

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

Helena, Montana
April 23, 2003

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

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

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

Senator Mahlum excused at this time.

REPORTS OF SELECT COMMITTEES

**FREE CONFERENCE COMMITTEE
on **Senate Bill 252**
Report No. 1, April 17, 2003**

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 252** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 252** (reference copy -- salmon) be amended as follows:

1. Title, page 1, lines 7 through 8.

Strike: "EACH" on line 7

Insert: "CERTAIN"

Strike: "ELECTION"

Insert: "ELECTIONS"

Strike: "AND" on line 7 through "PROVIDED" on line 8

2. Page 2, lines 8 through 9.

Strike: "for as long" on line 8 through "application" on line 9

Following: "."

Insert: "However, the application is valid for only one federal election and all other elections until the next federal election."

3. Page 3, line 17.

Strike: "administration"

Insert: "administrator"

Strike: "."

4. Page 3, line 18.

Strike: "(A)"

Following: "request"

Strike: "that an"

Strike: "ballot,"

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5. Page 3, lines 19 through 23.

Strike: "when available" on line 19 through "BALLOT" on line 23

Insert: "ballots for subsequent elections, as provided in 13-13-212(5)"

Following: "FORM"

Insert: ", or another form prescribed by the secretary of state,"

Strike: "PROVIDE"

Insert: "verify"

6. Page 3, line 24.

Following: "ADDRESS"

Insert: "and must be returned with the voted absentee ballot"

Strike: "INCLUDED"

Insert: "used"

For the Senate:

Butcher, Chairman
Stapleton
Squires (unsigned)

For the House:

Sinrud, Chairman
B. Olson
Gibson (unsigned)

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 336**
Report No. 1, April 22, 2003

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 336** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 336** (reference copy -- salmon) be amended as follows:

1. Title, line 11.

Following: "~~NOT~~"

Insert: "NOT"

2. Title, line 12.

Strike: "INTENDS"

Insert: "DOES NOT INTEND"

3. Title, line 14.

Strike: "AND FISHING ACCESS SITES"

4. Page 3, line 3.

Strike: "\$3.25"

Insert: "\$3.50"

5. Page 3, line 4.

Strike: "50"

Insert: "25"

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6. Page 4, line 24.

Strike: "AND FISHING ACCESS SITES"

7. Page 6, line 12.

Strike: "IF"

Insert: "Unless"

8. Page 6, line 17.

Strike: "INTENDS"

Insert: "does not intend"

9. Page 6, line 18.

Following: "not"

Insert: "not"

10. Page 6, line 19.

Following: "is"

Strike: "NOT"

For the Senate:

Mahlum, Chairman
Sprague
Shea

For the House:

Brueggeman, Chairman
Lange
Golie

MESSAGES FROM THE GOVERNOR

April 22, 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 111** sponsored by Senator Nelson, **Senate Bill 243** sponsored by Senator Wheat et al., **Senate Bill 263** sponsored by Senator Grimes, **Senate Bill 364** sponsored by Senator Cooney, and **Senate Bill 383** sponsored by Senator Bales on April 22, 2003.

Sincerely,

JUDY MARTZ
Governor

April 22, 2003

The Honorable Bob Keenan
President of the Senate

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State Capitol
Helena, Montana 59620

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

Re: SB 370

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 370, "**AN ACT REVISING WHICH ENTITIES PAY FOR THE MEDICAL EXPENSES OF INMATES HELD IN COUNTY DETENTION FACILITIES; PROVIDING CIRCUMSTANCES UNDER WHICH THE INMATE IS RESPONSIBLE FOR PAYMENT; REQUIRING THE HEALTH CARE PROVIDER TO COLLECT PAYMENTS FOR TREATMENT FROM INMATES WHO ARE ABLE TO PAY; PROVIDING CIRCUMSTANCES UNDER WHICH THE COUNTY IS RESPONSIBLE FOR PAYMENT; AMENDING SECTIONS 7-32-2222 AND 7-32-2245, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**" for the following reasons:

I have no concerns with the objectives of Senate Bill No. 370, or with its specific measures. I recommend, however, that Section 2 (3)(C) be amended to read that if the health care provider is reimbursed by the third-party payor or by the inmate or after the provider has been reimbursed by the county, the provider shall refund to the county the amount that the provider had been paid by the county for the services provided to the inmate.

I have enclosed my amendment to that effect. Please be advised that Senator Gebhardt, 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 370

1. Page 3, line 2.
Following: "BY"
Insert: "the inmate or"

April 22, 2003

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

The Honorable Doug Mood
Speaker of the House

SENATE JOURNAL
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State Capitol
Helena, Montana 59620

Re: SB 381

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 381, "**AN ACT PROVIDING THAT THE USE OF ARBITRATION FOR DISPUTE RESOLUTION UNDER THE NATURAL STREAMBED AND LAND PRESERVATION ACT OF 1975 IS NOT MANDATORY; AMENDING SECTIONS 75-7-111, 75-7-112, 75-7-113, 75-7-116, 75-7-117, AND 75-7-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**" for the following reasons:

Section 75-7-112, MCA, Section 2 gives the applicant 15 days to choose either arbitration or judicial review. The conservation district supervisor and the department of fish, wildlife and parks representative are limited to 5 days to give notice of arbitration. If arbitration is selected by a person other than the applicant and then the applicant attempts to seek a judicial review a conflict of laws problem is created. In other words, both arbitration and judicial review have been invoked and the question becomes which process should be used. The DNRC recommends that the applicant's choice of remedy should prevail.

The following attached amendments will provide the following:

- (1)The applicant's choice of filing a petition for judicial review will prevail over a fish, wildlife and parks or a conservation districts representative's choice of filing for arbitration.
- (2) The effective date would be moved to give the local, state and federal agencies the time to develop the necessary applications, etc. to implement the law as amended by SB 381.

