

**SENATE JOURNAL
58TH LEGISLATURE
FIFTY-NINTH LEGISLATIVE DAY**

Helena, Montana
March 20, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

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

The presiding officer has authenticated the daily journal for the fifty-eighth legislative day.

SPECIAL ORDERS OF THE DAY

Senator Tester introduced his niece, Rebecca Bitz, who entertained the Senate by singing two songs.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 479, SB 480, SB 481.**

Correctly engrossed: **SB 296, SB 385, SB 469, HB 17, HB 40, HB 145, HB 169, HB 179, HB 199, HB 220, HB 237, HB 285, HB 573.**

Correctly enrolled: **SB 26, SB 36, SB 70, SB 75, SB 102, SB 108, SB 122, SB 128, SB 190, SB 202, SB 221, SB 238.**

Signed by the President at 9:00 a.m., March 20, 2003: **SB 5, SB 16, SB 19, SB 20, SB 31, SB 68, SB 71, SB 88, SB 94, SB 144.**

Signed by the Secretary of the Senate at 9:30 a.m., March 20, 2003: **SB 5, SB 16, SB 19, SB 20, SB 31, SB 68, SB 71, SB 88, SB 94, SB 144.**

Signed by the Speaker at 10:00 a.m., March 20, 2003: **SB 5, SB 16, SB 19, SB 20, SB 31, SB 68, SB 71, SB 88, SB 94, SB 144.**

Delivered to the Governor for approval at 11:25 a.m., March 20, 2003: **SB 5, SB 16, SB 19, SB 20, SB 31, SB 68, SB 71, SB 88, SB 94, SB 144.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):

3/17/2003

HB 420, be concurred in. Report adopted.

HJR 17, be amended as follows:

1. Page 2, line 4.

Strike: "and"

2. Page 2, line 5.

Following: "harmonized"

Insert: "; and

(f) health requirements for imports must be strictly adhered to and utmost caution must be used to protect the U.S. cattle industry from bovine spongiform encephalopathy (BSE), foot-and-mouth disease, bovine tuberculosis, and other highly transmissible diseases"

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

BUSINESS AND LABOR (Mahlum, Chairman):

3/19/2003

HB 122, be concurred in. Report adopted.

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HB 174, be concurred in. Report adopted.

HB 315, be amended as follows:

1. Title, page 1, line 5.

Strike: "A CONTRACTOR"

Insert: "AN EMPLOYER"

2. Title, page 1, line 8.

Strike: "CONTRACTOR"

Insert: "EMPLOYER"

3. Page 2, line 12.

Strike: "A contractor"

Insert: "An employer"

4. Page 2, line 15.

Strike: "contractor"

Insert: "employer"

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

HB 319, be concurred in. Report adopted.

FISH AND GAME (Sprague, Chairman):

3/19/2003

HB 63, be concurred in. Report adopted.

HB 129, be concurred in. Report adopted.

HB 157, be amended as follows:

1. Title, line 8.

Following: "MONTANA;"

Insert: "PROVIDING THAT MIGRATORY GAME BIRD HUNTERS MUST BE REPRESENTED ON THE ADVISORY COUNCIL THAT REVIEWS PROPOSALS FOR EXPENDITURE OF THE FUNDS;"

2. Page 1, line 20.

Strike: "sports-interested persons"

Insert: "migratory game bird hunters"

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

JUDICIARY (Grimes, Chairman):

3/20/2003

HB 480, be amended as follows:

1. Title, line 5.

Following: "ACCIDENTS;"

Insert: "INCREASING THE RATE AT WHICH FINES MAY BE COMMUTED BY JAIL TIME;"

2. Page 1, line 18 through line 26.

Strike: subsections (1) and (2) in their entirety

Insert: "(1) A person violating any provision of 61-7-104 through 61-7-110 or 61-7-112 through 61-7-114 is guilty of

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a misdemeanor. Upon a first conviction, the offender shall be punished by a fine of not less than \$200 or more than \$300 or by imprisonment for not more than 20 days. For a second conviction within 1 year of the first conviction, the offender shall be punished by a fine of not less than \$300 or more than \$400, by imprisonment for not more than 30 days, or both. Upon a third or subsequent conviction within 1 year of the first conviction, an offender shall be punished by a fine of not less than \$400 or more than \$500, by imprisonment for not more than 6 months, or both."

Renumber: subsequent subsection

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

HB 618, be amended as follows:

1. Title, line 6.

Following: "DRUGS;"

Insert: "PROVIDING THAT HALF OF THE FEES COLLECTED BE DEPOSITED INTO THE GENERAL FUND AND THE OTHER HALF INTO AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND;"

2. Page 1, line 16.

Following: "deposit"

Insert: "one-half of"

3. Page 1, line 16 through line 17.

Following: "fund" on line 16

Strike: "." on line 16 through "appropriated and" on line 17

Insert: "and the other half in an account in the state special revenue fund to be"

4. Page 1, line 19.

Following: line 18

Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 37 and [this act] are both passed and approved, then [this act] is void."

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

LOCAL GOVERNMENT (Bohlinger, Chairman):

3/19/2003

HB 298, be concurred in. Report adopted.

HB 416, be concurred in. Report adopted.

