

**HOUSE JOURNAL
58TH LEGISLATURE
EIGHTY-FIRST LEGISLATIVE DAY**

Helena, Montana
April 15, 2003

House Chambers
State Capitol

House convened at 10:30 a.m. Mr. Speaker in the Chair. Invocation by Representative Mendenhall. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The Speaker introduced the honorary page of the day:

Andrew Miller, Deer Lodge

REPORTS OF STANDING COMMITTEES

BILLS (Bookout-Reinicke, Chairman): 4/15/2003

Correctly engrossed: **SB 470**.

Correctly enrolled: **HB 152, HB 199, HB 249, HB 484, HB 512, HB 517, HB 545, HB 609, HB 631, HB 640, HB 641, HB 648, HB 667, HB 669, HB 676, HB 698, HB 733, HB 734, HB 761, HJR 4, HJR 8, HJR 17, HJR 29, HJR 32, HR 4**.

Examined by the sponsor and found to be correct: **HB 152, HB 199, HB 249, HB 484, HB 512, HB 517, HB 545, HB 577, HB 609, HB 676, HB 631, HB 640, HB 641, HB 648, HB 667, HB 669, HB 698, HB 733, HB 734, HB 761, HJR 4, HJR 8, HJR 17, HJR 29, HJR 32, HR 4**.

Signed by the Speaker at 1:00 p.m., April 15, 2003: **HJR 4, HJR 8, HJR 17, HJR 29, HJR 32, HR 4**.

Delivered to the Secretary of State at 2:00 p.m., April 15, 2003: **HR 4**.

Delivered to the Governor for approval at 7:30 a.m., April 15, 2003: **HB 213, HB 256, HB 289, HB 292, HB 299, HB 315, HB 480, HB 556, HB 563, HB 573, HB 577, HB 588, HB 610, HB 618, HB 681, HB 703, HB 758**.

TAXATION (Fuchs, Chairman): 4/15/2003

SB 470, be amended as follows:

1. Title, page 1, line 7 through page 2, line 4.

Strike: "ON" on page 1, line 7 through "FUND" on page 2, line 4

2. Title, page 2, line 4.

Following: "FUND;"

Insert: "REDUCING INDIVIDUAL INCOME AND PROPERTY TAXES"

3. Title, page 2, line 5.

Strike: "QUALIFIED"

Strike: "OF MONTANA"

4. Title, page 2, line 10.

Following: "MCA₂"

Insert: "AND SECTIONS 27 AND 31, CHAPTER 285, LAWS OF 1999; REPEALING SECTION 244, CHAPTER 574, LAWS OF 2001, AND"

5. Title, page 2, line 11 through line 12.

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Following: "2002" on line 11

Strike: "1" through "1999" on line 12

6. Title, page 2, line 12.

Strike: "A DELAYED"

Insert: "AN"

7. Page 2, line 17.

Strike: "52"

Insert: "53"

8. Page 5, line 17.

Strike: "a subsidiary"

Insert: "an affiliate"

9. Page 5, line 19.

Following: "agent"

Insert: ", an employee, or an independent contractor"

Strike: "subsidiary"

Insert: "affiliate"

10. Page 5, line 21.

Strike: "subsidiary"

Insert: "affiliate"

11. Page 9, line 30.

Strike: "52"

Insert: "53"

12. Page 10, line 24.

Strike: "52"

Insert: "53"

13. Page 11, line 5.

Strike: "52"

Insert: "53"

14. Page 12, line 6.

Strike: "32"

Insert: "33"

15. Page 12, line 12.

Strike: "32"

Insert: "33"

16. Page 12, line 15.

Strike: "52"

Insert: "53"

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17. Page 12, line 17.

Strike: "52"

Insert: "53"

18. Page 13, line 4.

Strike: "52"

Insert: "53"

19. Page 13, line 9.

Strike: "52"

Insert: "53"

20. Page 13, line 20.

Following: "manufacturing"

Insert: ", agriculture, mining, rail transportation, electric power generation facilities, or other businesses"

21. Page 13, line 26.

Strike: "2004"

Insert: "2005"

22. Page 13, line 27.

Strike: "2004"

Insert: "2005"

23. Page 13, line 28.

Strike: "2004"

Insert: "2005"

24. Page 14, line 8.

Strike: "35"

Insert: "36"

25. Page 14, line 29.

Strike: "AND"

26. Page 14, line 30.

Following: "}"

Insert: "; and"

(k) newspaper publishing and related service (NAICS industry 51111)

27. Page 15, line 12.

Strike: "and"

28. Page 15, line 13.

Following: "chapter 5"

Insert: "; and"

(g) state lottery games that are authorized under Title 23, chapter 7

29. Page 16, line 8 through line 9.

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Strike: "WITH" through "PART 5."

Insert: "described in subsection (2)"

30. Page 16.

Following: line 9

Insert: "(2) The following vehicles are exempt under subsection (1):

(a) a vehicle, except a motor home, as defined in 61-1-130, that exceeds the maximum limit for consideration as a light vehicle, as defined in 61-1-139; and

(b) a vehicle that has a manufacturer's rated capacity of 1 ton or more and is required, under 61-10-201, to pay the fee for a maximum gross loaded weight of 1 ton or more.

(3) The sale of a motor home, as defined in 61-1-130, is subject to the sales tax and use tax."

Renumber: subsequent subsections

31. Page 17.

Following: line 11

Insert: "NEW SECTION. Section 20. Exemption -- agriculture. (1) Except as provided in subsection (2), sales by, sales to, or uses by a person engaged in agriculture are exempt from the sales tax and use tax.

(2) (a) A purchase by a person engaged in agriculture is exempt from the sales tax or use tax only if the property or service purchased is used exclusively in or for the person's agricultural operation.

(b) A sale by a person engaged in agriculture is exempt from the sales tax and use tax only if the property or service sold is substantially a nonretail agricultural sale."

Renumber: subsequent sections

32. Page 19, line 9 through page 20, line 6.

Strike: section 25 in its entirety

Insert: "NEW SECTION. Section 26. Nontaxability -- agriculture -- construction -- manufacturing -- mining -- certain substances -- other businesses. (1) The sale of property or a service to or the use of property or a service by a purchaser is nontaxable if:

(a) the purchaser has an exemption certificate;

(b) the purchaser is engaged in and uses the property or service in any of the following:

(i) agriculture;

(ii) the construction industry, as defined in 39-71-116, and the item purchased is incorporated into an improvement to real property that is to be used for commercial or residential purposes or in the construction of public property;

(iii) mining. For the purposes of this section, the term "mining" means the carrying on of operations of any kind for the purpose of extracting from the earth any mineral, as defined in 15-38-103, and includes operations of any kind for the extraction of any mineral from any other mineral. The term does not include manufacturing.

(iv) manufacturing. For the purposes of this section, the term "manufacturing" has the meaning provided in the North American Industry Classification System Manual, 1997, prepared by the United States office of management and budget.

(v) rail transportation (NAICS 482). For the purposes of this section, the term "rail transportation" has the meaning provided in the North American Industry Classification System Manual, 1997, prepared by the United States office of management and budget.

(vi) electric power generation. For the purposes of this section, the term "electric power generation" has the meaning provided in the North American Industry Classification System Manual, 1997, prepared by the United States office of management and budget.

(c) (i) the purchaser incorporates the property as an ingredient or component part of the product in the business of mining or manufacturing; or

(ii) the purchaser uses the property to extract a mineral and the property is required to be abandoned in place,

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in accordance with state regulations, when production of the mineral from a mine or wellhead permanently ceases.

(2) The sale or use of any chemical, reagent, or other substance that is used or consumed in the processing of ores or petroleum in a mill, smelter, refinery, or reduction facility or in acidizing oil wells is nontaxable if the purchaser has an exemption certificate and the purchaser is engaged in and uses the property or service in mining or manufacturing.

(3) The sale of property or a service to or the use of property or a service by a purchaser is nontaxable if:

(a) the purchaser has an exemption certificate; and

(b) the purchaser is engaged in business for the purpose of monetary benefit and the property or service is used exclusively in the purchaser's business."

33. Page 21, line 17.

Strike: "26(2)"

Insert: "27(2)"

34. Page 21, line 26.

Strike: "26(2)"

Insert: "27(2)"

35. Page 22, line 26.

Strike: "33(1)(c)"

Insert: "34(1)(c)"

36. Page 22, line 23.

Strike: "2004"

Insert: "2005"

37. Page 22, line 24.

Strike: "2004"

Insert: "2005"

38. Page 22, line 25.

Strike: "2004"

Insert: "2005"

39. Page 23, line 6.

Strike: "52"

Insert: "53"

40. Page 23, line 19.

Strike: "52"

Insert: "53"

41. Page 23, line 24.

Strike: "52"

Insert: "53"

Strike: "37"

Insert: "38"

Strike: "42"

Insert: "43"

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42. Page 23, line 25.

Strike: "52"

Insert: "53"

43. Page 24, line 4.

Strike: "52"

Insert: "53"

44. Page 24, line 29.

Strike: "52"

Insert: "53"

45. Page 24, line 30.

Strike: "42"

Insert: "43"

46. Page 25, line 1.

Strike: "32"

Insert: "33"

47. Page 25, line 5.

Strike: "52"

Insert: "53"

48. Page 25, line 18.

Strike: "52"

Insert: "53"

49. Page 26, line 14.

Strike: "52"

Insert: "53"

50. Page 26, line 15.

Strike: "52"

Insert: "53"

51. Page 26, line 19.

Strike: "52"

Insert: "53"

52. Page 27, line 3.

Strike: "39"

Insert: "40"

53. Page 28, line 6.

Following: "filing a"

Insert: "timely"

Strike: "39"

Insert: "40"

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54. Page 28, line 15.

Strike: "32"

Insert: "33"

55. Page 28, line 18.

Strike: "32"

Insert: "33"

56. Page 28, line 23.

Strike: "52"

Insert: "53"

57. Page 28, line 27.

Strike: "39"

Insert: "40"

58. Page 29, line 14.

Strike: "52"

Insert: "53"

59. Page 29, line 17.

Strike: "52"

Insert: "53"

60. Page 29, line 18.

Strike: "52"

Insert: "53"

61. Page 29, line 30.

Strike: "52"

Insert: "53"

62. Page 30, line 19.

Strike: "52"

Insert: "53"

63. Page 31, line 2.

Strike: "52"

Insert: "53"

64. Page 31, line 4.

Strike: "52"

Insert: "53"

65. Page 31, line 6.

Strike: "52"

Insert: "53"

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66. Page 31, line 7.

Strike: "52"

Insert: "53"

67. Page 31, line 17.

Strike: "52" in both places

Insert: "53" in both places

68. Page 31, line 23.

Strike: "52"

Insert: "53"

69. Page 31, line 29.

Strike: "52"

Insert: "53"

70. Page 32, line 20.

Strike: "52"

Insert: "53"

71. Page 33, line 1.

Strike: "52" in both places

Insert: "53" in both places

72. Page 33, line 7.

Strike: "52"

Insert: "53"

73. Page 33, line 18.

Strike: "52"

Insert: "53"

74. Page 33, line 22.

Strike: "52"

Insert: "53"

75. Page 33, line 26.

Strike: "53"

Insert: "54"

Strike: "60"

Insert: "61"

76. Page 33, line 29.

Strike: "53"

Insert: "54"

Strike: "60"

Insert: "61"

77. Page 34, line 21.

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Strike: "53"

Insert: "54"

Strike: "60"

Insert: "61"

78. Page 37, line 21 through page 41, line 3.

Strike: section 61 in its entirety

Insert: "NEW SECTION. Section 62. Sales tax and use tax account -- allocation. (1) There is a sales tax and use tax account in the state special revenue fund.

(2) All money collected under [sections 1 through 53] must be paid by the department into the account.

(3) There must be retained in the account the amounts necessary under [sections 1 through 53] to repay overpayments, pay any erroneous receipts illegally assessed or collected or that are excessive in amount, and pay any other refunds otherwise required.

(4) For fiscal year 2006 and for each subsequent fiscal year, there is allocated from the account the amount necessary, as certified by the superintendent of public instruction, to fully fund direct state aid for 80% of the basic entitlement, as defined in 20-9-306, and 80% of the total per-ANB entitlement, as defined in 20-9-306, for the general fund budgets of elementary schools and high schools and 40% of the special education allowable cost payments, as described in 20-9-321, for elementary schools and high schools. The amount allocated in this subsection is for distribution as provided for in 20-9-344 and 20-9-347, as applicable.

(5) After retaining the amount necessary for the purposes of subsection (3) and allowing for the allocation made in subsection (4), all remaining revenue in the account is available for appropriation by the legislature.

(6) (a) At the end of each fiscal year, the state treasurer shall retain in the account the amount of funds necessary:

(i) for the purposes described in subsection (3); and

(ii) to ensure that adequate funds are available for the purposes described in subsection (4) until adequate sales tax and use tax collections are deposited in the account during the next fiscal year.

(b) Subsequent to retaining in the account the amount described in subsection (6)(a), the state treasurer shall transfer any remaining funds to the state general fund."

Renumber: subsequent sections

79. Page 48, line 18 through page 49, line 22.

Strike: section 62 in its entirety

Renumber: subsequent sections

80. Page 49, line 28 through line 29.

Strike: "HOUSEHOLD" on line 28 through "ADJUSTED" on line 29

81. Page 49, line 30.

Following: "GROSS"

Insert: "Household"

82. Page 50.

Following: line 11

Insert: "(4) For the purposes of this section:

(a) "gross household income" has the same meaning as provided in 15-30-171; and

(b) "income" has the same meaning as provided in 15-30-171."

83. Page 50, line 20.

Following: "(B)"

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Insert: "(i)"

84. Page 50, line 22.

Strike: "\$5,000"

Insert: "\$20,000, as adjusted in subsection (1)(b)(ii)"

85. Page 50.

Following: line 22

Insert: "(ii) The amount of the credit allowed in this section is equal to the adjusted amount calculated by multiplying the amount determined under subsection (1)(b)(i) by the ratio that the taxpayer's Montana source income, as defined in 15-30-101, bears to the taxpayer's total income from all sources."

86. Page 50, line 25 through line 26.

Strike: subsection (2) in its entirety

Insert: "(2) If more than one taxpayer owns an interest in property for which a credit is allowed under this section, each taxpayer is entitled to claim a pro rata share of the credit. However, the total amount of credit claimed by all eligible taxpayers for a single piece of property may not exceed the maximum credit set forth in subsection (1)(b)."

87. Page 51, line 2.

Strike: "FALSELY OR FRAUDULENTLY CLAIMS"

Insert: "knowingly or purposely, as those terms are defined in 45-2-101, files a false or fraudulent claim for"

88. Page 51, line 9.

Following: "(B)"

Insert: "(i)"

89. Page 51, line 11.

Strike: "\$5,000"

Insert: "\$20,000, as adjusted in subsection (1)(b)(ii)"

90. Page 51.

Following: line 11

Insert: "(ii) The amount of the credit allowed in this section is equal to the adjusted amount calculated by multiplying the amount determined under subsection (1)(b)(i) by the apportionment fraction determined under 15-31-305."

91. Page 51, line 15.

Following: "PARTNERSHIP,"

Insert: "as defined in 15-30-101,"

92. Page 51, line 20.

Strike: "FALSELY OR FRAUDULENTLY CLAIMS"

Insert: "knowingly or purposely, as those terms are defined in 45-2-101, files a false or fraudulent claim for"

93. Page 52, line 21.

Strike: "61(4)"

Insert: "62(6)(b)"

94. Page 73, line 15.

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Following: "67"

Insert: ", subject to the limitations of [section 65 or 67],"

95. Page 75, line 9.

Strike: "2004"

Insert: "2005"

96. Page 79, line 29.

Strike: "\$1,840"

Insert: "\$1,900"

97. Page 80, line 1.

Strike: "\$1,840"

Insert: "\$1,900"

98. Page 80, line 5.

Strike: "\$1,840"

Insert: "\$1,900"

99. Page 80, line 8.

Strike: "\$1,840"

Insert: "\$1,900"

100. Page 80, line 13.

Strike: "\$1,840"

Insert: "\$1,900"

101. Page 80, line 15.

Strike: "\$1,840"

Insert: "\$1,900"

102. Page 80, line 26.

Strike: "\$1,840"

Insert: "\$1,900"

103. Page 82, line 2.

Strike: "\$5,000"

Insert: "\$6,000"

104. Page 82, line 3.

Strike: "\$10,000"

Insert: "\$12,000"

105. Page 84, line 23.

Strike: "\$1,530"

Insert: "\$1,580"

106. Page 85, line 15.

Strike: "\$3,460"

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Insert: "\$3,560"

107. Page 85, line 17.

Strike: "\$6,920"

Insert: "\$7,120"

108. Page 85, line 19.

Strike: "\$1,840"

Insert: "\$1,900"

109. Page 125, line 20.

Strike: "52"

Insert: "53"

110. Page 127, line 9.

Strike: "61"

Insert: "62"

111. Page 128, line 23.

Strike: "52"

Insert: "53"

112. Page 129, line 1.

Strike: "61"

Insert: "62"

113. Page 129, line 29.

Strike: "52"

Insert: "53"

114. Page 130, line 7.

Strike: "61"

Insert: "62"

115. Page 131, line 23.

Strike: "52"

Insert: "53"

116. Page 132, line 8.

Strike: "61"

Insert: "62"

117. Page 132, line 28.

Strike: "52"

Insert: "53"

118. Page 133, line 23.

Strike: "61"

Insert: "62"

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119. Page 137.

Following: line 9

Insert: "NEW SECTION. Section 107. Repealer. (1) Section 244, Chapter 574, Laws of 2001, is repealed.

(2) Section 25, Chapter 13, Special Laws of August 2002, is repealed."

Renumber: subsequent sections

120. Page 137, line 11.

Strike: "60"

Insert: "61"

121. Page 137, line 12.

Strike: "60"

Insert: "61"

122. Page 137, line 13.

Strike: "SECTIONS 61 AND 62 ARE"

Insert: "[Section 62] is"

123. Page 137, line 14.

Strike: "SECTIONS 61 AND "

Insert: "[section "

124. Page 137.

Following: line 19

Insert: "NEW SECTION. Section 109. Coordination instruction. If Senate Bill No. 423 is passed and approved and this act is approved by the electorate, then [section 69] of this act, amending 13-37-218, is void."

Renumber: subsequent sections

125. Page 137, line 24.

Strike: "[This act]"

Insert: "This act"

126. Page 137, line 24 through page 137, line 25.

Strike: "on" on line 24 through "2004" on line 25

Insert: "upon approval by the electorate"

127. Page 137, line 27 through page 138, line 3.

Strike: section 110 in its entirety

Insert: "NEW SECTION. Section 112. Applicability. Except as provided in subsection (2), [this act] applies January 1, 2005, to tax years and state, local, government, and school fiscal years beginning after December 31, 2004.

(2) [Sections 8 through 10, 33, 34, 39, 43, 49, and 54 through 61] apply January 1, 2004."

Renumber: subsequent section

128. Page 138, line 6.

Strike: "OCTOBER 7."

Insert: "November 4"

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

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FREE CONFERENCE COMMITTEE
on **House Bill 298**
Report No. 1, April 14, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 298** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 298** (reference copy -- salmon) be amended as follows:

1. Title, line 5.

Following: "A-FEE"

Insert: "FEES"

2. Title, line 6.

Strike: "CERTAIN COSTS OF A REVIEW"

Insert: "AN EXAMINATION"

Strike: "DIVISIONS"

Insert: "A DIVISION"

Following: "LAND"

Insert: "TO DETERMINE WHETHER IT IS"

3. Page 1, line 13.

Strike: "ACTUAL COSTS"

Insert: "fees for examination of division"

4. Page 1, line 30 through page 2, line 1.

Strike: "COLLECT" on page 1, line 30 through "76-3-611(2)(A)" on page 2, line 1

Insert: "examine a division of land to determine whether or not the requirements of this chapter apply to the division and may establish reasonable fees, not to exceed \$200, for the examination"

5. Page 2, line 5.

Strike: "ACTUAL COSTS"

Insert: "fees for examination of division"

6. Page 3, lines 2 and 3.

Strike: "COLLECT" on line 2 through "76-3-611(2)(A)"

Insert: "examine a division of land to determine whether or not the requirements of this chapter apply to the division and may establish reasonable fees, not to exceed \$200, for the examination"

For the House:

Younkin, Chairman
Jacobson
Noennig

For the Senate:

Gebhardt, Chairman
McGee
Wheat

FREE CONFERENCE COMMITTEE
on **House Bill 564**

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Report No. 1, April 14, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 564** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 564** (reference copy -- salmon) be amended as follows:

1. Page 5, line 27.

Strike: "at least 110% of"

For the House:

McKenney, Chairman
Lange
Lindeen

For the Senate:

Mahlum, Chairman
Anderson
Cocchiarella

FREE CONFERENCE COMMITTEE
on **Senate Bill 126**
Report No. 1, April 12, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 126** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

1. House Committee on Taxation amendments, third reading copy, dated March 19, 2003.

And, recommend that **Senate Bill 126** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 9.

Following: "EXEMPTION:"

Insert: "CLARIFYING PROPERTY TAX PROVISIONS RELATING TO INSURANCE COMPANIES BY REPEALING SPECIFIC LAWS THAT ARE REDUNDANT WITH GENERAL PROPERTY TAX LAWS;"

2. Title, page 1, line 10.

Following: line 9

Strike: "AND"

3. Title, page 1, line 11.

Following: "1999"

Insert: "; AND REPEALING SECTIONS 15-24-601 AND 15-24-602, MCA"

4. Page 15, line 6.

Insert: "NEW SECTION. Section 4. Repealer. Sections 15-24-601 and 15-24-602, MCA, are repealed."

Renumber: subsequent section

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For the Senate:

Story, Chairman
Toole

For the House:

Devlin, Chairman
Laslovich
Waitschies

MESSAGES FROM THE SENATE

Senate bills passed and transmitted to the House for concurrence: 4/14/2003

SB 271, introduced by Stapleton
SB 485, introduced by Cobb
SB 489, introduced by Elliott
SB 491, introduced by Stonington

House bills concurred in and returned to the House: 4/14/2003

HB 3, introduced by Brueggeman
HB 4, introduced by Brueggeman
HB 7, introduced by Witt
HB 10, introduced by Maedje
HB 12, introduced by Kasten
HB 13, introduced by Lewis
HB 18, introduced by Shockley
HB 744, introduced by E. Clark
HB 748, introduced by Devlin

Free Conference Committee Report No.1 adopted: 4/14/2003

HB 211, introduced by Newman
HB 283, introduced by Fuchs

Governor's amendments to **House bill** concurred in and returned to the House: 4/14/2003

HB 185, introduced by Wilson

MESSAGES FROM THE GOVERNOR

April 14, 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 6** sponsored by Representative Witt, **House Bill 8** sponsored by Representative Witt, **House Bill 124** sponsored by Representative A. Olson, **House Bill 186** sponsored by

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Representative Matthews, **House Bill 195** sponsored by Representative Younkin, **House Bill 230** sponsored by Representative Erickson, **House Bill 293** sponsored by Representative Smith et al., **House Bill 419** sponsored by Representative Laszloffy et al., **House Bill 456** sponsored by Representative Parker et al., **House Bill 482** sponsored by Representative Forrester et al., **House Bill 494** sponsored by Representative Wilson et al., **House Bill 501** sponsored by Representative Noennig, **House Bill 555** sponsored by Representative Bitney, **House Bill 579** sponsored by Representative Shockley, **House Bill 580** sponsored by Representative Bitney, **House Bill 591** sponsored by Representative Fuchs, and **House Bill 637** sponsored by Representative Raser on April 14, 2003.

Sincerely,

JUDY MARTZ
Governor

Majority Leader Brown moved that the House recess until 11:10 a.m. for caucuses. Motion carried.

House adjourned at 10:40 a.m.

House reconvened at 11:14 a.m.

Representative Lindeen made a parliamentary inquiry. She stated her belief that the Committee of the Whole report on Legislative Day 80 had not been adopted after her substitute motion had failed.

The Speaker ruled that the Committee of the Whole Report was adopted after there being no objection. The Speaker agreed that another vote for the Committee of the Whole Report was in order but according to Mason's Law the Speaker's ruling is upheld.

Representative Lindeen appealed the ruling of the Chair.

Mr. Speaker called for a ruling of the Rules Committee.

The Rules Committee upheld the ruling of the Chair.

Representative Lindeen **appealed** the ruling of the Rules Committee.

Representative Newman moved previous question. Motion carried.

The Speaker asked Minority Leader Wanzenried and Representative Lindeen if they agree with the motion that a "yes" vote upholds the ruling of the Rules Committee and a "no" vote opposes the ruling of the Rules Committee. Minority Leader Wanzenried and Representative Lindeen agreed with this motion.

Motion to **uphold** the ruling of the Rules Committee carried as follows:

Ayes: Andersen, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, E. Clark, Devlin, Everett, Fisher, Fuchs, Haines, Hawk, Hedges, Hurwitz, Jackson, Kasten, Lake, Lambert, Lange, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Noennig, A. Olson, B. Olson, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Sales, Schrupf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.
Total 55

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Noes: Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Laslovich, Lindeen, Musgrove, Newman, Parker, Raser, Ryan, Small-Eastman, Smith, Wanzenried, Weiss, Wilson, Windy Boy.
Total 45

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Representative Lindeen moved to reconsider action on the Committee of the Whole Report on Legislative Day 80.

Representative Laszloffy explained this motion would need to be made in Order of Business 9.

The Speaker moved to Order of Business 9 and accepted Representative Lindeen's motion.

MOTIONS

Motion to **reconsider action** on the Committee of the Whole Report yesterday **failed** as follows:

Ayes: Ballantyne, Becker, Bergren, Bixby, Branae, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Lenhart, Lindeen, Musgrove, Newman, Parker, Raser, Ryan, Small-Eastman, Smith, Wanzenried, Weiss, Wilson, Windy Boy.
Total 44

Noes: Andersen, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, Buzzas, E. Clark, Devlin, Everett, Fisher, Fuchs, Haines, Hawk, Hedges, Hurwitz, Jackson, Kasten, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lewis, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Noennig, A. Olson, B. Olson, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Sales, Schrupf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.
Total 56

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Minority Leader Wanzenried inquired about **HB 470** being placed on today's second reading agenda and if this is true that the rules require a day between the Standing Committee and Committee of the Whole (rule 40-130(3)). The Speaker agreed with Minority Leader Wanzenried.

FIRST READING AND COMMITMENT OF BILLS

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

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SB 485, introduced by Cobb, E. Clark (by request of the House Joint Appropriations Subcommittee on Health and Human Services), referred to Business and Labor.

SB 489, introduced by Elliott, P. Clark, Cooney, Shockley, Wheat, referred to Appropriations.

SB 491, introduced by Stonington (by request of the Senate Finance Standing Committee), referred to Transportation.

**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 Facey in the chair.

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

SB 408 - Representative Waitschies moved **SB 408** be concurred in. Motion carried 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, 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, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, 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, Schrupf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Younkin, Mr. Speaker.
Total 94

Noes: Balyeat, Everett, Keane, Newman, Sales.
Total 5

Excused: None.
Total 0

Absent or not voting: Witt.
Total 1

SB 414 - Representative Golie moved **SB 414** be concurred in. Motion carried 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, Dickenson, Erickson, Facey, Fisher, Forrester, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Lake, Lambert, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lindeen, Maedje, Malcolm, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schrupf, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Younkin, Mr. Speaker.
Total 88

Noes: Balyeat, Devlin, Everett, Lange, Lewis, Matthews, Sales.

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Total 7

Excused: None.

Total 0

Absent or not voting: Dowell, Fuchs, Peterson, Shockley, Witt.

Total 5

SB 464 - Representative Brueggeman moved **SB 464** be concurred in. Motion **failed** as follows:

Ayes: Bergren, Bitney, Bixby, Branae, Brueggeman, Callahan, Carney, E. Clark, Cohenour, Devlin, Dickenson, Erickson, Facey, Fisher, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Jacobson, Juneau, Kaufmann, Keane, Lenhart, Lewis, Lindeen, Matthews, McKenney, Musgrove, Newman, Noennig, Pattison, Raser, Rome, Shockley, Small-Eastman, Smith, Weiss, Wilson.

Total 42

Noes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bookout-Reinicke, D. Brown, R. Brown, Buzzas, P. Clark, Cyr, Dowell, Everett, Forrester, Golie, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jayne, Jent, Kasten, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Maedje, Malcolm, Mendenhall, Morgan, A. Olson, B. Olson, Parker, Peterson, Rice, Ripley, Roberts, Ross, Ryan, Sales, Schrupf, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Windy Boy, Witt, Younkin.

Total 57

Excused: None.

Total 0

Absent or not voting: Mr. Speaker.

Total 1

SB 474 - Representative R. Brown moved consideration of **SB 474** be placed below SB 480 on the second reading board. Motion carried.

SB 484 - Representative Gillan moved **SB 484** be concurred in. Motion carried as follows:

Ayes: Becker, Bitney, Bixby, Bookout-Reinicke, Branae, R. Brown, Buzzas, Callahan, Carney, P. Clark, Cohenour, Devlin, Dickenson, Dowell, Erickson, Facey, Fisher, Forrester, Franklin, Fritz, Gallik, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Jackson, Jacobson, Jent, Juneau, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lindeen, Maedje, Matthews, McKenney, Mendenhall, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Roberts, Ryan, Small-Eastman, Smith, Steinbeisser, Thomas, Waitschies, Weiss, Wilson, Windy Boy, Witt.

Total 67

Noes: Andersen, Ballantyne, Balyeat, Barrett, Bergren, Brueggeman, E. Clark, Cyr, Everett, Fuchs, Gallus, Hawk, Hedges, Hurwitz, Jayne, Kasten, Lewis, Malcolm, Morgan, Pattison, Ripley, Rome, Ross, Sales, Schrupf, Shockley, Sinrud, Stoker, Wagman, Wanzenried, Younkin, Mr. Speaker.

Total 32

Excused: None.

Total 0

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Absent or not voting: D. Brown.
Total 1

SB 487 - Representative Small-Eastman moved **SB 487** be concurred in.

Representative Devlin moved **SB 487**, second reading copy, be amended as follows:

1. Title, line 9.

Following: line 8

Insert: "REVISING THE DEFINITION OF PROJECT;"

Strike: "AND"

Following: "17-5-1527,"

Insert: "90-5-101,"

2. Page 2, line 30.

Strike: "\$100"

Insert: "\$800"

Following: "million."

Insert: "The total amount of bonds not secured under 17-5-1515 outstanding at any one time, except bonds as to which the board's obligations have been satisfied and discharged by refunding or bonds for which reserves for payment or other means of payment have been provided, may not exceed \$800 million."

3. Page 3, line 6.

Strike: "\$50"

Insert: "\$600"

4. Page 4, line 17.

Insert: "**Section 4.** Section 90-5-101, MCA, is amended to read:

"90-5-101. Definitions. As used in this part, unless the context otherwise requires, the following definitions apply:

(1) "Agricultural enterprises" includes but is not limited to producing, warehousing, storing, fattening, treating, handling, distributing, or selling farm products or livestock.

(2) "Bonds" means bonds, refunding bonds, notes, or other obligations issued by a municipality or county under the authority of this part, including without limitation short-term bonds or notes issued in anticipation of the issuance of long-term bonds or notes.

(3) "Electric energy generation facility" means any combination of a physically connected generator or generators, associated prime movers, and other associated property and transmission facilities and upgrades and improvements of transmission facilities, including appurtenant land and improvements and personal property, that are normally operated together to produce and transfer electric power. The term includes but is not limited to generating facilities that produce and transfer electricity from coal-fired steam turbines, oil or gas turbines, wind turbines, solar power sources, fuel cells, or turbine generators that are driven by falling water.

(4) "Family services provider" means organizations, including nonprofit corporations, that provide human services for children and adults, including but not limited to early care services for children, youth services, health services, social services, habilitative services, rehabilitative services, preventive care, and supportive services, and training, educational, and referral activities in support of human services.

(5) "Governing body" means the board or body in which the general legislative powers of the municipality or county are vested.

(6) "Higher education facilities" means any real or personal properties required or useful for the operation of an institution of higher education.

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(7) "Institution of higher education" means any private, nonprofit corporation or institution within the state of Montana:

- (a) authorized to provide or operate educational facilities; and
- (b) providing a program of education beyond the high school level.
- (8) "Mortgage" means a mortgage or deed of trust or other security device.
- (9) "Municipality" means any incorporated city or town in the state.
- (10) "Project" means:

- (a) any land;
- (b) any building or other improvement; ~~and~~
- (c) any other real or personal properties considered necessary in connection with the improvement referred to in subsection (1)(b), whether or not now in existence, that must be suitable for use for commercial, manufacturing, agricultural, or industrial enterprises;
- (d) recreation or tourist facilities;
- (e) local, state, and federal governmental facilities;
- (f) multifamily housing, hospitals, long-term care facilities, community-based facilities for individuals who are persons with developmental disabilities as defined in 53-20-102, or medical facilities;
- (g) higher education facilities;
- (h) electric energy generation facilities;
- (i) family services provider facilities;
- (j) the production of energy using an alternative renewable energy source as defined in 90-4-102;
- (k) railroads; and
- (l) any combination of ~~these~~ projects listed in subsections (10)(a) through (10)(k)."

Renumber: subsequent sections

5. Page 4, line 20.

Strike: ", 3, AND 6"

Insert: "through 4"

6. Page 4, line 22.

Strike: "4"

Insert: "5"

Representative Lindeen moved sections #1 and #4 be segregated from the amendment.

Thereupon, adopting sections #1 and #4 of Devlin's amendment #1 carried as follows:

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

Total 57

Noes: Ballantyne, Becker, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Dickenson, Dowell, Erickson, Facey, Fisher, Franklin, Fritz, Gallik, Galvin-Halcro, Gibson, Golie, Gutsche, Haines, Harris, Jacobson, Jayne, Jent, Juneau, Kaufmann, Laslovich, Lewis, Lindeen, Malcolm, Musgrove, Parker, Raser, Sales, Shockley, Small-Eastman, Smith, Wanzenried, Weiss, Wilson, Windy Boy.

Total 43

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Excused: None.
Total 0

Absent or not voting: None.
Total 0

Thereupon, adopting sections #2, #3, #5, and #6 of Devlin's amendment #1 carried as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Bergren, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, Callahan, E. Clark, Cyr, Devlin, Everett, Forrester, Fuchs, Gallus, Hawk, Hedges, Hurwitz, Jackson, Kasten, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lindeen, Maedje, Matthews, McKenney, Mendenhall, Morgan, Newman, Noennig, A. Olson, B. Olson, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schrupf, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.
Total 60

Noes: Becker, Bixby, Branae, Buzzas, Carney, P. Clark, Cohenour, Dickenson, Dowell, Erickson, Facey, Fisher, Franklin, Fritz, Gallik, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Jacobson, Jayne, Jent, Juneau, Kaufmann, Lewis, Malcolm, Musgrove, Raser, Sales, Shockley, Small-Eastman, Smith, Wanzenried, Weiss, Wilson, Windy Boy.
Total 39

Excused: None.
Total 0

Absent or not voting: Parker.
Total 1

Motion that **SB 487**, as amended, be concurred in carried as follows:

Ayes: Andersen, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, E. Clark, Cyr, Devlin, Everett, Fisher, Forrester, Fuchs, Gallus, Haines, Hawk, Hedges, Hurwitz, Jackson, Kasten, Keane, Lake, Lambert, Lange, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Newman, Noennig, A. Olson, B. Olson, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schrupf, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wilson, Witt, Younkin, Mr. Speaker.
Total 58

Noes: Ballantyne, Balyeat, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, Cohenour, Dickenson, Dowell, Erickson, Facey, Fritz, Gallik, Gibson, Gillan, Golie, Gutsche, Harris, Jacobson, Jayne, Jent, Juneau, Kaufmann, Lindeen, Musgrove, Parker, Raser, Sales, Shockley, Sinrud, Small-Eastman, Smith, Wanzenried, Weiss, Windy Boy.
Total 38

Excused: None.
Total 0

Absent or not voting: P. Clark, Franklin, Galvin-Halcro, Laslovich.
Total 4

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SB 461 - Representative Devlin moved **SB 461** be concurred in.

Representative Jackson moved **SB 461**, second reading copy, be amended as follows:

1. Title, page 1, line 15.

Following: "BRACKETS;"

Insert: "PROVIDING RATE ADJUSTMENTS TO CLASS FOUR PROPERTY TAX RATES FOR CERTAIN RESIDENCES WITH EXTRAORDINARY INCREASES IN MARKET VALUE;"

Following: "FOUR"

Strike: "AND CLASS ELEVEN"

2. Page 9, line 28.

Insert: "NEW SECTION. Section 1. Extended property tax assistance -- phasein. (1) For the purpose of mitigating extraordinary market value increases during the revaluation cycle that ended December 31, 2002, the rate of taxation of class four residential dwellings and appurtenant land not to exceed 5 acres otherwise set in 15-6-134(2)(a) is adjusted in this section for properties with extraordinary increases in market value.

(2) A rate adjustment may not be granted for:

(a) any property that was sold or for which the ownership was changed after December 31, 2002, unless the change in ownership is between husband and wife or parent and child with only nominal actual consideration or the change is pursuant to a divorce decree;

(b) the value of new construction, including remodeling, on the property occurring after December 31, 2002, that is greater than 25% of the market value of the improvements; or

(c) a land use change occurring after December 31, 2002, that increases the market value of the land by more than 25%.

(3) For the purposes of determining the adjustment in the class four property tax rate in this section, the following provisions apply:

(a) The taxable value before reappraisal is the 2002 tax year value adjusted for any new construction or destruction that occurred in tax year 2002. The taxable value before reappraisal for the 2003 tax year and subsequent years is the same as the 2002 tax year value if no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes are made to the property during 2002 or subsequent tax years.

(b) The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal in 2003 times 0.69 times 0.0346. The taxable value after reappraisal is calculated by multiplying the 2003 market value after reappraisal times 0.66 times 0.0301.

(c) The dollar increase in tax liability is measured as the change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal in 2003 times 0.69 times 0.0346 times the tax year 2002 mill levy applied to the property. The tax liability after reappraisal is calculated by multiplying the 2003 market value after reappraisal times 0.66 times 0.0301 times the tax year 2002 mill levy applied to the property. The tax year 2002 mill levy is the total of all mills applied to the property for fiscal year 2003.

(d) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.

(4) (a) If the percentage increase in taxable value is greater than 36%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2003, the tax rate is 0.03668 times the value before reappraisal divided by the 2003 phase-in value.

(ii) For tax year 2004, the tax rate is 0.03898 times the value before reappraisal divided by the 2004 phase-in value.

(iii) For tax year 2005, the tax rate is 0.04143 times the value before reappraisal divided by the 2005

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phase-in value.

(iv) For tax year 2006, the tax rate is 0.04392 times the value before reappraisal divided by the 2006 phase-in value.

(v) For tax year 2007, the tax rate is 0.04646 times the value before reappraisal divided by the 2007 phase-in value.

(vi) For tax year 2008 and after, the tax rate is 0.04919 times the value before reappraisal divided by the 2008 phase-in value.

(b) The adjusted tax rate computed under this subsection (4) must be rounded to the nearest one-hundredth of 1%."

Renumber: subsequent sections

3. Page 36, line 23.

Strike: "5"

Insert: "6"

4. Page 36, line 29.

Strike: "5"

Insert: "6"

5. Page 37, line 9.

Insert: "NEW SECTION. Section 8. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 1]."

Insert: "NEW SECTION. Section 9. 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

Representative Keane moved for cloture. Motion carried.

Amendment **not** adopted as follows:

Ayes: Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, E. Clark, Devlin, Everett, Fisher, Fritz, Fuchs, Gibson, Haines, Hawk, Hurwitz, Jackson, Keane, Lake, Lange, Lawson, Lehman, Maedje, McKenney, Mendenhall, B. Olson, Rice, Ripley, Roberts, Rome, Ryan, Sales, Schruppf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Younkin.

Total 39

Noes: Andersen, Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Harris, Hedges, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Laszloffy, Lenhart, Lewis, Lindeen, Malcolm, Matthews, Morgan, Musgrove, Newman, A. Olson, Parker, Pattison, Raser, Ross, Small-Eastman, Smith, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt.

Total 54

Excused: None.

Total 0

Absent or not voting: R. Brown, Brueggeman, Lambert, Laslovich, Noennig, Peterson, Mr. Speaker.

Total 7

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Motion that **SB 461** be concurred in 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, 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, 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, Wanzenried, Weiss, Wilson, Witt, Younkin, Mr. Speaker.
Total 99

Noes: Windy Boy.
Total 1

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 474 - Representative Laszloffy moved consideration of **SB 474** be placed at the top of the second reading board. Motion carried.

Representative Laszloffy moved **SB 474** be concurred in.

Representative Golie moved **SB 474**, second reading copy, be amended as follows:

1. Title, page 12.

Following: "PROGRAM"

Insert: "THROUGH A TRANSFER FROM THE TRUST FUND TO THE ACCOUNT"

2. Title, lines 13 and 14.

Following: "~~ACCOUNT~~;" on line 13

Strike: remainder of line 13 through "MONTANA;" on line 14

3. Page 15, line 8.

Insert: "NEW SECTION. Section 15. Fund transfer. The amount of \$7.5 million is transferred from the tobacco settlement trust fund established in Article XII, section 4, of the Montana constitution to the Montana gold senior pharmacy program account established in [section 3] during each fiscal year of the biennium beginning July 1, 2003. The director of the department of public health and human services may request the transfer of specific amounts within this limit as needed to implement the program."

Renumber: subsequent sections

4. Page 15, line 16.

Insert: "NEW SECTION. Section 17. Two-thirds vote. Because [section 15] authorizes the expenditure of money from the principal of the Montana tobacco settlement trust fund, Article XII, section 4, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage."

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Renumber: subsequent sections

5. Page 15, lines 17 and 18.

Following: "2003" on line 17

Strike: remainder of line 17 through "ELECTORATE" on line 18

Insert: "July 1, 2003"

6. Page 15, lines 20 through 26.

Strike: section 17 in its entirety

Amendment adopted as follows:

Ayes: Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Laslovich, Lenhart, Lindeen, Malcolm, Matthews, Musgrove, Newman, A. Olson, Parker, Raser, Roberts, Ross, Ryan, Small-Eastman, Smith, Wanzenried, Weiss, Wilson, Windy Boy.

Total 52

Noes: Andersen, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, E. Clark, Devlin, Everett, Fisher, Fuchs, Haines, Hawk, Hedges, Hurwitz, Jackson, Lake, Lambert, Lange, Laszloffy, Lawson, Lehman, Lewis, Maedje, McKenney, Mendenhall, Morgan, Noennig, B. Olson, Pattison, Peterson, Rice, Ripley, Rome, Sales, Schruppf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.

Total 48

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Motion that **SB 474**, as amended, be concurred in carried as follows:

Ayes: Andersen, Barrett, Becker, Bergren, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, E. Clark, Devlin, Dickenson, Dowell, Everett, Fisher, Fuchs, Gillan, Golie, Haines, Hawk, Hedges, Hurwitz, Jackson, Kasten, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lehman, Lenhart, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schruppf, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.

Total 62

Noes: Ballantyne, Balyeat, Bitney, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Erickson, Facey, Forrester, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Gutsche, Harris, Jacobson, Jayne, Jent, Juneau, Kaufmann, Lawson, Lewis, Musgrove, Newman, Raser, Sales, Shockley, Sinrud, Small-Eastman, Smith, Weiss.

Total 38

Excused: None.

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Total 0

Absent or not voting: None.

Total 0

SB 478 - Representative Waitschies moved **SB 478** be concurred in. Motion carried 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, 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, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schrupf, Shockley, Small-Eastman, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Witt, Younkin, Mr. Speaker.
Total 95

Noes: Sales, Sinrud, Smith, Windy Boy.

Total 4

Excused: None.

Total 0

Absent or not voting: Balyeat.

Total 1

SB 480 - Representative Lake moved **SB 480** be concurred in. Motion carried as follows:

Ayes: Andersen, Ballantyne, Barrett, Becker, Bergren, Bitney, Bixby, Branae, R. Brown, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Devlin, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hurwitz, Jacobson, Juneau, Kaufmann, Keane, Lake, Laslovich, Lindeen, Matthews, McKenney, Musgrove, Newman, Noennig, A. Olson, Peterson, Raser, Ryan, Sinrud, Small-Eastman, Smith, Wagman, Wanzenried, Weiss, Wilson, Younkin, Mr. Speaker.
Total 59

Noes: Balyeat, D. Brown, Brueggeman, Cyr, Everett, Fisher, Hawk, Hedges, Jackson, Jayne, Kasten, Lambert, Lange, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Maedje, Malcolm, Mendenhall, Morgan, B. Olson, Parker, Pattison, Rice, Ripley, Roberts, Rome, Ross, Sales, Schrupf, Shockley, Steinbeisser, Stoker, Thomas, Waitschies, Windy Boy, Witt.

Total 39

Excused: None.

Total 0

Absent or not voting: Bookout-Reinicke, Jent.

Total 2

HB 2 - Senate Amendments - Representative Lewis moved Senate amendments to **HB 2** be **not** concurred in. Motion carried as follows:

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Ayes: Andersen, Ballantyne, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, Cohenour, Cyr, Devlin, Dickenson, 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, Lambert, Lange, Laslovich, Laszloffy, Lawson, 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, Schrupf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 94

Noes: Balyeat, P. Clark, Dowell, Lake, Sales.
Total 5

Excused: None.
Total 0

Absent or not voting: Newman.
Total 1

HB 5 - Senate Amendments - Representative Kasten moved Senate amendments to **HB 5** be concurred in. Motion carried as follows:

Ayes: Andersen, 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, Facey, Fisher, 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, Malcolm, Matthews, McKenney, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Roberts, Rome, Ross, Ryan, Schrupf, Shockley, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Witt, Younkin, Mr. Speaker.
Total 89

Noes: Balyeat, Everett, Haines, Hawk, Ripley, Sales, Sinrud, Windy Boy.
Total 8

Excused: None.
Total 0

Absent or not voting: Ballantyne, Mendenhall, Morgan.
Total 3

Representative Laszloffy moved to reconsider action on **SB 474**. The motion **failed** as follows:

Ayes: Andersen, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, E. Clark, Devlin, Everett, Fisher, Fuchs, Haines, Hawk, Hedges, Hurwitz, Jackson, Kasten, Lake, Lambert, Lange, Laszloffy, Lehman, Lenhart, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Noennig, A. Olson, B. Olson, Pattison, Peterson, Rice, Ripley, Rome, Ross, Schrupf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.
Total 50

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Noes: Ballantyne, Balyeat, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Laslovich, Lawson, Lewis, Lindeen, Musgrove, Newman, Parker, Raser, Roberts, Ryan, Sales, Small-Eastman, Smith, Wanzenried, Weiss, Wilson, Windy Boy.
Total 50

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 Facey moved the Committee of the Whole report be adopted. Report adopted as follows:

Ayes: Andersen, Ballantyne, Barrett, Bergren, Bixby, D. Brown, Brueggeman, Buzzas, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Everett, Facey, Fisher, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Golie, Gutsche, Haines, Harris, Hedges, Hurwitz, Jackson, Jent, Juneau, Kasten, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, B. Olson, Parker, Pattison, Peterson, Raser, Ripley, Roberts, Rome, Ross, Schrupf, Shockley, Small-Eastman, Stoker, Wagman, Waitschies, Wanzenried, Wilson, Witt, Mr. Speaker.
Total 75

Noes: Balyeat, Becker, Bookout-Reinicke, Branae, R. Brown, Callahan, Forrester, Gillan, Hawk, Jacobson, Jayne, Lehman, Noennig, A. Olson, Rice, Ryan, Sales, Sinrud, Smith, Steinbeisser, Thomas, Weiss, Windy Boy, Younkin.
Total 24

Excused: None.
Total 0

Absent or not voting: Bitney.
Total 1

THIRD READING OF BILLS

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

SB 407 concurred in as follows:

Ayes: Andersen, Balyeat, Barrett, Bitney, Bookout-Reinicke, R. Brown, Brueggeman, E. Clark, Devlin, Everett, Fisher, Fuchs, Haines, Hawk, Hedges, Hurwitz, Jackson, Kasten, Lake, Lambert, Lange, Laszloffy, Lawson, Lehman, Lenhart, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Noennig, A. Olson, B. Olson, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Schrupf, Shockley, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.
Total 51

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Noes: Ballantyne, Becker, Bergren, Bixby, Branae, D. Brown, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Laslovich, Lewis, Lindeen, Musgrove, Newman, Parker, Raser, Ryan, Sales, Sinrud, Small-Eastman, Smith, Wanzenried, Weiss, Wilson, Windy Boy.
Total 49

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 138 concurred in 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, Facey, 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, Noennig, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schrupf, Shockley, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Wanzenried, Weiss, Wilson, Windy Boy, Younkin.
Total 90

Noes: Balyeat, Everett, Fisher, Pattison, Sales, Sinrud, Waitschies, Witt, Mr. Speaker.
Total 9

Excused: None.
Total 0

Absent or not voting: Bookout-Reinicke.
Total 1

SB 155 concurred in as follows:

Ayes: Andersen, Ballantyne, Barrett, Becker, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Fuchs, Gallik, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hurwitz, Jacobson, Jayne, Juneau, Kasten, Kaufmann, Keane, Lake, Lambert, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schrupf, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Wanzenried, Weiss, Wilson, Witt, Younkin, Mr. Speaker.
Total 84

Noes: Balyeat, Bergren, Everett, Fisher, Gallus, Hawk, Hedges, Jackson, Jent, Lange, Mendenhall, Sales, Shockley, Sinrud, Waitschies, Windy Boy.
Total 16

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Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 320 concurred in 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, 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, 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, Schrupf, Shockley, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 95

Noes: Balyeat, Dickenson, Jayne, Sales, Sinrud.
Total 5

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 336 concurred in as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, R. 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, Hedges, Hurwitz, Jackson, Jacobson, Jent, Juneau, Kasten, Kaufmann, Lambert, Lange, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Roberts, Rome, Ross, Ryan, Sales, Schrupf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Witt, Younkin, Mr. Speaker.
Total 90

Noes: D. Brown, Devlin, Fisher, Jayne, Keane, Lake, Laslovich, Maedje, Ripley, Windy Boy.
Total 10

Excused: None.
Total 0

Absent or not voting: None.
Total 0

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REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 197**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 197** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 197** (reference copy -- salmon) be amended as follows:

1. Page 19, line 29.

Following: line 28

Insert: "(7) If House Bill No. 195 and [this act] are both passed and approved, then [section 1 of House Bill No. 195], amending 61-2-302, is void.

(8) If House Bill No. 195 and [this act] are both passed and approved and Senate Bill No. 37 is not passed and approved, then 61-5-208 must read as follows:

Insert: "**Section 5.** Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation -- probationary license -- ignition interlock device required ~~allowed~~ on second or subsequent first offense. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than 1 year, except as otherwise permitted by law.

(2) (a) Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) When a person is convicted or forfeits bail or collateral not vacated for ~~the~~ a first offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for ~~the~~ a first offense of operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall ~~revoke~~ suspend the license or driving privilege of the person for a period of 1 year and; ~~upon issuance of any restricted~~ may not issue a probationary license during the period of ~~revocation~~, ~~restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device~~ suspension. If the 1-year suspension period passes and the person has not completed a chemical dependency education course, treatment, or both, as ordered by the sentencing court, the license ~~revocation~~ suspension remains in effect until the course, treatment, or both, are completed.

(c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third, or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

(3) (a) If ~~a~~ the person pays the reinstatement fee required in 61-2-107 and provides the department proof of compliance with an ignition interlock restriction imposed under 61-8-442, the department shall stay the license suspension of a person who has been convicted of a first violation of 61-8-401 or 61-8-406 and return the person's driver's license. The stay must remain in effect until the period of suspension has expired and any required chemical dependency education course, treatment, or both, have been completed.

(b) If the department receives notice from a court, peace officer, or ignition interlock vendor that the person has violated the court-imposed ignition interlock restriction by, including but not limited to operating a motor vehicle

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not equipped with the device, tampering with the device, or removing the device before the period of restriction has expired, the department shall lift the stay and reinstate the license suspension for the remainder of the time period. The department may not issue a probationary driver's license to a person whose license suspension has been reinstated because of violation of an ignition interlock restriction.

~~(4)~~ The period for all revocations made mandatory by 61-5-205 is 1 year except as provided in subsection ~~(2)~~:

~~(5)~~(4) (a) ~~The~~ Except as provided in subsection (4)(b), the period of suspension or revocation for a person convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license commences from the date of conviction or forfeiture of bail.

(b) A suspension commences from the last day of the prior suspension or revocation period if the suspension is for a conviction of driving with a suspended or revoked license.

~~(6)~~(5) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-802.'''

For the House:

Noennig, Chairman
Becker

For the Senate:

Perry, Chairman
Mangan

FREE CONFERENCE COMMITTEE
on **House Bill 536**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 536** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 536** (reference copy -- salmon) be amended as follows:

1. Page 1, line 25.

Following: "statement"

Strike: "must"

Insert: "may"

2. Page 1, line 28.

Following: "manager"

Strike: "shall"

Insert: "may"

3. Page 3, line 9.

Following: "AGENT"

Insert: "of either"

4. Page 3, line 22.

Following: "who"

Strike: "complies with subsections"

Insert: "provides the disclosure in subsection"

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5. Page 3, line 23.

Following: "and"

Insert: "complies with subsection"

For the House:

Brueggeman, Chairman
P. Clark
Noennig

For the Senate:

Perry, Chairman
Black

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 680**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 680** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 680** (reference copy -- salmon) be amended as follows:

1. Page 3, line 14 through line 15.

Strike: "ANY FEE" on line 14 through "SUBSECTION (2)" on line 15

Insert: "(a) Of the fees collected under subsection (1), \$1 must be deposited in the records preservation fund, provided for in 7-4-2635, and the remainder must be deposited as provided for in 7-4-2511.

(b) Of the fees collected under subsection (2) for nonstandard documents, each \$6 amount for a page or fraction of a page must be deposited as provided for in subsection (3)(a). The remaining \$4 of each \$10 charge for a page or fraction of a page must be deposited in the records preservation fund, provided for in 7-4-2635, and, notwithstanding 7-4-2635(3), each \$4 amount from a \$10 charge for a page or a fraction of a page"

For the House:

Noennig, Chairman
Becker
Younkin

For the Senate:

Sprague, Chairman
Gebhardt
Wheat

FREE CONFERENCE COMMITTEE
on **House Bill 689**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 689** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 689** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 7.

Following: "~~INFLATION~~"

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Insert: "REVISING DEFINITIONS; REVISING REPORTING REQUIREMENTS; PROVIDING FOR ADJUSTMENT OF REPORTING THRESHOLD AMOUNTS FOR INFLATION;"

Following: "5-7-102,"

Insert: "5-7-102,"

2. Title, page 1, line 8.

Following: ";"

Insert: ", 5-7-105,"

3. Title, page 1, line 9.

Following: "DATE"

Insert: "AND A RETROACTIVE APPLICABILITY DATE"

4. Page 4, line 13.

Insert: "**Section 1.** Section 5-7-102, MCA, is amended to read:

"5-7-102. Definitions. The following definitions apply in this chapter:

(1) "Business" means:

(a) a holding or interest whose fair market value is greater than \$1,000, in a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, self-employed person, holding company, joint-stock company, receivership, trust, or other entity or property held in anticipation of profit, but does not include nonprofit organizations; and

(b) present or past employment from which benefits, including retirement allowances, are received.

(2) "Commissioner" means the commissioner of political practices.

(3) "Docket" means the register of lobbyists and principals maintained by the commissioner pursuant to 5-7-201.

(4) "Elected official" means a public official holding a state office filled by a statewide vote of all the electors of Montana or a state district office, including but not limited to legislators, public service commissioners, and district court judges. The term "official-elect" also applies to the offices.

(5) "Individual" means a human being.

(6) "Lobbying" means:

(a) the practice of promoting or opposing the introduction or enactment of legislation before the legislature or the members of the legislature by a person other than a member of the legislature or a public official; and

(b) the practice of promoting or opposing official action by any public official.

(7) "~~Lobbying for hire~~" includes activities of the officers, agents, attorneys, or employees of a principal who are paid, reimbursed, or retained by the principal and whose duties include lobbying. If an individual is reimbursed only for his personal living and travel expenses, which together are less than \$1,000 per calendar year, that individual is not considered to be lobbying for hire.

~~(8)~~(7) (a) "Lobbyist" means a person who engages in the practice of lobbying ~~for hire~~.

(b) Lobbyist does not include:

(i) an individual acting solely on ~~his~~ the individual's own behalf; ~~or~~

(ii) an individual working for the same principal as a licensed lobbyist if the individual does not have personal contact involving lobbying with a public official on behalf of ~~his~~ the lobbyist's principal; ~~or~~

(iii) an individual who receives payments from one or more persons that total less than the amount specified under [section 5] in a calendar year.

(c) Nothing in this ~~section~~ chapter deprives an individual who is not lobbying for hire a lobbyist of the constitutional right to communicate with public officials.

~~(9)~~(8) (a) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made or to be made of money, property, or anything of value;

(i) to a lobbyist to influence legislation or official action by an elected local official or a public official;

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~~(ii) directly or indirectly:~~

~~(10) "Payment to influence official action" means any of the following types of payment:~~

~~(a) direct or indirect payment to a lobbyist by a principal, such as salary, fee, compensation, or reimbursement for lobbying expenses, excluding personal living expenses; or~~

~~(b)(iii) payment in support of or assistance to a lobbyist or a lobbying activity, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist.~~

~~(b) The term does not include payments or reimbursements for:~~

~~(i) personal and necessary living expenses; or~~

~~(ii) travel expenses, unless a principal is otherwise required to report expenses pursuant to 5-7-208.~~

~~(11)(9) "Person" means an individual, corporation, association, firm, partnership, state or local government or subdivision of state or local government, or other organization or group of persons.~~

~~(12)(10) "Principal" means a person who employs a lobbyist or a person required to report pursuant to 5-7-208.~~

~~(13)(11) "Public official" means an individual, elected or appointed, acting in his or her official capacity for the state government. The term does not include those acting in a judicial or quasi-judicial capacity or performing ministerial acts.~~

~~(14)(12) "Unprofessional conduct" means:~~

~~(a) violating any of the provisions of this chapter;~~

~~(b) instigating action by a public official for the purpose of obtaining employment;~~

~~(c) attempting to influence the action of a public official on a measure pending or to be proposed by:~~

~~(i) promising financial support; or~~

~~(ii) making public any unsubstantiated charges of improper conduct on the part of a lobbyist, a principal, or a legislator; or~~

~~(d) attempting to knowingly deceive a public official with regard to the pertinent facts of an official matter or attempting to knowingly misrepresent pertinent facts of an official matter to a public official."~~

Renumber: subsequent sections

5. Page 4, line 26.

Strike: "20"

Insert: "10"

6. Page 5, line 3.

Strike: "\$2,150"

Insert: "the amount specified under [section 5]"

7. Page 5, line 8.

Insert: "**Section 3.** Section 5-7-105, MCA, is amended to read:

"5-7-105. Suspension of lobbying privileges. No A lobbyist whose license has been suspended and no a person who has been adjudged guilty of a violation of any provision of this chapter may not engage in lobbying for hire until that person has been reinstated to the practice and duly licensed."

Renumber: subsequent sections

8. Page 5, lines 12 and 13.

Strike: "A TOTAL OF \$2,150"

Insert: "the amount specified under [section 5]"

9. Page 7, line 4.

Insert: "NEW SECTION. Section 5. Payment threshold -- inflation adjustment. For calendar years 2002 through 2004, the payment threshold in 5-7-102 and 5-7-208 is \$2,150. The commissioner shall adjust the threshold

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amount following a general election by multiplying the threshold amount valid for the year in which the general election was held by an inflation factor, adopted by the commissioner by rule. The rule must be written to reflect the annual average change in the consumer price index from the prior year to the year in which the general election is held. The resulting figure must be rounded up or down to the nearest \$50 increment. The commissioner shall adopt the adjusted amount by rule."

Renumber: subsequent sections

10. Page 7, line 10.

Following: "approved"

Insert: "(1) and amend 5-7-102, then 5-7-102(13)(c) of Senate Bill No. 7 must read:

"Nothing in this chapter deprives an individual who is not a lobbyist of the constitutional right to communicate with public officials."

(2) and amend 5-7-103"

11. Page 7, line 14.

"NEW SECTION. Section 8. Codification instruction. [Section 5] is intended to be codified as an integral part of Title 5, chapter 7, part 1, and the provisions of Title 5, chapter 7, part 1, apply to [section 5].

12. Page 7.

Following: line 22

Insert: **"NEW SECTION. Section 11. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to all occurrences concerning filing or reporting on or after September 1, 2002. This section may not be construed to require a refund of any fee paid on or after September 1, 2002."

For the House:

A. Olson, Chairman
Ballantyne
Brueggeman

For the Senate:

Gebhardt, Chairman
McNutt
Squires

CONFERENCE COMMITTEE
on Senate Amendments to **House Joint Resolution 31**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Joint Resolution 31** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Joint Resolution 31** (reference copy -- salmon) be amended as follows:

1. Page 2, line 7.

Strike: "FOR GOOD CAUSE, ALLOW FOR THE REASONABLE EXTENSION OF"

Insert: "not count against"

2. Page 2, line 8.

Following: "assistance"

Insert: ", but it is not the intent of the Legislature to extend the 5-year limit on TANF assistance"

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For the House:

B. Thomas, Chairman
Facey
Stoker

For the Senate:

Esp, Chairman
Cobb
Schmidt

FREE CONFERENCE COMMITTEE
on **Senate Bill 326**
Report No. 1, April 15, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 326** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 326** (reference copy -- salmon) be amended as follows:

1. Title, line 10.

Following: "REQUIRE"

Insert: "PROVIDING THAT A GROWTH POLICY MUST INCLUDE REQUIRED ELEMENTS BY OCTOBER 1, 2006, AND"

2. Title, line 13.

Following: "AREA;"

Insert: "PROVIDING THAT A GROWTH POLICY MAY COVER PART OF A JURISDICTIONAL AREA;"

3. Title, line 17.

Following: ";"

Insert: "CONFORMING PROVISIONS IN THE ZONING AND SUBDIVISION LAWS TO THESE REVISIONS IN THE GROWTH POLICY LAWS; ELIMINATING THE REQUIREMENT THAT SUBDIVISION REGULATIONS BE IN ACCORDANCE WITH THE GOALS AND OBJECTIVES OF THE GROWTH POLICY WITHIN 1 YEAR OF ADOPTION OF A GROWTH POLICY;"

4. Title, line 18.

Strike: "AND"

5. Title, line 19.

Following: "~~76-4-127,~~"

Insert: "76-2-201, 76-2-310, 76-3-210, 76-3-504, 76-3-505, 76-4-122, AND 76-4-127,"

6. Page 3, line 10.

Strike: "The"

Insert: "A"

7. Page 3, line 11.

Strike: "MUST"

Insert: "may"

Following: "part"

Insert: "or part"

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8. Page 3, line 13.

Following: "(2)"

Insert: "A growth policy must include the elements listed in subsection (3) by October 1, 2006."

9. Page 6, line 13.

Following: "policy"

Insert: "pursuant to 76-1-601"

10. Page 6, line 20.

Following: "policy"

Insert: "is not a regulatory document and"

11. Page 6, line 24.

Following: "~~withhold,~~"

Insert: "withhold,"

Following: "~~on~~"

Insert: ", or impose conditions on"

12. Page 6, line 25.

Following: "~~act~~"

Insert: "or other authority to act"

13. Page 6, line 26.

Insert: "**Section 8.** Section 76-2-201, MCA, is amended to read:

"76-2-201. County zoning authorized. For the purpose of promoting the public health, safety, morals, and general welfare, a board of county commissioners that has adopted a growth policy for the entire jurisdictional area pursuant to chapter 1 is authorized to adopt zoning regulations for all or parts of the jurisdictional area in accordance with the provisions of this part."

Insert: "**Section 9.** Section 76-2-310, MCA, is amended to read:

"76-2-310. Extension of municipal zoning and subdivision regulations beyond municipal boundaries. (1) Except as provided in 76-2-312 and except in locations where a county has adopted zoning or subdivision regulations, a city or town council or other legislative body that has adopted a growth policy pursuant to chapter 1 for the area to be affected by the regulations may extend the application of its zoning or subdivision regulations beyond its limits in any direction subject to the following limits:

(a) up to 3 miles beyond the limits of a city of the first class as defined in 7-1-4111;

(b) up to 2 miles beyond the limits of a city of the second class; and

(c) up to 1 mile beyond the limits of a city or town of the third class.

(2) When two or more noncontiguous cities have boundaries so near to one another as to create an area of potential conflict in the event that all cities concerned should exercise the full powers conferred by 76-2-302, 76-2-311, and this section, then the extension of zoning or subdivision regulations, or both, by these cities must terminate at a boundary line agreed upon by the cities."

Insert: "**Section 10.** Section 76-3-210, MCA, is amended to read:

"76-3-210. Subdivisions exempted from requirement of an environmental assessment. (1)

Subdivisions totally within a jurisdictional an area that ~~has adopted~~ is covered by all of the following are considered to be in the public interest and are exempt from the requirement of an environmental assessment:

(a) a growth policy adopted pursuant to chapter 1;

(b) zoning regulations pursuant to 76-2-201 or chapter 2, part 3; and

(c) a strategy for development, maintenance, and replacement of public infrastructure pursuant to 76-1-601.

(2) (a) A planning board established pursuant to chapter 1 may exempt a proposed subdivision within its

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jurisdictional area from the requirement for completion of any portion of the environmental assessment if:

(i) the subdivision is proposed in an area for which a growth policy has been adopted pursuant to chapter 1 and the proposed subdivision will be in compliance with the growth policy; or

(ii) the subdivision will contain fewer than 10 parcels and less than 20 acres.

(b) When an exemption is granted under this subsection (2), the planning board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement must accompany the preliminary plat of the subdivision when it is submitted for review.

(c) ~~Where~~ If a properly established planning board having jurisdiction does not exist, the governing body may grant exemptions as specified in this subsection (2)."

Insert: "Section 11. Section 76-3-504, MCA, is amended to read:

"76-3-504. Subdivision regulations -- contents. (1) The subdivision regulations adopted under this chapter must, at a minimum:

(a) except as provided in 76-3-210, 76-3-509, or 76-3-609(3), require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;

(b) establish procedures consistent with this chapter for the submission and review of subdivision plats;

(c) prescribe the form and contents of preliminary plats and the documents to accompany final plats;

(d) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development and prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques;

(e) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;

(f) prescribe standards for:

(i) the design and arrangement of lots, streets, and roads;

(ii) grading and drainage;

(iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that, at a minimum, meet the regulations adopted by the department of environmental quality under 76-4-104;

(iv) the location and installation of utilities;

(g) provide procedures for the administration of the park and open-space requirements of this chapter;

(h) provide for the review of preliminary plats by affected public utilities and those agencies of local, state, and federal government having a substantial interest in a proposed subdivision. A utility or agency review may not delay the governing body's action on the plat beyond the time limits specified in this chapter, and the failure of any agency to complete a review of a plat may not be a basis for rejection of the plat by the governing body.

(i) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

(j) except as provided in this subsection, require the subdivider to establish ditch easements in the subdivision that are in locations of appropriate topographic characteristics and sufficient width, to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots; are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner. Establishment of easements pursuant to this subsection

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(1)(j) is not required if:

(i) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(ii) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(k) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

~~(l) if the governing body has adopted a growth policy pursuant to chapter 1 of this title, be made in accordance with the goals and objectives established in the growth policy that are within the scope of 76-3-501 within 1 year of adoption of the growth policy;~~

~~(m)~~(l) require the subdivider to describe, dimension, and show utility easements in the subdivision on the final plat in their true and correct location. The utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of utility facilities for the provision of utility services within the subdivision.

(2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster development.""

Insert: "Section 12. Section 76-3-505, MCA, is amended to read:

"76-3-505. Provision for summary review of minor subdivisions. (1) Local subdivision regulations must include procedures for the summary review and approval of subdivision plats containing five or fewer parcels when proper access to all lots is provided, when no land in the subdivision will be dedicated to public use for parks or playgrounds, and when the plats have been approved by the department of environmental quality whenever approval is required by part 1 of chapter 4; however, reasonable local regulations may contain additional requirements for summary approval.

(2) (a) Except when required by local subdivision regulations, proposed subdivisions eligible for summary review under this section that are located entirely within the ~~jurisdictional~~ area covered by a growth policy adopted pursuant to chapter 1 and zoning regulations adopted pursuant to chapter 2, part 2 or 3, are exempt from:

(i) the requirement to hold a hearing on the preliminary plat pursuant to 76-3-605; and

(ii) review by the governing body of the criteria in 76-3-608(3)(a).

(b) The governing body shall approve, conditionally approve, or disapprove a proposed subdivision that is eligible for review under this subsection (2) within 35 days of submission of the subdivision application.""

Insert: "Section 13. Section 76-4-122, MCA, is amended to read:

"76-4-122. Filing or recording of noncomplying plat or certificate of survey prohibited. (1) The county clerk and recorder may not file or record any plat or certificate of survey subject to review under this part showing a subdivision unless it complies with the provisions of this part.

(2) A county clerk and recorder may not accept a subdivision plat or certificate of survey subject to review under this part for filing until one of the following conditions has been met:

(a) the person wishing to file the plat or certificate of survey has obtained approval of the local health officer having jurisdiction and has filed the approval with the reviewing authority and a certificate of subdivision approval has been issued pursuant to 76-4-125 indicating that the reviewing authority has approved the subdivision application and that the subdivision is not subject to a sanitary restriction;

(b) the person wishing to file the plat or certificate of survey has obtained a certificate from the governing body pursuant to 76-4-127 that the subdivision is within ~~a jurisdictional area that has adopted~~ an area covered by a

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growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and will be provided with adequate municipal facilities and adequate storm water drainage; or

(c) the person wishing to file the plat or certificate of survey has placed on the plat or certificate of survey an acknowledged certification that the subdivision is exempt from review under this part. The certification must quote in its entirety the wording of the applicable exemption."

Insert: "Section 14. Section 76-4-127, MCA, is amended to read:

"76-4-127. Notice of certification that adequate storm water drainage and adequate municipal facilities will be provided. (1) To qualify for the exemption from review set out in 76-4-125(2)(d), the governing body, as defined in 76-3-103, shall, within 20 days after preliminary plat approval under the Montana Subdivision and Platting Act, send notice of certification to the reviewing authority that a subdivision has been submitted for approval and that adequate storm water drainage and adequate municipal facilities will be provided for the subdivision.

(2) The notice of certification must include the following:

- (a) the name and address of the applicant;
- (b) a copy of the preliminary plat or a final plat when a preliminary plat is not necessary;
- (c) the number of proposed parcels in the subdivision;
- (d) a copy of any applicable zoning ordinances in effect;
- (e) how construction of the sewage disposal and water supply systems or extensions will be financed;
- (f) certification that the subdivision is within ~~a jurisdictional area that has adopted~~ an area covered by a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and a copy of the growth policy, when applicable, if one has not yet been submitted to the reviewing authority;
- (g) the relative location of the subdivision to the city or town;
- (h) certification that adequate municipal facilities for the supply of water and disposal of sewage and solid waste are available or will be provided within 1 year after the notice of certification is issued;
- (i) if water supply, sewage disposal, or solid waste facilities are not municipally owned, certification from the facility owners that adequate facilities are available; and
- (j) certification that the governing body has reviewed and approved plans to ensure adequate storm water drainage."

Renumber: subsequent sections

14. Page 11, line 3.

Strike: "(1)"

15. Page 11, line 4 through line 5.

Following: "APPROVED"

Strike: "AND" through "76-1-605"

Strike: "[SECTION 11 OF"

Strike: ", AMENDING" on line 4 through "76-1-605," on line 5

16. Page 11, line 6 through line 7.

Strike: subsection (2) in its entirety

For the Senate:

McGee, Chairman
Laible

For the House:

Younkin, Chairman
Everett

MOTIONS

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Representative R. Brown moved the Speaker be authorized to appoint a Free Conference Committee to meet with a like committee from the Senate to confer on **HB 2**. Motion carried.

The Speaker appointed the following members:

Representative Lewis, Chair
Representative Pattison
Representative Lindeen

Representative Roberts moved **SB 473** be taken from the table in the Committee on Taxation and be placed on second reading Legislative Day 82. Motion carried as follows:

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

Total 73

Noes: Andersen, Balyeat, Bitney, R. Brown, Devlin, Everett, Fuchs, Hawk, Lake, Laszloffy, McKenney, Mendenhall, Morgan, Pattison, Rice, Rome, Ross, Sales, Schrupf, Shockley, Sinrud, Steinbeisser, Stoker, Waitschies, Witt, Younkin, Mr. Speaker.

Total 27

Excused: None.

Total 0

Absent or not voting: None.

Total 0

UNFINISHED BUSINESS

Representative Wanzenried inquired about the letter he had given the Speaker, and asked the Speaker to decide what the proper action would be.

The Speaker read the following letter to the House members:

April 15, 2003

Honorable Doug Mood
Speaker, Montana House of Representatives

Dear Mr. Speaker:

Pursuant to section 126(2) of the Mason's Manual of Legislative Procedure, we are hereby filing a formal complaint of ethical misconduct against Rep. Cindy Younkin with respect to her actions in the chair during the third second

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reading vote on SB 407 on April 14, 2003. Specifically, we request that the House consider the following statement made by Rep. Younkin while the board was held open for more than thirty seconds:

"The board right now has over...a hundred, a hundred votes on it. That's interesting. Has every member voted? Ah, thank you for pointing that out. Does any member wish to change his or her vote? [Rep. Younkin holds up one finger.] We need one vote, and we don't have to do this again."

Well-established standards of this House hold that the role of the Chair of the Committee of the Whole should be at all times fair and impartial. Accordingly, solicitation of vote changes by the Chair constitutes conduct unbecoming a presiding officer and is in violation of the ethical standards of the House of Representatives.

Your prompt attention to this request would be appreciated.

Sincerely,

Signed by Dave Wanzenried, Monica Lindeen, Tim Dowell, and Carol Juneau.

The Speaker said he would refer Representative Wanzenried's letter to the Rules Committee.

Representative Wanzenried asked the Speaker to clarify the timing as to when that referral would happen. The Speaker responded that he would know after he confers with Representative R. Brown.

MOTIONS

Representative Brueggeman moved to reconsider action on **SB 464** second reading today and be placed back on second reading tomorrow. Motion carried as follows:

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

Total 81

Noes: Balyeat, Barrett, R. Brown, Cyr, Gillan, Hawk, Hurwitz, Jayne, Laslovich, Lehman, Mendenhall, Morgan, Rice, Ryan, Sales, Sinrud, Wagman, Windy Boy.

Total 18

Excused: None.

Total 0

Absent or not voting: Lewis.

Total 1

SPECIAL ORDERS OF THE DAY

The Speaker led the House in singing Happy Birthday to Representative Steinbeisser.

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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, April 16, 2003. Motion carried.

House adjourned at 4:26 p.m.

MARILYN MILLER
Chief Clerk of the House

DOUG MOOD
Speaker of the House