Please be advised that the Department of Natural Resources and Conservation concur with this amendment. Further, please be advised that Senator Keenan, 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 381

1. Title, line 6.

Following: ";"

Insert: "AND"

2. Title, line 7.

Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 5, line 23.

Following: "Review."

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Insert: "(1)"

4. Page 5, line 26.

Insert: "(2) An applicants choice of the judicial review remedy prevails over any other team member's request for arbitration regardless of whether arbitration was requested prior to the filing of a petition for judicial review by the applicant."

5. Page 5, line 27.

Strike: section 7 in its entirety

April 22, 2003

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

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

Re: HB 5

Dear Speaker Mood and President Keenan:

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 House Bill 5, "**AN ACT APPROPRIATING MONEY FOR CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2005; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING THAT FOR THE PURPOSE OF FOSTERING PRIVATE EFFORTS TO RESTORE, MAINTAIN, AND DEVELOP THE OLD MAIN BUILDING AT THE MONTANA VETERANS' HOME, THE DEPARTMENT OF ADMINISTRATION MAY WAIVE REQUIREMENTS PERTAINING TO BIDDING AND BONDING FOR STATE BUILDING PROJECTS IN TITLE 18, MCA, TO LABOR REQUIREMENTS IN TITLE 18, MCA, AND TO CONTRACTOR REGISTRATION IN TITLE 39, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE,**" without my signature and recommend the attached amendment for the following reason:

Section 2. Capital projects appropriations. As passed, House Bill No. 5, Section 2, reads that the Department of Administration, for the purpose of fostering restoration, maintenance, and development of the project at the Montana Veteran's Home in Columbia Falls, may waive the requirements pertaining to bidding and bonding for State building projects in Title 39.

A technical amendment must be made to strike Title 39 and insert Title 18. Specifically, Section 2, (2)(a)(i) should read that the Department of Administration may waive, the requirements pertaining to: bidding and bonding for state building projects in Title 18.

I have enclosed my amendment to that effect. Please be advised that Representative Kasten, the sponsor of the bill, has been informed of my recommendation and has no objections.

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Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO **HOUSE BILL 5**

1. Page 4, line 18.

Strike: "39"

Insert: "18"

April 22, 2003

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

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

Re: HB 609

Dear Speaker Mood and President Keenan:

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 House Bill 609, "**AN ACT HONORING THE SACRIFICE, PATRIOTISM, AND LONG TRADITION OF MILITARY PARTICIPATION BY MONTANA'S AMERICAN INDIAN CITIZENS BY REQUIRING SPECIFIC RECOGNITION OF MONTANA'S PAST, PRESENT, AND FUTURE AMERICAN INDIAN WAR VETERANS IN THE CONSTRUCTION OF THE AMERICAN INDIAN MONUMENT AND TRIBAL FLAG CIRCLE; AMENDING SECTION 22-2-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE,**" without my signature and recommend the attached amendment for the following reasons:

House Bill No. 609 to provide a contingent effective date. I recommend that House Bill No. 609 be amended as follows: This act is effective on the date that the state treasurer certifies to the governor that sufficient private funds have been received to finance the construction of the monument and tribal flag circle. The state treasurer shall provide a copy of the certification to the code commissioner.

I have enclosed my amendment to that effect. Please be advised that Representative Windy Boy, the sponsor of the bill, has been informed of my recommendation and has no objections.

I urge your concurrence in the amendment.

Sincerely,

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JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO **HOUSE BILL 609**

1. Title, line 11.

Strike: "AN IMMEDIATE"

Insert: "A CONTINGENT"

2. Page 2, line 23.

Strike: "passage and approval"

Insert: "the date that the state treasurer certifies to the governor that sufficient private funds have been received to finance the construction of the monument and tribal flag circle. The state treasurer shall provide a copy of the certification to the code commissioner"

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate: 4/22/2003

SB 384, introduced by Mangan

SB 399, introduced by Bohlinger

SB 446, introduced by Barkus

SB 473, introduced by Elliott

SB 491, introduced by Stonington

Senate joint resolution concurred in and returned to the Senate: 4/22/2003

SJR 13, introduced by Toole

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

4/22/2003

SJR 17, introduced by Tester

House bill passed and transmitted to the Senate for concurrence: 4/22/2003

HB 775, introduced by Laszloffy

House joint resolutions passed and transmitted to the Senate for concurrence: 4/22/2003

HJR 35, introduced by Bixby

HJR 37, introduced by Noennig

HJR 40, introduced by Younkin

HJR 41, introduced by Lindeen

HJR 42, introduced by Lindeen

HJR 43, introduced by Windy Boy

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

4/22/2003

HB 452, introduced by Raser
HB 721, introduced by Erickson
HB 744, introduced by E. Clark
HB 748, introduced by Devlin

Governor's amendments to House bill **concurred in** and transmitted to the Senate for concurrence in the Governor's amendments:

4/22/2003

HB 693, introduced by Sinrud

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

Session 1

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

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

HB 13 - Free Conference Committee Report No. 1 - Senator Zook moved the Free Conference Committee report to **HB 13** be adopted. Motion carried as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Stapleton, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.

Total 32

Nays: Anderson, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Wheat.

Total 16

Absent or not voting: None.

Total 0

Excused: Mahlum, Sprague.

Total 2

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

THIRD READING OF BILLS

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

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SB 325, as amended by the Governor, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Cromley, Ellingson.
Total 2

Absent or not voting: None.
Total 0

Excused: Mahlum, Sprague.
Total 2

SB 360, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Cromley, Ellingson.
Total 2

Absent or not voting: None.
Total 0

Excused: Mahlum, Sprague.
Total 2

SB 362, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 43

Nays: Cobb, Cocchiarella, Harrington, Nelson, Shea.
Total 5

Absent or not voting: None.
Total 0

Excused: Mahlum, Sprague.