HB 610, be amended as follows:

1. Page 1, line 19.

Following: "a"

Insert: "cumulative"

Strike: "IN ANY YEAR"

Insert: "within a 12-month period"

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

NATURAL RESOURCES (Tash, Chairman):

3/20/2003

HB 700, be concurred in. Report adopted.

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STATE ADMINISTRATION (Cobb, Chairman):
HB 190, be amended as follows:

3/20/2003

1. Title, page 1, line 24.

Following: "13-13-214,"

Insert: "13-13-232,"

2. Title, page 1, line 26.

Following: ":",

Strike: "AND"

Strike: "13-2-112,"

3. Title, page 1, line 27.

Strike: "13-2-207,"

4. Title, page 1, line 28.

Following: "MCA"

Insert: "; AND PROVIDING A DELAYED EFFECTIVE DATE"

5. Page 8, line 12.

Following: "registered"

Insert: "and the effect of that registration on identification requirements"

6. Page 9, line 2.

Following: "identification"

Insert: ", including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification,"

Strike: "and current address"

7. Page 9, line 6.

Following: "identification"

Insert: ", including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification,"

Strike: "and current address"

8. Page 19, line 6.

Strike: "and current address"

9. Page 19, lines 7 through 8.

Strike: "or if" on line 7 through "register" on line 8

Insert: ", including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification"

10. Page 19, line 9.

Following: "paycheck,"

Insert: "notice of confirmation of voter registration issued pursuant to 13-2-207,"

11. Page 19.

Following: line 10

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Insert: "(b) An elector who provides the information listed in subsection (1)(a) may sign the precinct register and must be provided with a regular ballot to vote."

Renumber: subsequent subsections

12. Page 19, line 11.

Following: "If"

Insert: "the information provided in subsection (1)(a) differs from information in the precinct register but"

13. Page 19, line 12.

Following: "vote"

Insert: "pursuant to 13-2-512"

14. Page 20, line 6.

Strike: "35"

Insert: "36"

15. Page 20, lines 13 through 14.

Strike: "and current" on line 13 through "enclose" on line 14

Insert: "or"

16. Page 20, line 15.

Following: "paycheck, "

Insert: "notice of confirmation of voter registration issued pursuant to 13-2-207,"

17. Page 20, line 20.

Strike: "35"

Insert: "36"

18. Page 20, line 28.

Strike: "35"

Insert: "36"

19. Page 21, line 15.

Strike: "and address"

Insert: ", including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification"

20. Page 21, lines 15 through 16.

Strike: "or" on line 15 through "current" on line 16

Strike: "also" on line 16

21. Page 21, line 17.

Following: "paycheck."

Insert: "notice of confirmation of voter registration issued pursuant to 13-2-207,"

22. Page 22, line 4.

Strike: "35"

Insert: "36"

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23. Page 22, line 14.

Insert: "(3) If ballots are sent more than 30 days before an election, the election administrator shall include a notice that the voter information pamphlet, when required to be distributed, will be provided pursuant to 13-27-410."

24. Page 22, line 17.

Following: "ballot"

Insert: ", using only a standardized form provided by rule by the secretary of state,"

25. Page 23, line 11.

Strike: "(2)"

Insert: "(3)"

Following: "shall"

Insert: ":

(a)"

26. Page 23, line 12.

Following: "administrator"

Insert: ";

Strike: "or"

Insert: "(b)"

Following: "administrator"

Strike: "."

Insert: "; or

(c) hand the application to a third party for delivery to the election administrator, if the person receiving the ballot application provides to the elector a receipt in a form designated by the secretary of state.

(2)"

Renumber: subsequent subsections

27. Page 24, line 30.

Insert: "**Section 31.** Section 13-13-232, MCA, is amended to read:

"13-13-232. Delivery of ballots, secrecy envelopes, and return envelopes to election judges -- ballots to be rejected. (1) If the absentee ballot is received prior to delivery of the official ballots to the election judges, the election administrator shall compare signatures on the return envelope for validity, open the outer return envelope to determine whether proof of identity is included, process it according to 13-13-241, and then deliver the unopened ~~return~~ secrecy envelope to the judges at the same time that the ballots are delivered. ~~The return envelopes must be opened and the ballots processed according to the procedures described in 13-13-241.~~

(2) If absentee ballots are received after the ballots are delivered to the election judges but prior to the close of the polls, the election administrator shall process the return envelopes according to subsection (1) and shall then immediately deliver the unopened return envelopes to the judges. ~~The return envelopes must be opened and the ballots processed according to the procedures described in 13-13-241.~~

(3) If the election administrator receives an absentee ballot for which an application or request was not made or received as required by this part, the election administrator shall endorse upon the elector's envelope the date and exact time of receipt and the words "to be rejected". Absentee ballots endorsed in this manner must be retained by the election administrator and placed with the proper records when they are returned to the election administrator.""

28. Page 25, line 2.

Strike: "while polls open"

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29. Page 25, line 3.

Strike: "While the polls are open, the election judges may"

Insert: "As soon as an absentee ballot is received, an election administrator shall"

30. Page 25, line 7.

Strike: "judges shall"

Insert: "administrator or election judge shall open the outer return envelope and"

31. Page 25, line 12.

Strike: "35"

Insert: "36"

Following: " ½ "

Insert: "The election administrator shall notify the absentee elector by mail that the elector's identification information was insufficient and that the elector's ballot will be treated as a provisional ballot until the elector provides sufficient information, pursuant to rules adopted by the secretary of state. The election administrator shall provide a self-addressed return envelope along with the information necessary for the absentee elector to reclassify the provisional ballot as a regular ballot."

32. Page 25, line 15.

Strike: "The"

Insert: "On election day, the"

Strike: "return"

Insert: "secrecy"

33. Page 26, line 8.

Strike: "35"

Insert: "36"

34. Page 27, lines 6 through 8.

Strike: subsection (1) in its entirety

Insert: "(1) To verify eligibility to vote, an elector who casts a provisional ballot in person shall provide information to the election administrator as listed below:

(a) present in person at the office of the election administrator by 5 p.m. on the day after the election a photo identification or other identifying document as described in 13-13-114(1)(a);

(b) send by facsimile or electronic mail by 5 p.m. on the day after the election a copy or scanned document that meets the identification requirements of 13-13-114(1)(a); or

(c) mail a copy or nonreturnable original document described in 13-13-114(1)(a) in a self-addressed return envelope provided by the election administrator. If the elector mails a document, the postmark on the envelope must be for the day of the election or the day following the election.

(2) The election administrator shall determine prior to an election whether an absentee voter has provided sufficient identification to allow a ballot to be counted. If the information is insufficient, the election administrator shall follow procedures described in 13-13-241 to allow an absentee elector who failed to provide proper identifying information in the outer return envelope to verify eligibility to vote. An absentee elector whose ballot is determined to be provisional has until 5 p.m. on the day after the election to provide valid identification information either in person, by facsimile, by electronic mail, or by mail postmarked on the day of the election or the day after the election."

Renumber: subsequent subsections

35. Page 27, line 10.

Strike: "23"

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Insert: "24"

36. Page 31, line 9.

Strike: "13-2-112,"

Strike: "13-2-207,"

37. Page 31, line 18.

Strike: "35"

Insert: "36"

38. Page 31, line 19.

Strike: "35"

Insert: "36"

39. Page 31, line 20.

Insert: "NEW SECTION. **Section 46. Effective date.** [This act] is effective January 1, 2004."

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

HB 201, be concurred in. Report adopted.

HB 548, be concurred in. Report adopted.

HJR 30, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

3/20/2003

SB 443, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/19/2003

SB 83, introduced by McGee

SB 84, introduced by Cocchiarella

SB 103, introduced by Laible

SB 121, introduced by Glaser

SB 131, introduced by Barkus

SB 229, introduced by F. Thomas

SB 257, introduced by Cooney

Senate joint resolution concurred in and returned to the Senate:

3/19/2003

SJR 25, introduced by Bohlinger

Senate bills concurred in and returned to the Senate:

3/20/2003

SB 28, introduced by Mangan

SB 172, introduced by McNutt

SB 183, introduced by Bohlinger

SB 216, introduced by Cocchiarella

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Senate joint resolution concurred in and returned to the Senate: 3/20/2003

SJR 3, introduced by Tash

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 3/19/2003

SB 65, introduced by Roush

SB 146, introduced by Anderson

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 3/20/2003

SB 137, introduced by DePratu

House bills passed and transmitted to the Senate for concurrence: 3/19/2003

HB 363, introduced by R. Brown

HB 569, introduced by Gutsche

House bills passed and transmitted to the Senate for concurrence: 3/20/2003

HB 602, introduced by Galvin-Halcro

HB 604, introduced by Gallik

HB 722, introduced by E. Clark

HB 403 - The House **failed to concur** in Senate amendments to **HB 403**, authorized the Speaker to appoint the following **Conference Committee**, and requested the Senate appoint a like committee to confer on Senate amendments to **HB 403**:

3/19/2003

Representative Steinbeisser, Chair

Representative Keane

Representative Lange

FIRST READING AND COMMITMENT OF BILLS

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

SB 482, introduced by Bales, Peterson, referred to Taxation.

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

SJR 28, introduced by Bohlinger, referred to Education and Cultural Resources.

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

HB 363, introduced by R. Brown, referred to Business and Labor.

HB 569, introduced by Gutsche, Harris, referred to Public Health, Welfare and Safety.

HB 602, introduced by Galvin-Halcro, referred to State Administration.

HB 604, introduced by Gallik, Bales, Matthews, A. Olson, referred to Taxation.

HB 722, introduced by E. Clark, Cobb (by request of the House Joint Appropriations Subcommittee on Health and

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Human Services), referred to Finance and Claims.

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

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

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

SB 407 - Senator DePratu moved **SB 407** do pass. After discussion, Senator DePratu made a **substitute motion** that **SB 407**, second reading copy, be amended as follows:

1. Page 41, line 5.

Strike: "42"

Insert: "41"

Strike: "2006"

Insert: "2004"

Amendment **adopted** unanimously.

SB 407 - Senator Elliott moved **SB 407**, second reading copy, be further amended as follows:

1. Title, page 1, line 6.

Strike: "ESTABLISHING A CAPITAL GAINS CREDIT;"

2. Title, page 1, line 8 through line 11.

Strike: "CLARIFYING" on line 8 through "DEDUCTION;" on line 11

3. Title, page 1, line 16 through line 17.

Strike: "13-37-218" on line 16 through "15-30-142," on line 17

4. Page 23, line 18 through page 37, line 3.

Strike: section 41 through section 48 in their entirety

Renumber: subsequent sections

5. Page 40, line 23 through line 24.

Strike: subsection (3) in its entirety

6. Page 41, line 3.

Strike: "(1) Except as provided in subsection (2), [this"

Insert: "[This"

7. Page 41, line 5.

Strike: subsection (2) in its entirety

8. Page 41, line 7.

Strike: "(1)"

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9. Page 41, line 9.

Strike: "(A)"

Insert: "(1)"

Renumber: subsequent subsections

10. Page 41, line 15.

Strike: subsection (2) in its entirety

Amendment **not adopted** as follows:

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

Total 22

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

Total 26

Absent or not voting: None.

Total 0

Excused: McGee, Schmidt.

Total 2

SB 407 - Senator Tester moved **SB 407**, second reading copy, be further amended as follows:

1. Page 2, line 8 through line 12.

Strike: subsections (2) and (3) in their entirety

Renumber: subsequent subsections

2. Page 5, line 28.

Strike: "(18)(A)(III)"

Insert: "(16)(a)(iii)"

3. Page 5, line 29.

Strike: "(18)(A)(VIII)"

Insert: "(16)(a)(vii)"

4. Page 6, line 23 through line 27.

Strike: subsection (23) and (24) in their entirety

Renumber: subsequent subsections

5. Page 7, line 21.

Strike: subsection (1)(a) in its entirety

Renumber: subsequent subsections

6. Page 7, line 24.

Strike: subsection (1)(d) in its entirety

Renumber: subsequent subsections

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7. Page 7, line 26.

Strike: subsection (1)(f) in its entirety

Renumber: subsequent subsections

8. Page 8, line 7.

Strike: subsection (3)(a)(i) in its entirety

Renumber: subsequent subsections

9. Page 8, line 10.

Strike: subsection (3)(a)(iv) in its entirety

Renumber: subsequent subsections

10. Page 8, line 1.

Strike: subsection (3)(a)(vi) in its entirety

Renumber: subsequent subsections

11. Page 41, line 5.

Strike: "42"

Insert: "41"

Strike: "2006"

Insert: "2005"

12. Page 41, line 9.

Strike: "(1)(B) AND (3)(A)(II)"

Insert: "(1)(a) and (3)(a)(i)"

13. Page 41, line 12.

Strike: "(1)(C) AND (3)(A)(III)"

Insert: "(1)(b) and (3)(a)(ii)"

14. Page 41, line 15.

Strike: "2003"

Insert: "2004"

Amendment **not adopted** as follows:

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

Total 21

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

Total 27

Absent or not voting: None.

Total 0

Excused: Butcher, Schmidt.

Total 2

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SB 407 - Senator Stonington moved **SB 407**, second reading copy, be further amended as follows:

1. Title, page 1, line 8.

Following: "REVENUE;"

Insert: "PROVIDING THAT THE CLASS EIGHT PROPERTY TAX REDUCTION TRIGGER IS BASED UPON A 3-YEAR AVERAGE OF INFLATION-ADJUSTED MONTANA WAGE AND SALARY INCOME; PROVIDING THAT THE TRIGGER IS NOT EFFECTIVE UNTIL THE PROPERTY TAX YEAR FOLLOWING THE SUBSEQUENT LEGISLATIVE SESSION;"

2. Title, page 1, line 16.

Following: "13-37-218,"

Insert: "15-6-138,"

3. Page 24, line 4.

Insert: "**Section 43.** Section 15-6-138, MCA, is amended to read:

"15-6-138. (Temporary) Class eight property -- description -- taxable percentage. (1) Class eight property includes:

- (a) all agricultural implements and equipment that are not exempt under 15-6-201(1)(bb);
- (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;
- (c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;
- (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-201, and supplies except those included in class five;
- (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;
- (f) special mobile equipment as defined in 61-1-104;
- (g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;
- (h) x-ray and medical and dental equipment;
- (i) citizens' band radios and mobile telephones;
- (j) radio and television broadcasting and transmitting equipment;
- (k) cable television systems;
- (l) coal and ore haulers;
- (m) theater projectors and sound equipment; and
- (n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

(4) Class eight property is taxed at 3% of its market value.

(5) (a) ~~If~~ Subject to subsection (5)(d), if, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana wage and salary income, ~~is~~ averaged over the last 3 full year years for which data is available, is at least 2.85% from the prior year, then the tax rate for class eight property will be reduced by 1% each year until the

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tax rate reaches zero.

(b) The department shall calculate the percentage growth in subsection (5)(a) by using the formula $(W/CPI) - 1$, where:

(i) W is the average Montana wage and salary income for the most current available year and the 2 previous years divided by the average Montana wage and salary income for the year 3 years prior to the most current available year years used for determining the current 3-year average; and

(ii) CPI is the average consumer price index for the most current available year 3-year period used in subsection (5)(b)(i) divided by the consumer price index for the year prior to the most current available year previous 3-year period as used in subsection (5)(b)(i).

(c) For purposes of determining the percentage growth in subsection (5)(a), the department shall use the wage and salary data series referred to as the bureau of economic analysis of the United States department of commerce Montana wage and salary disbursements. Inflation must be measured by the consumer price index, U.S. city average, all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(d) A reduction in the tax rate provided for in subsection (5)(a) may not be implemented until the tax year following the year in which the legislature meets in regular session.

(6) The class eight property of a person or business entity that owns an aggregate of \$5,000 or less in market value of class eight property is exempt from taxation. (Repealed on occurrence of contingency--secs. 27(2), 31(4), Ch. 285, L. 1999.)"

Renumber: subsequent sections

4. Page 41, line 5.

Strike: "42"

Insert: "41"

Strike: "48"

Insert: "49"

Strike: "2006"

Insert: "2004"

5. Page 41, line 15.

Strike: "46"

Insert: "47"

Amendment **adopted** as follows:

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

Total 42

Nays: Anderson, Butcher, Laible, McGee, O'Neil, Story, Taylor.

Total 7

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

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SB 407 - Senator Ellingson moved **SB 407**, second reading copy, be further amended as follows:

1. Title, page 1, line 6.

Strike: "ESTABLISHING A CAPITAL GAINS CREDIT;"

2. Page 23, line 18 through line 22.

Strike: section 41 in its entirety

Renumber: subsequent sections

3. Page 40, line 23 through line 24.

Strike: subsection (3) in its entirety

4. Page 41, line 5.

Strike: "42 THROUGH 48"

Insert: "41 through 47"

5. Page 41, line 15.

Strike: "41 AND 43 THROUGH 46"

Insert: "42 through 45"

Amendment **not adopted** as follows:

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

Total 21

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

Total 28

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

SB 407 - Senator Bohlinger moved **SB 407**, second reading copy, be further amended as follows:

1. Page 1, line 26.

Strike: "40"

Insert: "41"

2. Page 3.

Following: line 12

Insert: "(8) (a) "Food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste or nutritional value.

(b) The term does not include alcoholic beverages or tobacco.

(9) "Food sold through vending machines" means food dispensed from a machine or other mechanical device

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that accepts payment."

Renumber: subsequent subsections

3. Page 4, line 14.

Strike: "18"

Insert: "19"

4. Page 5.

Following: line 1

Insert: "(15) (a) "Prepared food" means:

(i) food sold in a heated state or heated by the seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

(b) The term includes:

(i) soda pop, juices, coffee, tea, milk, milk shakes, and other beverages, other than alcoholic beverages, that are sold for consumption on the premises of the seller; and

(ii) bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, doughnuts, Danish pastry, cakes, tortes, pies, tarts, muffins, bars, or cookies, that are sold for consumption on the premises.

(c) The term does not include:

(i) food that is only cut, repackaged, or pasteurized by the seller; or

(ii) eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer, as recommended by the food and drug administration in chapter 3, part 401.11, of its Food Code so as to prevent food-borne illnesses."

Renumber: subsequent subsections

5. Page 5, line 28 through line 29.

Strike: "(18)(A)(III)" on line 28 through "(18)(A)(VII)" on line 29

Insert: "(21)(a)(iii) through (21)(a)(vii)"

6. Page 7.

Following: line 20

Insert: "(a) 4% on prepared food;

(b) 4% on food sold through vending machines;"

Renumber: subsequent subsections

7. Page 8.

Following: line 6

Insert: "(i) 4% on prepared food;

(ii) 4% on food sold through vending machines;"

Renumber: subsequent subsections

8. Page 8, line 28.

Strike: "40"

Insert: "41"

9. Page 9, line 21.

Strike: "40"

Insert: "41"

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10. Page 10, line 3.

Strike: "40"

Insert: "41"

11. Page 10, line 6.

Strike: "40"

Insert: "41"

Strike: "18"

Insert: "19"

12. Page 10, line 13.

Strike: "40"

Insert: "41"

13. Page 10, line 15.

Strike: "40"

Insert: "41"

14. Page 10, line 17.

Strike: "40"

Insert: "41"

15. Page 11, line 11.

Strike: "18"

Insert: "19"

16. Page 12, line 6.

Insert: "NEW SECTION. Section 12. Nontaxability -- food products. (1) The sale of food or a food service offered or delivered as part of a residential living arrangement lasting more than 30 days and food consumed by a person that is party to the arrangement is exempt from the sales tax and use tax.

(2) The sale of food or a food service offered by the state or a political subdivision of the state, including school districts and postsecondary colleges and universities, is exempt from the sales tax and use tax."

Renumber: subsequent sections

17. Page 13, line 16.

Strike: "40"

Insert: "41"

18. Page 13, line 18.

Strike: "40"

Insert: "41"

19. Page 13, line 24.

Strike: "40"

Insert: "41"

20. Page 14, line 1.

Strike: "40"

Insert: "41"

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21. Page 14.

Following: line 5

Insert: "(b) A vending machine operator who has more than one vending machine location is considered to have only one place of business for the purposes of this section."

Renumber: subsequent subsection

22. Page 14, line 9.

Strike: "40"

Insert: "41"

23. Page 14, line 19.

Strike: "40"

Insert: "41"

24. Page 14, line 24.

Strike: "40"

Insert: "41"

Strike: "28"

Insert: "29"

25. Page 14, line 25.

Strike: "40"

Insert: "41"

26. Page 15, line 3.

Strike: "40"

Insert: "41"

27. Page 15, line 25.

Strike: "40"

Insert: "41"

28. Page 15, line 26.

Strike: "28"

Insert: "29"

29. Page 15, line 27.

Strike: "40"

Insert: "41"

30. Page 15, line 29.

Strike: "18"

Insert: "19"

31. Page 16, line 5.

Strike: "40"

Insert: "41"

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32. Page 16, line 19.

Strike: "40"

Insert: "41"

33. Page 16, line 22.

Strike: "40"

Insert: "41"

34. Page 17, line 5.

Strike: "40"

Insert: "41"

35. Page 17, line 6.

Strike: "40"

Insert: "41"

36. Page 17, line 8.

Strike: "40"

Insert: "41"

37. Page 17, line 26.

Strike: "25"

Insert: "26"

38. Page 18, line 12.

Strike: "25"

Insert: "26"

39. Page 19, line 3.

Strike: "40"

Insert: "41"

40. Page 19, line 7.

Strike: "25"

Insert: "26"

41. Page 19, line 26.

Strike: "40"

Insert: "41"

42. Page 19, line 27.

Strike: "40"

Insert: "41"

43. Page 20, line 12.

Strike: "40"

Insert: "41"

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44. Page 20, line 21.

Strike: "40"

Insert: "41"

45. Page 21, line 4.

Strike: "40"

Insert: "41"

46. Page 21, line 6.

Strike: "40"

Insert: "41"

47. Page 21, line 8.

Strike: "40"

Insert: "41"

48. Page 21, line 12.

Strike: "40"

Insert: "41"

Strike: "40"

Insert: "41"

49. Page 21, line 18.

Strike: "40"

Insert: "41"

50. Page 21, line 24.

Strike: "40"

Insert: "41"

51. Page 22, line 14.

Strike: "40"

Insert: "41"

52. Page 22, line 20.

Strike: "40"

Insert: "41"

53. Page 22, line 21.

Strike: "40"

Insert: "41"

54. Page 22, line 26.

Strike: "40"

Insert: "41"

55. Page 23, line 6.

Strike: "40"

Insert: "41"

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56. Page 23, line 10.

Strike: "40"

Insert: "41"

57. Page 23, line 16.

Strike: "40"

Insert: "41"

58. Page 40, line 21.

Strike: "40"

Insert: "41"

59. Page 40, line 22.

Strike: "40"

Insert: "41"

60. Page 40, line 23.

Strike: "41"

Insert: "42"

61. Page 40, line 24.

Strike: "41"

Insert: "42"

62. Page 41, line 5.

Strike: "42 THROUGH 48"

Insert: "43 through 49"

Strike: "2006"

Insert: "2004"

63. Page 41, line 10.

Strike: "(1)(B) AND (3)(A)(II)"

Insert: "(1)(d) and (3)(a)(iv)"

64. Page 41, line 12.

Strike: "(1)(C) AND (3)(A)(III)"

Insert: "(1)(e) and (3)(a)(v)"

65. Page 41, line 15.

Strike: "41 AND 43 THROUGH 46"

Insert: "42 and 44 through 47 "

Amendment **not adopted** as follows:

Yeas: Bales, Bohlinger, Cobb, Cromley, Harrington, Johnson, Kitzenberg, Pease, Stapleton, Stonington, Story, Wheat, Mr. President.

Total 13

Nays: Anderson, Barkus, Black, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt,

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Glaser, Grimes, Hansen, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Squires, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook.

Total 36

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

SB 407 - Senator Cobb moved **SB 407**, second reading copy, be further amended as follows:

1. Title, line 18.

Following: "DATES"

Strike: "AND"

Insert: ", "

2. Title, line 19.

Following: "DATES"

Insert: ", AND A CONTINGENT VOIDNESS PROVISION"

3. Page 41, line 16.

Insert: "NEW SECTION. Section 62. Contingent voidness. If [this act] and any combination of House Bill No. 360, House Bill No. 363, House Bill No. 444, House Bill No. 616, Senate Bill No. 294, Senate Bill No. 435, and ___ Bill No. ___ [LC 2133] are not passed and approved so that the combination of bills generate at least \$158 million of net general fund revenue, then [this act] is void. The legislative fiscal analyst shall certify to the code commissioner prior to July 1, 2003, whether the required \$158 million of net general fund revenue has been met."

Amendment **not adopted** as follows:

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

Total 23

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

Total 26

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

SB 407 - Senator Stonington moved **SB 407**, second reading copy, be further amended as follows:

1. Page 23, line 20.

Strike: "2004"

Insert: "2006"

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Strike: the first "2005"

Insert: "2007"

Strike: the second "2005"

Insert: "2007"

2. Page 41, line 5.

Following: "(2)"

Insert: "(a)"

Strike: "2006"

Insert: "2004"

3. Page 41, line 6.

Insert: "(b) [Section 41] is effective January 1, 2006."

4. Page 41, line 15.

Strike: "41 AND"

5. Page 41.

Following: line 15

Insert: "(3) [Section 41] applies to tax years beginning after December 31, 2005."

Amendment **not adopted** as follows:

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

Total 22

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

Total 27

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

SB 407 - Senator Stonington moved **SB 407**, second reading copy, be further amended as follows:

1. Page 23, line 20.

Strike: "2004 AND"

Following: "2005 AND"

Strike: "2% OF THE TAXPAYER'S NET CAPITAL GAINS FOR"

Insert: "succeeding"

Strike: "BEGINNING AFTER 2005"

2. Page 41, line 5.

Following: "(2)"

Insert: "(a)"

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Strike: "2006"

Insert: "2004"

3. Page 41, line 6.

Insert: "(b) [Section 41] is effective January 1, 2005."

4. Page 41, line 15.

Strike: "41 AND"

5. Page 41.

Following: line 15

Insert: "(3) [Section 41] applies to tax years beginning after December 31, 2004."

Amendment **adopted** as follows:

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

Total 31

Nays: Anderson, Bales, Barkus, Black, Curtiss, DePratu, Gebhardt, Glaser, Grimes, McGee, McNutt, O'Neil, Sprague, Tash, Taylor, Zook, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: Butcher, Schmidt.

Total 2

SB 407 - Senator Toole moved **SB 407**, second reading copy, be amended as follows:

1. Title, page 1, line 16.

Following: "PRODUCTS;"

Insert: "PROVIDING FOR A GROSS RECEIPTS TAX ON RETAIL SALES IN EXCESS OF \$20 MILLION IN AN INDIVIDUAL LOCATION; PROVIDING FOR TAX RATES AND THE ALLOCATION OF THE TAX PROCEEDS; PROVIDING FOR THE REPORTING, ADMINISTRATION, AND COLLECTION OF THE TAX;"

2. Page 40, line 6.

Insert: "NEW SECTION. **Section 55. Definitions.** As used in [sections 55 through 64], the following definitions apply:

(1) "Farm implement" means any vehicle, machine, or attachment designed or adapted and used exclusively for agricultural operations and only incidentally operated or used on the highways.

(2) (a) "Gross receipts" means all receipts from retail sales from each specific store within the state, whether in the form of money, credits, or other valuable consideration, received as a result of engaging in or conducting a retail sales business, without deduction on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid, taxes, losses, or any other expense. A retail sales establishment may deduct the cost of employer contributions for retirement benefits and health insurance for employees from gross receipts.

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(b) The term does not include cash discounts allowed and taken on sales and sales refunds, either in cash or by credit, uncollectible accounts written off from time to time, or payments received in final liquidation of accounts included in the gross receipts of any previous return made by the person.

(2) "Retail sale" means any transfer of tangible personal property for consideration for any purpose other than for resale, sublease, or subrent.

(3) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus.

(4) (a) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses.

(b) The term does not include farm implements, special mobile equipment, or vehicles.

(5) "Vehicle" means a device in, upon, or by which any person or property may be transported or drawn that is required to be registered or that is subject to a tax or fee imposed under Title 23, chapter 2, parts 5, 6, or 8, or Title 61, chapter 3, part 5. "

Insert: "NEW SECTION. Section 56. Retail sales gross receipts tax. (1) There is a retail sales gross receipts tax. The tax applies to all retail sales of tangible personal property from a single establishment that are in excess of \$20 million each calendar year.

(2) The rate of tax on gross receipts in excess of \$20 million is as follows:

(a) \$20 million to \$30 million, 1%;

(b) amounts in excess of \$30 million up to and including \$40 million, 1.5%; and

(c) amounts in excess of \$40 million, 2%."

Insert: "NEW SECTION. Section 57. Returns -- payment -- authority of department. (1) Each person engaged in a retail sales business within this state or using property within this state that is subject to tax under [sections 55 through 64] shall file a return. Retail sales businesses are subject to the reporting and payment provisions of subsection (3).

(2) (a) On or before January 31 of each year, a return, in a form adopted by the department, with a remittance of the tax owed for the preceding year, must be filed with the department. The filing and the remittance may be done electronically.

(b) The retail sales business and any agent of the business, for the purposes of reporting or paying the gross receipts tax, are subject to the audit and accountability provisions of the department.

(3) (a) For the purposes of the gross receipts tax, a return must be filed by each location of a seller required to pay the tax.

(b) A return must be filed with and payment must be received by the department on or before January 31 for taxes owed for gross receipts on retail sales occurring during the preceding year.

(c) Each return must be authenticated by the person filing the return or by the person's agent authorized in writing to file the return.

(d) Pursuant to rules established by the department, returns may be computer-generated and electronically filed.

(4) (a) A person required to report and pay to the department a tax under [sections 55 through 64] shall keep records, render statements, make returns, and comply with the provisions of [sections 55 through 64] and the rules prescribed by the department. Each return or statement must include the information required by the rules of the department.

(b) For the purpose of determining compliance with the provisions of [sections 55 through 64], the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(i) require the attendance of a person having knowledge or information relevant to a return;

(ii) compel the production of books, papers, records, or memoranda by the person required to attend;

(iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may

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be jeopardized because of delay;

- (iv) take testimony on matters material to the determination; and
- (v) administer oaths or affirmations."

Insert: "NEW SECTION. Section 58. Allocation of proceeds. Retail sales gross receipt tax proceeds must be allocated, pursuant to 15-1-501, to the state general fund."

Insert: "NEW SECTION. Section 59. Examination of return -- adjustments -- delivery of notices and demands.

(1) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination constitutes the tax to be paid.

(2) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess must be paid to the department within 30 days after notice of the amount and demand for payment are mailed or delivered to the person making the return unless the taxpayer files a timely objection as provided in 15-1-211. If the amount of the tax found due by the department is less than that reported as due on the return and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the person making the return.

(3) The notice and demand provided for in this section must contain a statement of the computation of the tax and interest and must be:

(a) sent by mail to the taxpayer at the address given in the taxpayer's return, if any, or to the taxpayer's last-known address; or

(b) served personally upon the taxpayer.

(4) A taxpayer filing an objection to the demand for payment is subject to and governed by the uniform dispute review procedure provided in 15-1-211."

Insert: "NEW SECTION. Section 60. Penalties and interest for violations. The provisions of 15-1-216 apply to returns, reports, and failure to pay the tax required under [sections 55 through 64]."

Insert: "NEW SECTION. Section 61. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under [sections 55 through 64].

(b) If a tax imposed by [sections 55 through 64] or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the taxpayer from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a review of the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset."

Insert: "NEW SECTION. Section 62. Limitations. (1) Except in the case of a person that purposely or knowingly, as those terms are defined in 45-2-101, files a false or fraudulent return violating the provisions of [sections 55 through 64], a deficiency may not be assessed or collected with respect to a year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed to or personally served upon the taxpayer within 5 years from the date that the return was filed. For purposes of this section, a return filed before the last day prescribed for filing is considered to be filed on the last day.

(2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax, the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be assessed at any time prior to the expiration of the period to which consent was given."

Insert: "NEW SECTION. Section 63. Refunds -- interest -- limitations. (1) A claim for a refund or credit as a result of overpayment of taxes collected under [sections 55 through 64] must be filed within 5 years of the date that the return was due, without regard to any extension of time for filing.

(2) (a) Interest on an overpayment must be paid or credited at the same rate as the rate charged on delinquent taxes in 15-16-102.

(b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim

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is delayed more than 30 days because the taxpayer has not furnished necessary information.

(c) The department is not required to pay interest if:

(i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or

(ii) the amount of overpayment and interest does not exceed \$1."

Insert: "NEW SECTION. Section 64. Administration -- rules. The department shall:

(1) administer and enforce the provisions of [sections 55 through 64];

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of [sections 55 through 64]; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of [sections 55 through 64]."

3. Page 40, line 21.

Following: "40"

Insert: "and 55 through 64"

4. Page 40, line 22.

Following: "40"

Insert: "and 55 through 64"

5. Page 41, line 16.

Insert: "(3) [Sections 55 through 64] apply retroactively, within the meaning of 1-2-109, to retail sales after December 30, 2002."

Amendment **not adopted** as follows:

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

Total 22

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

Total 25

Absent or not voting: None.

Total 0

Excused: Butcher, Perry, Schmidt.

Total 3

SB 407 - Senator Cobb moved **SB 407**, second reading copy, be amended as follows:

1. Page 38, line 20.

Strike: "3.2%"

Insert: "2.85%"

2. Page 38, line 22.

Following: "(2)"

Insert: "(a)"

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Following: "~~deposited~~"

Insert: "except as provided in subsection (2)(b),"

3. Page 38, line 23.

Strike: "and"

4. Page 38.

Following: line 23

Insert: "(b)(i) beginning July 1, 2003 5.73% to the state general fund; and

(ii) beginning July 1, 2003, 86.57% to the prevention and stabilization account provided in [section 14 of House Bill No. 722]; and"

5. Page 38, line 24.

Strike: "4.5%"

Insert: "4.07%"

6. Page 41, line 2.

Insert: "NEW SECTION. Section 60. Coordination instruction. If House Bill No. 722 is not passed and approved, then 16-11-119(2)(b) as amended in [section 51 of this act] is void."

Renumber: subsequent sections

Amendment **not adopted** as follows:

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

Total 22

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

Total 25

Absent or not voting: None.

Total 0

Excused: Butcher, Roush, Schmidt.

Total 3

SB 407 - Senator DePratu moved **SB 407**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Mahlum, McGee, McNutt, Pease, Perry, Stapleton, Stonington, Story, Tash, Thomas, Zook, Mr. President.

Total 25

Nays: Cobb, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Laible, Mangan, McCarthy, Nelson, O'Neil, Roush, Ryan, Shea, Sprague, Squires, Taylor, Tester, Toole, Tropila, Wheat.

Total 24

Absent or not voting: None.

Total 0

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Excused: Schmidt.
Total 1

Senator Thomas moved the committee rise. Motion carried. Committee arose. Senate resumed. President Keenan in the chair.

MOTIONS

SB 407 - Senator Thomas moved **SB 407** be taken from second reading and rereferred to the committee on Taxation. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 32

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 17

Absent or not voting: None.
Total 0

Excused: Schmidt.
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 109, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

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SB 141, as amended by the House, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

HB 127, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

HB 262 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Toole.
Total 1

Absent or not voting: None.
Total 0

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Excused: Schmidt.
Total 1

HB 303, as amended by the Senate, concurred in as follows:

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

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 15

Paired: Grimes, Aye; Schmidt, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 373 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 33

Nays: Butcher, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Pease, Schmidt, Squires, Stapleton, Stonington, Tester, Toole, Tropila, Wheat.
Total 17

Paired: Grimes, Aye; Schmidt, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 583, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

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Nays: Bales, Curtiss, Esp, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

MOTIONS

HB 262 - Senator Laible moved he be allowed to change his vote on **HB 262**, third reading this day, from nay to yea.
Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, March 21, 2003. Motion carried.

Senate adjourned at 5:15 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate