

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

Helena, Montana
March 28, 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. Quorum present.

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

REPORTS OF STANDING COMMITTEES

Examined by the sponsor and found to be correct: **SB 83, SB 84, SB 103, SB 121, SB 131, SB 172, SB 216, SB 253, SB 257, SJR 3.**

Signed by the President at 3:00 p.m., March 26, 2003: **SB 83, SB 84, SB 103, SB 121, SB 131, SB 172, SB 216, SB 253, SB 257, SJR 3.**

Signed by the Secretary of the Senate at 8:30 a.m., March 27, 2003: **SB 83, SB 84, SB 103, SB 121, SB 131, SB 172, SB 216, SB 253, SB 257, SJR 3.**

Signed by the Speaker at 11:05 a.m., March 27, 2003: **SB 83, SB 84, SB 103, SB 121, SB 131, SB 172, SB 216, SB 253, SB 257, SJR 3.**

Delivered to the Governor for approval at 9:20 a.m., March 28, 2003: **SB 83, SB 84, SB 103, SB 121, SB 131, SB 172, SB 216, SB 253, SB 257.**

Delivered to the Secretary of State at 9:30 a.m., March 28, 2003: **SJR 3.**

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman): 3/27/2003
HB 226, be concurred in. Report adopted.
HB 419, be concurred in. Report adopted.
HB 591, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman): 3/28/2003
HB 698, be amended as follows:

1. Page 4, line 4.

Following: "county treasurer"

Insert: "to the department of revenue"

2. Page 4, line 8.

Following: "county treasurer"

Insert: "to the department of revenue"

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

MESSAGES FROM THE GOVERNOR

March 28, 2003

The Honorable Bob Keenan
President of the Senate

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 45** sponsored by Senator Gebhardt, **Senate Bill 55** sponsored by Senator Keenan, **Senate Bill 56** sponsored by Senator Keenan, **Senate Bill 64** sponsored by Senator Keenan, **Senate Bill 87** sponsored by Senator Hansen, and **Senate Bill 102** sponsored by Senator McNutt on March 28, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/27/2003

HB 705, introduced by E. Clark
HB 743, introduced by E. Clark

Senate amendments to House bills concurred in: 3/27/2003

HB 285, introduced by R. Brown
HB 333, introduced by Waitschies
HB 350, introduced by Cohenour
HB 428, introduced by Keane
HB 583, introduced by R. Brown

MOTIONS

HB 302 - Senator Ryan moved **HB 302** be taken from the committee on Education and Cultural Resources and that it be printed and placed on second reading the 67th legislative day, March 28, 2003. Motion **passed** as follows:

Yeas: Anderson, Barkus, Black, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Laible, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 34

Nays: Bales, Bohlinger, Curtiss, Esp, Glaser, Grimes, Johnson, Mahlum, McGee, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

HB 438 and **HB 642** - Senator Thomas moved consideration of **HB 438** and **HB 642** be placed on second reading on the 68th legislative day, March 31, 2003. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

HB 705, introduced by E. Clark, referred to Finance and Claims.

HB 743, introduced by E. Clark (by request of the House Joint Appropriations Subcommittee on Health and Human Services), referred to Finance and Claims.

**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 McGee in the chair.

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

SB 458 - Senator O'Neil moved **SB 458**, second reading copy, be amended as follows:

1. Page 1, line 21 through page 2, line 10.

Strike: line 21 through page 2, line 10 in their entirety

Renumber: subsequent subsection

2. Page 5, line 9 through line 11.

Strike: section 3 in its entirety

Renumber: subsequent sections

Amendment **not adopted** as follows:

Yeas: Cooney, Curtiss, Ellingson, Elliott, Esp, Grimes, O'Neil, Roush, Ryan, Schmidt, Stonington, Tester, Toole, Wheat.
Total 14

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, DePratu, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 35

Absent or not voting: Stapleton.

Total 1

Excused: None.

Total 0

SB 458 - Senator McNutt moved **SB 458** do pass. After discussion, Senator Cooney made a **substitute motion** that **SB**

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

458, second reading copy, be amended as follows:

1. Title, page 1, line 5.

Strike: "SHAREHOLDERS OF INNOCENT THIRD-PARTY PURCHASERS"

Insert: "OFFICERS, DIRECTORS, LEGAL ADVISERS, AND CONSULTANTS OF NORTHWESTERN CORPORATION"

2. Page 1, line 21.

Strike: "an" through "69"

Insert: "northwestern corporation"

Strike: "the entity's"

Insert: "its"

3. Page 1, line 28.

Strike: "an" through "69"

Insert: "northwestern corporation"

4. Page 2, line 16 through line 19.

Strike: "the purchaser" on line 16 through "assumption" on line 19

Insert: "northwestern corporation"

Amendment **not adopted** as follows:

Yeas: Cooney, Ellingson, Elliott, Gebhardt, Hansen, Nelson, O'Neil, Pease, Schmidt, Stonington, Tester, Toole, Wheat.
Total 13

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 37

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Roush expressed a conflict of interest in **SB 458** as he is a former employee of Montana Power Company.

SB 458 - Senator McNutt's do pass motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, Elliott, Glaser, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Perry, Roush, Ryan, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 33

Nays: Cooney, Cromley, DePratu, Ellingson, Esp, Gebhardt, Grimes, Hansen, Nelson, O'Neil, Pease, Schmidt, Stapleton, Stonington, Tester, Toole, Wheat.

Total 17

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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 McGee 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 54, 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, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, 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 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

HB 159, 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, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, 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 49

Nays: Gebhardt.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

HB 183, 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, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 196 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, 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 48

Nays: Cocchiarella, Ellingson.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 197, 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, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Total 0

HB 289, as amended by the Senate, concurred in as follows:

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

Total 41

Nays: Bales, Cobb, Cocchiarella, Esp, Gebhardt, Laible, Shea, Story, Taylor.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 317, 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, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, 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 49

Nays: Gebhardt.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 323 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, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Excused: None.
Total 0

HB 340 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, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 354 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, 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 48

Nays: Butcher, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 437, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 33

Nays: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Mahlum, Mangan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 17

Absent or not voting: None.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Total 0

Excused: None.

Total 0

HB 458 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, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 549 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, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: McGee, Story.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 554 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, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 703, 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, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):
HB 304, be amended as follows:

3/28/2003

1. Title, page 1, line 9.

Strike: "OFFERING TO SELL"

Insert: "SELLING"

2. Title, page 1, line 11.

Following: "COMMISSION;"

Insert: "SPECIFYING THAT THE REDUCED TAX RATE IS IN EFFECT FOR 2 YEARS AFTER CERTAIN CONDITIONS ARE MET;"

3. Page 1, line 29.

Strike: "to sell"

Insert: "and sells"

4. Page 1, line 30.

Strike: "the first"

5. Page 2, line 3.

Following: "(1)(b)"

Insert: ":",
(i)"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

6. Page 2, line 4.

Following: "occurred"

Strike: " "

Insert: " ; "

7. Page 2.

Following: line 4

Insert: "(ii) applies only to the amount of coal that is used for the production of electricity that is sold to Montana customers and distribution services providers; and

(iii) remains in effect for 2 years from December 31 of the year in which the department determines that the conditions in subsection (1)(b) have occurred."

8. Page 2, line 26.

Strike: "to sell"

Insert: "and sells"

9. Page 2, line 27.

Strike: "the first"

10. Page 2, line 30.

Following: "(1)(b)"

Insert: ":

(i)"

11. Page 3, line 1.

Following: "occurred"

Strike: " "

Insert: " ; "

12. Page 3.

Following: line 1

Insert: "(ii) applies only to the amount of coal that is used for the production of electricity that is sold to Montana customers and distribution services providers; and

(iii) remains in effect for 2 years from December 31 of the year in which the department determines that the conditions in subsection (1)(b) have occurred."

13. Page 3.

Following: line 7

Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 472 and [this act] are both passed and approved, [this act] is void."

Insert: "NEW SECTION. Section 3. Notification of code commissioner. The department of revenue shall notify the code commissioner when the conditions in 15-35-103(1)(b) have occurred."

Renumber: subsequent sections

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

HB 337, be amended as follows:

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

1. Page 1, line 29.

Strike: "(a) Except as provided in subsection (4)(b), a"

Insert: "A"

2. Page 2, line 1.

Following: "year,"

Insert: "an application for approval of"

3. Page 2, line 2.

Following: "poles,"

Insert: "The cost schedule is effective on a temporary basis, subject to a rebate and a surcharge as provided in 69-3-304, 30 days after the filing of a cost schedule and pending a final order of the commission, unless the commission first determines that the cost schedule is above cost."

4. Page 2, line 3 through line 5.

Strike: subsection (b) in its entirety

5. Page 2, line 28.

Strike: "or"

Following: "structure,"

Insert: "or prefabricated structure that is intended to be moved from the place of fabrication, storage facility, or dealer's lot,"

6. Page 3, line 9 through line 10.

Following: "is" on line 9

Strike: ";" on line 9 through "(i)" on line 10

7. Page 3, line 11 through line 13.

Strike: ";" on line 11 through "lot" on line 13

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

HB 641, be amended as follows:

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

Strike: ""INTEREXCHANGE" on line 5 through the second "CARRIER"" on line 6

Insert: "CERTAIN TERMS"

Following: ";" on line 6

Strike: "AND"

2. Title, page 1, line 7.

Following: "MCA"

Insert: " ; AND PROVIDING AN EFFECTIVE DATE"

3. Page 1.

Following: line 12

Insert: "(1) "Commercial mobile radio service" means commercial mobile radio service as defined in 47 CFR 20.9."

Renumber: subsequent subsections

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

4. Page 1, line 22 through line 25.

Strike: subsection (5) in its entirety

Insert: "(6) "Local telecommunications" means:

(a) telecommunications originating in a wireline local calling area, including extended area service areas, and terminating in the same wireline local calling area or extended area service area; or

(b) commercial mobile radio service that originates from or terminates to a commercial mobile radio service provider within the same major trading area as defined in 47 CFR 24.202(a).

(7) "Nonlocal telecommunications" means:

(a) wireline telecommunications traffic carried by either an interlocal access transport area carrier or an intralocal access transport area toll provider that originates in one wireline local calling area and terminates in another wireline local calling area; or

(b) commercial mobile radio service that originates in a major trading area and terminates in a different major trading area, as defined in 47 CFR 24.202(a)."

Renumber: subsequent subsections

5. Page 1, line 26.

Following: "network"

Insert: "a customer originates"

6. Page 1, line 27.

Strike: "originates"

7. Page 3.

Following: line 6

Insert: "(16) (a) "Transit traffic" means telecommunications traffic that an originating carrier delivers to a transiting carrier or carriers for delivery to a terminating carrier.

(b) The term does not mean traffic carried by interlocal access transport area carriers or providers of intralocal access transport area toll services."

8. Page 3, line 7.

Following: "carrier"

Insert: "or carriers"

Strike: "transports"

Insert: "transport transit"

9. Page 3, line 8.

Following: the second "carrier"

Insert: "and that does not originate or terminate telecommunications traffic"

10. Page 3, line 10.

Strike: "**Interexchange services – nondiscriminatory**"

Insert: "**Nondiscriminatory**"

11. Page 3, line 11.

Following: "**billing records –**"

Insert: "**enforcement --**"

Strike: "INTEREXCHANGE SERVICES"

Insert: "local telecommunications service"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

12. Page 3, line 14 through line 24.

Strike: "INTEREXCHANGE" on line 14 through "carrier." on line 24

Insert: "local telecommunications service.

(2) A provider of intralocal access transport area toll services or any other carrier that provides nonlocal telecommunications services in Montana shall transmit with its telecommunications traffic information necessary to enable the terminating carrier to identify, measure, and appropriately charge for the termination of the telecommunications traffic.

(3) A transiting carrier shall deliver telecommunications traffic to terminating carriers by means of facilities that enable the terminating carrier to receive from the originating carrier any and all information that the originating carrier transmits with its telecommunications traffic that enables the terminating carrier to identify, measure, and appropriately charge the originating carrier or the interlocal access transport area carrier or intralocal access transport area toll provider of nonlocal telecommunications traffic for the termination of its telecommunications traffic."

Renumber: subsequent subsections

13. Page 3, line 25.

Following: "records"

Insert: "for its transit traffic"

14. Page 3, line 26 through line 27.

Strike: "THE" on line 26 through "carrier." on line 27

Insert: "The transiting carrier shall provide billing records pursuant to existing policies and agreements until the commission adopts rules pursuant to subsection (7)."

15. Page 3, line 28.

Strike: "AN ORIGINATING CARRIER"

Insert: "A local exchange carrier or commercial mobile radio services provider "

Following: "LOCAL"

Insert: "telecommunications"

16. Page 3, line 29.

Strike: "ENTER INTO"

Insert: "negotiate"

17. Page 3, line 30.

Following: "69-3-839."

Insert: "The interconnection agreement must include rates, terms, and conditions for reciprocal compensation for the transport and termination of local telecommunications traffic."

18. Page 4, line 1 through line 6.

Strike: subsection (5) in its entirety

Insert: "(6) A telecommunications carrier registered to provide telecommunications services in Montana pursuant to 69-3-805 may file a complaint with the commission requesting enforcement of this section, including enforcement of an agreement approved by the commission under 69-3-839. Upon the filing of a complaint, the commission may authorize the terminating carrier to refuse to terminate traffic from the originating carrier or the commission may authorize interim payments. The commission may order compensation to the terminating carrier and may order other appropriate relief."

Renumber: subsequent subsection

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

19. Page 4, line 7.

Strike: "may"

Insert: "shall"

20. Page 4, line 8 through line 10.

Strike: "define" on line 8 through "usage" on line 10

Insert: "identify what type of transit records are available and what the cost of the transit records should be and must determine which party is responsible for the payment of detailed call records to the transiting carrier"

21. Page 4.

Following: line 17

Insert: "NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2003."

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

FINANCE AND CLAIMS (Zook, Chairman):
SB 218, introduced bill, be amended as follows:

3/28/2003

1. Title, line 4.

Following: "CREATING A"

Insert: "COMBINED"

Following: "STATEWIDE"

Insert: "CRIMINAL TRIAL AND APPELLATE"

2. Title, line 4 through line 5.

Following: "SYSTEM" on line 4

Strike: remainder of line 4 through "TRIALS" on line 5

3. Title, line 6.

Following: line 5

Strike: "CREATING THE PUBLIC DEFENDER COMMISSION AND"

Following: "MAKING THE"

Insert: "PUBLIC DEFENDER"

4. Title, line 7.

Following: the first "THE"

Insert: "STATEWIDE"

Following: "TRIAL"

Insert: "AND APPELLATE"

5. Title, line 10.

Following: "PROTECTIONS;"

Insert: "ESTABLISHING A DISTRICT COURT ASSUMPTION AND INDIGENT DEFENSE CONTINGENT EXPENSE ACCOUNT; ESTABLISHING A USER SURCHARGE; REQUIRING INTERIM REPORTS;"

6. Title, line 11.

Following: "SECTIONS"

Insert: "2-15-1020,"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Following: "46-8-201,"

Strike: "AND"

Following: "46-8-202,"

Insert: "46-8-210, AND 46-8-212,"

Following: "MCA;"

Insert: "REPEALING SECTION 46-8-211, MCA;"

7. Page 1, line 16 through page 2, line 20.

Strike: section 1 in its entirety

Insert: "**Section 1.** Section 2-15-1020, MCA, is amended to read:

"2-15-1020. Appellate Public defender commission -- duties -- rules. (1) There is ~~an appellate a public~~ defender commission.

(2) The commission consists of five members appointed by the governor as follows:

(a) one district judge nominated by the district judges under a nominating procedure initiated and conducted by the supreme court and certified by the chief justice of the supreme court;

(b) three attorneys. In selecting the attorney appointees, the governor shall consider recommendations submitted by the president of the state bar of Montana, as follows:

(i) at least two attorneys who are experienced in the defense of felonies, at least one of whom has served a minimum of 1 year as a full-time public defender for a governmental agency or a public corporation; and

(ii) at least one attorney who has been licensed to practice law in this state for a minimum of 10 years.

(c) one member of the general public who is not an attorney or a judge, active or retired.

(3) The members shall serve staggered 3-year terms.

(4) The commission is allocated to the department of administration for administrative purposes only pursuant to 2-15-121. The commission shall meet at least two times a year.

(5) A member of the commission may not while serving a term on the commission serve as a county attorney or a deputy county attorney, the attorney general or an assistant attorney general, the United States district attorney or an assistant United States district attorney, or a law enforcement official.

(6) Members of the commission may not receive a salary for service on the commission but must be reimbursed for expenses, as provided in 2-18-501 through 2-18-503, while actually engaged in the discharge of official duties.

(7) The commission shall make rules for the conduct of its affairs.

(8) The commission shall develop a system of ~~indigent trial and~~ appellate defense services for indigent defendants to be provided by salaried or contracted public defenders, as provided in 46-8-202, and shall develop and disseminate standards, procedures, training, and policies that will ensure that criminal defense is conducted consistently and uniformly throughout Montana.

(9) The commission shall appoint a chief public defender, as provided in [section 7]. The chief public defender shall act as secretary to the commission.

(10) The commission shall establish qualifications, duties, and priorities for the chief public defender, deputy and assistant public defenders, and the appellate defender and deputy and assistant appellate defenders.

(11) The commission shall develop policies and procedures for identifying and addressing conflicts of interest and claims of ineffective assistance of counsel.

~~(9)~~(12) The commission shall propose to the supreme court develop minimum standards to which all for trial and appellate public defenders. The commission shall submit the standards to the supreme court for the court's review and consideration. All trial and appellate public defenders, including locally appointed private counsel, shall conform to public defender standards adopted by the supreme court.

~~(10)~~(13) The commission shall compile and keep current a statewide roster of attorneys eligible for appointment by an appropriate court as trial and appellate defense counsel for indigent defendants. The roster must be supplied to all justices and judges in the state.

~~(11)~~ The commission shall establish qualifications, duties, and priorities for the appellate defender, provided for in 46-8-211, not inconsistent with those established in 46-8-212."

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

8. Page 5, line 30.

Following: "of the"

Insert: "statewide"

Following: the first "trial"

Insert: "and appellate"

Following: "system"

Strike: "and the appellate defender program"

9. Page 6, line 17.

Following: "trial"

Insert: "or appellate"

10. Page 7, line 3.

Following: "functions"

Insert: "-- administrative director"

11. Page 7, line 7 through line 8.

Following: "position" on line 7

Strike: remainder of line 7 through "30,000" on line 8

Insert: "must be established by the commission and must be commensurate with the duties and responsibilities of the position"

12. Page 7, line 10.

Strike: "9(2)"

Insert: "11(2)"

13. Page 7, line 11.

Following: line 10

Insert: "(b) provide administrative assistance to the commission;"

14. Page 7, line 11.

Strike: "(b)"

Insert: "(c)"

Following: "commission"

Insert: ", including an administrative director"

15. Page 7, line 12.

Strike: "(c)"

Insert: "(d)"

16. Page 7, line 13.

Strike: "(d)"

Insert: "(e)"

Following: "operation"

Insert: "and administration"

Following: "trial"

Insert: "and appellate"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

17. Page 7, line 13 through line 14.

Following: "system" on line 13

Strike: remainder of line 13 through "state" on line 14

18. Page 7, line 15 through line 17.

Strike: subsection (e) in its entirety

19. Page 7, line 18.

Following: "trial"

Insert: "and appellate"

20. Page 7, line 21.

Following: "Montana"

Insert: "at both the trial and appellate level"

21. Page 7, line 23.

Following: "trial"

Insert: "or appellate"

Following: ";

Strike: "and"

22. Page 7, line 24.

Following: "commission"

Insert: "; and

(j) provide a report to the legislature, as provided in 5-11-210, regarding the operation and administration of the statewide criminal trial and appellate public defender system. A copy of the report must be provided to the commission"

23. Page 7, line 25.

Following: line 24

Insert: "(4) The administrative director, with the chief public defender's recommendations, shall prepare and present budget requests for the statewide criminal trial and appellate public defender system to the legislature. Budget requests for the system must be included in the budget for the department of administration and must be included in the budget submitted by the governor under 17-7-122."

Renumber: subsequent subsection

24. Page 8, line 3.

Following: "defenders"

Strike: "and any"

Insert: ";

Following: "defenders"

Insert: " and any appellate public defenders"

25. Page 8, line 7.

Following: "trial"

Insert: "or appellate"

26. Page 8, line 16.

Following: line 15

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Insert: "Section 9. Section 46-8-210, MCA, is amended to read:

"**46-8-210. Short title.** Sections 46-8-210 through 46-8-212, and 46-8-213 may be cited as the "Appellate Defender Act"."

Insert: "Section 10. Section 46-8-212, MCA, is amended to read:

"**46-8-212. Appellate defender -- qualifications -- duties.** (1) The appellate defender and any deputy or assistant appellate defender:

(a) must be an attorney licensed to practice law in this state;

(b) shall perform duties as may be provided by law or established by the appellate public defender commission;

and

(c) must have those qualifications otherwise required by the commission.

(2) The duties of the appellate defender are to:

(a) assume responsibility for appeals from district court and petitions for postconviction relief from proceedings in district court on behalf of indigent defendants only after conviction, as defined by 46-1-202, when:

(i) the defendant alleges that ineffective assistance of counsel resulted in conviction;

(ii) a district judge or the chief justice or an associate justice of the supreme court finds further representation by previously appointed counsel would not serve the interests of justice; or

(iii) the appellate defender agrees to assist in or assume responsibility for appeal;

(b) aid the commission in compiling and keeping current a statewide roster of attorneys eligible for appointment by an appropriate court as trial and appellate defense counsel for the indigent;

(c) keep a record of those services and expenses for the commission; and

(d) perform the duties otherwise established by the commission."

Renumber: subsequent sections

27. Page 9, line 4.

Following: "trial"

Insert: "or appellate"

28. Page 9, line 9 through line 16.

Strike: section 10 in its entirety

Insert: "NEW SECTION. **Section 12. District court assumption and indigent defense contingent expense account.** There is a district court assumption and indigent defense contingent expense account in the state special revenue fund. The supreme court administrator and the department of administration may apply to the director of the office of budget and program planning for money in the account. The supreme court administrator and the department of administration shall supply the budget director with the information requested by the budget director to determine if the request is justified."

Renumber: subsequent sections

29. Page 9, line 19 through line 20.

Following: "June 30," on line 19

Strike: "2004, and who are"

Insert: "2003, may be"

30. Page 9, line 20.

Following: "[this act]"

Insert: ". Transferred employees"

31. Page 9, line 21.

Following: "[this act]"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Insert: "must be the same as on July 1, 2003, provided that any increase after July 1, 2002, did not exceed 4%, and"

32. Page 10, line 2.

Following: "time."

Insert: "On July 1, 2004, the counties with public defender employees who are transferred to state employment by [this act] shall pay the state 25% of the sick leave accrual and 100% of vacation leave accrual for each employee who is transferred to state employment. The transferred employees shall retain their accumulated sick and vacation leave."

33. Page 10, line 11.

Following: line 10

Insert: "(6) The county or consolidated city-county government shall provide office space for trial and appellate public defenders until July 1, 2005."

34. Page 10, line 14.

Following: "county"

Insert: "unless otherwise agreed upon by the county and the state"

35. Page 11, line 7.

Insert: "NEW SECTION. Section 16. Fund transfer. The amount of \$1,917,218 is transferred from the general fund to the district court assumption and indigent defense contingent expense account established in [section 12]."

Insert: "NEW SECTION. Section 17. Interim report. During the biennium beginning July 1, 2003, the chief public defender shall make quarterly reports regarding the operation and administration of the public defender system to the commission, the governor, the legislative finance committee, the law and justice interim committee of the legislature, and the supreme court."

Insert: "NEW SECTION. Section 18. User surcharge for district court assumption and indigent defense. (1) Except as provided in subsection (2), all courts of original jurisdiction shall impose:

(a) on a defendant in criminal cases, a \$1 user surcharge upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail;

(b) on the initiating party in civil and probate cases, a \$1 user surcharge at the commencement of each action, proceeding, or filing; and

(c) on each defendant or respondent in civil cases, a \$1 user surcharge upon appearance.

(2) If a court determines that a defendant in a criminal case or determines pursuant to 25-10-404 that a party in a civil case is unable to pay the surcharge, the court may waive payment of the surcharge imposed by this section.

(3) The surcharge imposed by this section is not a fee or fine and must be imposed in addition to other taxable court costs, fees, or fines. The surcharge may not be used in determining the jurisdiction of any court.

(4) The amounts collected under this section must be forwarded to the department of revenue for deposit in the district court assumption and indigent defense contingent expense account established in [section 12]."

Insert: "NEW SECTION. Section 19. Effect on litigation. [This act] may not be construed as effecting any liability against a county that may result from current litigation against counties concerning the level of funding for public defenders and indigent defense."

Insert: "NEW SECTION. Section 20. Repealer. Section 46-8-211, MCA, is repealed."

Renumber: subsequent sections

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

36. Page 11, line 8 through line 10.
Following: "instruction." on line 8
Strike: subsection (1) in its entirety
Renumber: subsequent subsections

37. Page 11, line 11.
Strike: "[Section 4] is"
Insert: "[Sections 4 and 12] are"

38. Page 11, line 12.
Strike: "[section 4]"
Insert: "[sections 4 and 12]"

39. Page 11, line 13.
Strike: "9"
Insert: "11"

40. Page 11, line 14.
Strike: "9"
Insert: "11"

41. Page 11, line 21.
Strike: "and 10"
Insert: ", 2, 7, 9 through 12, and 16 through 22"

And, as amended, do pass. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 47**
Report No. 1, March 27, 2003

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 47** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

1. Senate Committee on Local Government amendments to the first reading copy, dated January 22, 2003.

And, recommend that **Senate Bill 47** (reference copy -- salmon) be amended as follows:

1. Page 3, line 5.
Strike: "\$8,000"
Insert: "\$25,000"

For the Senate:

Gebhardt, Chairman

For the House:

Mendenhall, Chairman

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Esp
Wheat

Cyr
Morgan

MESSAGES FROM THE OTHER HOUSE

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

3/28/2003

SB 105, introduced by Johnson

SB 113, introduced by Esp

House bills passed and transmitted to the Senate for concurrence:

3/28/2003

HB 5, introduced by Kasten

HB 9, introduced by Kasten

HB 13, introduced by Lewis

HB 360, introduced by Lewis, requiring adoption by an affirmative roll call vote of three-fourths of each house was transmitted to the Senate with the following vote:

3/28/2003

Yeas - 96

Nays - 2

ANNOUNCEMENTS

Senator Tropila announced that although the House had beaten the Senate in the Senate/House basketball game, the Senate pages saved the reputation of the Senate as they had soundly beaten the House pages in games of laser tag and bowling, thereby proving that what "rocks the House", is definitely the Senate.

Committee meetings were announced by committee chairmen.

MOTIONS

HB 197 - Senator Shea moved she be allowed to change her vote on **HB 197**, third reading this day, from nay to yea. Motion carried.

HB 437 - Senator Squires moved she be allowed to change her vote on **HB 437**, third reading this day, from nay to yea. Motion carried.

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

Senate recessed at 2:55 p.m.

Senate reconvened at 4:08 p.m.

Roll call. All members present. Quorum present.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

**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 McGee in the chair.

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

SB 267 - Senator Stapleton moved **SB 267**, second reading copy, be amended as follows:

1. Title, line 11.

Following: "TEACHING;"

Strike: "IMPOSING A \$10 APPLICATION FEE;"

2. Title, line 12 and line 13.

Following: "FROM" on line 12

Strike: remainder of line 12 through "ACCOUNT" on line 13

Insert: "THE GENERAL FUND MADE AVAILABLE THROUGH THE UTILIZATION OF EXCESS GUARANTEE
ACCOUNT FUNDS"

3. Title, line 15.

Strike: "20-9-342"

Insert: "20-9-622"

4. Page 3, line 5 through line 6.

Following: "days" on line 5

Strike: remainder of line 5 through "FEE" on line 6

5. Page 3, line 16.

Strike: "(A)"

6. Page 3, line 19.

Strike: "(I)"

Insert: "(a)"

7. Page 3, line 20.

Strike: "(II)"

Insert: "(b)"

8. Page 3, line 22 through line 23.

Strike: line 22 through line 23 in their entirety

9. Page 3, line 24 through line 25.

Following: "shall" on line 24

Strike: remainder of line 24 through line 25 in its entirety

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

10. Page 4, line 11 through line 12.

Following: "~~(12)~~" on line 11

Strike: remainder of line 11 through "~~[SECTION 2]~~" on line 12

Insert: "Funding for teacher signing bonuses in each year is limited to the amount by which the general fund obligation for school equalization aid is reduced through the mechanism in [section 3] for that year"

11. Page 4, line 29 through page 5, line 1.

Strike: section 2 in its entirety

Renumber: subsequent sections

12. Page 12, line 24 through page 13, line 3.

Strike: section 4 in its entirety

Insert: "**Section 3.** Section 20-9-622, MCA, is amended to read:

"20-9-622. Guarantee account. (1) There is a guarantee account in a subfund of the state special revenue fund.

The guarantee account is intended to:

(a) stabilize the long-term growth of the permanent fund; and

(b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. Except as provided in subsections (2) and (3), the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of 2001, is outstanding, the department of natural resources and conservation shall annually transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is outstanding in the prior year.

(3) The revenue distributed through 20-9-534 must be used for the purposes of 20-9-533.

(4) (a) Any revenue available for BASE aid in the guarantee account in excess of \$50,432,513 in fiscal year 2003, up to \$2.5 million, must be used to reduce the fiscal year 2004 general fund obligations for school equalization aid by a like amount.

(b) Any revenue available for BASE aid in the guarantee account in excess of \$45,499,713 in fiscal year 2004, up to \$4 million, must be used to reduce the fiscal year 2005 general fund obligations for school equalization aid by a like amount.

(c) Any revenue available for BASE aid in the guarantee account in excess of \$45,485,803 in fiscal year 2005, up to \$5 million, must be used to reduce the fiscal year 2006 general fund obligations for school equalization aid by a like amount.

(d) Any revenue available for BASE aid in the guarantee account in fiscal year 2006 in excess of the amount indicated in the general appropriations act for that year, up to \$5 million, must be used to reduce the fiscal year 2007 general fund obligations for school equalization aid by a like amount.

(e) The general fund money made available pursuant to subsections (4)(a), (4)(b), (4)(c), and (4)(d) for the purposes of [section 1] is appropriated in the general appropriations act."

Renumber: subsequent sections

13. Page 13, line 5.

Following: "is"

Strike: "~~[SECTIONS 1 AND 2] ARE~~"

Insert: "[Section 1] is"

14. Page 13, line 7.

Strike: "~~[SECTIONS 1 AND 2]~~"

Insert: "[section 1]"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Amendment **adopted** unanimously.

SB 267 - Senator Stapleton moved **SB 267**, as amended, do pass. Motion carried as follows:

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

Total 29

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

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 424 - Senator Nelson moved **SB 424** do pass. Motion carried unanimously.

SB 451 - Senator Esp moved **SB 451** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 38

Nays: Cooney, Elliott, Hansen, Harrington, Johnson, Mahlum, Nelson, Ryan, Schmidt, Stonington, Tester, Toole.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 323 - Senator Glaser moved **SB 323**, second reading copy, be amended as follows:

1. Title, line 6.

Following: "ENTITLEMENTS:"

Insert: "PROVIDING FOR ANNUAL INFLATION-RELATED ADJUSTMENTS TO THE BASE FUNDING PROGRAM AMOUNTS FOR SCHOOL DISTRICT BASIC ENTITLEMENTS AND PER-ANB ENTITLEMENTS;"

2. Page 1.

Following: line 29

Insert: "NEW SECTION. Section 1. Annual inflation-related adjustments to basic entitlement and per-ANB entitlements. (1) Beginning in 2006, the superintendent of public instruction shall by October 1 of each even-numbered

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

year calculate the inflation factors for the ensuing biennium as follows:

(a) for the first fiscal year of the ensuing biennium, divide the consumer price index for July of the prior calendar year by the consumer price index for July of the year prior to the prior calendar year; and

(b) for the second fiscal year of the ensuing biennium, divide the consumer price index for July of the current calendar year by the consumer price index for July of the prior calendar year.

(2) For the purposes of this section, "consumer price index" means the consumer price index, U.S. city average, all urban consumers, for all items, using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor."

Renumber: subsequent sections

3. Page 11.

Following: line 18

Insert: "NEW SECTION. **Section 6. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [section 1]."

Renumber: subsequent sections

4. Page 11, line 20.

Following: "applicability."

Insert: "(1) [Section 1] is effective July 1, 2005."

Strike: "1"

Insert: "2"

Renumber: subsequent subsections

5. Page 11, line 22.

Strike: "2"

Insert: "3"

6. Page 11, line 24.

Strike: "3, 4, and 6"

Insert: "4 through 6 and 8"

7. Page 11, line 27.

Strike: "1"

Insert: "2"

Amendment **adopted** unanimously.

SB 323 - Senator Mangan moved **SB 323**, second reading copy, be further amended as follows:

1. Title, line 8 through line 10.

Strike: "CHANGING" on line 8 through "INSURANCE;" on line 10

2. Title, line 13.

Strike: "SECTIONS"

Insert: "SECTION"

Following: ";

Insert: ","

Strike: "AND 20-9-501,"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

3. Page 5, line 25 through page 8, line 14.

Strike: section 3 in its entirety

Renumber: subsequent sections

4. Page 11, line 24.

Strike: "3, 4, AND 6"

Insert: "3 and 5"

Amendment **not adopted** as follows:

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

Total 23

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: None.

Total 0

SB 323 - Senator Mangan moved **SB 323**, second reading copy, be further amended as follows:

1. Title, line 12.

Strike: "TERMINATING" through "GRANTS;"

2. Title, line 13 through line 14.

Following: "MCA" on line 13

Strike: remainder of line 13 through "2002" on line 14

3. Page 9, line 6 through page 11, line 12.

Strike: section 4 in its entirety

Renumber: subsequent sections

4. Page 11, line 24.

Strike: "3, 4, and 6"

Insert: "3 and 5"

Amendment **not adopted** as follows:

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

Total 23

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

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 323 - Senator Esp moved **SB 323**, second reading copy, be further amended as follows:

1. Title, line 8.

Following: "YEARS;"

Insert: "PROVIDING AN ALTERNATIVE WAY TO CALCULATE ANB TO MINIMIZE THE EFFECT OF DECLINING ENROLLMENT;"

2. Page 3, line 11.

Following: "calculations"

Insert: ", using the greater of the current year ANB or 92% of the prior year ANB"

3. Page 5, line 8.

Following: "calculations"

Insert: ", using the greater of the current year ANB or 92% of the prior year ANB"

Amendment **adopted** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.

Total 37

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, Hansen, Harrington, Johnson, McCarthy, Schmidt, Shea, Squires, Toole.

Total 12

Absent or not voting: None.

Total 0

Excused: Kitzenberg.

Total 1

SB 323 - Senator Grimes moved **SB 323**, as amended, do pass. Motion carried as follows:

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

Total 26

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

Total 24

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 454 - Senator Story moved **SB 454** do pass. Motion carried unanimously.

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

REPORTS OF STANDING COMMITTEES

TAXATION (DePratu, Chairman):

3/28/2003

SB 255, introduced bill, be amended as follows:

1. Title, page 1, lines 6 and 7.

Following: line 5

Insert: "LEGISLATURE TO LIMIT INCREASES IN THE"

Strike: "TO" on line 6 through "LIMITING" on line 7

Insert: "; ALLOWING THE LIMITATION OF"

Strike: "TO 2 PERCENT" on line 7

Insert: "TO BE EITHER A FIXED PERCENTAGE"

2. Page 1, line 7 through line 11.

Strike: ", WHICHEVER" on line 7 through second "DECREASE" on line 11

3. Page 1, line 17 through line 29.

Strike: "Equalization" on line 17 through the first "the" on line 28

Insert: "The"

Strike: "provide" on line 28 through "section" on line 29

Insert: "limit increases in taxable market value or taxable value of property to the rate of inflation or by a fixed percentage"

4. Page 2, line 7 through line 8.

Strike: "acquisition" on line 7

Insert: "the legislature to limit increases in"

Strike: "valuations" on line 7 through "protection" on line 8

Insert: "purposes to the rate of inflation or a fixed percentage"

5. Page 2, line 9 through line 10.

Strike: "acquisition" on line 9

Insert: "the legislature to limit increases in"

Strike: "valuations" on line 9 through "protection" on line 10

Insert: "purposes to the rate of inflation or a fixed percentage"

And, as amended, do pass. Report adopted.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

SB 260, introduced bill, be amended as follows:

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

Strike: "ACQUISITION VALUATION OF" on line 5

Insert: "A HOMESTEAD-QUALIFIED EXEMPTION FOR"

Strike: "UPON" on line 5 through "PURPOSES" on line 6

2. Title, page 1, line 7 through line 16

Following: "IN" on line 7

Insert: "TAXABLE MARKET"

Strike: "FROM" on line 7 through the second "REAPPRAISAL" on line 16

Insert: "OF TAX RATE ADJUSTMENTS TO MITIGATE THE EFFECTS OF THE PERIODIC PROPERTY TAX REAPPRAISAL CYCLE THAT BEGINS IN 2003; PROVIDING AN EXTENSION OF DEADLINES RELATING TO PROPERTY TAXATION"

3. Title, page 1, line 17.

Following: "15-6-138,"

Insert: "15-6-143,"

Strike: "15-6-216, 15-7-102, 15-7-103,"

Strike: "15-7-112,"

4. Title, page 1, line 18 through line 19.

Strike: "15-7-113" through "15-7-201," on line 18

Insert: "AND"

Strike: "AND 77-1-208," on line 18

Following: "MCA;" on line 18

Insert: "PROVIDING A CONTINGENT VOIDNESS PROVISION;"

Strike: "EFFECTIVE" on line 18 through "PROVISION" on line 19

Insert: "A CONTINGENT DELAYED EFFECTIVE DATE"

5. Page 1, line 23 through page 32, line 27.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Homestead -- qualification. (1) "Homestead", for the purposes of property taxation, means the owner-occupied dwelling used as the primary dwelling place of the owner. The primary dwelling place is the single place where an individual has a fixed and permanent home and principal establishment and to which whenever the individual is absent the individual has the intention of returning. The homestead may be occupied by any members of the owner's household as their home. The homestead includes appurtenant or adjacent land not exceeding 5 contiguous acres owned or being purchased under contract for deed by the owner or a member or the owner's family.

(2) (a) To be qualified as a homestead, the property must have been owned by the applicant for at least 1 year. The property must have been the owner's primary dwelling place on January 1 of the year for which the application is made and for at least 7 months during the prior year.

(b) A primary dwelling that qualified as a homestead in the prior year continues to qualify as a homestead if the applicant resides in a health care facility and the applicant does not rent or lease the dwelling to others for more than 21 days a year.

(3) The owner of a homestead and other residential dwellings may elect to have the homestead qualification apply to the homestead or any one of the other residential dwellings. The homestead designation may not apply to a dwelling that the owner rents or leases to others for more than 21 days a year.

(4) (a) For the purposes of this section, a person is considered an owner if the person:

(i) is the grantor, or the person's spouse is the grantor, of a revocable or irrevocable trust owning the property

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

and is named as a beneficiary of the trust; or

(ii) is a partner of a limited partnership, a member of a limited liability company, or a shareholder of a corporation owning the property and the person holds at least a 5% ownership in the limited partnership, limited liability company, or corporation.

(b) A person claiming ownership under subsection (4)(a) shall provide the department with an affidavit setting forth the reasons the person should be considered the owner of the property, and attached to the affidavit must be copies of the appropriate trust or business entity documents indicating the legal basis person's ownership interest.

(5) (a) An owner shall apply for certification of homestead status to the department not later than a date set by the department by rule. On the application, supplied by the department, the owner shall certify that the owner is making an application for homestead certification under this section, that the dwelling is the owner's homestead, determined pursuant to in subsections (1) and (2), and that the owner has not made any other application for the exemption on any other residential property.

(b) A homestead qualification remains in effect as long as the homestead property meets the requirements of subsections (1) and (2).

(c) A homestead exemption expires when the property changes ownership, and the exemption is that percentage specified in [section 2(1)(a)(i)] until the new owner has qualified for the homestead exemption.

(6) (a) The following transactions do not constitute a change in ownership for the purposes of retaining a homestead exemption:

(i) an interspousal transfer, whether done directly or indirectly through business entities or fiduciaries, including transfers involving a deceased spouse or a former spouse due to dissolution of marriage under supervision of a court; or

(ii) the transfer, by a parent to a child or by a grandparent to a grandchild, of the homestead property.

(b) For the purposes of subsection (6)(a)(ii), the following definitions apply:

(i) "Child" means:

(A) a child born of the parent except a child who has been adopted by another person as provided in subsection (6)(b)(i)(D);

(B) a stepchild of the parent and the spouse of that stepchild while the relationship of stepparent and stepchild exists. The relationship of stepparent and stepchild is considered to exist until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) a son-in-law or daughter-in-law of the parent. The relationship of parent and son-in-law or daughter-in-law is considered to exist until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) a child adopted by the parent pursuant to statute, other than an individual adopted after reaching 18 years of age.

(ii) "Grandchild" means a child of the child of the grandparent.

(7) There is no change of ownership if subsequent to the change or transfer the same person is the owner of the homestead property and:

(a) the transfer of title is to correct an error; or

(b) the transfer is between legal and equitable title, including transactions involving contracts for deed."

Insert: "NEW SECTION. Section 2. Percentage of class four property exempt from taxation. (1) The following percentage of the market value of the following described property is exempt from taxation:

(a) for residential property that is qualified as a homestead as defined in [section 1], the exemption, which is necessary to mitigate the unpredictability of cyclical reappraisals in the interest of neighborhood preservation, continuity, and stability, is the greater of:

(i) 31%;

(ii) $(1 - (\text{prior year's taxable market value times } 1.04 \text{ divided by the current year's phase-in value})) \text{ times } 100$;

or

(iii) $(1 - (\text{prior year's taxable market value times } (1 + \text{CPI-U}) \text{ divided by the current year's phase-in value})) \text{ times } 100$, where CPI-U is the percent change in the consumer price index for all urban consumers, U.S. city average all

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

items, using the 1993 base of 100 or successor reports for the preceding calendar year as initially reported by the United States department of labor, bureau of labor statistics;

(b) for residential property as described in 15-6-134(1)(e) and (1)(f) that is not qualified as a homestead and for rental multifamily dwelling units of two or more units described in 15-6-134(1)(f)(ii), the exemption is that specified in subsection (1)(a)(i);

(c) for commercial and industrial property as described in 15-6-134(1)(g), the exemption is 13%.

(2) For the formulas in subsections (1)(a)(ii) and (1)(a)(iii), the prior year's taxable market value must be adjusted if changes in state law affect the way taxable market value is determined. The prior year's taxable market value for use with the formula must be computed using the same state law used in determining current year taxable market value."

Insert: "Section 3. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) subject to 15-6-201(1)(z) ~~and (1)(aa)~~ and subsections (1)(f) and (1)(g) of this section, all land, except that specifically included in another class;

(b) subject to 15-6-201(1)(z) ~~and (1)(aa)~~ and subsections (1)(f) and (1)(g) of this section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(c) the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than \$15,000 for a single person or \$20,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (1)(c), net business income is gross income less ordinary operating expenses ~~but before deducting depreciation or depletion allowance, or both.~~

(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(e) subject to 15-6-201(1)(z), all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

(f) (i) single-family residences, including trailers, manufactured homes, or mobile homes;

(ii) rental multifamily dwelling units;

(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and

(iv) vacant residential lots; and

(g) (i) commercial buildings and the parcels of land upon which they are situated; and

(ii) vacant commercial lots.

(2) Class four property is taxed as follows:

(a) ~~(i) Except as provided in 15-24-1402, 15-24-1501, and 15-24-1502, and subsection (2)(a)(ii) of this section,~~ property described in subsections (1)(a), (1)(b), (1)(e), (1)(f), and (1)(g) of this section is taxed at:

~~(i) 3.794%~~ 3.41% of its taxable market value in tax year ~~1999~~ 2003;

~~(ii) 3.34%~~ 3.34% of its taxable market value in tax year 2004;

~~(iii) 3.26%~~ 3.26% of its taxable market value in tax year 2005;

~~(iv) 3.18%~~ 3.18% of its taxable market value in tax year 2006;

~~(v) 3.10%~~ 3.10% of its taxable market value in tax year 2007; and

~~(vi) 3.02%~~ 3.02% of its taxable market value in tax years after 2007.

~~(ii) The taxable percentage rate in subsection (2)(a)(i) must be adjusted downward by subtracting 0.0835 percentage points each year until the tax rate is equal to or less than 3.46%.~~

(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

provided in subsection (2)(a)(iii) of its taxable market value multiplied by a percentage figure based on income and determined from the following table:

Income	Income	Percentage
Single Person	Married Couple	Multiplier
Head of Household		
\$0 - \$ 6,000	\$0 - \$8,000	20%
6,001 - 9,200	8,001 - 14,000	50%
9,201 - 15,000	14,001 - 20,000	70%

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a)(i).

(3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property."

Insert: "Section 4. 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)~~(1)(aa);

(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.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

(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, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana wage and salary income, in the last full year 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 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 Montana wage and salary income for the most current available year divided by the Montana wage and salary income for the year prior to the most current available year; and

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

(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.)"

Insert: "Section 5. Section 15-6-143, MCA, is amended to read:

"15-6-143. Class ten property -- description -- taxable percentage. (1) Class ten property includes all forest lands as defined in 15-44-102.

(2) Class ten property is taxed at ~~0.79%~~ 0.35% of its forest productivity value ~~in tax year 1999, and the rate is reduced by 0.11% each year until the property is taxed at 0.35% of its forest productivity value.~~"

Insert: "Section 6. Section 15-6-201, MCA, is amended to read:

"15-6-201. (Temporary) Exempt categories. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that is:

(i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

- (iii) not maintained and operated for private or corporate profit;
- (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;
- (f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;
- (g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;
- (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;
- (i) truck canopy covers or toppers and campers;
- (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- (k) motor homes;
- (l) all watercraft;
- (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;
- (n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;
- (o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and
 - (ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;
- (p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;
- (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.
- (r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:
 - (A) construct, repair, and maintain improvements to real property; or
 - (B) repair and maintain machinery, equipment, appliances, or other personal property;
- (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;
- (s) harness, saddlery, and other tack equipment;
- (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;
- (u) timber as defined in 15-44-102;
- (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;
- (w) all vehicles registered under 61-3-456;
- (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and
 - (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

- (y) motorcycles and quadricycles;
- (z) the following percentage of the market value of residential class four property as described in 15-6-134(1)(e) and (1)(f) as determined under [section 2]:
 - ~~(i) 23% for tax year 2000;~~
 - ~~(ii) 27.5% for tax year 2001; and~~
 - ~~(iii) 31% for tax year 2002 and succeeding tax years;~~
 - (aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):
 - ~~(i) 9% for tax year 2000; and~~
 - ~~(ii) 11% for tax year 2001; and~~
 - ~~(iii) 13% for tax year 2002 and succeeding tax years;~~
 - ~~(bb)~~(aa) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;
 - ~~(cc)~~(bb) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:
 - (i) the acquired cost of the personal property is less than \$15,000;
 - (ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and
 - (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;
 - ~~(dd)~~(cc) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion of construction of the manufacturing facility; and
 - ~~(ee)~~(dd) light vehicles as defined in 61-1-139.
- (2) (a) For the purposes of subsection (1)(e):
 - (i) the term "institutions of purely public charity" includes any organization that meets the following requirements:
 - (A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.
 - (B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.
 - (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.
- (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:
 - (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
 - (ii) held for future display; or
 - (iii) used to house or store a public display.
- (3) For the purposes of subsection ~~(1)(bb)~~ (1)(aa):
 - (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

15-6-201. (Effective on occurrence of contingency) Exempt categories. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that is:

(i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) not maintained and operated for private or corporate profit;

(e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) truck canopy covers or toppers and campers;

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes;

(l) all watercraft;

(m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(A) construct, repair, and maintain improvements to real property; or

(B) repair and maintain machinery, equipment, appliances, or other personal property;

(ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) timber as defined in 15-44-102;

(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

(y) motorcycles and quadricycles;

(z) the following percentage of the market value of residential class four property as described in 15-6-134(1)(e) and (1)(f) as determined under [section 2]:

~~(i) 23% for tax year 2000;~~

~~_____ (ii) 27.5% for tax year 2001; and~~

~~_____ (iii) 31% for tax year 2002 and succeeding tax years;~~

~~_____ (aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):~~

~~_____ (i) 9% for tax year 2000; and~~

~~_____ (ii) 11% for tax year 2001; and~~

~~_____ (iii) 13% for tax year 2002 and succeeding tax years;~~

~~(bb)(aa)~~ personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;

~~(cc)(bb)~~ items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(i) the acquired cost of the personal property is less than \$15,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;

~~(dd)~~(cc) all agricultural implements and equipment;

~~(ee)~~(dd) all mining machinery, fixtures, equipment, tools, and supplies except those included in class five;

~~(ff)~~(ee) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;

~~(gg)~~(ff) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

~~(hh)~~(gg) special mobile equipment as defined in 61-1-104;

~~(ii)~~(hh) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

~~(jj)~~(ii) x-ray and medical and dental equipment;

~~(kk)~~(jj) citizens' band radios and mobile telephones;

~~(ll)~~(kk) radio and television broadcasting and transmitting equipment;

~~(mm)~~(ll) cable television systems;

~~(nn)~~(mm) coal and ore haulers;

~~(oo)~~(nn) theater projectors and sound equipment; and

~~(pp)~~(oo) light vehicles as defined in 61-1-139.

(2) (a) For the purposes of subsection (1)(e):

(i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(3) For the purposes of subsection ~~(+)(bb)~~ (1)(aa):

(a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

- (a) \$20,000 in the case of a single-family residential dwelling;
- (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Insert: "Section 7. Section 15-7-111, MCA, is amended to read:

"15-7-111. Periodic revaluation of certain taxable property. (1) The department shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. All other property must be revalued annually. ~~The revaluation of class three, four, and ten property is complete on December 31, 1996. The amount of the change in valuation from the 1996 base year for each property in classes three, four, and ten must be phased in each year at the rate of 25% of the change in valuation from December 31, 1998, to the appropriate percentage of taxable market value for each class.~~

(2) The department shall value and phase in the value of newly constructed, remodeled, or reclassified property in a manner consistent with the valuation within the same class and the values established pursuant to subsection (1). The department shall adopt rules for determining the assessed valuation and phased-in value of new, remodeled, or reclassified property within the same class.

(3) ~~Beginning January 1, 2001, the~~ The department of revenue shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all class three, four, and ten property in each county is revalued by January 1, 2003, and each succeeding 6 years. The resulting valuation changes must be phased in for each year until the next reappraisal. If a percentage of change for each year is not established, then the percentage of phase in for each year is 16.66%. ~~The department shall furnish a copy of the plan and all amendments to the plan to the board of county commissioners of each county."~~

Insert: "Section 8. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) If the department uses the capitalization of net income method as one approximation of market value and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely upon the two methods that provide a similar market value as the better indicators of market value.

(d) Except as provided in subsection (3), the market value of special mobile equipment and agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides and manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the wholesale value for agricultural implements and machinery is the average wholesale value category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the department shall use a comparable publication or wholesale value category.

(b) for agricultural implements and machinery not listed in an official guide, the department shall prepare a supplemental manual in which the values reflect the same depreciation as those found in the official guide; and

(c) as otherwise authorized in Titles 15 and 61.

(4) For purposes of taxation, assessed value is the same as appraised value.

(5) The taxable value for all property is the percentage of market or assessed value established for each class

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

of property.

(6) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515, 15-23-516, 15-23-517, or 15-23-518.

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value minus any portion of market value that is exempt from taxation under 15-6-201(1)(z) ~~and (1)(aa)~~.

(e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described in 15-23-205.

(7) Land and the improvements on the land are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town."

Insert: "NEW SECTION. Section 9. Extension of 2003 deadlines relating to property taxation. As a result of the change in the phase in of reappraisal for class three, four, and ten property and the requirement to determine owner-occupied property for the purpose of determining eligibility for the homestead exemption enacted by the 58th legislature, it may not be possible to comply with certain statutory deadlines relating to appraisals, assessments, reimbursements, budgets, and collection of property taxes. The state appraisal and assessment process may be delayed, which in turn may cause delays for the tax appeal boards and local government taxing jurisdiction budgeting and collection processes. Therefore, for tax year 2003, all deadlines are extended as necessary and reasonable, except that the time limits allowed for filing an appeal remain the same as provided by law in order to allow for the orderly and efficient assessment and collection of taxes."

NEW SECTION. Section 10. Interim property tax reappraisal study. (1) There is an interim property tax reappraisal study committee created to study the effects of cyclical reappraisal and methods for mitigating the changes in taxable value caused by cyclical reappraisal.

(2) The committee is composed of four senators, two from each political party, appointed by the committee on committees, and four representatives, two appointed by the speaker and two appointed by the minority leader.

(3) The committee is attached for administrative purposes only to the department of revenue to be staffed by the executive branch with the cooperation of the staff of the legislative branch.

Insert: "NEW SECTION. Section 11. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [sections 1 and 2]."

Insert: "NEW SECTION. Section 12. Contingent voidness. (1) The amendments to [section 3(2) of this act], amending 15-6-134(2), are void if Senate Bill No. 461 or any other bill is passed and approved and amends the tax rates in 15-6-134 to mitigate the effects of property tax reappraisal.

(2) If Senate Bill No. 255 is not passed and approved, [this act] is void."

Insert: "NEW SECTION. Section 13. Effective date -- contingency. [This act] is effective on January 1, 2005, if Senate Bill No. 255 is approved by the electorate at the general election to be held in November 2004."

And, as amended, do pass. Report adopted.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

SB 461, introduced bill, be amended as follows:

1. Title, page 1, line 5 through line 7.

Strike: "PROVIDING" on line 5 through "DWELLINGS;" on line 7

2. Title, page 1, line 9 and line 10.

Strike: "CERTAIN" on line 9 through "HOMESTEADS" on line 10

Insert: "RESIDENCES"

3. Title, page 1, line 11 through line 12.

Following: "ESTABLISHING" on line 11

Strike: "A"

Strike: "SCHEDULE" on line 11 through "OTHER" on line 12

Insert: "RATES FOR"

Strike: ", RENTAL MULTIFAMILY DWELLINGS," on line 12

4. Title, page 1, line 15.

Strike: "15-6-138,"

Following: "15-6-201,"

Insert: "AND"

Strike: "AND 15-8-111,"

5. Page 1, line 20 through page 2, line 5.

Strike: section 1 in its entirety

Renumber: subsequent subsections

6. Page 2, line 9.

Strike: "homestead"

Strike: "property"

Insert: "dwellings and appurtenant land not to exceed 5 acres"

7. Page 2, line 10.

Strike: "occupied by households"

Insert: "with owners"

8. Page 3, line 11.

Following: "expenses."

Insert: "For single-family rental dwellings, the total household income is the owner's income."

9. Page 5, line 1 through page 6, line 3.

Strike: section 3 in its entirety

Renumber: subsequent sections

10. Page 6, line 7.

Following: "~~(1)(aa)~~"

Insert: "and (1)(aa)"

11. Page 6, line 9.

Following: "~~(1)(aa)~~"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

Insert: "and (1)(aa)"

12. Page 6, line 25 through line 26.

Strike: "that are not homestead residences"

13. Page 7, line 4.

Strike: "[section 3]."

14. Page 7, line 7.

Strike: "3.38%"

Insert: "3.40%"

15. Page 7, line 12.

Strike: "3%"

Insert: "3.01%"

16. Page 8, line 8 through page 9, line 28.

Strike: section 5 in its entirety

Renumber: subsequent sections

17. Page 12, line 18.

Following: "following"

Insert: "following"

Strike: "class four"

Insert: "residential"

18. Page 12, line 19.

Strike: "15-6-134"

Following: "(1)(f)"

Strike: "as provided in [section 3];"

Insert: "15-6-134(1)(e) and (1)(f):"

19. Page 12.

Following: line 26

Insert: "(i) 31% for tax year 2003;

(ii) 31.4% for tax year 2004;

(iii) 32% for tax year 2005;

(iv) 32.6% for tax year 2006;

(v) 33.2% for tax year 2007;

(vi) 34% for tax year 2008 and succeeding tax years;

(aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):

(i) 13% for tax year 2003;

(ii) 13.3% for tax year 2004;

(iii) 13.8% for tax year 2005;

(iv) 14.2% for tax year 2006;

(v) 14.6% for tax year 2007;

(vi) 15% for tax year 2008 and succeeding tax years;"

Renumber: subsequent subsections

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

20. Page 14, line 4.

Strike: "~~(1)(aa)~~"

Insert: "(1)(bb)"

21. Page 17, line 4.

Following: "following"

Insert: "following"

Strike: "~~class four~~"

Insert: "residential"

22. Page 17, line 5.

Strike: "15-6-134"

Following: "~~(1)(f)~~"

Strike: "~~as provided in [section 3];~~"

Insert: "15-6-134(1)(e) and (1)(f)"

23. Page 17.

Following: line 12

Insert: "(i) 31% for tax year 2003;

(ii) 31.4% for tax year 2004;

(iii) 32% for tax year 2005;

(iv) 32.6% for tax year 2006;

(v) 33.2% for tax year 2007;

(vi) 34% for tax year 2008 and succeeding tax years;

(aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):

(i) 13% for tax year 2003;

(ii) 13.3% for tax year 2004;

(iii) 13.8% for tax year 2005;

(iv) 14.2% for tax year 2006;

(v) 14.6% for tax year 2007;

(vi) 15% for tax year 2008 and succeeding tax years;"

Renumber: subsequent subsections

24. Page 19, line 3.

Strike: "~~(1)(aa)~~"

Insert: "(1)(bb)"

25. Page 20, line 1.

Strike: "2003"

Insert: "2008, effective for January 1, 2009"

26. Page 20, line 7 through page 21, line 25.

Strike: section 8 in its entirety

Renumber: subsequent sections

27. Page 22, line 5.

Insert: "NEW SECTION. Section 6. Interim property tax reappraisal study. (1) There is an interim property tax reappraisal study committee created to study the effects of cyclical reappraisal and methods for mitigating the changes in taxable value caused by cyclical reappraisal.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 28, 2003

(2) The committee is composed of four senators, two from each political party, appointed by the committee on committees, and four representatives, two appointed by the speaker and two appointed by the minority leader.

(3) The committee is attached for administrative purposes only to the department of revenue to be staffed by the executive branch with the cooperation of the staff of the legislative branch."

Renumber: subsequent sections

28. Page 22, line 6 through line 8.

Strike: subsection (1) in its entirety

29. Page 22, line 9.

Strike: "(2)"

Strike: "2"

Insert: "1"

30. Page 22, line 10.

Strike: "2"

Insert: "1"

And, as amended, do pass. Report adopted.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Saturday, March 29, 2003. Motion carried.

Senate adjourned at 7:37 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate