

**SENATE JOURNAL  
58TH LEGISLATURE  
EIGHTY-FOURTH LEGISLATIVE DAY**

Helena, Montana  
April 21, 2003

Senate Chambers  
State Capitol

Senate convened at 5:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Anderson, Cobb and Story, excused. Quorum present.

The presiding officer has authenticated the daily journal for the eighty-third legislative day.

**REPORTS OF STANDING COMMITTEES**

**FINANCE AND CLAIMS** (Zook, Chairman): 4/17/2003  
**SB 493**, do pass. Report adopted.

**STATE ADMINISTRATION** (Cobb, Chairman): 4/18/2003  
**SR 10**, be adopted. Report adopted.

**REPORTS OF SELECT COMMITTEES**

**FREE CONFERENCE COMMITTEE**  
on **Senate Bill 362**  
Report No. 1, April 17, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 362** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 362** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 13 through line 14.

**Strike:** "ORDERED" on line 13 through "TREATMENT" on line 14

**Insert:** "CONVICTED OF THE OFFENSE"

2. Page 2, line 8.

**Strike:** "AND"

3. Page 2, line 12.

**Following:** "and"

**Insert:** "and"

4. Page 2, line 15.

**Following:** line 14

**Insert:** "(C) if the person has a driver's license, must have the license confiscated by the court for 30 days, except as provided in subsection (2)(b);"

SENATE JOURNAL  
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

5. Page 2, line 21.

**Strike:** "AND"

6. Page 2, line 25.

**Following:** line 24

**Insert:** "(C) if the person has a driver's license, must have the license confiscated by the court for 6 months, except as provided in subsection (2)(b); and"

7. Page 2, line 25.

**Strike:** "(C)"

**Insert:** "(D)"

8. Page 3, line 7.

**Following:** "SUBSECTION (2)(B):"

**Insert:** "If the person has a driver's license, the court shall confiscate the license for 6 months, except as provided in subsection (2)(b)."

9. Page 5, line 19.

**Strike:** "ORDERED" through "SUBSECTION (8)"

**Insert:** "convicted under this section"

10. Page 5, line 21.

**Strike:** "ORDERED" through "SUBSECTION (8)"

**Insert:** "convicted under this section"

11. Page 5, line 25.

**Following:** "53-24-208"

**Insert:** "or by a court or provided under a contract with the department of corrections"

12. Page 6, line 1.

**Following:** "53-24-208"

**Insert:** "or by a court or provided under a contract with the department of corrections"

13. Page 6, line 7.

**Following:** "53-24-208"

**Insert:** "or by a court or provided under a contract with the department of corrections"

For the Senate:

Grimes, Chairman  
Perry  
Mangan

For the House:

Shockley, Chairman  
Sales  
Parker

**MESSAGES FROM THE GOVERNOR**

April 17, 2003

The Honorable Bob Keenan  
President of the Senate

SENATE JOURNAL  
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

State Capitol  
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 98** sponsored by Senator Mangan, **Senate Bill 110** sponsored by Senator Toole, **Senate Bill 137** sponsored by Senator DePratu, **Senate Bill 146** sponsored by Senator Anderson, **Senate Bill 191** sponsored by Senator O'Neil, **Senate Bill 217** sponsored by Senator Mahlum et al., **Senate Bill 226** sponsored by Senator DePratu et al., **Senate Bill 254** sponsored by Senator Cooney et al., **Senate Bill 306** sponsored by Senator D. Ryan, **Senate Bill 389** sponsored by Senator McGee et al., and **Senate Bill 449** sponsored by Senator Cooney on April 17, 2003.

Sincerely,

JUDY MARTZ  
Governor

April 18, 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 65** sponsored by Senator Roush, **Senate Bill 105** sponsored by Senator Johnson, **Senate Bill 113** sponsored by Senator Esp, and **Senate Bill 307** sponsored by Senator D. Ryan on April 18, 2003.

Sincerely,

JUDY MARTZ  
Governor

April 18, 2003

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

The Honorable Doug Mood  
Speaker of the House  
State Capitol  
Helena, Montana 59620

Dear President Keenan and Speaker Mood:

SENATE JOURNAL  
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 408, "**AN ACT PROVIDING AN ADJUSTMENT TO ADJUSTED GROSS INCOME FOR STATE INCOME TAX PURPOSES FOR LICENSED HEALTH CARE PROFESSIONALS WHO RECEIVE A LOAN REPAYMENT INCENTIVE TO PRACTICE IN CERTAIN AREAS IN MONTANA; AMENDING SECTION 15-30-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE**" for the following reasons:

Senate Bill 408 provides an income tax exemption for certain health care professionals who provide medical services in areas of high need, who have student loan payments, and who receive payments by a loan repayment program.

Senate Bill 408, in its current form, does not contain language limiting the tax exemption to health care providers who have received loan payments in the current tax year for student loans that are currently outstanding. In addition, the bill in its current form provides an income tax exclusion of \$5,000 without regard to the amount of loan repayment made on behalf of the health care provider. The amendatory veto language resolves these ambiguities. The amendatory language 1) clarifies that the tax exclusion claimed is equal to the amount of the loan repayment, up to a maximum of \$5,000; 2) clarifies that the exclusion is only available to taxpayers who have a current student loan; and 3) clarifies that the taxpayer must have received the loan repayment in the tax year in which the exclusion is sought.

I have enclosed my amendment to that effect. Please be advised that the Department of Revenue concurs with this amendment. Further, please be advised that Senator Nelson, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ  
Governor

GOVERNOR'S AMENDMENTS  
TO SENATE BILL 408

1. Page 5, line 3.  
Strike: "up to \$5,000."  
Insert: "the amount of the loan payment received pursuant to subsection (iv), not to exceed \$5,000"
2. Page 5, line 9.  
Strike: "had"
3. Page 5, line 10.  
Following: "payment"  
Insert: "during the tax year"

April 18, 2003

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

The Honorable Doug Mood

SENATE JOURNAL  
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

Speaker of the House  
State Capitol  
Helena, Montana 59620

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 429, "**AN ACT GENERALLY REVISING THE PROVISIONS REGARDING REDISTRICTING; PROVIDING FOR CRITERIA; PROVIDING FOR THE USE OF DECENNIAL CENSUS DATA; PROVIDING FOR THE IMPLEMENTATION OF A SUCCESSFUL CONSTITUTIONAL AMENDMENT TO REVISE LEGISLATIVE REDISTRICTING TO CREATE A NONPARTISAN PROCESS TO ALLOW THE LEGISLATURE OPPORTUNITIES TO APPROVE A PLAN; PROVIDING THAT IF A PLAN IS NOT APPROVED, A THREE-JUDGE PANEL APPOINTED BY THE SUPREME COURT SHALL APPROVE A PLAN; PROVIDING FOR A REDISTRICTING PLAN UPON ORDER BY THE COURT; AMENDING SECTION 1, CHAPTER 4, LAWS OF 2003, AND SECTIONS 5-1-101, 5-1-102, 5-1-106, 5-1-108, 5-1-109, AND 5-1-111, MCA; REPEALING SECTION 5-1-110, MCA; CONTINGENTLY REPEALING CHAPTER 3, LAWS OF 2003; AND PROVIDING AN APPLICABILITY DATE**" without my signature and recommend the attached amendments for the following reasons:

**Section 1. Redistricting criteria.** As passed, Senate Bill No. 429, Section 1 concerns the issue that a plan is subject to the Voting Rights Act and must comply with a set of criteria. The recommended amendments will prioritize the criteria, set forth in Section 1, in order of importance. Further, the amendment will statutorily restrict the ability of the commission to address district boundaries that coincide with the boundaries of political subdivisions of the state to the greatest extent prior to the districts being compact.

Please be advised that Senator Esp, the sponsor of the bill, has been informed of my recommendations and has no objections.

I urge your concurrence in the amendments.

Sincerely,

JUDY MARTZ  
Governor

GOVERNOR'S AMENDMENTS  
TO SENATE BILL 429

1. Page 1, line 20.

**Following:** "criteria"

Insert: ", in order of importance"

2. Page 1, line 25.

**Following:** line 24

**Insert:** "(b) District boundaries must coincide with the boundaries of political subdivisions of the state to the greatest extent possible. The number of counties and cities divided among more than one district must be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions must be divided before the less populous, unless the boundary is drawn along a county line which passes through a city."

**Renumber:** subsequent subsections

SENATE JOURNAL  
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

3. Page 2, line 1 through line 5.

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

4. Page 2, line 8.

**Strike:** "nonpartisan"

5. Page 2, line 13 through line 17.

**Strike:** subsection (4) in its entirety

**MESSAGES FROM THE OTHER HOUSE**

**Senate bill not concurred** in and returned to the Senate: 4/21/2003

**SB 474**, introduced by F. Thomas

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

4/17/2003

**SB 464**, introduced by Keenan

**Senate bill not concurred** in and returned to the Senate:

4/16/2003

**SB 470**, introduced by Mangan

**Senate amendments** to House bills **concurred** in:

4/17/2003

**HB 3**, introduced by Brueggeman

**HB 4**, introduced by Brueggeman

**HB 18**, introduced by Shockley

**HB 558** - The House failed to concur in Senate amendments to **HB 558**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 558**:

4/17/2003

Representative D. Brown, Chair

Representative Maedje

Representative Keane

**House joint resolution passed** and transmitted to the Senate for concurrence:

4/17/2003

**HJR 38**, introduced by Erickson

**FIRST READING AND COMMITMENT OF BILLS**

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

**HJR 38**, introduced by Erickson, referred to Taxation.

SENATE JOURNAL  
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

**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 112, as amended by the House**, passed as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, 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, Zook, Mr. President.

Total 46

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Anderson, Cobb, Story.

Total 3

**SB 130, as amended by the Free Conference Committee Report No. 1**, adopted as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, 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, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Curtiss, Elliott.

Total 2

Absent or not voting: None.

Total 0

Excused: Anderson, Cobb, Story.

Total 3

**SB 294, as amended by the House**, passed as follows:

Yeas: 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, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: None.

Total 0

SENATE JOURNAL  
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

Absent or not voting: None.  
Total 0

Excused: Anderson, Cobb, Story.  
Total 3

**SB 304, as amended by the Conference Committee Report No. 1,** adopted as follows:

Yeas: 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, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 47

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Anderson, Cobb, Story.  
Total 3

**SB 330, as amended by the Conference Committee Report No. 1,** adopted as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.  
Total 43

Nays: Cromley, Ellingson, McNutt, Toole.  
Total 4

Absent or not voting: None.  
Total 0

Excused: Anderson, Cobb, Story.  
Total 3

**SB 347, as amended by the Conference Committee Report No. 1,** adopted as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, 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, Zook, Mr. President.  
Total 46

Nays: Hansen.



SENATE JOURNAL  
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

Total 1

Absent or not voting: None.

Total 0

Excused: Anderson, Cobb, Story.

Total 3

**SB 375, as amended by the Free Conference Committee Report No. 1**, adopted as follows:

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

Total 41

Nays: Butcher, Cooney, Esp, Gebhardt, Mahlum, Ryan.

Total 6

Absent or not voting: None.

Total 0

Excused: Anderson, Cobb, Story.

Total 3

**SB 395, as amended by the Conference Committee Report No. 1**, adopted as follows:

Yeas: Bales, Barkus, Black, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Laible, Mahlum, McCarthy, McGee, McNutt, O'Neil, Perry, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Thomas, Zook.

Total 28

Nays: Bohlinger, Cocchiarella, Cooney, Ellingson, Elliott, Harrington, Johnson, Kitzenberg, Mangan, Nelson, Pease, Roush, Schmidt, Squires, Tester, Toole, Tropila, Wheat, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: Anderson, Cobb, Story.

Total 3

**SB 478, as amended by the House**, passed as follows:

Yeas: 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, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

SENATE JOURNAL  
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Anderson, Cobb, Story.  
Total 3

**SB 480, as amended by the House, passed as follows:**

Yeas: Bales, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 42

Nays: Barkus, Cocchiarella, DePratu, Gebhardt, Squires.  
Total 5

Absent or not voting: None.  
Total 0

Excused: Anderson, Cobb, Story.  
Total 3

**HB 190, as amended by the Free Conference Committee Report No. 1, adopted as follows:**

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.  
Total 29

Nays: Cooney, Cromley, Curtiss, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.  
Total 20

Paired: Anderson, Story, Ayes; Elliott, Wheat, Noes.

Absent or not voting: None.  
Total 0

Excused: Cobb.  
Total 1

**HB 642, as amended by the Conference Committee Report No. 1, adopted as follows:**

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Shea,

SENATE JOURNAL  
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.  
Total 36

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Ryan, Schmidt, Squires, Toole, Wheat.  
Total 11

Absent or not voting: None.  
Total 0

Excused: Anderson, Cobb, Story.  
Total 3

**PROCLAMATION**

**A PROCLAMATION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA**

**WHEREAS**, by the turn of the twentieth century the Fort Shaw Government Industrial Indian Boarding School (1892-1910)--an off-reservation Sun River Valley boarding school for American Indian children from Montana, Idaho, and Wyoming--was providing its female students with the opportunity to engage in the fledgling sport of "basketball"; and

**WHEREAS**, by 1903 the Fort Shaw girls' team had become the state basketball champions by defeating all the girls' and women's high school and college teams in Montana; and

**WHEREAS**, in 1904 the ten young women of the Fort Shaw team were invited to spend five months at the Louisiana Purchase Exposition in St. Louis as students at the Model Indian School on the fairgrounds, where they were to demonstrate their basketball skills as well as to give weekly literary programs and musical concerts; and the girls and their families accepted this challenge, welcoming the opportunity to share their talents with the wider world; and

**WHEREAS**, defeating all comers in St. Louis, this outstanding group of young women returned to Montana in November 1904 with a gleaming World's Fair silver trophy; and

**WHEREAS**, in the words of a contemporary reporter, "the playing of these Fort Shaw girls has had much to do with making the game (of basketball) so popular in Montana"; and

**WHEREAS**, the members of this team of girls from Fort Shaw, in taking on opportunities for expanding their education and embracing new experiences, have become role models not only for their own descendants and for Montana's Indian youth, but for all the state's young people.

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:** that we proclaim 2004 the year of the Fort Shaw Indian Boarding School's 1904 World's Championship Team.

Herewith, let their names be read into the record: Minnie Burton, Lemhi Shoshone; Genie Butch, Assiniboine; Genevieve Healy, Gros Ventre; Bell Johnson, Piegan; Rose LaRose, Shoshone-Bannock; Flora Lucero, Chippewa; Sarah Mitchell, Assiniboine; Emma Sansaver, Chippewa-Cree; Catherine Snell, Assiniboine; and Nettie Wirth, Assiniboine.

SENATOR BOB KEENAN

REPRESENTATIVE DOUG MOOD

SENATE JOURNAL  
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 21, 2003

President of the Senate

Speaker of the House

**MOTIONS**

**SB 395** - Senator Bohlinger moved he be allowed to change his vote on **SB 395**, third reading this day, from yea to nay. Motion carried.

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Tuesday, April 22, 2003. Motion carried.

Senate adjourned at 5:27 p.m.

ROSANA SKELTON  
Secretary of the Senate

BOB KEENAN  
President of the Senate