

**SENATE JOURNAL
58TH LEGISLATURE
SIXTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
March 27, 2003

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Gebhardt, Schmidt and Stonington, excused. Quorum present.

The presiding officer has authenticated the daily journal for the sixty-fourth legislative day.

Senator Schmidt present at this time.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 485, SB 486.**

Correctly engrossed: **SB 451, SB 454, SB 465, SB 470, HB 20, HB 67, HB 269, HB 283, HB 396, HB 512, HJR 32.**

Examined by the sponsor and found to be correct: **SB 23, SB 81, SB 107, SB 132, SB 139, SB 160, SB 173, SB 221, SB 238.**

Signed by the President at 3:00 p.m., March 25, 2003: **SB 23, SB 81, SB 107, SB 132, SB 139, SB 160, SB 173, SB 221, SB 238.**

Signed by the Secretary of the Senate at 9:30 a.m., March 26, 2003: **SB 23, SB 81, SB 107, SB 132, SB 139, SB 160, SB 173, SB 221, SB 238.**

Signed by the Speaker at 9:55 a.m., March 26, 2003: **SB 23, SB 81, SB 107, SB 132, SB 139, SB 160, SB 173, SB 221, SB 238.**

Delivered to the Governor for approval at 9:20 a.m., March 27, 2003: **SB 23, SB 81, SB 107, SB 132, SB 139, SB 160, SB 173, SB 221, SB 238.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):

3/26/2003

HB 445, be concurred in. Report adopted.

HB 676, be amended as follows:

1. Title, line 5.

Following: "1975;"

Insert: "AMENDING SECTION 75-7-103, MCA;"

2. Page 1, line 28.

Following: "75-7-102"

Insert: "; or

(iii) livestock grazing activities"

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

HB 678, be concurred in. Report adopted.

BUSINESS AND LABOR (Mahlum, Chairman):

3/26/2003

HB 130, be amended as follows:

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1. Title, page 1, line 6.

Strike: "DEFINITIONS" through "AND"

Insert: "DEFINITION OF"

Following: ";

Insert: "DEFINING "CLAIM DOCUMENTATION";"

2. Title, page 1, line 7.

Following: "INSURER;"

Insert: "REQUIRING PROMPT PAYMENT OF MOTOR VEHICLE DAMAGE CLAIMS;"

3. Title, page 1, line 8.

Following: "CLAIMS;"

Insert: "PROVIDING THAT COMPLIANCE OR NONCOMPLIANCE WITH PROMPT PAYMENT REQUIREMENTS MAY NOT BE USED AS A BASIS FOR PRIVATE CAUSE OF ACTION OR ADMISSIBLE AS EVIDENCE IN A PRIVATE ACTION;"

4. Page 1, line 14.

Strike: "CLAIMS"

Insert: "medical benefits"

5. Page 1.

Following: line 15

Insert: "(1) "Claim documentation" means standard claims forms or other documentation routinely accepted by insurers as proof of loss."

Renumber: subsequent subsections

6. Page 1, line 16.

Following: "means" on line 16

Strike: remainder of line 16 through "ACCIDENT" on page 2, line 4

Insert: "any insurer as that term is defined by this title, including any fraternal benefit society, hospital service nonprofit corporation, health service corporation, nonprofit medical service corporation, nonprofit health care corporation, health maintenance organization, self-insurer, or third-party administrator or any other public or private, profit or nonprofit, governmental or nongovernmental individual, group, or organization that sells or offers for sale insurance policies, subscriber contracts, certificates, or agreements by which the offerer promises to pay medical benefits in any form in this state"

7. Page 2, line 3.

Strike: "document"

Following: "accepted"

Insert: "claim documentation"

8. Page 2, line 4.

Strike: "made"

Insert: "requested"

9. Page 2, line 7.

Following: "pay"

Insert: "or deny"

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10. Page 2, line 14.

Following: "pay"

Insert: "or deny"

11. Page 2, line 24.

Following: "section"

Insert: "and the insurer is liable for payment of the claim"

12. Page 2, line 25.

Strike: "18%"

Insert: "10%"

13. Page 2, line 29.

Following: "payment."

Insert: "(3) A private cause of action under 33-18-201 or 33-18-242 may not be based on the compliance or noncompliance with the requirements of this section and evidence of compliance or noncompliance with this section is not admissible in any private action based on 33-18-201 or 33-18-242."

14. Page 3, line 19.

Following: line 18

Insert: "NEW SECTION. **Section 4. Prompt payment of motor vehicle damage claims.** (1) Except for providers who are prepaid or agree to a different payment schedule, an insurer shall make an offer to pay or shall pay all approved claims for covered services or damages that solely involve the recovery of property damages in an amount of \$2,500 or less arising out of the ownership, maintenance, or use of a motor vehicle within 30 working days of receipt of a proof of loss that is correctly completed and submitted to the insurer.