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Total 2

SB 408, as amended by the Governor, 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, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: Mahlum, Sprague.

Total 2

SB 429, as amended by the Governor, passed as follows:

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

Total 26

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

Total 22

Absent or not voting: None.

Total 0

Excused: Mahlum, Sprague.

Total 2

SB 464, as amended by the House, passed as follows:

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

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: Mahlum, Sprague.
Total 2

SB 493 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Zook, Mr. President.
Total 42

Nays: Cocchiarella, Cromley, Gebhardt, Mangan, Tester, Wheat.
Total 6

Absent or not voting: None.
Total 0

Excused: Mahlum, Sprague.
Total 2

HB 608, 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, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mahlum, Sprague.
Total 2

HB 720, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Zook, Mr. President.
Total 40

Nays: Cooney, Cromley, Ellingson, Elliott, Schmidt, Tester, Toole, Wheat.
Total 8

Absent or not voting: None.

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Total 0

Excused: Mahlum, Sprague.

Total 2

HJR 36 concurred in as follows:

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

Total 43

Nays: Cromley, Ellingson, Mangan, Toole, Wheat.

Total 5

Absent or not voting: None.

Total 0

Excused: Mahlum, Sprague.

Total 2

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 10:00 a.m. this day. Motion carried.

Senate recessed at 8:58 a.m.

Senate reconvened at 10:05 a.m.

Roll Call. All members present except Senators Harrington and Sprague, excused. Quorum present.

MESSAGES FROM THE GOVERNOR

April 22, 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

Re: SB 270

Dear President Keenan and Speaker Mood:

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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 270, "**AN ACT REVISING THE INDEPENDENT CONTRACTOR EXEMPTION LAWS; IMPOSING A CIVIL PENALTY AND REQUIRING REPAYMENT OF UNEMPLOYMENT CONTRIBUTIONS AND WORKERS' COMPENSATION PREMIUMS AGAINST AN EMPLOYER WHO FALSELY MISREPRESENTS AN EMPLOYEE'S STATUS AS AN EXEMPT INDEPENDENT CONTRACTOR; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO APPOINT AN INTERIM ADVISORY COMMITTEE TO STUDY ISSUES RELATED TO INDEPENDENT CONTRACTORS AND TO MAKE RECOMMENDATIONS TO THE 59TH LEGISLATURE; AMENDING SECTION 39-71-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE**" for the following reasons:

I have no concerns with the objectives of Senate Bill No. 270, or with its specific measures. I recommend, however, that Section 1 (3)(f) be deleted in its entirety. A purpose of the bill is to penalize an independent contractor who misrepresents his or her status as an exempt independent contractor. I trust that the advisory committee, contained in Section 2, will study issues relating to independent contractors as it relates to a working definition and to exemptions of independent contractors from coverage under the Worker's Compensation Act.

I have enclosed my amendment to that effect. I urge your concurrence in this amendment.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 270

1. Title, lines 4 through 15.
Strike: "REVISING" on line 12 through "CONTRACTOR;" on line 15
2. Title, lines 17 and 18.
Following: ":" on line 17
Strike: remainder of line 17 through "MCA;" on line 18
3. Title, line 19.
Strike: "AND AN APPLICABILITY DATE"
4. Page 2, line 3 through page 6, line 9.
Strike: section 1 in its entirety
Renumber: subsequent sections
5. Page 6, line 27.
Strike: "-- applicability"
6. Page 6, lines 28 and 29.
Following: "approval" on line 28
Strike: remainder of line 28 through "act]" on line 29

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MESSAGES FROM THE OTHER HOUSE

HB 559 - The House dissolved the Conference Committee on House amendments to **HB 559**, and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **HB 559**:

4/23/2003

Representative Brueggeman, Chair
Representative Musgrove
Representative Gallus

HB 424 - The House dissolved the Conference Committee on House amendments to **HB 424**, and authorized the Speaker to appoint the following **Free** Conference Committee to confer with a like committee from the Senate to confer on **HB 424**:

4/23/2003

Representative Bitney, Chair
Representative Roberts
Representative Jent

MOTIONS

SB 461 - Senator Thomas moved the Conference Committee on **SB 461** be dissolved and that the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee to confer on **SB 461**. Motion carried. The President appointed the following members:

Senator Story, Chair
Senator DePratu
Senator Stonington

HB 558 - Senator Thomas moved the Conference Committee on **HB 558** be dissolved and that the President be authorized to appoint a new Conference Committee to meet with a like committee from the House to confer on Senate amendments to **HB 558**. Motion carried. The President appointed the following members:

Senator Mahlum, Chair
Senator Barkus
Senator Shea

FIRST READING AND COMMITMENT OF BILLS

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

HB 775, introduced by Laszloffy, referred to Taxation.

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

HJR 35, introduced by Bixby, Small-Eastman, referred to Natural Resources.

HJR 37, introduced by Noennig, McGee, Wanzenried, Wheat, referred to Local Government.

HJR 40, introduced by Younkin, Gallus, referred to Natural Resources.

HJR 41, introduced by Lindeen, referred to Finance and Claims.

HJR 42, introduced by Lindeen, A. Olson, referred to Natural Resources.

HJR 43, introduced by Windy Boy, Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P.

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Clark, Cooney, Cyr, Dickenson, Dowell, Ellingson, Elliott, Facey, Franklin, Gallus, Galvin-Halcro, Gibson, Golie, Gutsche, Haines, Hansen, Harris, Hedges, Jacobson, Jayne, Juneau, Kitzenberg, Lambert, Lange, Lenhart, Lindeen, Matthews, Musgrove, Newman, Parker, Raser, Small-Eastman, Tester, Toole, Wanzenried, Weiss, referred to Natural Resources.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Thomas moved the Senate stand in recess until the hour of 1:00 p.m. this day. Motion carried.

Senate recessed at 10:35 a.m.
Senate reconvened at 1:02 p.m.

Roll call. All members present except Senators Butcher and Sprague, excused.

REPORTS OF STANDING COMMITTEES

Correctly engrossed: **HB 608.**

Correctly enrolled: **SB 112, SB 138, SB 294, SB 320, SB 473, SB 478, SB 480, SR 10.**

Examined by the sponsor and found to be correct: **SB 112, SB 138, SB 155, SB 247, SB 294, SB 320, SB 473, SB 478, SB 480, SJR 18, SR 10.**

Signed by the President at 9:00 a.m., April 23, 2003: **SB 112, SB 138, SB 155, SB 247, SB 294, SB 320, SB 478, SB 480, SJR 18, SR 10.**

Signed by the Secretary of the Senate at 11:30 a.m., April 23, 2003: **SB 112, SB 138, SB 155, SB 247, SB 294, SB 320, SB 478, SB 480, SJR 18, SR 10.**

Signed by the Speaker at 11:40 a.m., April 23, 2003: **SB 112, SB 138, SB 155, SB 247, SB 294, SB 320, SB 478, SB 480, SJR 18.**

Delivered to the Governor for approval at 12:20 p.m., April 23, 2003: **SB 112, SB 138, SB 155, SB 247, SB 294, SB 320, SB 478, SB 480.**

Delivered to the Secretary of State at 1:30 p.m., April 23, 2003: **SJR 18.**

Signed by the President at 1:30 p.m., April 23, 2003: **SB 473.**

Signed by the Secretary of the Senate at 1:30 p.m., April 23, 2003: **SB 473.**

Signed by the Speaker at 1:25 p.m., April 23, 2003: **SB 473.**

Delivered to the Governor for approval at 1:38 p.m., April 23, 2003: **SB 473.**

TAXATION (DePratu, Chairman):

4/23/2003

HJR 38, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **Senate Bill 271**

Report No. 1, April 23, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 271** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

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And, recommend that **Senate Bill 271** (reference copy -- salmon) be amended as follows:

1. Title, line 4.

Strike: "AUTHORIZING"

Insert: "REQUIRING THAT"

2. Title, line 11.

Following: "INDUSTRY;"

Insert: "INCREASING THE DEBT LIMIT UNDER THE MUNICIPAL FINANCE CONSOLIDATION ACT; AUTHORIZING A LOAN TO THE DEPARTMENT OF REVENUE FOR THE REPLACEMENT SYSTEM; REQUIRING THE DEPARTMENT OF REVENUE TO IMPOSE AN ADMINISTRATIVE CHARGE FOR TAX COLLECTION SERVICES; REQUIRING THE ADMINISTRATIVE CHARGE TO BE DEPOSITED IN AN ACCOUNT TO BE USED TO PAY THE DEBT SERVICE ON LOANS ISSUED FOR THE REPLACEMENT SYSTEM; APPROPRIATING MONEY FOR DEPARTMENT OF REVENUE'S TRANSITION COSTS AND FOR LOAN REPAYMENT;"

3. Title, line 12.

Following: "~~15-30-249~~;"

Insert: "15-1-501, 17-5-1608, 17-5-2001,"

4. Title, line 14.

Strike: "A CONTINGENT"

5. Title, line 15.

Strike: "DATE"

Insert: "DATES"

6. Page 1, line 21.

Strike: "MAY"

Insert: "shall"

7. Page 1, line 24.

Strike: "MAY"

Insert: "must"

8. Page 1, line 28.

Strike: "MAY"

Insert: "shall"

9. Page 5, line 19.

Insert: "**Section 2.** Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes.(1) ~~The~~ Except as provided in subsection (5), the state treasurer shall deposit to the credit of the state general fund in accordance with the provisions of subsection (3) all money received from the collection of:

- (a) income taxes, interest, and penalties collected under chapter 30;
- (b) all taxes, interest, and penalties collected under chapter 31;
- (c) oil and natural gas production taxes distributed to the general fund under 15-36-324;
- (d) electrical energy producer's license taxes under chapter 51;
- (e) the retail telecommunications excise tax collected under Title 15, chapter 53, part 1;

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- (f) liquor license taxes under Title 16;
- (g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;
- (h) estate taxes under Title 72, chapter 16; and
- (i) fees based on the value of currency on deposit and tangible personal property held for safekeeping by a foreign capital depository as provided in 15-31-803.

(2) The department shall also deposit to the credit of the state general fund all money received from the collection of license taxes and all net revenue and receipts from all sources, other than certain fees, under the operation of the Montana Alcoholic Beverage Code.

(3) Notwithstanding any other provision of law, the distribution of tax revenue must be made according to the provisions of the law governing allocation of the tax that were in effect for the period in which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

(4) All refunds of taxes must be attributed to the funds in which the taxes are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded.

(5) The administrative assessment provided for in [section 5] must be deposited in an account in the state special revenue fund to the credit of the department."

Insert: "Section 3. Section 17-5-1608, MCA, is amended to read:

"17-5-1608. (Temporary) Limitations on amounts. The board may not issue any bonds or notes that cause the total outstanding indebtedness of the board under this part, except for bonds or notes issued to fund or refund other outstanding bonds or notes or to purchase registered warrants or tax or revenue anticipation notes of a local government as defined in 7-6-1101, to exceed ~~\$80~~ \$120 million. (Terminates June 30, 2011--sec. 9, Ch. 394, L. 2001.)

17-5-1608. (Effective July 1, 2011) Limitations on amounts. The board may not issue any bonds or notes that cause the total outstanding indebtedness of the board under this part, ~~(except for bonds or notes issued to fund or refund other outstanding bonds or notes or to purchase registered warrants or tax or revenue anticipation notes of a local government as defined in 7-6-1101),~~ to exceed ~~\$75~~ \$120 million."

Insert: "Section 4. Section 17-5-2001, MCA, is amended to read:

"17-5-2001. (Temporary) Loans to state agencies. (1) An agency responsible for the procurement and provision of vehicles, automated systems, and equipment using an enterprise fund or an internal service fund, as described in 17-2-102, is authorized to enter into contracts, loan agreements, or other forms of indebtedness payable over a term not to exceed 7 years for the purpose of financing the cost of the vehicles and equipment and to pledge to the repayment of the indebtedness the revenue of the enterprise fund or internal service fund if:

- (a) the term of the indebtedness does not exceed the useful life of the items being financed; and
- (b) at the time that the indebtedness is incurred, the projected revenue of the fund, based on the fees and charges approved by the legislature and other available fund revenue, will be sufficient to repay the indebtedness over the proposed term and to maintain the operation of the enterprise.

(2) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$4.5 million, payable over a term not to exceed 10 years, for financing the cost of an information technology system for the production and maintenance of motor vehicle title and registration records and driver's license records.

(b) For purposes of the financing of the motor vehicle information technology system, loans are payable from the money in the motor vehicle information technology system account as provided in 61-3-550. The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue of the motor vehicle information technology system account, based upon the fees approved by the legislature, must be sufficient to repay the indebtedness over the proposed term.

- (3) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of

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indebtedness with the board of investments for an amount not to exceed \$1,120,000, payable over a term not to exceed 7 years, for the acquisition of video gambling automated accounting and reporting system data collection units.

(b) The loan is payable from the department of justice's annual appropriation from the general fund.

(c) The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the department of justice's base budget appropriation from the general fund must be sufficient to repay the indebtedness with respect to the video gambling data collection units over the proposed term of the loan.

(d) The loan is subject to the risk of nonappropriation.

(4) (a) If bonds are not issued for the project authorized in [section 1], the department of revenue is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$17 million, payable over a term not to exceed 7 years, for the acquisition of a replacement system for the process oriented integrated system (POINTS) computer system.

(b) The loan is payable from the department of revenue's appropriation from the administrative assessment provided for in [section 5].

(c) The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue from the administrative assessment provided for in [section 5] must be sufficient to repay the indebtedness with respect to the replacement system over the proposed term of the loan.

(d) The loan is subject to the risk of nonappropriation.

(Terminates June 30, 2011--sec. 9, Ch. 394, L. 2001.)

17-5-2001. (Effective July 1, 2011) Loans to state agencies. An agency responsible for the procurement and provision of vehicles and equipment using an enterprise fund or an internal service fund, as described in 17-2-102, is authorized to enter into contracts, loan agreements, or other forms of indebtedness payable over a term not to exceed 7 years for the purpose of financing the cost of the vehicles and equipment and to pledge to the repayment of the indebtedness the revenue of the enterprise fund or internal service fund if:

(1) the term of the indebtedness does not exceed the useful life of the items being financed; and

(2) at the time that the indebtedness is incurred, the projected revenue of the fund, based on the fees and charges approved by the legislature and other available fund revenue, will be sufficient to repay the indebtedness over the proposed term and to maintain the operation of the enterprise. ""

"NEW SECTION. Section 5. Administrative assessment. The department shall establish a fee of up to 0.45% of selected taxes collected by the department in order to recover costs and expenses associated with the POINTS replacement system described in [section 1]. The fee must be set annually to provide revenue equal to the debt service on the bonds authorized in 17-5-1608 or the projected principal and interest payments on the loan provided for in 17-5-2001.

(2) The department shall deposit the fee in an account in the state special revenue fund to the credit of the department.

(3) The department may adopt rules for identifying which taxes the administrative fee applies to and establishing the rate of the fee.

Renumber: subsequent sections

10. Page 13, line 16.

Insert: "NEW SECTION. Section 11. Deposit of loan proceeds -- capital projects appropriation. (1) The proceeds of any loan from the board of investments to the department of revenue for replacement of the POINTS computer system must be deposited in the capital projects fund.

(2) There is appropriated from the capital projects fund to the department of administration up to \$17 million for the replacement system described in [section 1].

(3) The department of revenue and the department of administration are prohibited from using any of the proceeds from the loan for the replacement system authorized by [section 1] for agency current level operating expenses. Loan proceeds appropriated under this section may be expended for project administration and implementation, including software and required hardware, software licensing, and extraordinary personal and

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contracted services.

(4) The appropriation continues until June 30, 2005."

"NEW SECTION. Section 12. Appropriation. (1) There is appropriated from the general fund to the department of revenue \$2,391,385 for the biennium ending June 30, 2005. This appropriation is to provide for the replacement of POINTS and the transfer of responsibility for unemployment insurance collections to the department of labor and industry. The department of revenue may use the appropriated funds for expenses necessary to ensure the smooth transition of existing POINTS data and systems to the replacement systems, including expenses for training, personal and contracted services, data and software cleanup, clearing backlog, correcting and realigning tax and collection data, preparing and executing conversion strategies, maintaining currency, and converting historic data.

(2) There is appropriated \$1.9 million from the state special revenue account for administrative assessments provided for in [section 5] to the department of revenue for the biennium ending June 30, 2005, for the payment of debt service on the bonds authorized in 17-5-1608 or the projected principal and interest payments on the loan provided for in 17-5-2001.

Insert: **"NEW SECTION. Section 13. Codification instruction.** [Sections 1 and 5] are intended to be codified as an integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [sections 1 and 5]."

Renumber: subsequent sections

11. Page 13, line 25.

Strike: "SUBSECTION (2)"

Insert: "subsections (2) and (3)"

12. Page 13, line 26.

Strike: "4 THROUGH 6"

Insert: "8 through 10"

13. Page 13, line 28.

Insert: "(3) [Sections 2, 5, and 12] are effective July 1, 2003."

14. Page 13, line 29.

Strike: "3"

Insert: "7"

15. Page 14, line 4.

Insert: **"NEW SECTION. Section 18. Termination.** [Sections 1, 4, and 5] terminate June 30, 2011."

For the Senate:

Glaser, Chairman
Stapleton
Elliott (unsigned)

For the House:

Brueggeman, Chairman
Pattison
Wanzenried

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 349**
Report No. 1, April 22, 2003

Mr. President and Mr. Speaker:

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We, your Conference Committee met and considered House amendments to **Senate Bill 349** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 349** (reference copy -- salmon) be amended as follows:

1. Page 2, line 5 through line 20.

Following: "insurance" on line 5

Strike: remainder of line 5 through "INSURER" on line 20

Insert: "means a denial, nonrenewal, or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of coverage of any insurance, existing or applied for, in connection with the underwriting of personal insurance"

2. Page 3, lines 11 and 12.

Following: "insured." on line 11

Strike: remainder of line 11 through "SCORE." on line 12

3. Page 3, line 13 through line 15.

Strike: subsection (9) in its entirety

4. Page 3, line 21.

Following: "solely"

Insert: "solely"

5. Page 3, line 22.

Strike: "AND SUBSTANTIALLY WEIGHING"

Insert: "any"

Strike: "FACTORS"

Insert: "factor"

6. Page 3, line 24.

Following: "renewal"

Insert: "renewal"

Following: "solely"

Insert: "solely"

7. Page 3, line 25.

Strike: "AND SUBSTANTIALLY WEIGHING"

Insert: "any"

Strike: "FACTORS"

Insert: "factor"

8. Page 3, line 27.

Following: "solely"

Insert: "solely"

9. Page 3, line 28.

Strike: "AND SUBSTANTIALLY WEIGHING"

Insert: "any"

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Strike: "FACTORS"

Insert: "factor"

10. Page 4, line 5.

Following: "criteria"

Insert: "unless the insurer does one of the following:

(a) treats the consumer as otherwise approved by the commissioner if the insurer presents information that the absence or inability relates to the risk for the insurer;

(b) treats the consumer as if the consumer had neither positive nor negative credit information, as defined by the insurer; or

(c) excludes the use of credit information as a factor and uses only other underwriting criteria"

11. Page 4, line 21.

Following: line 20

Insert: "(i) the insurer is treating the consumer as otherwise approved by the commissioner;"

Renumber: subsequent subsections

12. Page 4, line 30.

Strike: "THE NUMBER OF"

Insert: "promotional, account review, or account management"

13. Page 5, line 1.

Following: "information"

Insert: "or inquiries requested by the consumer for the consumer's own credit information"

14. Page 5, line 6.

Following: "or"

Insert: "or"

15. Page 5, lines 9 and 10.

Following: "considered" on line 9

Strike: remainder of line 9 through "DEBIT CARD" on line 10

16. Page 6, line 9.

Strike: "AT LEAST four"

Insert: "all"

17. Page 6, line 10.

Following: "factors"

Insert: ", up to four,"

18. Page 6, lines 13 and 14.

Following: "section" on line 13

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

19. Page 6, line 15 through line 19.

Strike: subsection (3) in its entirety

Insert: "(3) provide the consumer with the following information, which must be included with the information

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provided to the consumer pursuant to subsection (2):

(a) examples of the kinds of information considered by the insurer in the development of the consumer's insurance score;

(b) the name and telephone number of the consumer reporting agency that the insurer used to obtain the consumer's credit information or the third party used to determine the insurance score; and

(c) notice of how the consumer may exercise the consumer's remedies under [sections 5(7) and 6]."

20. Page 6, line 23.

Strike: "MUST"

Insert: "may"

21. Page 6, lines 24 through 26.

Following: "CRITERION" on line 24

Strike: "AS REQUIRED IN"

Insert: "pursuant to"

Following: "33-16-203" on line 24

Strike: remainder of line 24 through "CODE" on line 26

22. Page 7, line 15.

Following: line 14

Insert: "(2) The restrictions provided in subsection (1) do not apply to data or lists that the consumer reporting agency supplies to the insurance producer from whom information was received, the insurer on whose behalf the insurance producer acted, or the insurer's affiliates or holding companies."

Renumber: subsequent subsection

For the Senate:

Anderson, Chairman
Grimes
Cocchiarella (unsigned)

For the House:

Steinbeisser, Chairman
Rome
Keane (unsigned)

FREE CONFERENCE COMMITTEE
on **Senate Bill 487**
Report No. 1, April 23, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 487** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 487** (reference copy -- salmon) be amended as follows:

1. Title, lines 8 and 9.

Following: "PROJECT;" on line 8

Strike: remainder of line 8 through "PROJECT;" on line 9

Following: "AND"

Insert: "AND"

Strike: "90-5-101,"

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2. Page 3, lines 1 through 4.

Strike: "\$800" on line 1

Insert: "\$100"

Following: "million." on line 1

Strike: remainder of line 1 through "MILLION." on line 4

3. Page 3, line 10.

Strike: "\$600"

Insert: "\$50"

4. Page 4, line 21.

Insert: "(7) The board is encouraged to consider applications for project financing related to infrastructure and facilities necessary for the development of the state-owned coal assets."

5. Page 4, line 22 through page 6, line 5.

Strike: section 4 in its entirety

Renumber: subsequent sections

6. Page 6, line 9.

Strike: "THROUGH 4"

Insert: "and 3"

7. Page 6, line 11.

Strike: "5"

Insert: "4"

For the Senate:

Johnson, Chairman
Pease
Laible

For the House:

Bitney, Chairman
Mendenhall
Small-Eastman

MESSAGES FROM THE GOVERNOR

April 23, 2003

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

Dear Senator Keenan:

This letter is formal notice that I will be making an announcement of the Supreme Court Justice appointment on Thursday, April 24, 2003, and request that the Senate confirm this nomination before adjournment.

Thank you for your assistance with this confirmation and please let me know if you have any questions.

Sincerely,

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JUDY MARTZ
Governor

April 23, 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

Re: SB 46

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 46, "**AN ACT REMOVING THE REQUIREMENT THAT A COUNTY MUST ENTER INTO A CONTRACT FOR CERTAIN LARGE PURCHASES OR CONSTRUCTION CONTRACTS; AMENDING SECTION 7-5-2301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE,**" without my signature and recommend the attached amendment for the following reasons:

I have no concerns with the objectives of Senate Bill No. 46, or with its specific measures. I recommend, however, that Section 7-5-2301, MCA, be amended to include an additional provision: (4) A person who wishes to challenge a county's determination to perform work or purchase the items referred to in subsection (1) without entering into a contract may request the financial information relied upon by the county in making the decision.

I have enclosed my amendment to that effect. Please be advised that Senator Gebhardt, the sponsor of the bill, has been informed of my recommendation and has no objections.

I urge your concurrence in the amendment.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 46

1. Page 1, line 19.

Insert: "(4) A person who wishes to challenge a county's determination to perform work or purchase the items referred to in subsection (1) without entering into a contract may request the financial information relied upon by the county in making the decision."

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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

Re: SB 406

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 406, "**AN ACT PROVIDING THAT A CORNER RECORD MAY BE FILED IN LIEU OF A CERTIFICATE OF SURVEY IN CERTAIN INSTANCES; REQUIRING THAT THE COUNTY CLERK PROVIDE AN INDEX; PROVIDING THAT PARCELS CREATED FOR RIGHTS-OF-WAY OR UTILITY SITES ARE EXEMPT FROM THE SUBDIVISION REVIEW PROCESS UNLESS THERE IS A SUBSEQUENT CHANGE IN LAND USE; PROVIDING GUIDANCE ON EXEMPTIONS THAT ARE CREATED TO PROVIDE SECURITY FOR MORTGAGES, LIENS, OR TRUST INDENTURES; AND AMENDING SECTIONS 70-22-105, 70-22-109, 76-3-201, AND 76-3-404, MCA,**" without my signature and recommend the attached amendment for the following reasons.

Senate Bill No. 406 modifies what has become known as the "mortgage exemption." Under this exemption, subdivisions of land that are created by mortgages, liens, or trust indentures are not subject to review under the Subdivision and Platting Act or the Sanitation in Subdivisions Act. (For purposes of this letter, I will use the term "mortgage" to refer to mortgages, liens, and trust indentures.) Under current law, the mortgage exemption is applicable at the time the mortgage is created and creates the subdivided parcel.

Senate Bill No. 406, as initially introduced, provided in effect that the mortgage exemption would cease to exist if the subdivided parcel were transferred to a person other than the financial or lending institution that holds the mortgage or to the purchaser in a foreclosure. The effect of this language was to provide that, even though the creation of the parcel was not subject to review, the parcel would be reviewed at the time of transfer unless the transfer was made to satisfy the security interest. Thus, parcels created by a mortgage and transferred to satisfy the mortgage would never be subject to review.

Unfortunately, the limitation language described above was amended to provide that the mortgage exemption applies only if the property is conveyed to the financial or lending institution or the purchaser in foreclosure. Although the purpose of this amendment was to make the language more readable, the effect is to apply the exemption at the time of transfer of the parcel pursuant to the mortgage, not at the time of creation of the parcel by the mortgage. For this reason, under the amended language, the creation of parcel by mortgage would always trigger subdivision review, even if the parcel were later transferred to satisfy the mortgage. The mortgage exemption would therefore be ineffective.

My proposed amendments would ensure that parcels created by mortgage and transferred to satisfy the mortgage would not be subject to review. Please be advised that the Department of Environmental Quality concurs with this amendment. Further, please be advised that Senator McGee, the sponsor of the bill, has been informed of my recommendation and has no objections.

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I urge your concurrence in the amendments.
Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 406

1. Page 2, line 30.
Strike: "ONLY"
Following: "not"
Insert: "not"
Following: "than"
Insert: "any entity other than"

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate: 4/23/2003

SB 489, introduced by Elliott

Senate joint resolution concurred in and returned to the Senate: 4/23/2003

SJR 31, introduced by Tash

SB 461 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 461**:

4/23/2003

Representative Devlin, Chair
Representative Lake
Representative Forrester

Senate amendments to House bills **concurred** in: 4/23/2003

HB 261, introduced by Haines
HB 539, introduced by Brueggeman
HB 722, introduced by E. Clark
HB 767, introduced by Brueggeman

Senate amendments to House joint resolution **concurred** in: 4/23/2003

HJR 2, introduced by Devlin

House joint resolution passed and transmitted to the Senate for concurrence: 4/23/2003

HJR 44, introduced by Fritz

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FIRST READING AND COMMITMENT OF BILLS

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

HJR 44, introduced by Fritz, referred to Business and Labor.

MOTIONS

HB 13 - Senator Thomas moved the Senate reconsider its action in adopting the Free Conference Committee Report on **HB 13** on second reading this day, and that the bill be placed back on second reading the eighty-seventh legislative day. Motion carried.

HB 424 - Senator Thomas moved the Senate accede to the request of the House that the Conference Committee on **HB 424** be dissolved, and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 424**. Motion carried. The President appointed the following members:

Senator Taylor, Chair
Senator Perry
Senator Toole

Senator Thomas moved the Senate stand in recess until the hour of 2:00 p.m. this day for party caucuses. Motion carried.

Senate recessed at 1:30 p.m.
Senate reconvened at 2:04 p.m.

MESSAGES FROM THE GOVERNOR

April 23, 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 458** sponsored by Senator McNutt et al. on April 23, 2003.

Sincerely,

JUDY MARTZ
Governor

MOTIONS

Senator Thomas moved the Senate stand at ease until the hour of 3:00 p.m. this day. Motion carried.

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3:40 p.m. Roll call. All members present except Senators Cocchiarella, Sprague and Taylor, excused.

REPORTS OF STANDING COMMITTEES

LOCAL GOVERNMENT (Bohlinger, Chairman):
HJR 37, be concurred in. Report adopted.

4/23/2003

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **Senate Bill 314**
Report No. 1, April 23, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 314** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 314** (reference copy -- salmon) be amended as follows:

1. Title, line 7 through line 8.

Strike: "WHICH" on line 7 through "IS" on line 8

Following: "FUNDS"

Insert: "OR REMAINING TOBACCO SETTLEMENT PROCEEDS"

2. Title, line 9.

Following: line 8

Insert: "AND"

Following: "MCA"

Strike: remainder of line 9 through "DATE"

3. Page 1, line 14.

Strike: "To"

Insert: "Except as provided in subsection (5), to"

4. Page 1, line 16.

Strike: "18"

Insert: "17"

5. Page 2, line 3.

Following: "FUNDS"

Insert: "or tobacco settlement proceeds as provided in subsection (5)(c)"

6. Page 2, line 4.

Following: "IF"

Insert: "the child is 18 years of age or younger and"

7. Page 2, line 5.

Strike: "(1)(A) AND"

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8. Page 2, line 8 through line 13.

Strike: subsection (c) in its entirety

Insert: "(c) Tobacco settlement proceeds not otherwise appropriated from the two state special revenue accounts provided for in 17-6-606(2) and (3) are allocated to the program for use as matching funds for the purposes of subsection (5)(a) for the program for the biennium ending June 30, 2005."

9. Page 2, line 16.

Strike: section 2 in its entirety

For the Senate:

Stapleton, Chairman
Esp
McCarthy

For the House:

E. Clark, Chairman
B. Thomas
Raser (unsigned)

FREE CONFERENCE COMMITTEE
on **House Bill 559**
Report No. 1, April 23, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 559** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 559** (reference copy -- salmon) be amended as follows:

1. Page 2, line 22.

Strike: "\$4"

Insert: "\$5"

2. Page 2, line 28.

Strike: "\$3"

Insert: "\$2.75"

3. Page 3, line 3.

Strike: "\$3"

Insert: "\$3.65"

4. Page 3, line 5.

Strike: "\$6"

Insert: "\$7.50"

5. Page 3, line 28.

Strike: "FOR" through "YEAR" in their entirety

6. Page 4, line 2.

Following: "61-3-527"

Insert: ", 61-3-530,"

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7. Page 6, line 3.

Strike: "canoe, kayak,"

Strike: ", rubber raft,"

8. Page 14, line 15.

Strike: "and" through "year"

9. Page 16, line 15.

Following: "and,"

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

10. Page 21, line 17 through line 18.

Strike: "EACH" on line 17 through "sequence." on line 18

11. Page 21, line 27.

Insert: "(8) The fee imposed in subsection (3) is a one-time fee except on change of ownership. When ownership of the snowmobile changes, the new owner must pay the fee in subsection (3)."

12. Page 30, line 23.

Strike: "\$19"

Insert: "\$17"

13. Page 31, line 4.

Strike: "\$24"

Insert: "\$22"

14. Page 32, line 13.

Strike: "(I)"

Following: "~~(6)(a)~~:"

Insert: "The following vehicles are not subject to the fee imposed in subsection (6)(a):"

15. Page 32, line 14.

Following: "(i)"

Insert: "(i)"

Strike: "TRAILERS"

Insert: "trailers"

16. Page 32, line 15.

Strike: "ARE" through "(6)(A)."

Insert: "; and"

17. Page 32, line 16.

Strike: "TRAVEL"

Insert: "travel"

18. Page 32, line 17 through line 18.

Strike: "ARE" on line 17 through "OWNERSHIP" on line 18

19. Page 39, line 7.

Following: "disability."

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Insert: "If the vehicle to which the license plate is attached is permanently registered, the owner of the vehicle shall maintain evidence of continued eligibility to use the license plate, which must attached to the registration document in the vehicle."

20. Page 45, line 30.

Following: "disability."

Insert: "If the vehicle to which the license plate is attached is permanently registered, the owner of the vehicle shall maintain evidence of continued eligibility to use the license plate, which must attached to the registration document in the vehicle."

21. Page 50, lines 28 and 29.

Strike: "OR TRAVEL TRAILER"

22. Page 54, line 13.

Insert: "(4) A person who permanently registers a trailer, pole trailer, or semitrailer as provided in this section shall pay an additional one-time fee of \$1.25 at the time of registration for deposit in the state general fund. The department shall pay from the general fund an amount equal to the \$1.25 fee collected under this section from each vehicle registration to the pension trust fund for payment of supplemental benefits provided for in 19-6-709."

23. Page 58, line 5 through line 11.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

24. Page 58, line 14 through line 15.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

25. Page 62, line 4.

Strike: "34"

Insert: "33"

26. Page 62, line 5.

Strike: "42"

Insert: "41"

For the House:

Brueggeman, Chairman
Musgrove
Gallus

For the Senate:

Glaser, Chairman
Story
Elliott (unsigned)

MESSAGES FROM THE OTHER HOUSE

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

4/23/2003

SB 485, introduced by Cobb

SB 490, introduced by Grimes

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Governor's amendments to House bill **not** concurred in and returned to the Senate: 4/23/2003

HB 247, introduced by Harris

Free Conference Committee Report No.1 **not** adopted: 4/23/2003

HB 13, introduced by Lewis

MOTIONS

SB 407- Senator Thomas moved the Conference Committee on **SB 407** be dissolved and that **SB 407** be placed on second reading the eighty-seventh legislative day. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Thomas, Zook, Mr. President.
Total 25

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

Absent or not voting: None.
Total 0

Excused: Grimes, Sprague, Taylor.
Total 3

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Thursday, April 24, 2003. Motion carried.

Senate adjourned at 4:00 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate