 1, line 25.

Strike: "contracted"

Insert: "dispatched"

3. Page 1, line 28.

Following: "(1)(e)"

Insert: ", except for willful misconduct or gross negligence"

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And, as amended, be concurred in and be placed on the consent calendar. Report adopted.

MOTIONS

Representative Dowell moved **SB 760** be taken from the table in the Committee on Taxation and be placed on second reading Legislative Day 70. Motion **failed** as follows:

Ayes: Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Gallik, Galvin-Halcro, Gibson, Gutsche, Harris, Hedges, Jacobson, Jent, Juneau, Kaufmann, Laslovich, Lawson, Lenhart, Lindeen, Matthews, Musgrove, B. Olson, Parker, Raser, Ryan, Schrumpf, Small-Eastman, Smith, Wanzenried, Weiss, Wilson, Windy Boy.
Total 44

Noes: Andersen, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, E. Clark, Cyr, Devlin, Everett, Fisher, Fuchs, Gallus, Gillan, Golie, Haines, Hawk, Hurwitz, Jackson, Jayne, Kasten, Keane, Lake, Lambert, Lange, Laszloffy, Lehman, Lewis, Maedje, Malcolm, McKenney, Mendenhall, Morgan, Newman, A. Olson, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Sales, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.
Total 55

Excused: Noennig.
Total 1

Absent or not voting: None.
Total 0

SPECIAL ORDERS OF THE DAY

The Speaker asked Representative Jacobson to lead the House in singing Happy Birthday to Representative Jackson and Representative Newman.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Brown moved that the House adjourn until 10:30 a.m., Wednesday, April 2, 2003. Motion carried.

House adjourned at 3:13 p.m.

MARILYN MILLER
Chief Clerk of the House

DOUG MOOD
Speaker of the House