(2) Subsection (1) does not apply to an insurer who has notified the insured or the insured's assignee of the reasons for the insurer's failure to pay the claim in full or to an insurer that has made a reasonable request for additional information or documents."

Insert: "NEW SECTION. **Section 5. Codification instruction.** [Section 4] is intended to be codified as an integral part of Title 33, chapter 18, and the provisions of Title 33, chapter 18, apply to [section 4]."

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

HB 230, be concurred in. Report adopted.

HB 385, be amended as follows:

3/25/2003

1. Title, page 1, line 6.

Following: "STATE;"

Insert: "INCLUDING MOTORCYCLES AS VEHICLES COVERED BY REGISTRATION; SUBSTITUTING SELECTION OF AN ARBITRATOR FOR SELECTION OF AN ARBITRATION PANEL AND DECREASING THE NUMBER OF ARBITRATORS FROM THREE TO ONE;"

2. Title, page 1, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "61-4-501,"

Insert: "61-4-516, 61-4-518, AND 61-4-519,"

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3. Page 1, lines 24 and 25.

Following: "rating" on line 24

Strike: remainder of line 24 through "61-1-105"

4. Page 2, line 5.

Following: line 4

Insert: "**Section 2.** Section 61-4-516, MCA, is amended to read:

"61-4-516. Composition of arbitration panel Selection of arbitrator. An arbitration panel hearing arbitrator for a grievance under this part must consist of three members be chosen by the department of administration. One member must be chosen by the consumer, one member must be chosen by the manufacturer, and one member must be chosen by mutual agreement of the parties. The department of administration may shall maintain a list of persons willing to serve on panels from which the third member may be chosen as an arbitrator."

Insert: "**Section 3.** Section 61-4-518, MCA, is amended to read:

"61-4-518. Arbitration -- role of department of administration -- expert. (1) The department of administration shall investigate, gather, and organize all information necessary for a fair and timely decision in each dispute. The department of administration may, on behalf of the arbitration panel arbitrator, issue subpoenas to compel the attendance of witnesses and the production of documents, papers, and records relevant to the dispute.

(2) If requested by the panel arbitrator, the department of administration may forward a copy of all written testimony and documentary evidence to an independent technical expert certified by the national institute of automotive excellence. The expert may review the material and be available to advise and consult with the panel arbitrator. The expert, at the arbitrator's request, may sit as a nonvoting member of the panel be present whenever oral testimony is presented."

Insert: "**Section 4.** Section 61-4-519, MCA, is amended to read:

"61-4-519. Action by arbitration panel arbitrator -- decision. (1) The arbitration panel arbitrator shall, as expeditiously as possible, but not later than 60 days after the department of administration has accepted a complaint, render a fair decision based on the information gathered and disclose it's the arbitrator's findings and its reasoning to the parties.

(2) The decision must provide appropriate remedies, including but not limited to:

(a) repair of the vehicle;

(b) replacement of the vehicle with an identical vehicle or a comparable vehicle acceptable to the consumer;

(c) refund as provided in 61-4-503(2);

(d) any other remedies available under the applicable warranties or 15 U.S.C. 2301 through 2312, as in effect on October 1, 1983; or

(e) reimbursement of expenses and costs to the prevailing party.

(3) The decision must specify a date for performance and completion of all awarded remedies. The department of administration shall contact the prevailing party within 10 working days after the date for performance to determine whether performance has occurred. The parties shall act in good faith in abiding by any decision. In addition, if the decision is not accepted, the parties shall follow the provisions of Title 27, chapter 5. If it is determined by the court that the appellant has acted without good cause in bringing an appeal of an award, the court, in its discretion, may grant to the respondent costs and reasonable attorney fees."

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

HB 474, be concurred in. Report adopted.

HB 525, be amended as follows:

1. Page 1, line 28.

Following: "pressure"

Insert: "and not in excess of 150 horsepower per hour"

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

HB 667, be amended as follows:

1. Page 5, line 12.

Insert: "(3) A person who violates the provisions of subsection (1) shall, for each participant giving consideration, be assessed a civil penalty in an administrative proceeding in an amount not to exceed \$10,000."

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

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman): 3/27/2003
SJR 28, be adopted. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman): 3/27/2003
SB 267, introduced bill, be amended as follows:

1. Title, line 11.

Following: "FEE;"

Insert: "PROVIDING FUNDING FROM EXCESS SCHOOL TRUST LAND INTEREST; ESTABLISHING A TEACHER SIGNING BONUS ACCOUNT;"

2. Title, line 14.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-30-111"

Insert: "AND 20-9-342"

3. Page 3, line 24.

Following: "IN THE"

Strike: "GENERAL FUND"

Insert: "teacher signing bonus account established in [section 2]"

4. Page 4.

Following: line 9

Insert: "(12) Any appropriation made by the legislature for the signing bonus must be made from the teacher signing bonus account established in [section 2]."

Renumber: subsequent subsections

5. Page 4.

Following: line 24

Insert: "NEW SECTION. Section 2. Teacher signing bonus account established. (1) There is an account in the state special revenue fund for state funding of teacher signing bonuses.

(2) Money collected pursuant to [section 4] must be deposited in this account."

Renumber: subsequent sections

6. Page 12.

Following: line 17

Insert: "**Section 4.** Section 20-9-342, MCA, is amended to read:

"**20-9-342. Deposit of interest and income money by state board of land commissioners.** (1) ~~The~~ Except

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as provided in subsection (2), the state board of land commissioners shall annually deposit the interest and income money for each calendar year into the guarantee account, provided for in 20-9-622, for state equalization aid by the last business day of February following the calendar year in which the money was received.

(2) Any interest and income money, as defined in 20-9-341, that is in excess of \$45,292,000, up to \$6,642,138, must be deposited in the teacher signing bonus account established in [section 2]."

Renumber: subsequent sections

7. Page 12, line 19.

Strike: "[Section 1] is"

Insert: "[Sections 1 and 2] are"

8. Page 12, line 20.

Strike: "[section 1]"

Insert: "[sections 1 and 2]"

And, as amended, do pass. Report adopted.

SB 323, introduced bill, be amended as follows:

1. Title, line 4 through line 6.

Strike: "PROVIDING" on line 4 through "ENTITLEMENTS;" on line 6

2. Page 1, line 19 through line 29.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 2, line 9.

Following: "and"

Strike: "up to"

4. Page 2, line 12.

Strike: "up to"

5. Page 4, line 6.

Following: "and"

Strike: "up to"

6. Page 4, line 9.

Strike: "up to"

7. Page 6, line 10.

Strike: "IS"

Insert: "and health-related benefits, if any health-related benefits are provided to the employee, are"

8. Page 6, line 12.

Strike: "IS"

Insert: "and health-related benefits, if any health-related benefits are provided to the employee, are"

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9. Page 6, line 15.

Strike: "IS"

Insert: "and health-related benefits, if any health-related benefits are provided to the employee, are"

10. Page 11, line 11 through line 15.

Strike: section 6 in its entirety

Renumber: subsequent sections

11. Page 11, line 17.

Strike: "2"

Insert: "1"

12. Page 11, line 19.

Strike: "3"

Insert: "2"

13. Page 11, line 21.

Strike: "1, 4 THROUGH 6, AND 8"

Insert: "3, 4, and 6"

14. Page 11, line 24.

Strike: "2"

Insert: "1"

And, as amended, do pass. Report adopted.

SB 424, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

Strike: line 6 through "RIDERSHIP;" on line 7

2. Title, line 9.

Following: "20-9-370,"

Insert: "AND"

3. Title, line 9 through line 10.

Following: "20-9-371," on line 9

Strike: remainder of line 9 through "20-10-141," on line 10

4. Page 3, line 25 through page 6, line 19.

Strike: section 4 through section 5 in their entirety

Renumber: subsequent sections

5. Page 7, line 19.

Following: "to"

Strike: "one-half of"

And, as amended, do pass. Report adopted.

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SB 458, introduced bill, be amended as follows:

1. Title, line 6 through line 10.

Following: "UTILITY;" on line 6

Strike: remainder of line 6 through "MCA;" on line 10

2. Page 2, line 21 through page 5, line 4.

Strike: section 2 and section 3 in their entirety

Renumber: subsequent sections

3. Page 5, line 13 through line 15.

Strike: section 6 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

3/26/2003

HB 186, be concurred in. Report adopted.

HB 259, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

3/27/2003

HB 545, be amended as follows:

1. Page 3, line 23.

Strike: "EXCEPT" through "(12)(C), THE"

Insert: "The"

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

MESSAGES FROM THE GOVERNOR

March 26, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 19** sponsored by Senator Grimes, **Senate Bill 20** sponsored by Senator Grimes, **Senate Bill 68** sponsored by Senator Cromley, **Senate Bill 71** sponsored by Senator Barkus, and **Senate Bill 144** sponsored by Senator Barkus on March 26, 2003.

Sincerely,

JUDY MARTZ
Governor

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March 27, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 16** sponsored by Senator Mangan et al. on March 27, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/26/2003

HB 3, introduced by Brueggeman
HB 4, introduced by Brueggeman
HB 10, introduced by Maedje
HB 11, introduced by Kasten
HB 12, introduced by Kasten
HB 276, introduced by Lindeen
HB 721, introduced by Erickson

FIRST READING AND COMMITMENT OF BILLS

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

HB 3, introduced by Brueggeman (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 4, introduced by Brueggeman (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 10, introduced by Maedje (by request of the Department of Environmental Quality and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 11, introduced by Kasten (by request of the Department of Commerce and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 12, introduced by Kasten (by request of the Department of Environmental Quality and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 276, introduced by Lindeen, referred to Finance and Claims.

HB 721, introduced by Erickson, referred to Taxation.

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:10 p.m. this day, for purpose of party caucuses. Motion carried.

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Senate recessed at 12:41 p.m.

Senate reconvened at 1:14 p.m.

Roll call. All members present except Senator Gebhardt, excused. Motion carried.

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

Session 1

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

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

Senator Tester excused at this time.

HB 289 - Senator Wheat moved **HB 289** be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 41

Nays: Bales, Cobb, Cocchiarella, Esp, Shea, Story, Zook.

Total 7

Absent or not voting: None.

Total 0

Excused: Gebhardt, Tester.

Total 2

Senator Tester present at this time.

HB 317 - Senator Cromley moved **HB 317** be concurred in. Motion carried with Senator Butcher voting nay.

HB 458 - Senator Hansen moved **HB 458** be concurred in. Motion carried unanimously.

HB 549 - Senator Tropila moved **HB 549** be concurred in. Motion carried unanimously.

HB 437 - Senator McCarthy moved **HB 437** be concurred in. After discussion, Senator Ellingson made a **substitute motion** that **HB 437**, second reading copy, be amended as follows:

1. Page 4, line 25.

Following: "CONSTITUTIONALITY OF"

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Insert: "a statute impacting"

2. Page 5, line 18.

Following: "unconstitutionality"

Insert: "of a statute"

Amendment **not adopted** as follows:

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

Total 20

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

Total 28

Absent or not voting: None.

Total 0

Excused: Gebhardt, Stapleton.

Total 2

HB 437 - Senator McCarthy moved **HB 437** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Glaser, Grimes, Harrington, Johnson, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Shea, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 29

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Kitzenberg, Mahlum, Mangan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 18

Absent or not voting: None.

Total 0

Excused: Gebhardt, Roush, Sprague.

Total 3

HB 610 - Senator Butcher moved **HB 610**, second reading copy, be amended as follows:

1. Page 1, line 19 through line 20.

Strike: "for" on line 19 through "PERIOD" on line 20

Insert: "as provided in subsection (5)"

2. Page 2.

Following: line 5

Insert: "(5) A public hearing is not required for a cumulative rate increase of less than or equal to 5% within a 12-month

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period if the board provides notification of the increase to persons within the district on whom the rate will be imposed at least 10 days prior to the passage or enactment of the ordinance or resolution implementing the increase."

Amendment **adopted** unanimously.

HB 610 - Senator Butcher moved **HB 610**, as amended, be concurred in. Motion carried with Senator Cobb voting nay.

HB 54 - Senator Wheat moved **HB 54** be concurred in. Motion carried unanimously.

HB 159 - Senator Keenan moved **HB 159** be concurred in. Motion carried unanimously.

HB 183 - Senator Roush moved **HB 183** be concurred in. Motion carried unanimously.

HB 196 - Senator Sprague moved **HB 196** be concurred in. Motion carried with Senator Cocchiarella voting nay.

HB 323 - Senator Cooney moved **HB 323** be concurred in. Motion carried unanimously.

Senator Cobb excused at this time.

HB 338 - Senator Harrington moved **HB 338** be concurred in. After discussion, Senator Thomas made a **substitute motion** to move consideration of HB 338 to the bottom of the board. Motion carried.

HB 340 - Senator Cromley moved **HB 340** be concurred in. Motion carried unanimously.

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

THIRD READING OF BILLS

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

HB 201, as amended by the Senate, concurred in as follows:

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

Total 46

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Butcher, Cobb, Gebhardt, Mangan.

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Total 4

REPORTS OF STANDING COMMITTEES

JUDICIARY (Grimes, Chairman): 3/27/2003
HB 293, be concurred in. Report adopted.
HB 456, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman): 3/27/2003
SB 464, introduced bill, be amended as follows:

1. Title, line 6.

Following: "ESTABLISHMENTS;"

Insert: "PROVIDING FOR LICENSURE OF FOOD ESTABLISHMENTS OPERATED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE UNLESS THEY EMPLOY A FULL-TIME SANITARIAN; EXEMPTING ESTABLISHMENTS OPERATED BY NONPROFIT ORGANIZATIONS THAT DO NOT SERVE POTENTIALLY HAZARDOUS FOOD;"

2. Title, line 8.

Following: "50-50-103,"

Insert: "50-50-201,"

3. Page 2, line 25.

Following: "group,"

Insert: "the state or a political subdivision of the state,"

4. Page 3, line 28.

Following: "means a"

Strike: "temporary"

Following: "service establishment"

Insert: "operated by a nonprofit organization"

5. Page 3, line 29.

Strike: "14 consecutive"

Insert: "13"

Following: "days"

Strike: remainder of line 29

Insert: "in 1 calendar year."

6. Page 4, line 15.

Strike: "may"

Insert: "shall"

7. Page 4, line 16.

Strike: "Any"

Insert: "The"

8. Page 4, line 20.

Following: line 19

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Insert: "Section 3. Section 50-50-201, MCA, is amended to read:

"50-50-201. License required. (1) Except as provided in 50-50-202, a person operating an establishment shall procure an annual license or a person operating a temporary risk establishment shall procure a license from the department.

(2) A separate license is required for each establishment, but if more than one type of establishment is operated on the same premises and under the same management, only one license is required.

(3) Only one license is required for a person owning and operating one or more vending machines.

(4) A license issued by the department is not valid unless signed in accordance with 50-50-214."

Renumber: subsequent sections

9. Page 4, line 22 and line 23.

Following: "requirement --" on line 22

Strike: remainder of line 22 through "license --" on line 23

10. Page 4, line 24.

Following: "state" on line 24

Insert: "that employ a full-time sanitarian"

11. Page 4, line 26.

Following: "not"

Insert: "not"

Strike: "a temporary risk"

Insert: "an"

12. Page 4, line 27.

Following: "year"

Insert: "if it is operated by a nonprofit organization for a period of less than 14 days in 1 calendar year and does not prepare, serve, or provide potentially hazardous food"

Strike: "subject to"

Insert: "exempt from"

13. Page 5, line 22.

Strike: "that"

14. Page 6, line 29.

Strike: "4, 6, and 8"

Insert: "5, 7, and 9"

15. Page 7, line 1.

Strike: "5"

Insert: "6"

16. Page 7, line 3.

Strike: "4"

Insert: "5"

And, as amended, do pass. Report adopted.

HB 90, be amended as follows:

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1. Page 8, line 19.

Following: "(3)"

Insert: "(a)"

2. Page 8.

Following: line 21

Insert: "(b) The department shall inform a parent or other person responsible for a child's welfare who is considering entering into a voluntary protective services agreement that the parent or other person may have another person of the parent's or responsible person's choice present whenever the terms of the voluntary protective services agreement are under discussion by the parent or other person responsible for the child's welfare and the department. Reasonable accommodations must be made regarding the time and place of meetings at which a voluntary protective services agreement is discussed."

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

HB 205, be concurred in. Report adopted.

HB 384, be concurred in. Report adopted.

HB 484, be amended as follows:

1. Page 2, line 29.

Following: "counseling"

Insert: "that holds the offender accountable for the offender's violent or controlling behavior"

2. Page 3, line 3 through line 4.

Strike: "THAT" on line 3 through "BEHAVIOR" on line 4

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

HB 524, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

3/27/2003

SR 5, be adopted. Report adopted.

HB 563, be amended as follows:

1. Page 4, line 14.

Insert: "NEW SECTION. Section 5. Coordination instruction. (1) If House Bill No. 532 and [this act] are both passed and approved, then [section 3 of this act] amending 85-8-302, is void.

(2) If House Bill No. 190 and [this act] are both passed and approved, then [section 29] of House Bill No. 190, amending 13-13-213, is void."

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

HB 602, be concurred in. Report adopted.

HB 609, be amended as follows:

1. Page 1.

Following: line 25

Insert: "WHEREAS, a tribute to American Indians from throughout Montana would highlight the contributions of individual soldiers, including a great-grandson of Salish Chief Charlo, Private First Class Louis Charles Charlo,

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who died on Iwo Jima after being one of the original Marines to plant a flag on Mount Suribachi, which action later was memorialized and serves as the basis for the Iwo Jima U.S. Marine Corps Memorial in Arlington, Virginia; and

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

HB 680, be amended as follows:

1. Title, page 1, lines 5 through 6.

Strike: "ALLOWING" on line 5 through "FILING;" on line 6

2. Title, page 1, line 7.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING A DELAYED EFFECTIVE DATE"

3. Page 1, line 11.

Following: "by the"

Insert: "appropriate"

4. Page 1, line 12.

Strike: "3(2)"

Insert: "2"

5. Page 1, line 18.

Strike: ", which must" through "information:"

6. Page 1, lines 28 through page 2, line 8.

Strike: "(I) THE COUNTY" on page 1, line 28 through "(1)(C)(III)" on page 2, line 8

7. Page 2, line 9.

Following: "(1)(e)"

Insert: " and except for page numbers or other designations"

8. Page 2, line 17.

Strike: "3(2)"

Insert: "2"

9. Page 2, line 21.

Strike: "3"

Insert: "2"

10. Page 2, line 26 through page 3, line 4.

Strike: section 2 in its entirety

11. Page 3, line 12.

Insert: "(3) Any fee collected under subsection (2) must be deposited in the records preservation fund provided for in 7-4-2635. The fees collected under subsection (2) may be used only for maintaining, upgrading, or installing systems to digitally record and retrieve documents."

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12. Page 3, line 14.

Strike: "3(2)"

Insert: "2"

13. Page 4, line 20.

Strike: "through 3"

Insert: "and 2"

14. Page 4, line 22.

Strike: "through 3"

Insert: "and 2"

15. Page 4, line 23.

Insert: "NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2005."

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

TAXATION (DePratu, Chairman):

3/27/2003

SB 470, introduced bill, be amended as follows:

1. Page 17, line 11.

Following: "fertilizers"

Insert: "-- equipment"

2. Page 17, line 19.

Strike: "and"

3. Page 17.

Following: line 19

Insert: "(7) agricultural implements and equipment; and"

Renumber: subsequent subsections

4. Page 17, line 21.

Strike: "(6)"

Insert: "(7)"

5. Page 38, line 16 through page 39, line 3.

Strike: page 38, line 16 through page 39 line 3 in their entirety

Insert: "(a) for collections made during calendar year 2004:

(i) to the general fund for reimbursement for direct state aid to schools, in an amount equal to the difference between 44.7% and 80% of the basic entitlement plus 40% of the special education allowable cost payment; and

(ii) 55% of the balance to be deposited in the state general fund; and

(iii) the remaining 45% of the balance allocated to the department of revenue to be refunded on a pro rata basis to each taxpayer who filed a state income tax return, pursuant to 15-30-103, for tax year 2002. The amount must be calculated by the department of revenue by dividing the amount available for refund by the total individual income tax liability as determined by the department from all returns for 2002. The department of revenue shall calculate the amount of each taxpayer's refund based on the amount in the "total tax" line of the taxpayer's return. A refund may not be issued if the amount of the refund is \$10 or less. The payments must be mailed in August 2005 to each taxpayer at the most current address for the taxpayer on the department's records.

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(b) for collections made between January 1, 2005, and June 30, 2005:

(i) the amount necessary to the state general fund for reimbursement for direct state aid to schools, the tax credits for payments of statewide school levies, the low-income sales tax refundable income tax credit, the reduction of income tax rates, and the capital gains income tax credit;

(ii) 10% of the balance to the revenue stabilization and disaster account established in [section 62]; and

(iii) the remaining 90% of the balance allocated to the department of revenue to be refunded on a pro rata basis to each taxpayer who filed a state income tax return, pursuant to 15-30-103, for tax year 2003. The amount must be calculated by the department of revenue by dividing the amount available for refund by the total individual income tax liability as determined by the department from all returns for 2003. The department of revenue shall calculate the amount of each taxpayer's refund based on the amount in the "total tax" line of the taxpayer's return. A refund may not be issued if the amount of the refund is \$10 or less. The payments must be mailed to each taxpayer at the most current address for the taxpayer on the department's records.

(c) for each fiscal year beginning after June 30, 2005:

(i) the amount necessary to the state general fund for reimbursement for direct state aid to schools, the tax credits for payments of statewide school levies, the low-income sales tax refundable income tax credit, the reduction of income tax rates, and the capital gains income tax credit;

(ii) an amount, not to exceed 20% of the balance, to be deposited in the general fund upon approval by a vote of 60% of the members of the house of representative and 60% of the members of the senate;

(iii) the balance, after any deposit in the general fund under subsection (4)(c)(ii) to be allocated as follows:

(A) 10% to be deposited in the revenue stabilization and disaster account established in [section 62] if the account has not reached the account limit; and

(B) the remainder to the department of revenue for distribution as a refund to income taxpayers who filed an income tax return for taxes due under 15-30-103 for the sales tax refund tax year. The sales tax refund tax year is the income tax year immediately preceding the previous calendar year. The amount available for refund must be refunded on a pro rata basis to each taxpayer who filed a state income tax return, pursuant to 15-30-103, for the sales tax refund tax year. The amount must be calculated by the department of revenue by dividing the amount available for refund by the total individual income tax liability as determined by the department from all returns for the sales tax refund tax year. The department of revenue shall calculate the amount of each taxpayer's refund based on the amount in the "total tax" line of the taxpayer's return. A refund may not be issued if the amount of the refund is \$10 or less. The payments must be mailed to the most current address for the taxpayer on the department's records no later than December 15.

(5) For the purposes of subsection (4):

(a) the term "taxpayer" does not include a fiduciary or a beneficiary of an estate or trust who was required to file an income tax return pursuant to 15-30-135 unless a return was filed on behalf of a decedent;

(b) a return filed using the filing status married filing jointly is considered to have been filed by a single taxpayer."

Renumber: subsequent subsection

6. Page 47, line 5 through line 6.

Strike: "MAY" on line 5 through "AND" on line 6

Strike: "AT LEAST 80% OF" on line 6

7. Page 47, line 29 through line 30.

Strike: "THAT" on line 29 through "INCOME," on line 30

8. Page 48, line 2.

Strike: "PERCENTAGE"

Insert: "Amount"

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9. Page 48, line 4.

Strike: "\$15,000"

Insert: "\$16,000"

Strike: "3.1%"

Insert: "\$300"

10. Page 48.

Following: line 4

Insert: "\$16,001 to \$20,000 \$250"

11. Page 48, line 5.

Strike: "1.15%"

Insert: "\$200"

12. Page 48, line 6.

Strike: "0.575%"

Insert: "\$150"

13. Page 48, line 7.

Strike: "0.30%"

Insert: "\$100"

14. Page 38, line 8.

Strike: "0.1%"

Insert: "\$0"

15. Page 135, line 29.

Strike: "subsection"

Insert: "subsections"

Following: "(2)"

Insert: "and (3)"

And, as amended, do pass. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE

on Senate Amendments to **House Bill 403**

Report No. 1, March 27, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 403** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 403** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 4.

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Strike: "A GENERAL"

Insert: "EACH"

2. Title, page 1, line 5.

Following: "OF"

Insert: "THE CONTRACTOR'S"

3. Page 1, line 15.

Strike: "a GENERAL"

Insert: "each"

4. Page 1, line 16.

Following: "by"

Insert: "contractor's"

5. Page 1, line 24.

Strike: "a GENERAL"

Insert: "each"

Following: "contractor's"

Insert: "contractor's"

For the House:

Steinbeisser, Chairman
Keane
Lange

For the Senate:

Anderson, Chairman
Cocchiarella
DePratu

FIRST READING AND COMMITMENT OF BILLS

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

SB 487, introduced by Pease, Keenan, referred to Taxation.

MOTIONS

SJR 28 - Senator Cooney moved **SJR 28** be taken from second reading and rereferred to the committee on Education and Cultural Resources. Motion **failed** as follows:

Yeas: Butcher, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Absent or not voting: None.

Total 0

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Excused: Cobb, Gebhardt.
Total 2

Majority Leader Thomas moved the Senate stand in recess until the hour of 4:00 p.m. this legislative day. Motion carried.

Senate recessed at 2:54 p.m.

Senate resumed at 4:05 p.m.

Roll call. All members present except Senators Bales, Elliott, Gebhardt, Hansen, McGee, Schmidt, Shea, Sprague, Tash and Tropila, excused. Quorum present.

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

Session 2

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

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

HB 554 - Senator Stonington moved **HB 554** be concurred in. Motion carried unanimously.

HB 564 - Senator Johnson moved **HB 564**, second reading copy, be amended as follows:

1. Page 3, line 30 through page 4, line 1.

Following: "DEVELOPMENT," on line 30

Strike: remainder of line 30 through "53-2-1204," on page 4, line 1

Amendment **adopted** unanimously.

HB 564 - Senator Johnson moved **HB 564**, second reading copy, be further amended as follows:

1. Page 2.

Following: line 2

Insert: "(1) "Average weekly wage" has the meaning provided in 39-71-116."

Renumber: subsequent subsections

2. Page 5, line 23 and line 24.

Following: "trained" on line 23

Strike: remainder of line 23 through "represents" on line 24

Insert: ". A grant may be provided only for a new job that has an average weekly wage that meets or exceeds"

3. Page 5, line 24 through line 25.

Following: "current"

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Strike: remainder of line 24 through "programs" on line 25
Insert: "average weekly wage"

4. Page 5, line 25.

Following: "CURRENT"

Strike: "MEDIAN INCOME LEVEL"

Insert: "average weekly wage"

5. Page 5, line 27.

Following: "CURRENT"

Strike: "MEDIAN INCOME LEVEL"

Insert: "average weekly wage"

Amendment **adopted** unanimously.

Senator Elliott present at this time.

HB 564 - Senator Johnson moved **HB 564**, as amended, be concurred in. Motion carried unanimously.

HB 642 - Senator McNutt moved consideration of **HB 642** be passed for the day. Motion carried.

HB 703 - Senator Stonington moved **HB 703** be concurred in. Motion carried unanimously.

HB 197 - Senator Wheat moved **HB 197** be concurred in. Motion carried unanimously.

HB 338 - Senator Cocchiarella moved **HB 338**, second reading copy, be amended as follows:

1. Page 2, line 20.

Strike: "(00.575)"

Insert: "(.00575)"

Amendment **adopted** unanimously.

Senators Bales, Hansen, McGee, Shea, Schmidt, Sprague, Tash and Tropila present at this time.

HB 338 - Senator Harrington moved **HB 338**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Thomas, Toole, Tropila, Wheat.

Total 33

Nays: Anderson, Barkus, Black, Butcher, Esp, Grimes, Laible, McGee, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Zook, Mr. President.

Total 16

Absent or not voting: None.

Total 0

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Excused: Gebhardt.
Total 1

HB 354 - Senator Sprague moved **HB 354** be concurred in. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 43

Nays: Butcher, McGee, Stapleton, Story, Mr. President.
Total 5

Absent or not voting: None.
Total 0

Excused: Gebhardt, Mangan.
Total 2

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

REPORTS OF STANDING COMMITTEES

JUDICIARY (Grimes, Chairman):
HB 256, be amended as follows:

3/27/2003

1. Title, line 5.

Following: "OFFICERS;"

Insert: "ALLOWING AGREEMENTS WITH LOCAL LAW ENFORCEMENT AGENCIES TO EXPAND JURISDICTION;"

2. Page 1, line 17 through line 18.

Following: "~~activities,~~" on line 17

Strike: remainder of line 17 through "(3), in" on line 18

Insert: "for campus-related activities,"

3. Page 1, line 19.

Following: "campus;"

Strike: "and"

4. Page 1, line 21.

Following: "system"

Insert: "; and

(c) if an agreement is reached under subsection (3), for activities and in areas described in the agreement"

5. Page 1, line 22.

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Following: "serve"

Strike: "and"

Insert: "or"

6. Page 1, line 23 through line 26.

Strike: subsection (3) in its entirety

Insert: "(3) Any university system security department may seek an agreement with local law enforcement agencies that specifies geographic and subject matter jurisdiction of campus security officers in areas outside the area described in subsections (1)(a) and (1)(b)."

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

HB 489, be amended as follows:

1. Page 3, line 17.

Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 134 and [this act] are both passed and approved, then [this act] is void."

Renumber: subsequent section

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

HB 536, be amended as follows:

1. Page 3, line 3.

Following: "INSPECTION."

Insert: "A seller, landlord, seller's agent, buyer's agent, or property manager who provides this mold disclosure statement, provides for the disclosure of any prior testing and any subsequent mitigation or treatment for mold, and discloses any knowledge of mold is not liable in any action based on the presence of or propensity for mold in a building that is subject to any contract to purchase, rent, or lease."

2. Page 3, line 4.

Following: "(2)"

Insert: "Whenever a seller or landlord or an agent of either has knowledge that a building has mold present, the seller, landlord, or agent shall, prior to or upon entry into a contract for the purchase, rent, or lease, disclose to the buyer or renter the presence of the mold."

Following: the second "landlord"

Insert: ", prior to or upon entry into a contract for the purchase, rent, or lease of that building, shall advise the buyer or tenant that testing has occurred and"

3. Page 3, line 5 through line 6.

Following: "tenant" on line 5

Strike: remainder of line 5 through "building," on line 6

4. Page 3, line 6.

Following: "test"

Insert: ", if available, to the seller or landlord"

5. Page 3, line 7.

Following: the second "testing"

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Insert: "and shall provide a copy of the results of that test, if available, to the seller or landlord"

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

LOCAL GOVERNMENT (Bohlinger, Chairman):
HB 663, be concurred in. Report adopted.

3/27/2003

MOTIONS

Majority Leader Thomas moved to **suspend Senate Rule 30-120** which requires a 3 day notice of a scheduled hearing, to accommodate the hearing schedule next week. Motion carried as follows:

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

Total 45

Nays: Cobb, Schmidt, Mr. President.

Total 3

Absent or not voting: None.

Total 0

Excused: Gebhardt, McCarthy.

Total 2

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 12:30 p.m., Friday, March 28, 2003. Motion carried.

Senate adjourned at 5:13 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate