

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

Helena, Montana
April 1, 2003

Senate Chambers
State Capitol

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

Roll Call. All members present. Quorum present.

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

REPORTS OF STANDING COMMITTEES

BUSINESS AND LABOR (Mahlum, Chairman):
HB 640, be amended as follows:

4/1/2003

1. Title, line 6.

Strike: "MUNICIPALITY"

Insert: "CITY OR TOWN"

2. Title, line 7.

Following: "CODES;"

Insert: "REVISING DEFINITIONS AND THE USE OF DEFINED TERMS; PROVIDING A TRANSITION PERIOD CONCERNING JURISDICTION;"

Following: "13-19-106,"

Insert: "50-3-103,"

Strike: "50-60-310, AND 50-60-311,"

Insert: "50-60-102, 50-60-106, 50-60-107, 50-60-109, 50-60-110, 50-60-115, 50-60-118, 50-60-205, 50-60-211, 50-60-212, 50-60-213, 50-60-301, 50-60-302, 50-60-303, 50-60-404, 50-60-506, 50-60-510, 50-60-604, 50-60-605, AND 50-60-607,"

3. Title, lines 8 and 9.

Following: "SECTIONS" on line 8

Insert: "50-60-310, 50-60-311,"

Following: "PROVIDING" on line 8

Strike: remainder of line 8 through "IMMEDIATE" on line 9

Following: "EFFECTIVE"

Strike: remainder of line 9 through "APPLICABILITY DATE"

Insert: "DATES"

4. Page 2, line 8.

Insert: "**Section 2.** Section 50-3-103, MCA, is amended to read:

"50-3-103. Rules promulgated by department. (1) Rules promulgated by the department by authority of 50-3-102 must be reasonable and calculated to effect the purposes of this chapter. The rules must include but are not limited to requirements for:

(a) design, construction, installation, operation, storage, handling, maintenance, or use of structural requirements for various types of construction;

(b) building restrictions within congested districts;

(c) exit facilities from structures;

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- (d) fire extinguishers, fire alarm systems, and fire extinguishing systems;
- (e) fire emergency drills;
- (f) flue and chimney construction;
- (g) heating devices;
- (h) electrical wiring and equipment;
- (i) air conditioning, ventilating, and other duct systems;
- (j) refrigeration systems;
- (k) flammable liquids;
- (l) oil and gas wells;
- (m) application of flammable finishes;
- (n) explosives, acetylene, liquefied petroleum gas, and similar products;
- (o) calcium carbide and acetylene generators;
- (p) flammable motion picture film;
- (q) combustible fibers;
- (r) hazardous chemicals or materials;
- (s) rubbish;
- (t) open-flame devices;
- (u) parking of vehicles;
- (v) dust explosions;
- (w) lightning protection;
- (x) storage of smokeless powder and small arms primers; and
- (y) other special fire hazards.

(2) If rules relate to building and equipment standards covered by the state building code or a ~~municipal county~~, city, or town building code, the rules are effective upon approval of the department of labor and industry and filing with the secretary of state.

(3) Federal or other nationally recognized standards for fire protection may be adopted in whole or in part by reference.

(4) Rules must be adopted as prescribed in the Montana Administrative Procedure Act.

(5) Rules promulgated by the department may not prevent the installation of an aboveground storage tank in a community, city, or town with a population of 1,500 or less if the tank is installed in conformance with all other applicable laws and regulations.

(6) Rules promulgated by the department may not require diked areas or heat-actuated or other shutoff devices for storage tanks containing class I or class II liquids, as defined in the uniform fire code, intended only for private use on farms and ranches.

(7) A person violating any rule made under the provisions of this part is guilty of a misdemeanor.""

Renumber: subsequent sections

5. Page 2, line 22.

Following: line 21

Insert: "(4) "City or town" means an incorporated city or town as provided for in Title 7, chapter 2, part 41."

Renumber: subsequent subsections

6. Page 2, line 27 through line 29.

Strike: subsection (6) in its entirety

Renumber: subsequent sections

7. Page 3, line 9.

Strike: "municipality"

Insert: "county, city, or town"

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8. Page 3, line 13.

Strike: "municipality"

Insert: "county, city, or town"

9. Page 3, lines 14 and 15.

Strike: subsections (12) and (13) in their entirety

Renumber: subsequent subsections

10. Page 4, line 11 through page 5, line 15.

Strike: sections 3 and 4 in their entirety

Insert: "**Section 4.** Section 50-60-102, MCA, is amended to read:

"50-60-102. Applicability. (1) Except as provided in subsection (5), the state building code, as defined in 50-60-203(3), does not apply to:

(a) residential buildings containing less than five dwelling units or their attached-to structures, any farm or ranch building of any size, and any private garage or private storage structure of any size used only for the owner's own use, located within ~~the municipality's or county's jurisdictional area~~ a county, city, or town, unless the local legislative body ~~or board of county commissioners~~ by ordinance or resolution makes the state building code applicable to these structures;

(b) mines and buildings on mine property regulated under Title 82, chapter 4, and subject to inspection under the Federal Mine Safety and Health Act;

(c) petroleum refineries and pulp and paper mills, except a structure classified under chapter 7, section 701, group B, division 2, and chapter 9, section 901, group H, outside of process units, of the 1991 edition of the Uniform Building Code; or

(d) industrial process piping, vessels, and equipment and process-related structures located outside of another structure occupied on a regular basis by employees or the public.

(2) Except as provided in subsection (5), the state may not enforce the state building code under 50-60-205 for the buildings referred to in subsection (1). ~~Local governments~~ A county, city, or town that ~~have~~ has made the state building code applicable to the buildings referred to in subsection (1) may enforce within ~~their jurisdictional areas~~ the area of its jurisdiction the state building code as adopted by the ~~respective local government~~ county, city, or town.

(3) When good and sufficient cause exists, a written request for limitation of the state building code may be filed with the department for filing as a permanent record.

(4) The department may limit the application of any rule or portion of the state building code to include or exclude:

(a) specified classes or types of buildings according to use or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable;

(b) specified areas of the state based on size, population density, special conditions prevailing in the area, or other factors that make differentiation or separate classification or regulation necessary, proper, or desirable.

(5) (a) For purposes of promoting the energy efficiency of home design and operation, the provisions of the state building code relating to energy conservation adopted pursuant to 50-60-203(1) apply to residential buildings, except:

(i) farm and ranch buildings; and

(ii) any private garage or private storage structure attached to a residential building and used only for the owner's own use.

(b) The provisions of the state building code relating to energy conservation in residential buildings are enforceable:

(i) by the department only for those residential buildings containing five or more dwelling units or otherwise subject to the state building code; and

(ii) through the builder self-certification program provided for in 50-60-802 for those residential buildings containing less than five dwelling units and not otherwise subject to the state building code."

Insert: "**Section 5.** Section 50-60-106, MCA, is amended to read:

"50-60-106. Powers and duties of municipalities counties, cities, and towns. (1) The examination, approval,

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or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the ~~municipal jurisdictional area~~ limits of a city or town are the responsibility of the ~~municipalities~~ city or town of the state. The examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the portion of a county that is covered by a county building code are the responsibility of the county.

(2) Each ~~municipality or county,~~ city, or town certified under 50-60-302 shall, within its jurisdictional area:

(a) examine, approve, or disapprove plans and specifications for the construction of any building, the construction of which is pursuant or purports to be pursuant to the applicable provisions of the state building code or ~~municipal~~ county, city, or town building code, and direct the inspection of the buildings during and in the course of construction;

(b) require that construction of buildings be in accordance with the applicable provisions of the state building code or ~~municipal~~ county, city, or town building code, subject to the powers of variance or modification granted to the department;

(c) make available to building contractors at a price that is commensurate with reproduction costs a checklist devised by the department pursuant to 50-60-118 for single-family dwellings and provide to contractors who attach a completed checklist to the plans submitted for examination the relevant building permit or notice of plan disapproval within 10 working days of the contractor's submission;

(d) during and in the course of construction, order in writing the remedying of any condition found to exist in, on, or about any building that is being constructed in violation of the ~~applicable~~ state building code or ~~municipal~~ county, city, or town building code. Orders may be served upon the owner or the owner's authorized agent personally or by sending by certified mail a copy of the order to the owner or the owner's authorized agent at the address set forth in the application for permission for the construction of the building. A local building department, by action of an authorized officer, may grant in writing time as may be reasonably necessary for achieving compliance with the order. For the purposes of this subsection (2)(d), the phrase "during and in the course of construction" refers to the construction of a building until all necessary building permits have been obtained and the municipality or county has issued formal written approvals or has issued a certificate of occupancy for the building.

(e) issue certificates of occupancy as provided in 50-60-107;

(f) issue permits, licenses, and other required documents in connection with the construction of a building;

(g) ensure that all construction-related fees or charges imposed and collected by the municipality or county are necessary, reasonable, and uniform and are:

(i) except as provided in subsection (2)(g)(iii), used only for building code enforcement, which consists of those necessary and reasonable costs directly and specifically identifiable for the enforcement of building codes, plus indirect costs charged on the same basis as other local government proprietary funds not paying administrative charges as direct charges. If indirect costs are waived for any local government proprietary fund, they must also be waived for the program established in this section. Indirect charges are limited to the charges that are allowed under federal cost accounting principles that are applicable to a local government.

(ii) reduced if the amount of the fees or charges accumulates above the amount needed to enforce building codes for 12 months. The excess must be placed in a reserve account and may only be used for building code enforcement. Collection and expenditure of fees and charges must be fully documented.

(iii) allocated and remitted to the department, in an amount not to exceed 0.5% of the building fees or charges collected, for the building codes education program established in 50-60-116.

(3) Each ~~municipality or county~~ county, city, or town with a building code enforcement program that has been certified under 50-60-302 may, within its ~~jurisdictional~~ the area of its jurisdiction:

(a) make, amend, and repeal rules for the administration and enforcement of the provisions of this section and for the collection of fees and charges related to construction;

(b) prohibit the commencement of construction until a permit has been issued by the local building department after a showing of compliance with the requirements of the applicable provisions of the state building code or ~~municipal~~

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county, city, or town building code; and

(c) enter into a private contract with the owner or builder of a building that is not or will not be within the jurisdiction of the ~~municipality~~ or county, city, or town under which the ~~municipality~~ or county, city, or town will provide reviews, inspections, orders, and certificates of occupancy for a fee and under conditions agreed upon by the parties. ~~Municipal or county~~ County, city, or town powers of enforcement may not be exercised."

Insert: "Section 6. Section 50-60-107, MCA, is amended to read:

"50-60-107. Certificate of occupancy. (1) A certificate of occupancy for a building constructed in accordance with the provisions of the state building code or municipal county, city, or town building code ~~shall~~ must certify that the building conforms to the requirements of the building regulations applicable to it.

(2) Every certificate of occupancy, unless and until set aside or vacated by a court of competent jurisdiction, is binding and conclusive upon all municipal county, city, or town agencies as to all matters set forth, and ~~no an~~ order, directive, or requirement at variance ~~therewith~~ with the certificate of occupancy may not be made or issued by any other state agency or municipal county, city, or town agency."

Insert: "Section 7. Section 50-60-109, MCA, is amended to read:

"50-60-109. Injunctions authorized. (1) The construction or use of the building in violation of any provision of the state building code or municipal county, city, or town building code or any lawful order of a state building official or a local building department may be enjoined by a judge of the district court in the judicial district in which the building is located.

(2) This section ~~will be~~ is governed by the Montana Rules of Civil Procedure."

Insert: "Section 8. Section 50-60-110, MCA, is amended to read:

"50-60-110. Violation a misdemeanor. Any person served with an order pursuant to the provisions of parts 1 through 4 who fails to comply with the order not later than 30 days after service or within the time fixed by the department or a local building department for compliance, whichever is the greater, or any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent, their agents, or any person taking part or assisting in the construction or use of any building who knowingly violates any of the applicable provisions of the state building code or a ~~municipal county, city, or town~~ building code is guilty of a misdemeanor."

Insert: "Section 9. Section 50-60-115, MCA, is amended to read:

"50-60-115. Building codes council -- purpose and structure. (1) There is a building codes council for the purpose of assisting the department with the application, implementation, and interpretation of the state building code and building codes adopted by ~~local governments~~ counties, cities, or towns. The council shall work cooperatively with the department and with representatives of the construction industry, as well as members of the interested public, to harmonize building codes and related rules with both the needs of the construction industry and the public interest in efficiency, cost-effectiveness, and safety.

(2) The council consists of 11 members appointed by the governor, unless otherwise specified, as follows:

- (a) a practicing architect licensed in Montana;
- (b) a practicing professional engineer licensed in Montana;
- (c) a representative from the building contractor industry;
- (d) a municipal county, city, or town building inspector;
- (e) a representative of the manufactured housing industry;
- (f) a member of the general public who does not hold public office and who does not represent the same industry or agency as another council member;
- (g) the director of the department of health and human services or the director's designee;
- (h) a licensed electrician selected by the board of electricians;
- (i) a licensed plumber selected by the board of plumbers;
- (j) the state fire marshal or the fire marshal's designee; and
- (k) a representative of the home building industry.

(3) The appointed council members serve at the pleasure of the governor for terms of 3 years.

(4) The council is allocated to the department for administrative purposes only as provided in 2-15-121.

(5) The council and its members are entitled to compensation as provided in 2-15-122."

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Insert: "Section 10. Section 50-60-118, MCA, is amended to read:

"50-60-118. Examination of single-family dwelling plans -- statewide approval for model plans -- fee adjustments -- mandatory checklist. (1) The department shall accept for examination and approval or disapproval all model construction plans for single-family dwellings submitted to the department.

(2) Once a model construction plan has been approved, the department shall indicate in writing on the approved plan that the plan is acceptable on a statewide basis and that no further examination is warranted except with respect to:

- (a) zoning;
- (b) footings, foundations, and basements;
- (c) curbs;
- (d) gutters;
- (e) landscaping;
- (f) utility connections;
- (g) street requirements;
- (h) sidewalks; and
- (i) other requirements specifically related to the exterior of the building.

(3) Local building departments shall reduce plan examination fees commensurate with the reduced time and effort expended resulting from the department's examination provided for in subsection (1).

(4) This section may not be construed to reduce the requirements for obtaining permits for onsite inspection of the residence under construction pursuant to 50-60-106.

(5) (a) The department shall devise a checklist for the examination of single-family dwelling construction plans by the department and by the building code enforcement officials of ~~municipalities and counties~~, cities, and towns.

(b) The checklist must be based upon the most recently adopted edition of the council of American building officials One and Two Family Dwelling Code, as amended.

(c) The checklist is subject to review and amendment by the building codes council provided for in 50-60-115.

(d) The checklist must be made available to building contractors at a price that is commensurate with reproduction costs, and a building contractor who uses the checklist and attaches it to the plans that the contractor submits to the department or a ~~municipality or county~~, city, or town for examination is entitled to receive the relevant building permit or notice of disapproval within 10 days of submission of the completed checklist."

Insert: "Section 11. Section 50-60-205, MCA, is amended to read:

"50-60-205. When state building code applies -- health care facility and public health center doors. (1) If a ~~municipality or county~~, city, or town does not adopt a building code as provided in 50-60-301, the state building code applies within the ~~municipal or county, city, or town jurisdictional area~~ and the state will enforce the code in these areas.

(2) Any provision of a building code requiring the installation or maintenance of self-closing or automatic closing corridor doors to patient rooms does not apply to health care facilities as defined in 50-5-101 or to a public health center as defined in 7-34-2102."

Insert: "Section 12. Section 50-60-211, MCA, is amended to read:

"50-60-211. Inspections. (1) The construction of a public building or alteration to a primary function area of a public building must be inspected for physical accessibility to persons with disabilities.

(2) The inspection must include the building site, including applicable exterior features, such as parking areas, passenger loading zones, private sidewalks, and the accessibility from adjacent public sidewalks, public streets, and public transportation stops.

(3) (a) The inspections must be completed by state building inspectors in areas not covered by a ~~municipal or county, city, or town~~ building code.

(b) (i) ~~Municipalities and counties~~ Counties, cities, and towns that have adopted a building code may assign appropriately trained personnel to perform site inspections conducted pursuant to this part.

(ii) ~~Municipalities and counties~~ Counties, cities, and towns conducting inspections pursuant to this section must have an enforcement mechanism in place to ensure compliance with the accessibility provisions of this part, including but not limited to denying building permits or certificates of occupancy, injunctions, or other civil enforcement procedures allowed by law.

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(4) Existing public buildings that are not undergoing an alteration to a primary function area are not subject to the inspection provisions of this section."

Insert: "Section 13. Section 50-60-212, MCA, is amended to read:

"50-60-212. Disclaimer. A building permit or certificate of occupancy issued by the state or by a ~~municipality~~ or county, city, or town must contain a statement that reads: "Compliance with the requirements of the state building code for physical accessibility to persons with disabilities does not necessarily guarantee compliance with the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the Fair Housing Amendments Act of 1988, Title 49, chapter 2, commonly known as the Montana Human Rights Act, or other similar federal, state, or local laws that mandate accessibility to commercial construction or multifamily housing.""

Insert: "Section 14. Section 50-60-213, MCA, is amended to read:

"50-60-213. Accessible exterior routes -- exceptions. (1) Except as provided in subsection (6), for a public building, an accessible exterior route must be provided from public transportation stops located within the boundary of the building site, from accessible parking and accessible passenger loading zones within the boundaries of the building site, and from public sidewalks that are immediately adjacent to the building site, if sidewalks exist, to the building's accessible entrance served by the transportation stops, parking and loading zones, or sidewalks.

(2) (a) When more than one public building is located on a site, at least one accessible exterior route must connect accessible elements, facilities, and buildings that are on the site.

(b) For the purposes of 50-60-214 and this section, "element" means an architectural or mechanical component of a public building, facility, space, or site and includes but is not limited to telephones, curb ramps, doors, drinking fountains, seating, and water closets.

(3) An accessible exterior route between accessible public parking and an accessible building entrance must be the most practical direct route.

(4) (a) A person or entity constructing a public building is not required to fully comply with the provisions of this section if the person can demonstrate that due to characteristics of the terrain, it is structurally impractical to fully comply.

(b) Full compliance may be considered structurally impractical only in those rare circumstances when the unique characteristics of the terrain prevent the incorporation of accessibility features.

(c) The person or entity shall comply with the provisions of this section to the extent that compliance is not structurally impractical.

(d) The department shall adopt rules to assist all interested parties involved in the design, construction, and inspection processes in determining structural impracticality.

(5) (a) If a paved parking lot is not planned or present for a public building, a person or entity constructing the public building is not required to pave the entire lot, unless otherwise required by law, ordinance, or applicable building code, but shall provide pavement or a similarly firm, stable, and slip-resistant surface for parking spaces designated for persons with disabilities.

(b) An accessible exterior route with a suitably firm, stable, and slip-resistant surface must be provided from the designated parking spaces to an accessible building or facility entrance.

(c) The total number of designated accessible parking spaces in a parking lot or area must be the number provided for in the applicable state building code or ~~local government~~ county, city, or town building code.

(6) An accessible route is not required in cases where there is not a pedestrian route for the general public.

(7) The state, ~~municipalities, and~~ counties, cities, and towns shall use the same accessibility standards."

Insert: "Section 15. Section 50-60-301, MCA, is amended to read:

"50-60-301. ~~Municipal and county~~ County, city, and town building codes authorized -- health care facility and public health center doors -- fee adjustment for model plans. (1) The local legislative body of a ~~municipality~~ or county, city, or town may adopt a building code to apply to the ~~municipal~~ or county, city, or town ~~jurisdictional area~~ by an ordinance or resolution, as appropriate:

(a) adopting a building code; or

(b) authorizing the adoption of a building code by administrative action.

(2) A ~~municipal~~ or county, city, or town building code may include only codes adopted by the department.

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(3) Any provision of a building code requiring the installation or maintenance of self-closing or automatic closing corridor doors to patient rooms does not apply to health care facilities, as defined in 50-5-101, or to a public health center, as defined in 7-34-2102.

(4) (a) When the same single-family dwelling plan is constructed at more than one site, the ~~municipality or county, city, or town~~ shall, after the first examination of the plan, adjust the required plan fee to reflect only the cost of reviewing requirements pertaining to the review of:

- (i) zoning;
- (ii) footings, foundations, and basements;
- (iii) curbs;
- (iv) gutters;
- (v) landscaping;
- (vi) utility connections;
- (vii) street requirements;
- (viii) sidewalks; and
- (ix) other requirements related specifically to the exterior of the building.

(b) If a building contractor alters the single-family dwelling plan referred to in subsection (4)(a) in a fashion that substantially affects the building code requirements, the ~~municipality or county, city, or town~~ may impose the full examination fee permitted under 50-60-106."

Insert: "Section 16. Section 50-60-302, MCA, is amended to read:

"50-60-302. Certification of ~~municipal and county, city, or town~~ building codes. (1) A county, ~~or municipality~~ city, or town may not enforce a building code unless:

(a) the code enforcement program has been certified by the department as in compliance with applicable statutes and department certification rules;

(b) the current adopted code, a current list of fees to be imposed, and a current plan for enforcement of the code have been filed with and approved by the department; and

(c) all inspectors inspecting or approving any installations, which if accomplished commercially require state licensure, must themselves be properly and currently state-licensed as journeymen in that craft or occupation or be certified by a nationally recognized entity for testing and certification of inspectors that is approved by the department before being permitted to inspect or approve any installations.

(2) The department shall adopt additional rules and standards governing the certification of ~~municipal and county, city, and town~~ building code enforcement programs that must include provisions for prompt revocation of certification for refusal or failure to comply with any applicable statute or rule. The department may allow a county, ~~or municipality~~ city, or town a reasonable amount of time, not to exceed 6 months, to correct identified code enforcement program deficiencies, unless the deficiencies constitute an immediate threat to the public health, safety, or welfare, in which case the department may require immediate correction. Failure to correct deficiencies within the time set by the department constitutes a basis for immediate decertification of the code enforcement program. Continued operation of a county, ~~or municipal~~ city, or town code enforcement program in violation of a department order to correct deficiencies may be enjoined or subject to a writ of mandamus by a judge of the district court in the jurisdiction in which the county, ~~or municipality~~ city, or town is located. The rules and standards must include provisions for the department to ensure that all code enforcement program functions are being properly performed.

(3) If the certification of any local government code enforcement program is revoked for any violation or deficiency, the state resumes its original jurisdiction for state building code enforcement within the ~~municipal or county, city, or town~~ area and the local government retains the responsibility for completion of inspections and issuance of certificates of occupancy on any incomplete construction projects previously permitted by the ~~local government~~ county, city, or town, unless the reason for the decertification is directly related to the protection of health, safety, and welfare of the public.

(4) If a ~~local government~~ county, city, or town voluntarily decertifies its code enforcement program, the department must be given written notification of the intended decertification at least 90 days prior to the date of decertification. The ~~local government~~ county, city, or town retains the responsibility for completion of inspections and

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issuance of certificates of occupancy on any incomplete construction projects permitted by the ~~local government~~ county, city, or town prior to decertifying its code enforcement program."

Insert: "Section 17. Section 50-60-303, MCA, is amended to read:

"50-60-303. Municipal and county ~~County, city, or town~~ appeal procedure. (1) If a ~~municipality or county,~~ city, or town adopts a building code, it shall also establish an appeal procedure by ordinance or resolution, as appropriate, that is acceptable to the department.

(2) If a ~~municipality or county,~~ city, or town does not adopt a code, appeals on the application of the state building code within the ~~municipal or county,~~ city, or town jurisdictional area must be made to the department."

Insert: "Section 18. Section 50-60-404, MCA, is amended to read:

"50-60-404. Enforcement of building construction standards for modular homes. (1) The provisions of this chapter apply to factory-built modular or prebuilt homes or buildings.

(2) A ~~municipality~~ county, city, or town may regulate the construction of factory-built modular or prebuilt homes or buildings as provided in 50-60-106 if:

(a) the homes or buildings are constructed inside the jurisdiction of the ~~municipality~~ county, city, or town;

(b) the homes or buildings are sold primarily to persons in the county in which the factory is located;

(c) the factory does not manufacture more than 100 homes or buildings a year; and

(d) the ~~municipality~~ county, city, or town has an agency or officer assigned to inspect and enforce building construction standards.

(3) Inspection and enforcement approval given by a ~~municipality~~ county, city, or town under this section may be recognized and accepted by any other ~~municipality~~ county, city, or town of the state to which the factory-built home or building is transported for final installation. Additional inspections need not be conducted."

Insert: "Section 19. Section 50-60-506, MCA, is amended to read:

"50-60-506. Exceptions to permit requirement. (1) ~~No~~ A permit is not required for any minor replacement or repair work, the performance of which does not have a significant potential for creating a condition hazardous to public health and safety.

(2) ~~No~~ A permit is not required where the installation is exempt under the provisions of 37-69-102 or 50-60-503.

(3) ~~No~~ A state permit is required whenever the installation occurs in an area governed by a ~~municipality~~ county, city, or town and where there is in effect a ~~municipal~~ county, city, or town building code ~~which that~~ covers plumbing installations and ~~which that~~ provides inspection procedures.

(4) ~~Nothing contained in this~~ This part shall does not prohibit the owner of residential property from making an installation for all sanitary plumbing and potable water supply piping without a permit ~~providing he~~ if the owner personally does the work ~~himself~~.

(5) The provisions of this part do not apply to regularly employed maintenance personnel doing maintenance work on the business premises of their employer unless the work is subject to the permit provisions of this part."

Insert: "Section 20. Section 50-60-510, MCA, is amended to read:

"50-60-510. Inspections to ensure compliance. All plumbing and drainage systems may be inspected by the department of labor and industry or an authorized representative or ~~by a~~ municipality or county, city, or town certified to perform an inspection pursuant to 50-60-302 in order to ensure compliance with the requirements of the state plumbing code. As part of any inspection, the inspector shall request proof of licensure from any person who is required to be licensed who is involved with or, in the inspector's judgment, appears to be involved with plumbing activities if the person is on the site. The inspector shall report any instance of license violation to the inspector's employing agency, and the employing agency shall in turn report the violation to the board of plumbers."

Insert: "Section 21. Section 50-60-604, MCA, is amended to read:

"50-60-604. Inspections -- electrical permits -- fees. The department of labor and industry or an authorized representative or a ~~municipality or county,~~ city, or town certified to perform an inspection pursuant to 50-60-302 shall inspect electrical installations, issue electrical permits for these installations, and establish and charge a reasonable and uniform fee for the inspections. The fee must be commensurate with the expense of providing the inspection and with appropriations for other purposes. As part of any inspection, the inspector shall require proof of licensure from any person who is required to be licensed who is involved with or, in the inspector's judgment, appears to be involved with electrical

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installations if the person is on the site. The inspector shall report any instance of license violation to the inspector's employing agency, and the employing agency shall in turn report the violation to the board of electricians."

Insert: "**Section 22.** Section 50-60-605, MCA, is amended to read:

"50-60-605. Power supplier not to energize installation without electrical permit. Individuals, firms, cooperatives, corporations, or municipalities selling electricity are power suppliers. Except for temporary connections that the department of labor and industry may authorize by rule for a period not exceeding 14 days without a preconnection inspection, power suppliers may not connect with or energize an electrical installation under this part unless the owner or a licensed electrical contractor has delivered to the power supplier an electrical permit covering the installation, issued by the department of labor and industry or a ~~municipality or county~~, city, or town certified to enforce the electrical code pursuant to 50-60-302."

"

Insert: "**Section 23.** Section 50-60-607, MCA, is amended to read:

"50-60-607. Energizing electrical installation without permit -- misdemeanor. Any person, partnership, company, firm, association, or corporation, other than a power supplier, that energizes an electrical installation under this part for which an electrical permit has not been issued by the department of labor and industry or a ~~municipality or county~~, city, or town certified to enforce the electrical code pursuant to 50-60-302 is guilty of a misdemeanor."

Insert: "**NEW SECTION. Section 24. Area of applicability of county, city, or town building code -- enforcement.**

(1) A city or town that adopts a building code under this chapter may enforce its building code only within the incorporated limits of the city or town.

(2) A county may adopt a building code under this chapter on a countywide basis unless a city or town within the county has adopted a building code. If a city or town within the county has adopted a building code, then the county may not enforce the county building code in that city or town.

(3) A county, city, or town may contract for the enforcement of its building code."

Insert: "**NEW SECTION. Section 25. Transition.** (1) A municipality is responsible for completing inspections that are required for those building, electrical, plumbing, and mechanical permits issued by the municipality in an extended jurisdictional area prior to October 1, 2003.

(2) A project in an extended jurisdictional area that required a building permit prior to October 1, 2003, is subject to city or town jurisdiction until the project is completed. A municipality may not apply its building code to a new project after October 1, 2003.

(3) A county that has not adopted a building code prior to [the effective date of this section] may adopt a building code, but the building code may not be effective before October 1, 2003."

Renumber: subsequent sections

11. Page 5, line 17.

Following: "Sections"

Insert: "50-60-310, 50-60-311,"

12. Page 5, line 19.

Insert: "**NEW SECTION. Section 27. Codification instruction.** [Section 24] is intended to be codified as an integral part of Title 50, chapter 60, part 3, and the provisions of Title 50, chapter 60, part 3, apply to [section 24]."

13. Page 5, line 20.

Strike: "date"

Insert: "dates"

Following: "date."

Strike: "[This act] is"

Insert: "(1) Except as provided in subsection (2), [this act] is effective October 1, 2003.

(2) [Section 25 and this section] are"

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14. Page 5, lines 22 and 23.

Strike: section 7 in its entirety

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

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

4/1/2003

HB 107, be amended as follows:

1. Title, line 10.

Strike: "DISTRICTS"

Following: "ENROLLMENT"

Insert: "SIZE GROUPS"

2. Page 2, line 16.

Strike: "DISTRICTS"

Following: "ENROLLMENT"

Insert: "size groups"

3. Page 3, line 14.

Strike: "By"

Insert: "Between January 15 and"

4. Page 4.

Following: line 18

Insert: "(8) A teacher who receives loan repayment assistance under the provisions of [sections 1 through 4] is not eligible for the teacher signing bonus program provided for in [Senate Bill No. 267]."

Renumber: subsequent subsection

5. Page 4.

Following: line 25

Insert: "NEW SECTION. Section 6. Coordination instruction. If Senate Bill No. 267 is not passed and approved, then [this act] is void."

Renumber: subsequent section

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

HB 540, be amended as follows:

1. Page 2, line 30.

Following: "competent"

Insert: "-- duty to serve"

Following: "A"

Insert: "It is the policy of this state that all qualified citizens have an obligation to serve on juries upon being summoned for jury duty, unless excused."

2. Page 3, line 10.

Following: "present"

Insert: ", working with the office of the secretary of state,"

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3. Page 3, line 11.

Following: "registrar"

Insert: ", working with the office of the secretary of state"

4. Page 3, line 12.

Following: "officers"

Insert: ", working with the office of the secretary of state,"

5. Page 3, line 25.

Strike: "county clerk and recorder"

Insert: "office of the secretary of state"

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

LOCAL GOVERNMENT (Bohlinger, Chairman):
SB 368, introduced bill, be amended as follows:

3/31/2003

1. Title, line 11.

Strike: "LIMITING"

Insert: "PROHIBITING"

2. Title, line 12 through line 13.

Strike: "ASSESSING" on line 12 through "STREETS" on line 13

Insert: "IMPOSING IMPACT FEES,"

3. Title, line 14 through line 16.

Strike: "REQUIRING" on line 14 through "ACT;" on line 16

4. Title, line 19.

Strike: "7-13-2301, 7-13-4304,"

Insert: "AND"

Following: "76-3-501,"

Strike: "AND 76-3-510,"

5. Page 2, line 12.

Following: "equitable"

Insert: "impact fee"

6. Page 2, line 13 through line 14.

Strike: ":" on line 13 through "(a)" on line 14

7. Page 2, line 14 through line 15.

Strike: ";" on line 14 through "affordability" on line 15

8. Page 2, line 23.

Following: "construction"

Insert: "or acquisition"

Strike: "a"

Insert: "an expected minimum"

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9. Page 2, line 26.

Strike: "pipe"

Insert: "system"

10. Page 2, line 27.

Strike: "water"

Insert: "service"

11. Page 2, line 29.

Strike: "existing or new"

Following: "facilities"

Insert: "not specifically associated with making the service connection"

12. Page 3, line 2.

Strike: ", which"

Insert: "that uses the existing capacity of public facilities or"

13. Page 3, line 11.

Following: "costs"

Insert: ", including the cost of administering the program and costs incurred by the impact fee advisory committee established under [section 5]"

14. Page 3, line 15.

Strike: "or"

15. Page 3.

Following: line 15

Insert: "(iii) the cost of developing the impact fee study, subsequent updates to the study, or the ordinance; or"

16. Page 3, line 16.

Strike: "(iii)"

Insert: "(iv)"

Following: "law"

Insert: ", including but not limited to user fees, special improvement district assessments, and costs of ongoing maintenance"

17. Page 3, line 21 through line 22.

Strike: subsection (13) in its entirety

Renumber: subsequent subsections

18. Page 3, line 27 through line 30.

Strike: "that" on line 27

Insert: "the"

Strike: ", " on line 27 through "development" on line 30

Insert: "that is roughly proportional to the need that is attributable to the development"

19. Page 4, line 1 through line 5.

Strike: "any" on line 1 through "facility" on line 5

Insert: ": (a) water supply production, treatment, storage, and distribution facilities;

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- (b) wastewater and solid waste collection, treatment, and disposal facilities;
- (c) roads, streets, and bridges, including rights-of-way, traffic signals, and landscaping;
- (d) storm water collection, retention, detention, treatment, and disposal facilities and flood control facilities;
- (e) parks, excluding the costs of land acquisition; and
- (f) police, emergency medical, rescue, and fire protection facilities"

20. Page 4, line 16.

Strike: "sound engineering studies"

Insert: "a facilities plan"

21. Page 4, line 17.

Following: "acquisition,"

Insert: "construction,"

22. Page 4, line 23.

Following: "entity"

Insert: "that are unrelated to the administration of the impact fee program"

23. Page 4, line 30.

Following: "design"

Insert: ", financing,"

24. Page 5, line 2.

Strike: "(17)(a)"

Insert: "(16)(a)"

25. Page 5, line 3 through line 4.

Strike: "transportation" on line 3 through "(17)(c)" on line 4

Insert: "wastewater facility described in subsection (16)(b);

(c) a transportation facility described in subsection (16)(c);

(d) a storm water facility described in subsection (16)(d);

(e) a parks facility described in subsection (16)(e); or

(f) a police or emergency facility described in subsection (16)(f)"

26. Page 5, line 10.

Strike: "specifically"

27. Page 5, line 12 through line 16.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

28. Page 5, line 19.

Strike: "or"

29. Page 5, line 21.

Following: "development;"

Insert: "or (iii) the time of wastewater or water service connection or well or septic permitting;"

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30. Page 5, line 22 through line 28.

Strike: subsection (5)(b) in its entirety

Renumber: subsequent subsections

31. Page 6, line 6.

Strike: "and" through "[section 12]"

32. Page 6, line 7.

Following: "schedule of"

Insert: "estimated"

33. Page 6, line 8.

Strike: "and"

Insert: "(i) provide for an annual inflationary index adjustment to the maximum impact fees allowed pursuant to [section 8(2)]; and"

34. Page 6, line 20.

Strike: "a significant"

Insert: "an"

35. Page 6, line 25 through line 26.

Strike: "prior" on line 25 through "plan" on line 26

36. Page 6, line 28.

Strike: "or employees"

37. Page 6, line 29 through page 7, line 1.

Strike: "At" on page 6, line 29 through "work" on page 7, line 1

Insert: "Membership on the advisory committee must include at least one active builder, one active developer, and one active realtor"

38. Page 7, line 4.

Strike: "development of land use assumptions"

Insert: "impact fee program and how it should be coordinated with or guided by land use assumptions created by the growth policy"

39. Page 7, line 7.

Strike: subsection (3)(c) in its entirety

Renumber: subsequent subsections

40. Page 7, line 20.

Following: "shall"

Insert: "conduct and"

Following: "adopt"

Insert: "one or more studies containing all of the elements of this section. Collectively, this information must be known, for the purposes of [sections 1 through 14], as"

41. Page 8, lines 5 and 6.

Strike: "a" on line 5

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Insert: "an appropriate"

Strike: "engineer" on line 5 through "3" on line 6

42. Page 8, line 23 through line 24.

Strike: subsection (3)(m) in its entirety

43. Page 8, line 26.

Strike: "5"

Insert: "10"

Strike: "5-year"

Insert: "10-year"

44. Page 8, line 30.

Following: "available"

Insert: "for review"

45. Page 9, line 8.

Following: "adoption of"

Insert: "or significant update to"

46. Page 9, line 22.

Strike: "subsection"

Insert: "subsections"

Following: "(3)"

Insert: "and (4)"

Following: "exceed"

Insert: "the lesser of \$2.50 a square foot for residential buildings or \$10 a square foot for commercial buildings or"

47. Page 10, line 5.

Following: "(b)"

Insert: "(i)"

48. Page 10, line 7.

Following: "if"

Insert: ": (A)"

49. Page 10, line 9.

Following: "area"

Strike: "." through "[section 12]."

Insert: "; or

(B) the developer and the governing body agree to an assessment of system improvement costs outside of the areas authorized under subsection (3)(a).

(ii) The written demonstration provided for in subsection (3)(b)(i) is subject to appeal under [section 12]."

50. Page 10, line 11.

Strike: "full-cost"

51. Page 10, line 13.

Strike: "an independent and neutral"

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Insert: "a qualified"

52. Page 10.

Following: line 13

Insert: "(5) The amounts per square foot for residential and commercial buildings provided in subsection (2) may be adjusted annually for inflation."

53. Page 10, line 16 through line 17.

Strike: ":" on line 16 through "(i)" on line 17

Strike: "contribution or dedication of land or" on line 17

Insert: "for"

54. Page 10, line 19 through line 21.

Strike: "; and" on line 19 through "development" on line 21

55. Page 10, line 25.

Strike: "developer's"

Insert: "local government's"

56. Page 11, lines 11 and 12.

Strike: "include in its" on line 11

Insert: "prepare an audited"

Strike: ", " on line 11 through "report" on line 12

57. Page 11, lines 14 and 15.

Strike: "expended" in both places

Insert: "obligated" in both places

58. Page 11, line 24.

Following: "not"

Insert: "obligated or"

59. Page 12, line 4 through line 9.

Strike: subsection (4) in its entirety

60. Page 12, line 11.

Strike: "-- mediation"

61. Page 12, line 17.

Strike: "illegally"

Insert: "improperly"

62. Page 12, line 18 through page 13, line 2.

Strike: "(c)" on page 12, line 18 through "section." on page 13, line 2

63. Page 13, line 21.

Following: "plat"

Insert: "in cases when the subdivision occurs after the imposition of the impact fee"

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64. Page 15, line 27 through line 28.

Strike: "except" on line 27 through "streets" on line 28

Insert: "any power to impose an impact fee other than as authorized under [sections 1 through 14]"

65. Page 16, line 5 through page 18, line 14.

Strike: sections 17 and 18 in their entirety

Renumber: subsequent sections

66. Page 19, line 4 through line 12.

Strike: section 20 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

4/1/2003

HB 669, be amended as follows:

1. Title, line 6 through line 8.

Strike: "AUTHORIZING" on line 6 through "APPROVAL;" on line 8

2. Title, line 8.

Strike: "SECTIONS 7-8-4201 AND"

Insert: "SECTION"

3. Page 1, line 12 through line 29.

Strike: section 1 in its entirety

Renumber: subsequent section

4. Page 2, line 2.

Following: "(3),"

Insert: "(6),"

5. Page 2, line 3.

Following: "and"

Strike: "(6)"

Insert: "(7)"

6. Page 3, line 1 through line 3.

Strike: "The" on line 1 through "7-16-2324." on line 3

7. Page 3, line 4 through line 5.

Strike: "or proceeds" on line 4 through "(5)(a)" on line 5

8. Page 3, line 25.

Following: ";

Insert: "or"

9. Page 3, line 29.

Following: "(1)"

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Strike: " or"
Insert: "."

10. Page 3, line 30.

Strike: "(e)(i)"

Insert: "(7) The local governing body may waive the park dedication requirement if: (a)"

Following: "provides"

Insert: "land outside the subdivision that affords"

11. Page 4, line 2.

Strike: "(ii)"

Insert: "(b)"

Following: "subsection"

Strike: "(6)(e)(i)"

Insert: "(7)(a)"

12. Page 4, line 4.

Strike: "(7)"

Insert: "(8)"

13. Page 4, line 7.

Strike: "(8)"

Insert: "(9)"

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

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

3/31/2003

HB 569, be concurred in. Report adopted.

HB 734, be amended as follows:

1. Page 2, line 3.

Following: "106-402"

Insert: ", codified at 42 U.S.C. 15001, et seq"

2. Page 3, line 3.

Following: line 2

Insert: "(2) In addition to the members appointed under subsection (1), the council must include one member of the senate and one member of the house of representatives."

Renumber: subsequent subsections

3. Page 3, line 3.

Following: "(2)"

Insert: "(a) Except as provided in subsection (3)(b), members of the council serve 1-year terms."

4. Page 3, line 4.

Strike: "The" through "of"

Insert: "(b) Of"

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Following: "members"

Insert: "described in 42 U.S.C. 15025(b)(3)"

5. Page 3, line 5.

Following: the second "disabilities"

Insert: ", the governor shall appoint: (i) not less than one-half of the members"

6. Page 3, line 7.

Following: "governor"

Insert: ";

Following: "and"

Insert: "(ii)"

7. Page 3, line 8.

Strike: "one-half of the"

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

HJR 29, be amended as follows:

1. Page 2, line 27.

Following: "That"

Insert: "the 58th Legislature encourages"

Strike: "shall"

2. Page 2, line 28.

Following: "Services"

Insert: "and when practical, appropriate, and safe"

Following: ";

Insert: "to"

3. Page 3, line 2.

Following: "Governor"

Insert: ", the Chief Justice of the Montana Supreme Court,"

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

HJR 31, be amended as follows:

1. Page 1, line 28.

Following: "families"

Insert: ", including Native American families,"

2. Page 2, line 6.

Following: "(5)"

Strike: "not" through "against"

Insert: "for good cause, allow for the reasonable extension of"

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3. Page 2.

Strike: line 7 through line 8 in their entirety

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

STATE ADMINISTRATION (Cobb, Chairman):

4/1/2003

SR 6, be adopted. Report adopted.

HB 203, be amended as follows:

1. Page 4, line 16.

Strike: "28 counties"

Insert: "one-half of the counties"

2. Page 7, line 19.

Strike: "28 counties"

Insert: "one-half of the counties"

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

HB 213, be amended as follows:

1. Page 55, line 29.

Following: "pursuant to"

Insert: "15-1-122(3)(e),"

2. Page 55, line 30.

Following: "61-3-527(4)(b)"

Insert: ", "

3. Page 75, line 5.

Strike: "(2)(b)"

Insert: "(2)(a)"

4. Page 93, line 3.

Following: the first credit"

Insert: "and membership service"

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

HB 689, be amended as follows:

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

Following: "LOBBYING" on line 4

Insert: "REGISTRATION AND REPORTING BY PRINCIPALS"

Strike: "REVISING" on line 4 through "INFLATION;" on line 7

Strike: "5-7-102," on line 7

Following: "5-7-103"

Strike: ", "

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2. Title, page 1, line 8.

Strike: "AND" through "DATE"

3. Page 1, line 12 through page 4, line 11.

Strike: section 1 in its entirety

4. Page 4, line 19.

Following: "lobbyist"

Insert: "except as provided in subsection (5) or"

5. Page 5.

Following: line 1

Insert: "(5) A lobbyist who receives payments from one or more principals that total less than \$2,150 in a calendar year is not required to pay the license fee or file an application form as provided for in subsection (1)."

Renumber: subsequent subsection

6. Page 5, line 2.

Strike: "subsection (1)"

Insert: "subsections (1) and (5)"

7. Page 5, line 7.

Strike: "the threshold" through "[section 4]"

Insert: "\$2,150 to a lobbyist"

8. Page 5.

Following: line 29

Insert: "(iv) travel expenses;"

Renumber: subsequent subsections

9. Page 5, line 30.

Following: "and"

Insert: "and"

10. Page 5, line 30 through page 6, line 2.

Strike: ", and payments" on page 5, line 30 through "5-7-102(12)(b)(iii)" on page 6, line 1

11. Page 6, lines 7 and 8.

Strike: "legislator" on line 7 through "or" on line 8

12. Page 6, line 9 through line 10.

Strike: "legislator" on line 9 through "or" on line 10

13. Page 6, line 21 through line 27.

Strike: section 4 in its entirety

Renumber: subsequent sections

14. Page 7, line 6 through line 7.

Strike: section 7 in its entirety

Renumber: subsequent sections

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15. Page 7, line 14 through line 16.
Strike: section 10 in its entirety

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

MESSAGES FROM THE GOVERNOR

March 28, 2003

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

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 81** sponsored by Senator Cooney, **Senate Bill 190** sponsored by Senator Bohlinger et al., and **Senate Bill 202** sponsored by Senator Johnson et al. on March 28, 2003.

Sincerely,

JUDY MARTZ
Governor

March 31, 2003

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

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 23** sponsored by Senator Butcher et al., **Senate Bill 26** sponsored by Senator Bohlinger, **Senate Bill 36** sponsored by Senator Grimes, **Senate Bill 70** sponsored by Senator McNutt, **Senate Bill 117** sponsored by Senator Cobb, **Senate Bill 128** sponsored by Senator Mahlum, **Senate Bill 131** sponsored by Senator Barkus, **Senate Bill 132** sponsored by Senator McNutt, **Senate Bill 160** sponsored by Senator Cobb, **Senate Bill 172** sponsored by Senator McNutt, **Senate Bill 173** sponsored by Senator McNutt, **Senate Bill 238** sponsored by Senator Mangano, and **Senate Bill 257** sponsored by Senator Cooney on March 31, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/31/2003

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SB 66, introduced by Bohlinger
SB 85, introduced by Cocchiarella
SB 97, introduced by Story
SB 149, introduced by Barkus
SB 162, introduced by Story
SB 180, introduced by Ryan
SB 188, introduced by Cocchiarella
SB 211, introduced by Hansen
SB 213, introduced by Nelson
SB 413, introduced by Kitzenberg

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

3/31/2003

SB 13, introduced by Mahlum
SB 57, introduced by Keenan
SB 80, introduced by Laible
SB 126, introduced by Story
SB 159, introduced by Johnson

House bills passed and transmitted to the Senate for concurrence:

3/31/2003

HB 124, introduced by A. Olson
HB 713, introduced by Fuchs

MOTIONS

SB 465 - Senator Tester moved the Senate reconsider its action in failing to pass **SB 465** on third reading the previous legislative day. Motion **failed** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

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

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

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

HB 124, introduced by A. Olson, referred to Judiciary.
HB 713, introduced by Fuchs, Balyeat, Jackson, referred to Taxation.

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THIRD READING OF BILLS

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

SB 218 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, 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

SB 464 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, 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

SB 470 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Wheat, Zook, Mr. President.
Total 32

Nays: Butcher, Cooney, Elliott, Glaser, Grimes, Hansen, Harrington, Laible, O'Neil, Perry, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila.
Total 18

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 20, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, 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 46

Nays: Butcher, Cobb, Curtiss, Esp.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 283, 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 306, requiring 2/3 of entire Legislature, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, 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 49

Nays: Cobb.

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Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 337, 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, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Stapleton.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 438 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 481, 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

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 647, 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, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 48

Nays: Pease, Tropila.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 684 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, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Johnson, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 686 concurred in as follows:

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

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Total 47

Nays: Esp, McGee, Stapleton.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 693 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 731 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, 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, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

Total 45

Nays: Bales, Esp, Story, Zook, Mr. President.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:50 p.m. this day for purpose of party caucuses. Motion carried.

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Senate recessed at 1:22 p.m.
Senate reconvened at 2:02 p.m.

Roll call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
SB 481, introduced bill, be amended as follows:

4/1/2003

1. Page 4, line 12.

Insert: "NEW SECTION. **Section 4. Coordination instruction.** If Senate Bill No. 422 is not passed and approved, then [this act] is void."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

HB 553, be amended as follows:

1. Page 4, line 9.

Following: "PERSON"

Insert: "purposely or knowingly"

2. Page 4, line 10.

Following: "(1)"

Strike: "PURPOSELY OR KNOWINGLY"

Following: "KILLS"

Insert: "or inflicts cruelty to"

3. Page 5, line 6.

Following: "SEIZURE;"

Strike: "OR"

4. Page 5, line 7.

Following: "ANIMALS"

Insert: "; or

(d) retention of the animal in a humane animal treatment shelter"

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

HB 648, be amended as follows:

1. Title, line 9.

Strike: "120"

Insert: "30"

Following: "TIME OF"

Strike: "RECEIVING"

Insert: "HARVESTING OR COLLECTING"

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2. Page 2, line 27.

Strike: "120"

Insert: "30"

Following: "time of"

Strike: "receiving"

Insert: "harvesting or collecting"

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

HB 677, be amended as follows:

1. Title, line 6.

Strike: "ADMINISTRATIVE"

Insert: "CIVIL"

2. Page 3, line 8.

Following: "subject to"

Strike: "an administrative penalty assessed by the district"

Insert: "a civil penalty"

3. Page 3, line 10.

Following: "maximum"

Strike: "administrative"

Insert: "civil"

4. Page 3, line 11.

Following: "3-10-301."

Insert: "A conservation district may work with a person who is subject to a civil penalty to resolve the amount of the penalty prior to initiating an enforcement action in justice's court to collect a civil penalty."

5. Page 3, line 12.

Following: "or"

Strike: "an administrative"

Insert: "a civil"

6. Page 3, line 18 through line 19.

Strike: "an" on line 18 through "administrative" on line 19

Insert: "a civil"

7. Page 3, line 19.

Following: "76-15-523"

Insert: ", unless upon order of a justice's court the money is directed to be deposited pursuant to 3-10-601"

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

HB 720, be amended as follows:

1. Title, line 9.

Following: "~~30~~ DAYS"

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Strike: "THE TIME PERIOD SPECIFIED BY DEPARTMENT RULE"
Insert: "180 DAYS"

2. Title, line 9 through line 12.

Strike: "PROVIDING" on line 9 through "PURPOSES;" on line 12

3. Title, line 12.

Strike: "SECTIONS"

Insert: "SECTION"

4. Title, line 13.

Strike: "AND 85-2-308"

5. Page 1, line 21 through line 22.

Strike: "ESTABLISHING" on line 21 through "RULES" on line 22

6. Page 2, line 1 through line 2.

Following: "within" on line 1

Strike: remainder of line 1 through "SUBSECTION (2)" on line 2

Insert: "180 days"

7. Page 2, line 4.

Strike: "THE" through "SUBSECTION (2)"

Insert: "180 days"

8. Page 2, line 14 through page 3, line 9.

Strike: section 2 in its entirety

Renumber: subsequent section

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

TAXATION (DePratu, Chairman):
HB 604, be amended as follows:

3/31/2003

1. Title, page 1, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-36-324"

Insert: "AND 20-9-544"

2. Page 3, line 26.

Following: "20-9-542"

Insert: "for distribution in the ensuing fiscal year"

3. Page 3, line 30.

Following: "20-9-542"

Insert: "for distribution in the ensuing fiscal year"

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4. Page 9, line 1.

Following: "20-9-542"

Insert: "for distribution in the ensuing fiscal year"

5. Page 11, line 20.

Following: line 19

Insert: "**Section 2.** Section 20-9-544, MCA, is amended to read:

"20-9-544. District school flexibility fund levy. (1) In addition to the money allocated in 20-9-542 for a district's school flexibility fund, the trustees of a school district may submit a proposition to the qualified electors of the district to approve a levy for the ensuing school year in an amount not to exceed 25% of the district's current year allocation in 20-9-542 to fund the school flexibility fund authorized under 20-9-543. An election called pursuant to this section must be called and conducted in the manner prescribed by this title for school elections. The ballot for a proposition must provide "FOR" and "AGAINST" provisions, stating whether the district is authorized to impose a levy of (state the dollars) dollars and (state the approximate number of mills) mills to fund the school flexibility fund in the school district. The school flexibility fund proposition is approved if a majority of those electors voting at the election approve the levy.

(2) Money collected from the levy must be deposited in the district's school flexibility fund and spent in accordance with 20-9-543."

Renumber: subsequent section

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

MOTIONS

SB 407 - Senator Thomas moved consideration of **SB 407** be placed at the top of the second reading board this legislative day. 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, Shea, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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

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

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

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recommend as follows:

SB 407 - Senator DePratu moved **SB 407** do pass. Motion **failed** as follows:

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

Total 25

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

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise. Motion carried. Committee arose. Senate resumed.

MOTIONS

SB 488 - Senator Ellingson moved he be allowed to add Senator Bohlinger as sponsor to **SB 488**. Motion carried.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SJR 29**.

Correctly engrossed: **SB 297, HB 105, HB 410, HB 577, HB 642**.

FINANCE AND CLAIMS (Zook, Chairman):

4/1/2003

HB 6, be concurred in. Report adopted.

HB 8, be concurred in. Report adopted.

HB 363, be amended as follows:

1. Title, line 9.

Following: "MONEY"

Insert: "IN EXCESS OF THE ADEQUATE FUNDING AMOUNT"

2. Page 2, line 17 through line 19.

Following: "FUND" on line 17

Strike: remainder of line 17 through "REDUCTIONS" on line 19

3. Page 2, line 20.

Following: "2004,"

Strike: "THE"

Insert: "an"

Following: "AMOUNT"

Strike: "OF"

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Insert: "up to"
Following: "MILLION"
Insert: "in available excess funds from fiscal year 2003"

4. Page 2, line 21.
Following: "2005."
Strike: "THE"
Insert: "an"
Following: "AMOUNT"
Strike: "OF"
Insert: "up to"
Following: "MILLION"
Insert: "in available excess funds from fiscal year 2004"

5. Page 2, line 22.
Following: "YEARS"
Strike: "2003."
Following: "2004"
Strike: " "
Following: "2005."
Strike: "the"
Insert: "any"

6. Page 2, line 24.
Following: "(4)"
Insert: ", based on audited financial statements adjusted for unrealized gains and losses,"

7. Page 2, line 24 through line 26.
Following: "transferred to the" on line 24
Strike: remainder of line 24 through "million" on line 26
Insert: "general fund"

8. Page 3, line 7 through line 10.
Following: "39-71-2352(4)" on line 7
Strike: remainder of line 7 through "remainder" on line 10

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

JUDICIARY (Grimes, Chairman):
HB 141, be amended as follows:

4/1/2003

1. Page 1, line 17.
Following: "(2)"
Insert: "(a)"
Strike: "A"
Insert: "Except as provided in subsection (2)(b), a"

2. Page 1, line 20.

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Following: line 19

Insert: "(b) A person convicted of an offense of fleeing from or eluding a peace officer during which the person causes serious bodily injury to or the death of any other person shall be imprisoned for a term not to exceed 10 years or fined an amount not to exceed \$10,000, or both."

3. Page 3, line 15.

Following: "subsection"

Strike: "(3)"

Insert: "(2)"

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

HB 247, be amended as follows:

1. Page 3, line 2.

Following: "FROM"

Strike: "LOITERING"

Insert: "remaining"

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

HB 358, be amended as follows:

1. Title, page 1, line 6 through line 8.

Strike: "FIRST-CLASS" on line 6 through "COURTS" on line 8

Insert: "A COUNTY TO ESTABLISH A JUSTICE'S COURT AS A COURT OF RECORD"

2. Title, page 1, lines 9, 10, and 13.

Strike: "COUNTY COURT"

Insert: "JUSTICE'S COURT ESTABLISHED AS A COURT OF RECORD"

3. Page 1, line 25.

Page 3, lines 15 and 16.

Page 4, lines 10 and 13.

Page 5, lines 4 and 27.

Strike: "county court"

Insert: "justice's court established as a court of record"

4. Page 3, line 23.

Strike: "county court"

Insert: "justice's court established as court of record"

5. Page 4, line 8.

Strike: "In" through "20,000 the"

Insert: "A"

6. Page 6, line 25.

Strike: "county court"

Insert: "justice's court established as court of record"

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7. Page 6, line 26.

Page 7, lines 3 and 5.

Strike: "county court"

Insert: "justice's court established as a court of record"

8. Page 7, line 7.

Strike: "county court"

Insert: "justice's court established as court of record"

9. Page 7, lines 8, 9, 10, and 12.

Strike: "county court"

Insert: "justice's court established as a court of record"

10. Page 7, line 15.

Strike: "county court"

Insert: "justice's court established as court of record"

11. Page 7, lines 16, 20, 26, and 29.

Page 8, end of line 1 and beginning of line 2.

Strike: "county court"

Insert: "justice's court established as a court of record"

12. Page 8, lines 14 and 22.

Strike: "county court"

Insert: "court of record"

13. Page 8, line 30.

Strike: "county court"

Insert: "justice's court established as a court of record"

14. Page 9, lines 5, 6, and 7.

Strike: "county court"

Insert: "justice's court established as a court of record"

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

HB 404, be amended as follows:

1. Title, line 4.

Following: ""AN ACT"

Strike: "REQUIRING"

Insert: "ALLOWING"

2. Title, line 7.

Strike: "PRIVATE"

3. Page 1, line 12.

Following: "employer"

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Strike: "shall"

Insert: "may"

4. Page 1, line 24.

Strike: "the reason why and"

Insert: "a statement of"

Following: "individual"

Insert: ": (i)"

5. Page 1, line 25.

Following: "voluntarily"

Insert: ";

Strike: "or"

Insert: "(ii)"

Strike: ", except as provided in 39-2-801"

Insert: "; (iii) resigned after being told that the individual would be fired;
(iv) left by mutual agreement because of specific work-related problems; or
(v) had a termination changed to a resignation by mutual agreement"

6. Page 2, line 7.

Strike: "A private"

Insert: "An"

7. Page 2, line 8 through line 10.

Strike: "is" on line 8 through "45-2-101" on line 10

Insert: "performs an official duty within the meaning of 27-1-804(1)"

8. Page 2, line 14.

Strike: "has the meaning provided"

Insert: "means any state or local agency or subdivision of the state that employs law enforcement officers as defined"

9. Page 2.

Following: line 15

Insert: "(7) This section does not affect any immunity otherwise available under 27-1-804(1) for communications voluntarily made by private or public, current or former employers in the proper discharge of an official duty."

10. Page 2, line 18.

Strike: "7" through "7"

Insert: "39, chapter 2, and the provisions of Title 39, chapter 2,"

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

HB 451, be amended as follows:

1. Title, page 1, line 7.

Strike: "AND A TERMINATION DATE"

2. Page 1, line 17.

Strike: "charged or"

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Strike: "another"
Insert: "any"
Following: "state"
Insert: "or U.S. federal"

3. Page 1, line 21.
Following: "RETURNING"
Strike: "THE"
Insert: "an"

4. Page 1, lines 22 through 23.
Strike: "AT LEAST 90 DAYS" on line 22
Following: "RELEASE."
Strike: "The" on line 22 through "withheld." on line 23

5. Page 1, line 27.
Strike: section 3 in its entirety

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

HB 579, be concurred in. Report adopted.
HB 701, be amended as follows:

1. Title, line 5 through line 6.
Following: "EXCLUDE" on line 5
Strike: remainder of line 5 through "OFFICE OF" on line 6
Insert: "PERSONAL STAFF OF A JUSTICE, JUDGE, AND"

2. Title, page 6.
Following: "COURT;"
Insert: "PROVIDING THAT A JUSTICE, JUDGE, OR THE CLERK OF THE SUPREME COURT MAY APPOINT UP TO THREE PERSONAL STAFF MEMBERS;"

3. Page 1, line 12.
Following: "(1)"
Insert: "(a)"

4. Page 1, line 14.
Following: "justice."
Strike: "including law clerks and other assistants as designated by the justice."

5. Page 1, line 15.
Following: "judge."
Strike: "including law clerks and other assistants as designated by the judge."

6. Page 1, line 17 through line 18.
Following: "court." on line 17
Strike: remainder of line 17 through "court." on line 18

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7. Page 1, line 22.

Following: line 21

Insert: "(b) The personal staff who are exempted by subsection (1)(a) may not exceed three appointed by each justice or judge, appointed jointly by more than one justice or judge, or appointed by the clerk of the supreme court."

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

JUDICIARY (Grimes, Chairman):

4/1/2003

HB 733, be amended as follows:

1. Title, line 8.

Following: "ASSAULT;"

Insert: "ALLOWING A JUDGE TO IMPOSE A TERM OF LESS THAN 4 YEARS UPON A WRITTEN FINDING THAT THERE IS GOOD CAUSE TO DO SO;"

2. Page 1, line 20.

Following: "years"

Insert: ", unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years,"

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

TAXATION (DePratu, Chairman):

4/1/2003

SB 471, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "IMPOSING"

Insert: "A TAX"

Following: "MONTANA"

Strike: "A TAX"

2. Title, page 1, line 6.

Strike: "OF 62 CENTS A TON"

3. Title, page 1, line 10.

Following: "SYSTEMS;"

Insert: "AUTHORIZING THE ISSUANCE OF STATE LAND DEVELOPMENT REVENUE BONDS FOR STATE-OWNED ELECTRICAL ENERGY TRANSMISSION OR DISTRIBUTION FACILITIES, ELECTRICAL GENERATION FACILITIES, OR RAIL LINE FACILITIES; PLEDGING THE REVENUE FROM STATE-OWNED ELECTRICAL ENERGY TRANSMISSION AND DISTRIBUTION FACILITIES, ELECTRICAL GENERATION FACILITIES, AND RAIL LINE FACILITIES TO THE PAYMENT OF THE STATE LAND DEVELOPMENT REVENUE BONDS; AUTHORIZING THE SALE OF ELECTRICAL ENERGY TRANSMISSION OR DISTRIBUTION FACILITIES, ELECTRICAL GENERATION FACILITIES, AND RAIL LINE FACILITIES;"

4. Page 1, lines 15.

Following: "Energy projects tax"

Insert: "-- exception"

Following: "(1)" on line 15

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Insert: "(a)"

Strike: "62" on line 15

Insert: "the following number of"

5. Page 1, line 16.

Following: the first "ton"

Insert: ", based on the price per ton,"

Following: "state"

Strike: "."

Insert: ":"

| Price per ton | Tax in cents per ton |
|----------------|----------------------|
| \$3.50 or less | 32 |
| 3.51 to 4.00 | 37 |
| 4.01 to 4.50 | 42 |
| 4.51 to 5.00 | 47 |
| 5.01 to 5.50 | 52 |
| 5.51 to 6.00 | 57 |
| 6.01 to 6.50 | 62 |
| 6.51 to 7.00 | 67 |
| 7.01 to 7.50 | 72 |
| 7.51 to 8.00 | 77 |
| 8.01 to 8.50 | 82 |
| 8.51 to 9.00 | 87 |
| 9.01 to 9.50 | 92 |
| 9.51 or more | 97 |

(b)"

6. Page 1, line 26.

Insert: "(3) Coal mined on an Indian reservation and coal owned by an Indian tribe is not subject to the tax imposed by this section."

7. Page 2, line 2.

Strike: "year"

Insert: "quarter"

8. Page 5, line 2.

Insert: "NEW SECTION. **Section 13. State electrical generation, transmission, and distribution facilities and rail line facilities.** (1) (a) The department of natural resources and conservation may request the board of examiners to issue state land development revenue bonds pursuant to [sections 13 through 25] for the purpose of establishing and maintaining new state-owned electrical energy transmission or distribution facilities, electrical generation facilities, and rail line facilities associated with state lands.

(b) The state may sell the electrical energy transmission or distribution facilities, electrical generation facilities, or rail line facilities if the sale is in the state's best interest.

(2) The state land development revenue bonds may be publicly or privately sold, bear interest at rates and times, and mature at times not exceeding 40 years from the date of issuance or not exceeding the useful life of the facility as the board shall determine. The board may issue the bonds pursuant to a resolution or indenture of trust with a financial institution having the powers of a trust company. The resolution or indenture may contain provisions for protecting and enforcing the rights of bondholders that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the state, the board of examiners, or agencies of the state in relation to the acquisition, construction,

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improvements, maintenance, operation, repair, and insurance of the facility financed with the proceeds of the bonds and the custody and application of all money. The trust indenture may set forth the rights and remedies of the bondholders as is customary in trust indentures, deeds of trust, and mortgages securing bonds."

Insert: "NEW SECTION. Section 14. State land development revenue bond authorization. (1) The board of examiners may issue and sell state land development revenue bonds in an aggregate principal amount not to exceed \$740 million for the purposes authorized in [section 13]. The bonds are revenue obligations in which the net revenue from state-owned electrical energy transmission or distribution facilities, electrical generation facilities, or rail line facilities is pledged for payment of the principal and interest on the bonds. The bonds are not and may not be considered to be a general obligation or debt of the state. The board may issue the bonds in accordance with the applicable provisions contained in 17-5-921 through 17-5-930.

(2) The proceeds of the state land development revenue bonds, other than any premiums and accrued interest received, must be deposited in an account in the state special revenue fund. Premiums and accrued interest must be deposited in the debt service fund established in 17-2-102. Proceeds of bonds deposited in the account may be used to pay the costs of issuing the bonds and to fulfill the purposes authorized in [section 13]. For the purposes of 17-5-803 and 17-5-804, the account constitutes a capital projects account. The bond proceeds must be available to the department of natural resources and conservation and may be used for the purposes authorized in this section without further budgetary authorization.

(3) In authorizing the sale and issuance of the state land development revenue bonds, the board, upon request of the department of administration, may create separate accounts or subaccounts to provide for the payment and security of the bonds, including a debt service reserve account. The net revenue from the electrical energy transmission or distribution facilities, electrical generation facilities, or rail line facilities must be pledged to these accounts."

Insert: "NEW SECTION. Section 15. Use of state land development revenue bond proceeds. The department of natural resources and conservation shall use the proceeds of the state land development revenue bonds authorized in [section 14] to design and build new state-owned electrical energy transmission or distribution facilities, electrical generation facilities, or rail line facilities, to pay capitalized interest during construction, to fund a debt service reserve, and to pay costs associated with the sale and security of the bonds."

Insert: "NEW SECTION. Section 16. Interagency cooperation. (1) State agencies shall cooperate with the department of natural resources and conservation in the permitting or construction of electrical energy transmission or distribution facilities, electrical generation facilities, or rail line facilities.

(2) Within the limits of available resources, state agencies shall provide scientific, economic, and other relevant data requested by the department of natural resources and conservation."

Insert: "NEW SECTION. Section 17. Pledge. In accordance with the constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the state and the holders of the state land development bonds issued by the state."

Insert: "NEW SECTION. Section 18. Bond anticipation notes -- issued when -- payment of principal and interest. (1) The board of examiners may, pending the issuance of bonds under [sections 13 through 25], issue temporary notes in anticipation of the proceeds to be derived from the sale of the bonds, designated as "bond anticipation notes". The proceeds of the sale of the bond anticipation notes may be used only for the purpose for which the proceeds of the bonds could be used, including costs of issuance. If, prior to the issuance of the bonds, it becomes necessary or desirable to redeem outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. A renewal of any note may not be issued after the sale of bonds in anticipation of which the original notes were issued.

(2) Bond anticipation notes or other short-term evidences of indebtedness maturing not more than 3 years after the date of issue may be issued from time to time as the proceeds of the notes are needed. The notes must be authorized by the board and have terms and provisions as may be provided by resolution of the board. However, each resolution of the board authorizing notes must:

- (a) describe the need for the proceeds of the notes to be issued; and
- (b) specify the principal amount of the notes or maximum principal amount of the notes that may be outstanding at any one time, the rate or rates of interest or maximum rate of interest or interest rate formula of the notes to be determined in the manner specified in the resolution authorizing the notes, and the maturity date or maximum maturity

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date of the notes.

(3) Subject to the limitations contained in this section and the standards and limitations prescribed in the authorizing resolution, the board in its discretion may provide for the notes described in subsection (2) to be issued and sold, in whole or in part, from time to time, and may delegate to the state treasurer the power to determine the time or times of sale, the manner of sale, the amounts, the maturities, the rate or rates of interest, and other terms and details of the notes that may be considered appropriate by the board or, if there has been a delegation, by the state treasurer. The board may, in its discretion but subject to the limitations contained in this section, provide in the resolution authorizing the issuance of notes for:

- (a) the employment of one or more persons or firms to assist the board in the sale of the notes;
- (b) the appointment of one or more banks or trust companies, either inside or outside the state, as depository for safekeeping and as agent for the delivery and payment of the notes;
- (c) the refunding of the notes, from time to time, without further action by the board, unless and until the board revokes the authority to refund; and
- (d) other terms and conditions as the board may consider appropriate."

Insert: "NEW SECTION. Section 19. Form -- principal and interest -- fiscal agent -- bonds authorized. (1) Each series of state land development revenue bonds may be issued by the board of examiners at public or private sale, in denominations and form, whether payable to the bearer or registered as to principal or both principal and interest, with provisions for the conversion or exchange, bearing interest at a rate or rates or the method of determining the rate or rates, maturing at times, not more than 40 years from the date of issue, subject to redemption at earlier times and prices and upon notice, and payable at the office of a fiscal agency of the state as the board shall determine, subject to the limitations contained in [sections 13 through 25]. Any action taken by the board under [sections 13 through 25] must be approved by at least a majority vote of its members.

(2) In all other respects, the board is authorized to prescribe the form and terms of the bonds and shall do whatever is lawful and necessary for their issuance and payment.

(3) Bonds and any interest coupons appurtenant to the bonds must be signed by the members of the board, and the bonds must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds issued and sold.

(4) The board may employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under [sections 13 through 25].

(5) In connection with the issuance and sale of bonds, the board may arrange for lines of credit or letters of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for bonds issued pursuant to [sections 13 through 25]. Amounts drawn on lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing terms and conditions that the board may authorize in the resolution approving the notes.

(6) No more than \$740 million of bonds issued under [sections 13 through 25] may be outstanding at any time. Additional bonds, other than refunding bonds, may not be issued until the pledge in favor of the bonds is satisfied and discharged."

Insert: "NEW SECTION. Section 20. Trust indenture. In the discretion of the board of examiners, bonds issued under [sections 13 through 25] may be secured by a trust indenture by and between the board and a trustee, which may be any trust company or bank having the powers of a trust company inside or outside of the state. Each trust indenture or an executed counterpart of the indenture must be filed in the office of the secretary of state. The filing of a trust indenture or an executed counterpart of the indenture in the office of the county clerk and recorder of the county in which the property covered by the trust indenture is located is constructive notice of its content to all persons from the time of filing, and the recording of the trust indenture or its content is not necessary."

Insert: "NEW SECTION. Section 21. Personal liability -- suit to compel performance. (1) The members of the board of examiners and officers and employees of the departments, boards, or agencies of state government are not personally liable or accountable by reason of the issuance of or on any bond issued by the board under [sections 13 through 25].

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(2) Any holder of bonds issued under [sections 13 through 25] or any person or officer who is a party in interest, subject to any applicable agreements or trust indentures, may sue to enforce and compel the performance of the bond provisions as established in [sections 13 through 25]."

Insert: "NEW SECTION. Section 22. Negotiability of bonds. Bonds issued under [sections 13 through 25] are negotiable instruments under the Uniform Commercial Code, subject only to the provisions for registration of bonds."

Insert: "NEW SECTION. Section 23. Signatures of board members. In case any member of the board of examiners whose signature appears on bonds or coupons issued under [sections 13 through 25] ceases to be a member before the delivery of the bonds, the member's signature is valid and sufficient for all purposes as if the member had remained in office until delivery."

Insert: "NEW SECTION. Section 24. Refunding obligations. (1) The board of examiners may provide for the issuance of refunding obligations for refunding any obligations then outstanding that have been issued under [sections 13 through 25], including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of the obligations. The issuance of refunding obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the state are governed by the appropriate provisions of [sections 13 through 25] that relate to the issuance of the obligations.

(2) Refunding obligations issued as provided in subsection (1) may be sold or exchanged for outstanding obligations issued under [sections 13 through 25]. The proceeds may be applied to the purchase, redemption, or payment of the outstanding obligations. Pending the application of the proceeds of refunding obligations, with other available funds, to the payment of principal, accrued interest, and any redemption premium on the obligations being refunded and, if permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of interest on refunding obligations and expenses in connection with refunding, the proceeds may be invested as provided in Title 17, chapter 6."

Insert: "NEW SECTION. Section 25. Tax exemption of bonds -- legal investments. (1) All bonds issued under [sections 13 through 25], their transfer, and their income, including any profits made on their sale, are exempt from taxation by the state or any political subdivision or other instrumentality of the state, except for estate taxes.

(2) Bonds issued under [sections 13 through 25] are legal investments for any person or board charged with investment of public funds and are acceptable as security for any deposit of public money."

Renumber: subsequent sections

9. Page 5, line 8.

Insert: "(3) [Sections 13 through 25] are intended to be codified as an integral part of Title 17, chapter 5, and the provisions of Title 17, chapter 5, apply to [sections 13 through 25]."

And, as amended, do pass. Report adopted.

SB 472, do pass. Report adopted.

SB 484, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "ZONES;"

Insert: "AND"

2. Title, page 1, line 8 through line 10.

Strike: "; AUTHORIZING" on line 8 through "MCA" on line 10

3. Page 1, line 17.

Following: the first "credits"

Strike: ","

Insert: "and"

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Strike: ", and lower property tax payments"

4. Page 2, line 18 through line 19.

Strike: ", must have a population of at least 1,000 persons"

5. Page 2, line 20.

Following: "mile;"

Insert: "and"

6. Page 2, line 27 through line 28.

Strike: "An" on line 27 through "." on line 28

7. Page 3, line 4.

Following: "volume;"

Insert: "and"

8. Page 3, line 12.

Following: "business;"

Insert: "and"

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

Strike: section 6 in its entirety

Renumber: subsequent sections

10. Page 5, line 15 through page 7, line 9.

Strike: section 10 in its entirety

Renumber: subsequent sections

11. Page 7, line 14 through line 15.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

12. Page 7, line 16.

Strike: "7"

Insert: "6"

13. Page 7, line 17.

Strike: "7"

Insert: "6"

14. Page 7, line 18.

Strike: "8"

Insert: "7"

15. Page 7, line 19.

Strike: "8"

Insert: "7"

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16. Page 7, line 20.

Strike: "9"

Insert: "8"

17. Page 7, line 21.

Strike: "9"

Insert: "8"

And, as amended, do pass. Report adopted.

SB 487, introduced bill, be amended as follows:

1. Title, line 10.

Strike: "AN IMMEDIATE"

Following: "EFFECTIVE"

Strike: remainder of line 10 through "APPLICABILITY DATE"

Insert: "DATES"

2. Page 4, line 20.

Strike: "date"

Insert: "dates"

Following: "date."

Insert: "(1)"

Strike: "[This act] is"

Insert: "[Sections 2, 3, and 6 and this section] are"

3. Page 4, line 21.

Following: line 20

Insert: "(2) [Sections 1 and 4] are effective July 1, 2005."

And, as amended, do pass. Report adopted.

SB 488, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Strike: "55"

Insert: "50"

2. Page 5, line 19.

Following: "quarter,"

Insert: "97.23% of"

3. Page 5, line 20.

Following: "facility."

Insert: "An amount equal to 2.77% of the gross receipts may be retained by the owner or operator as an administrative allowance for the collection of the tax."

4. Page 6, line 2.

Strike: "Fifty-five"

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Insert: "Fifty"

5. Page 7, line 18.

Strike: "Fifty-five"

Insert: "Fifty"

6. Page 15, line 16.

Strike: "\$10"

Insert: "\$20"

7. Page 16, line 29 through line 30.

Strike: "to" on line 29 through "193]" on line 30

Insert: "on a total per-educator entitlement pursuant to subsection (3)"

8. Page 17, line 4.

Insert: "(3) (a) The state shall provide a total per-educator entitlement of the funds allocated in subsection (2)(a) to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; and

(iv) state youth correctional facilities, as defined in 41-5-103.

(b) A special education cooperative that has not met the requirements of 20-7-453 and 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(4) The total per-educator entitlement for special education cooperatives, the Montana school for the deaf and blind, and state youth correctional facilities under subsection (3) must be calculated and distributed directly to those entities by the superintendent of public instruction."

And, as amended, do pass. Report adopted.

SJR 29, be adopted. Report adopted.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Wednesday, April 2, 2003. Motion carried.

Senate adjourned at 3:11 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate