

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

Helena, Montana
April 25, 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. Senator Sprague has been hospitalized with pneumonia.

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

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 270, as amended by the Governor, passed as follows:

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

Total 41

Nays: Anderson, Bales, Butcher, Esp, McGee, O'Neil, Perry, Taylor.

Total 8

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SB 271, as amended by the Free Conference Committee Report No. 1, adopted as follows:

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

Total 45

Nays: Ellingson, Nelson, Tester, Toole.

Total 4

Absent or not voting: None.

Total 0

Excused: Sprague.

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Total 1

SB 336, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Zook, Mr. President.

Total 35

Nays: Anderson, Bales, Butcher, Cromley, Curtiss, Elliott, Esp, Gebhardt, Johnson, McGee, O'Neil, Roush, Story, Wheat.

Total 14

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SB 370, 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, Mahlum, 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 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SB 381, 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, Mahlum, 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 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: Sprague.
Total 1

SB 406, 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, Mahlum, 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 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

SB 407, as amended by the House, passed as follows:

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

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

Paired: Sprague, Aye; Harrington, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 487, as amended by the Free Conference Committee Report No. 1, adopted 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, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

SB 490, 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, Mahlum, 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 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

SJR 17, as amended by the House, adopted 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, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Esp, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 247, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Bales, Curtiss, McGee, Stapleton.

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Total 4

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 559, as amended by the Free Conference Committee Report No. 1, adopted as follows:

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

Total 43

Nays: Cooney, Curtiss, Elliott, McGee, Roush, Wheat.

Total 6

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HJR 37, adopted 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, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 46

Nays: Bales, Esp, Zook.

Total 3

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **Senate Bill 461**

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Report No. 1, April 24, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 461** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 461** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 15.

Following: "BRACKETS;"

Insert: "PROVIDING RATE ADJUSTMENTS TO CLASS FOUR PROPERTY TAX RATES FOR CERTAIN RESIDENCES WITH EXTRAORDINARY INCREASES IN MARKET VALUE;"

Following: "FOUR"

Strike: "AND CLASS ELEVEN"

2. Title, page 1, line 18.

Strike: "ADJUSTS"

Insert: "ADJUST"

3. Title, page 1, line 23.

Strike: "AN IMMEDIATE"

Strike: "DATE AND A RETROACTIVE"

Insert: "DATES,"

4. Title, page 1, line 24.

Strike: "DATE"

Insert: "DATES, AND A TERMINATION DATE"

5. Page 9, line 28.

Insert: "NEW SECTION. Section 1. Extended property tax assistance -- phasein.(1) For the purpose of mitigating extraordinary market value increases during the revaluation cycle that ended December 31, 2002, the rate of taxation of class four residential dwellings and appurtenant land not to exceed 5 acres otherwise set in 15-6-134(2)(a) is adjusted in this section for properties with extraordinary increases in market value with owners that meet income requirements.

(2) An annual application on a form provided by the department is required to receive a tax rate adjustment under this section. The application must be signed under oath. A tax rate adjustment may be granted only for the current tax year and may not be granted for a previous year.

(3) A rate adjustment may not be granted for:

(a) any property that was sold or for which the ownership was changed after December 31, 2002, unless the change in ownership is between husband and wife or parent and child with only nominal actual consideration or the change is pursuant to a divorce decree;

(b) the value of new construction, including remodeling, on the property occurring after December 31, 2002, that is greater than 25% of the market value of the improvements; or

(c) a land use change occurring after December 31, 2002, that increases the market value of the land by more than 25%.

(4) For the purposes of determining the adjustment in the class four property tax rate in this section, the following provisions apply:

(a) The change in taxable value before reappraisal is the 2002 tax year value adjusted for any new construction or destruction that occurred in the 2002 tax year. The taxable value before reappraisal for the 2003 tax year and

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subsequent years is the same as the 2002 tax year value if no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes are made to the property during 2002 or subsequent tax years.

(b) The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal in 2003 times 0.69 times 0.0346. The taxable value after reappraisal is calculated by multiplying the 2003 market value after reappraisal times 0.66 times 0.0301.

(c) The dollar increase in tax liability is measured as the change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal in 2003 times 0.69 times 0.0346 times the tax year 2002 mill levy applied to the property. The tax liability after reappraisal is calculated by multiplying the 2003 market value after reappraisal times 0.66 times 0.0301 times the tax year 2002 mill levy applied to the property. The tax year 2002 mill levy is the total of all mills applied to the property for fiscal year 2003.

(d) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.

(e) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.

(5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater than 24%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2003, the tax rate is 0.03598 times the value before reappraisal divided by the 2003 phase-in value.

(ii) For tax year 2004, the tax rate is 0.03759 times the value before reappraisal divided by the 2004 phase-in value.

(iii) For tax year 2005, the tax rate is 0.03932 times the value before reappraisal divided by the 2005 phase-in value.

(iv) For tax year 2006, the tax rate is 0.04109 times the value before reappraisal divided by the 2006 phase-in value.

(v) For tax year 2007, the tax rate is 0.04289 times the value before reappraisal divided by the 2007 phase-in value.

(vi) For tax year 2008 and after, the tax rate is 0.04485 times the value before reappraisal divided by the 2008 phase-in value.

(b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2003, the tax rate is 0.03633 times the value before reappraisal divided by the 2003 phase-in value.

(ii) For tax year 2004, the tax rate is 0.03828 times the value before reappraisal divided by the 2004 phase-in value.

(iii) For tax year 2005, the tax rate is 0.04038 times the value before reappraisal divided by the 2005 phase-in value.

(iv) For tax year 2006, the tax rate is 0.04251 times the value before reappraisal divided by the 2006 phase-in value.

(v) For tax year 2007, the tax rate is 0.04467 times the value before reappraisal divided by the 2007 phase-in value.

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(vi) For tax year 2008 and after, the tax rate is 0.04702 times the value before reappraisal divided by the 2008 phase-in value.

(c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage increase in taxable value is greater than 36%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2003, the tax rate is 0.03668 times the value before reappraisal divided by the 2003 phase-in value.

(ii) For tax year 2004, the tax rate is 0.03898 times the value before reappraisal divided by the 2004 phase-in value.

(iii) For tax year 2005, the tax rate is 0.04143 times the value before reappraisal divided by the 2005 phase-in value.

(iv) For tax year 2006, the tax rate is 0.04392 times the value before reappraisal divided by the 2006 phase-in value.

(v) For tax year 2007, the tax rate is 0.04646 times the value before reappraisal divided by the 2007 phase-in value.

(vi) For tax year 2008 and after, the tax rate is 0.04919 times the value before reappraisal divided by the 2008 phase-in value.

(d) The adjusted tax rate computed under this subsection (5) must be rounded to the nearest 1/100 of 1%.

(6) A person who applies for a tax rate adjustment under this section shall provide the department with documentation of total household income and other information that the department considers necessary to determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-303.

(7) A person who applies for a tax rate adjustment and submits a false or fraudulent application for a tax rate adjustment is guilty of false swearing under 45-7-202.

(8) For the purposes of this section, "entity" means:

(a) a corporation, fiduciary, or pass-through entity, as those terms are defined in 15-30-101; and

(b) an association, joint-stock company, syndicate, trust or estate, or any other nonnatural person."

Insert: "NEW SECTION. Section 2. Extended property tax assistance -- phasein. (1) For the purpose of mitigating extraordinary market value increases during revaluation cycles that begin after December 31, 2008, the rate of taxation of class four residential dwellings and appurtenant land not to exceed 5 acres otherwise set in 15-6-134(2)(a) is adjusted in this section for properties with extraordinary increases in market value with owners that meet income requirements.

(2) An annual application on a form provided by the department is required to receive a tax rate adjustment under this section. The application must be signed under oath. A tax rate adjustment may be granted only for the current tax year and may not be granted for a previous year.

(3) A rate adjustment may not be granted for:

(a) any property that was sold or for which the ownership was changed after December 31 of the last year of the previous revaluation cycle, unless the change in ownership is between husband and wife or parent and child with only nominal actual consideration or the change is pursuant to a divorce decree;

(b) the value of new construction, including remodeling, on the property occurring after December 31 of the last year of the previous revaluation cycle that is greater than 25% of the market value of the improvements; or

(c) a land use change occurring after December 31 of the last year of the previous revaluation cycle that increases the market value of the land by more than 25%.

(4) For the purposes of determining the adjustment in the class four property tax rate in this section, the following provisions apply for revaluation cycles beginning after December 31, 2008:

(a) (i) The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal. The taxable value after reappraisal is calculated by multiplying the market value after reappraisal times

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the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal.

(ii) The tax rate before reappraisal is the tax rate that was in effect during the last year of the previous reappraisal cycle.

(iii) The tax rate after reappraisal is the tax rate that will be in effect during the last year of the current reappraisal cycle.

(iv) The homestead exemption before reappraisal is the homestead exemption that was in effect during the last year of the previous reappraisal cycle.

(v) The homestead exemption after reappraisal is the homestead exemption that will be in effect during the last year of the current reappraisal cycle.

(b) The dollar increase in tax liability is measured as the percentage change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal times the mill levy applied to the property before reappraisal. The tax liability after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal times the mill levy applied to the property before reappraisal. The mill levy applied to property before reappraisal is the total of all mills applied to the property in the last year of the previous reappraisal cycle.

(c) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.

(d) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.

(5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater than 24%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated such that the total increase in taxable value over the reappraisal cycle is 24% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated such that the total increase in taxable value over the reappraisal cycle is 30% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate will be calculated such that the total increase in taxable value over the reappraisal cycle is 36% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(d) The adjusted tax rate computed under this subsection (5) must be rounded to the nearest 1/100 of 1%.

(6) A person who applies for a tax rate adjustment under this section shall provide the department with documentation of total household income and other information that the department considers necessary to determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-303.

(7) A person who applies for a tax rate adjustment and submits a false or fraudulent application for a tax rate adjustment is guilty of false swearing under 45-7-202.

(8) For the purposes of this section, "entity" means:

(a) a corporation, fiduciary, or pass-through entity, as those terms are defined in 15-30-101; and

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(b) an association, joint-stock company, syndicate, trust or estate, or any other nonnatural person."

Renumber: subsequent sections

6. Page 36.

Following: line 21

Insert: "(7) The members of the committees created in this section must be appointed by July 1, 2003."

7. Page 36, line 23.

Strike: "5"

Insert: "7"

8. Page 36, line 29.

Strike: "5"

Insert: "7"

9. Page 37, line 9.

Insert: "NEW SECTION. Section 9. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [sections 1 and 2]."

Insert: "NEW SECTION. Section 10. Coordination instruction. If Senate Bill No. 126 and [this act] are both passed and approved, then the amendments contained in 15-6-201(1)(z) and (1)(aa) in [section 2 of Senate Bill No. 126] are void."

Insert: "NEW SECTION. Section 11. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Renumber: subsequent sections

10. Page 37, line 10.

Strike: "date"

Insert: "dates"

Following: "date."

Insert: "(1)"

Strike: "[This act]"

Insert: "Except as provided in subsections (2) and (3), [this act]"

11. Page 37.

Following: line 10

Insert: "(2) [Section 8] is effective July 1, 2003.

(3) [Section 2] is effective January 1, 2009."

12. Page 37, line 12.

Strike: "Retroactive applicability"

Insert: "Applicability"

Following: "applicability."

Insert: "(1)"

Strike: "[This act] applies"

Insert: "[Sections 1 and 3 through 5] apply"

13. Page 37, line 14.

Insert: "(2) [Section 2] applies to tax years beginning after December 31, 2008."

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Insert: "NEW SECTION. Section 14. Termination. [Section 1] terminates December 31, 2008."

For the Senate:

Story, Chairman
DePratu (unsigned)
Stonington

For the House:

Devlin, Chairman
Lake
Forrester

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 9:30 for purpose of party caucuses. Motion carried.

Senate recessed at 8:22 a.m.
Senate reconvened at 9:34 a.m.

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

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 558**
Report No. 1, April 24, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 558** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 558** (reference copy -- salmon) be amended as follows:

1. Page 2, line 15.

Strike: "\$16"

Insert: "\$15"

2. Page 3, line 1.

Strike: "\$1.50"

Insert: "50 cents"

3. Page 3, line 18.

Strike: "\$16"

Insert: "\$15"

4. Page 4, line 5.

Strike: "\$1.50"

Insert: "50 cents"

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For the House:

D. Brown, Chairman
Maedje
Keane

For the Senate:

Mahlum (unsigned), Chairman
Barkus
Shea

MESSAGES FROM THE GOVERNOR

April 24, 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 247** sponsored by Senator Cobb and **Senate Bill 344** sponsored by Senator Laible on April 24, 2003.

Sincerely,

JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

HB 42 - The House acceded to the request of the Senate and herewith transmits **HB 42** for reconsideration:
4/25/2003

MOTIONS

HB 42 - Senator Thomas moved consideration of **HB 42** be placed below HB 19 on the second reading board this day.
Motion carried.

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

Session 1

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

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

SB 473 - Governor's Amendments - Senator Elliott moved Governor's amendments to **SB 473** be concurred in. Motion carried unanimously.

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HB 5 - Governor's Amendments - Senator Tester moved Governor's amendments to **HB 5** be concurred in. Motion carried unanimously.

HB 19 - Senator Esp moved **HB 19** be concurred in. Motion **failed** as follows:

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

Total 24

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

Total 25

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 19 - Senator Stapleton moved consideration of **HB 19** be passed for the day. Senator Ellingson made a **substitute motion** that **HB 19** be **indefinitely postponed**. Motion carried as follows:

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

Total 25

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

Total 24

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HB 13 - Senator F. Thomas moved consideration of **HB 13** be placed at the top of the second reading board. Motion carried.

*****HB 13 - Free Conference Committee Report No. 1** - Senator Zook moved the Free Conference Committee report to **HB 13** be **not** adopted. Motion carried unanimously.

HB 42 - Senator Bales moved **HB 42**, second reading copy, be amended as follows:

1. Title, line 9.

Following: "APPROPRIATION"

Insert: "AND A STATUTORY APPROPRIATION"

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2. Title, line 10.

Strike: "FOR RESIDENTS"

3. Title, line 11.

Following: "17-7-502;"

Insert: "17-7-502,"

Following: "87-1-268;"

Insert: "87-1-268,"

4. Title, line 12.

Following: "87-2-512;"

Insert: "87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512,"

5. Page 3, line 4.

Following: "17-7-502;"

Insert: "That portion of the money in the fund that the department determines is necessary for the purpose of implementing [sections 1 through 5] is statutorily appropriated, as provided in 17-7-502."

6. Page 4.

Following: line 12

Insert: "**Section 6.** Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; [section 4]; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

Renumber: subsequent sections

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7. Page 7.

Following: line 13

Insert: "**Section 8.** Section 87-1-268, MCA, is amended to read:

"87-1-268. (Temporary) Variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. The Subject to the management provisions provided in [sections 1 through 5], the fees must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period. The sale period for the licenses must be established so that by the last date in the established period, those licenses that are unsold, up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses or more if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5], may be reallocated by the commission for a drawing at a price set by the commission. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)"

Renumber: subsequent sections

8. Page 11, line 9.

Following: "~~Class B-11,~~"

Insert: "Class B-10, Class B-11,"

9. Page 20.

Following: line 17

Insert: "**Section 12.** Section 87-2-504, MCA, is amended to read:

"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

(i) Class B-7, deer A tag, \$250;

(ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). Not Subject to the management provisions provided in [sections 1 through 5], not more than 5,000 Class B-7 licenses may be sold in any license year.

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

(i) Class B-7, deer A tag, \$250;

(ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized

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by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d).

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions.""

Insert: "Section 13. Section 87-2-505, MCA, is amended to read:

"87-2-505. (Temporary) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. ~~Not Subject to the management provisions provided in [sections 1 through 5],~~ not more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. ~~Not Subject to the management provisions provided in [sections 1 through 5],~~ not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission.""

Insert: "Section 14. Section 87-2-510, MCA, is amended to read:

"87-2-510. (Temporary) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) ~~Not Subject to the management provisions provided in [sections 1 through 5],~~ not more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer

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combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$300, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a Class B-11 license is \$300 if the license is one of the 4,000 reserved pursuant to 87-2-511 or if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5] for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) ~~Six thousand~~ Subject to the management provisions provided in [sections 1 through 5], 6,000 Class B-11 licenses are authorized for sale each license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

Insert: "Section 15. Section 87-2-511, MCA, is amended to read:

"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses. (1) ~~The~~ Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

- (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
- (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and
- (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor. If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.

(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

- (a) accompany the applicant;
- (b) provide guiding services for the species hunted by the applicant;

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(c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;

(d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and

(e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

(6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.

(7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

(8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses that remain unsold available as provided in 87-1-268.

(9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses. (1) ~~The~~ Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

(a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;

(b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and

(c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.

(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

(a) accompany the applicant;

(b) provide guiding services for the species hunted by the applicant;

(c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;

(d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and

(e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

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(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

(6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident sponsor.

(7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for the respective unreserved licenses."

Insert: "Section 16. Section 87-2-512, MCA, is amended to read:

"87-2-512. Separation of Class B-7 license from Class B-10 license for deer management purposes -- disposition of license revenue. (1) The commission may by rule separate the Class B-7 license from the Class B-10 license and sell the separated Class B-7 license, giving a preference to any Class B-10 license holder to purchase one of the separated Class B-7 licenses. In the case of separated Class B-7 licenses that are not purchased by Class B-10 license holders, the commission, for purposes of sound deer management:

(a) subject to the management provisions provided in [sections 1 through 5], may authorize the sale of not more than 5,000 Class B-7 licenses that have been separated from the Class B-10 licenses, as limited by 87-2-504;

(b) may authorize all or a portion of the separated Class B-7 licenses to be sold as Class B-11 combination licenses;

(c) shall set the fees for the separated licenses as follows:

(i) the fee for a Class B-10 license without the deer tag may not be more than the fee set in 87-2-505 for licenses in the general category and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; and

(ii) the fee for the separated Class B-11 licenses may not be more than the fees specified in 87-2-510 for licenses in the general and landowner-sponsored categories and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268;

(d) may assign the separated Class B-7 or Class B-11 licenses for use in specific administrative regions, portions of administrative regions, hunting districts, or portions of hunting districts;

(e) may allocate a portion of the separated Class B-7 or Class B-11 licenses among the general and landowner-sponsored categories established in 87-2-510 and 87-2-511 but not count those licenses as part of the statutory quotas, with the Class B-7 licenses then subject to the requirements and procedures of 87-2-511;

(f) may allocate a portion of the separated Class B-7 or Class B-11 licenses to the outfitter-sponsored category subject to the requirements and procedures of 87-2-511, ~~except that~~ Subject to the management provisions provided in [sections 1 through 5], licenses in the outfitter-sponsored category may not comprise more than one-third of the licenses issued pursuant to this section and the number issued, when added to the number of Class B-11 licenses issued under 87-1-268, may not exceed 2,300 in any license year; and

(g) may condition the separated Class B-7 and Class B-11 licenses as appropriate and necessary to manage the harvest of deer, including restricting the use of a license to either mule deer or whitetail deer.

(2) The revenue from any Class B-11 licenses that have been separated from Class B-10 licenses must be deposited in the state special revenue account to the credit of the department and not allocated pursuant to other statutory requirements generally applicable to Class B-11 licenses. The revenue from Class B-10 licenses sold without a deer tag must be allocated in the same manner as revenue from Class B-10 licenses sold with a deer tag."

Renumber: subsequent sections

Amendment **adopted** unanimously.

HB 42 - Senator Bales moved **HB 42**, as amended, be concurred in. Motion carried Cooney, Harrington, Mangan and Mahlum voting nay.

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HB 218 - Governor's Amendments - Senator Gebhardt moved Governor's amendments to **HB 218** be concurred in. Motion carried unanimously.

HB 609 - Governor's Amendments - Senator Pease moved Governor's amendments to **HB 609** be concurred in. Motion carried unanimously.

HB 693 - Governor's Amendments - Senator Harrington moved Governor's amendments to **HB 693** be concurred in. Motion carried unanimously.

HB 775 - Senator Glaser moved **HB 775** be concurred in. Motion carried unanimously.

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

MOTIONS

SB 42 - Senator Thomas moved Senate Rule 51-70 be suspended in order to place **HB 42** on third reading this day. Motion carried as follows:

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

Total 43

Nays: Harrington, Mangan.

Total 2

Absent or not voting: None.

Total 0

Excused: Perry, Ryan, Sprague, Taylor, Toole.

Total 5

SB 415 - Senator Thomas moved to suspend the rules to allow the late return of **SB 415 with House Amendments**, and that it be placed on second reading this day. Motion carried 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, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.

Total 46

Nays: Schmidt, Tropila.

Total 2

Absent or not voting: None.

Total 0

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Excused: Ryan, Sprague.
Total 2

THIRD READING OF BILLS

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

HB 42, as amended, concurred in as follows:

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

Nays: Cooney, Harrington, Mahlum, Mangan, Toole.
Total 5

Absent or not voting: None.
Total 0

Excused: Ryan, Sprague, Tropila.
Total 3

REPORTS OF STANDING COMMITTEES

BUSINESS AND LABOR (Mahlum, Chairman):
HJR 44, be amended as follows:

4/24/2003

1. Title, page 1, line 6.
Strike: "OR TO DIRECT SUFFICIENT STAFF RESOURCES"

2. Page 1, line 23.
Following: "MCA,"
Strike: "or" through "resources"

3. Page 2, line 10.
Following: "firm"
Insert: "may"

4. Page 2, line 11.
Following: "study"
Insert: "if funding is available"

5. Page 2, lines 14 and 15.
Following: line 13
Strike: lines 14 and 15 in their entirety

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6. Page 2, lines 16 and 17.

Following: "study"

Strike: remainder of line 16 through "requirements," on line 17

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

MESSAGES FROM THE GOVERNOR

April 25, 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 484

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 484, "**AN ACT AUTHORIZING MUNICIPALITIES, CONSOLIDATED LOCAL GOVERNMENTS, AND COUNTIES TO CREATE EMPOWERMENT ZONES TO ENCOURAGE THE CREATION OF JOBS WITHIN THE ZONES; AND ALLOWING A TAX CREDIT AGAINST INDIVIDUAL INCOME TAXES, CORPORATION INCOME OR LICENSE TAXES, OR INSURANCE PREMIUM TAXES FOR QUALIFYING 3-YEAR JOBS CREATED IN AN EMPOWERMENT ZONE**", without my signature and recommend the attached amendments.

I have no concerns with the objectives of Senate Bill No. 484 but the legislation in its current form could lead to inconsistent criteria being used to establish empowerment zones around the state. Without several changes the law would also potentially allow empowerment zones to be established, with resulting tax credits applied, that would not be within the spirit of this legislation, which is to assist economically disadvantaged areas. Accordingly, I recommend that:

In Section 3, an additional subsection (4) be inserted, that reads each governing body may create a maximum of one empowerment zone, either wholly or partially within its limits, in any seven year period. This amendment will require each governing body to carefully consider where best to establish an empowerment zone and will also help ensure we only establish empowerment zones for our most needy areas.

In Section 4 (3) additional language be inserted to restrict empowerment zones to area that have a population of at least 1,000 people. Without a minimum population requirement, empowerment zones could be established in areas where they are used more for tax avoidance than for helping our disadvantaged citizens. It is also extremely difficult to find meaningful economic data in an area with very few people. As currently written, for example, it could be possible to establish an empowerment zone in an area with two resident citizens, one of whom is unemployed, in an otherwise prosperous area.

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Further, I recommend that an additional subsection (4) be included in Section 4 that requires a governing body to gather the necessary data for an area where the state or federal government does not have the required data. For example, the state generally maintains county-level data for unemployment. Should a governing body wish to create an empowerment zone in an area other than a whole county or Metropolitan Statistical Area (MSA) the governing body should be responsible for collecting the necessary information to qualify that area as an empowerment zone.

Finally, I recommend that a new Section 9 be inserted to authorize the Department to adopt rules in the implementation of this act. Many of the terms and criteria that are used in this legislation to define and qualify an empowerment zone could be interpreted in multiple ways. Rule making authority is necessary to ensure consistent application of the law and to ensure clear criteria are available to each governing body.

I have enclosed amendments to address each of these issues. Please be advised that the Department of Labor and Industry concurs with my amendments. Further, please be advised that Senator Mangan, the sponsor of the bill, also concurs.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 484

1. Title, line 6.

Strike: "AND"

2. Title, line 8.

Following: "ZONE"

Insert: "; AND AUTHORIZING THE DEPARTMENT TO ADOPT RULES"

3. Page 2, line 12.

Insert: "(4) Each governing body may create a maximum of one empowerment zone, either wholly or partially within its limits, in any 7-year period."

4. Page 2, line 21.

Following: "identity and"

Insert: "the empowerment zone must include an area in which there is an annual average population of at least 1,000 residents. Boundaries"

Strike: "use"

Insert: "be based on"

5. Page 2, line 24.

Insert: "(4) The governing body has the burden of establishing that the proposed empowerment zone meets the requirements of this section."

6. Page 7, line 10.

Insert: "NEW SECTION. Section 9. Rulemaking authority. The department may adopt rules to implement [sections 1 through 5]."

"

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Renumber: subsequent section

7. Page 7, line 11.

Following: "5"

Insert: "and 9"

8. Page 7, line 13.

Following: "5"

Insert: "and 9"

MESSAGES FROM THE OTHER HOUSE

HB 247 - The House failed to concur in Senate amendments to **HB 247**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 247**:

4/25/2003

Representative Noennig, Chair

Representative Lange

Representative Harris

MOTIONS

HB 247 - Senator Thomas moved the Senate accede to the request of the House 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 247**. Motion carried. The President appointed the following members:

Senator Grimes, Chair

Senator McGee

Senator Mangan

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Thomas moved the Senate stand in recess until the hour of 1:30 p.m. this day. Motion carried.

Senate recessed at 11:16 a.m.

Senate reconvened at 1:36 p.m.

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

MESSAGES FROM THE OTHER HOUSE

SB 46 - The House, on motion duly carried, overrode the **Governor's veto** on **SB 46** and returned the bill to the Senate.

4/25/2003

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

4/25/2003

HB 11, introduced by Kasten

HB 206, introduced by Younkin

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HB 489, introduced by Lehman
HB 608, introduced by Windy Boy
HB 736, introduced by R. Brown

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

Session 2

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

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

SB 461 - Free Conference Committee Report No. 1 - Senator Story moved the Free Conference Committee report to **SB 461** be adopted. Motion carried unanimously.

HJR 35 - Senator Curtiss moved **HJR 35** be concurred in. Motion carried unanimously.

HJR 40 - Senator McGee moved **HJR 40** be concurred in. Motion carried unanimously.

HJR 38 - Senator Elliott moved **HJR 38** be concurred in. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, 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, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HJR 38 - Senator Stapleton moved **HJR 38** be **indefinitely postponed**. Motion carried as follows:

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

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

Absent or not voting: None.

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Total 0

Excused: Sprague.

Total 1

HJR 43 - Senator Kitzenberg moved **HJR 43** be concurred in. Motion carried as follows:

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

Total 39

Nays: Black, Butcher, Esp, Glaser, McNutt, Story, Tash, Mr. President.

Total 8

Absent or not voting: Bales, McGee.

Total 2

Excused: Sprague.

Total 1

HB 558 - Conference Committee Report No. 1 - Senator Mahlum moved the Conference Committee report to **HB 558** be adopted. Motion carried with Senators Mangan, Ryan, Squires and Taylor voting nay.

HJR 44 - Senator Cocchiarella moved **HJR 44** be concurred in. Motion **failed** as follows:

Yeas: Anderson, Barkus, Bohlinger, Cobb, Cocchiarella, Cromley, DePratu, Ellingson, Elliott, Grimes, Harrington, Kitzenberg, Nelson, Pease, Roush, Squires, Stapleton, Stonington, Story, Tester, Tropila, Wheat.

Total 22

Nays: Bales, Black, Butcher, Cooney, Curtiss, Esp, Gebhardt, Glaser, Hansen, Johnson, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Ryan, Schmidt, Shea, Tash, Taylor, Thomas, Toole, Zook, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

HJR 44 - Senator F. Thomas moved **HJR 44** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Butcher, Cooney, Curtiss, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Laible, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Ryan, Schmidt, Shea, Story, Tash, Taylor, Thomas, Toole, Zook, Mr. President.

Total 31

Nays: Black, Bohlinger, Cobb, Cocchiarella, Cromley, DePratu, Ellingson, Elliott, Harrington, Kitzenberg, Mahlum,

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Roush, Squires, Stapleton, Stonington, Tester, Tropila, Wheat.
Total 18

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

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 Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 247**
Report No. 1, April 25, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 247** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 247** (reference copy -- salmon) be amended as follows:

1. Title, line 5.

Following: "VAGRANCY;"

Insert: "CLARIFYING THAT VAGRANCY DOES NOT INCLUDE AGGRESSIVE SOLICITATION THAT IS INCLUDED IN THE OFFENSE OF DISORDERLY CONDUCT;"

2. Page 2, line 15.

Following: "(14)"

Insert: "subject to 7-32-4304,"

3. Page 3, line 14.

Following: "conduct"

Insert: "and aggressive solicitation, as defined by ordinance, that is included in the offense of disorderly conduct"

For the House:

Noennig, Chairman
Harris
Lange

For the Senate:

Grimes, Chairman
McGee (unsigned)
Mangan

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MESSAGES FROM THE GOVERNOR

April 25, 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: House Bill No. 42

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 42, "**AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO CALCULATE THE AMOUNT OF HABITAT AVAILABLE FOR ELK, DEER, AND ANTELOPE IN MONTANA; REQUIRING A DETERMINATION OF SUSTAINABLE POPULATIONS BASED ON THE HABITAT CALCULATION; REQUIRING THE DEPARTMENT TO ENSURE THAT POPULATIONS OF ELK, DEER, AND ANTELOPE ARE AT OR BELOW THE POPULATION ESTIMATE; PROVIDING A FUNDING SOURCE AND A STATUTORY APPROPRIATION; PROVIDING FOR ADJUSTMENTS BASED ON MANAGEMENT PROVISIONS IN THE MAXIMUM LICENSE NUMBERS THAT CAN BE ALLOCATED; AMENDING SECTIONS 17-7-502, 87-1-201, 87-1-268, 87-1-301, 87-2-104, 87-2-501, 87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512, AND 87-2-513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE,**" without my signature and recommend the attached amendments for the following reason:

I have no concerns with general objectives of House Bill No. 42. However, I recommend that the following amendments that were removed from House Bill No. 42 are paramount to achieving the overall objectives of the bill, with the ultimate goal of making the provisions of the bill workable.

I have enclosed my amendments to that effect. Representative Barrett has been informed of my recommendation. Please be advised that the Department of Fish, Wildlife and Parks concur with my amendments.

Sincerely,

JUDY MARTZ
Governor

**GOVERNOR'S AMENDMENTS
TO HOUSE BILL 42**

1. Title, line 9.

Strike: "ENSURE"

Insert: "MANAGE WITH THE OBJECTIVE"

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2. Title, line 10.

Strike: "AND A STATUTORY APPROPRIATION"

3. Title, line 11.

Following: "FOR RESIDENTS"

Insert: "FOR RESIDENTS"

Strike: "17-7-502,"

Strike: "87-1-268,"

4. Title, lines 12 and 13.

Following: "87-2-512;" on line 12

Strike: remainder of line 12 through "87-2-512," on line 13

5. Page 2, line 18.

Strike: "to ensure"

Insert: "with the objective"

6. Page 2, line 27.

Strike: "ensure"

Insert: "manage with the objective"

7. Page 3, lines 5 through 7.

Following: "17-7-502:" on line 5

Strike: remainder of line 5 through line 7 in its entirety

8. Page 4, line 17 through page 5, line 15.

Strike: section 6 in its entirety

Renumber: subsequent sections

9. Page 8, lines 18 through 28.

Strike: section 8 in its entirety

Renumber: subsequent sections

10. Page 22, line 4 through page 30, line 3.

Strike: sections 12 through 16 in their entirety

Renumber: subsequent sections

April 25, 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

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Re: HB 744

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 House Bill No. 744, "AN ACT DIRECTING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO SEEK FEDERAL FUNDS TO OFFSET GENERAL FUND EXPENDITURES TO THE MAXIMUM EXTENT POSSIBLE; DIRECTING THE DEPARTMENT TO EVALUATE THE PROPOSED MEDICAID BLOCK GRANT AS PART OF REFINANCING ACTIVITIES AND REPORT FINDINGS AT EACH REGULAR MEETING OF THE LEGISLATIVE FINANCE COMMITTEE; DIRECTING THAT THE GOVERNOR MAY NOT OPT TO ACCEPT A MEDICAID BLOCK GRANT WITHOUT LEGISLATIVE CONSENT IF THE DECISION TO ACCEPT THE GRANT CAN BE DELAYED UNTIL THE NEXT REGULAR SESSION OF THE LEGISLATURE; PROVIDING FOR THE USE OF FUNDING OBTAINED PURSUANT TO THE DIRECTIVE; AUTHORIZING THE DEPARTMENT TO REINSTATE SERVICES IF AUTHORIZED BY THE OFFICE OF BUDGET AND PROGRAM PLANNING; AMENDING SECTIONS 17-2-108 AND 53-6-101, MCA; AND PROVIDING AN EFFECTIVE DATE," without my signature and recommend the attached amendment for the following reason.

House Bill No. 744, Section 2 (4) violates the Doctrine of Separation of Powers. I have no concerns with the objectives of House Bill No. 744, or with its specific measures. Specifically, in regard to the evaluation of proposed Medicaid block grant and the acceptance of said grant, I will consider the recommendation of the legislative finance committee and will provide written rationale if the committee's recommendation is not followed. My objections in this case are based solely on my desire to respect the integrity of our multi-branch form of government and to maintain the clear lines of authority drawn between our respective branches.

Article III, Section 1 of the Montana Constitution provides:

The power of the government of this state is divided into three distinct branches--legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

It has been said that the principle of the separation of powers is fundamental to the existence of constitutional government. *National Mut. Ins. Co. v. Tidewater Transfer Co.*, 337 U.S. 582, 590 (1949).

I recommend that Section 2 (4) be deleted in its entirety--in its current form, this subsection violates the Doctrine of Separation of Powers.

I have enclosed my amendment to that effect. Please be advised that the Department of Public Health and Human Services concurs with my amendment. Further, Representative Clark, the sponsor of the bill, has been informed of my recommendation and concurs.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 744

1. Title, lines 10 through 12.
Following: "COMMITTEE;" on line 10

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Strike: remainder of line 10 through "LEGISLATURE;" on line 12

2. Page 2, lines 16 through 18.

Strike: subsection (4) in its entirety

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 3:30 p.m. this day, or upon call of the chair. Motion carried.

Senate recessed at 3:00 p.m.

Senate reconvened at 4:32 p.m.

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

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE

on Senate Amendments to **House Bill 363**

Report No. 1, April 25, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 363** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 363** (reference copy -- salmon) be amended as follows:

1. Title, lines 9 and 10.

Following: "MONEY" on line 9

Strike: remainder of line 9 through "AMOUNT" on line 10

2. Title, lines 11 and 12.

Strike: line 11 through "1990;" on line 12

3. Page 2, line 27.

Strike: "½"

Insert: ","

4. Page 2, line 28.

Strike: "(I)"

5. Page 2, line 29 through page 3, line 1.

Following: "FUND" on line 29

Strike: remainder of line 29 through "1990" on line 1

6. Page 3, line 8.

Strike: "EXCEPT" through "IF"

Insert: "If"

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7. Page 3, line 22.

Following: "remainder"

Insert: "as follows:

- (1) \$3,522,295 to the state general fund; and
- (2) the remainder"

8. Page 3, lines 23 and 24.

Following: "FUND." on line 23

Strike: remainder of line 23 through "39-71-2352(5)(C)(II)." on line 24

For the House:

R. Brown, Chairman
Sales
Gillan

For the Senate:

Barkus, Chairman
Thomas
Cocchiarella

MESSAGES FROM THE GOVERNOR

April 25, 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 348** sponsored by Senator Keenan, **Senate Bill 387** sponsored by Senator Cobb, **Senate Bill 402** sponsored by Senator Cocchiarella et al., **Senate Bill 434** sponsored by Senator Tropila, and **Senate Bill 454** sponsored by Senator Story on April 25, 2003.

Sincerely,

JUDY MARTZ
Governor

April 25, 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 95** sponsored by Senator Stonington, **Senate Bill 155** sponsored by Senator Taylor, **Senate Bill 231** sponsored by Senator Cromley, **Senate Bill 244** sponsored by Senator Story et al., **Senate Bill 246** sponsored by Senator Glaser, **Senate Bill 275** sponsored by Senator Laible et al., **Senate Bill 294** sponsored by Senator Gebhardt et al., **Senate Bill 386** sponsored by Senator Gebhardt et al., and **Senate Bill 480**

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sponsored by Senator Black on April 25, 2003.

Sincerely,

JUDY MARTZ
Governor

April 25, 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 452

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 452, "**AN ACT PROVIDING A TAX CREDIT FOR CONTRIBUTIONS TO AN ACCOUNT TO BE USED FOR PROVIDING SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES; PROVIDING FOR THE USE OF MONEY IN THE ACCOUNT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE,**" without my signature and recommend the attached amendment for the following reasons:

I have no concerns with the objectives of House Bill No. 452. As the bill stands, however, there is a mismatch of years for reconciling general fund receipts and credit offsets. This amendment rectifies this mismatch by clarifying reconciliation, for credits taken, does not begin until calendar year 2004. The calendar year 2004 is the first year that credits will be taken for contributions made in 2003. This amendment ensures that there is no negative general fund impact for any year.

I have enclosed my amendment to that effect. Please be advised that the Department of Revenue concur with my amendments. Further, Representative Raser, the sponsor of the bill, has been informed of my recommendation and concurs.

Sincerely,

JUDY MARTZ
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 452

1. Page 1, line 22.

Strike: "AT THE END OF EACH"

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Insert: "In"
Strike: "YEAR"
Insert: "years 2004, 2005, and 2006"

2. Page 1, line 23.
Following: "CLAIMED"
Insert: ", "

3. Page 1, line 24.
Following: "TAKEN"
Insert: "for donations made"

MESSAGES FROM THE OTHER HOUSE

HB 701 - The House, on motion duly carried, overrode the Governor's veto on **HB 701** and requested the Senate to do likewise.

Free Conference Committee Report No.1 adopted: 4/25/2003
4/25/2003

SB 271, introduced by Stapleton
SB 362, introduced by Grimes
SB 487, introduced by Pease
HB 559, introduced by Gallus

Conference Committee Report No.1 adopted: 4/25/2003

SB 336, introduced by Mahlum

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

Session 3

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

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

HB 363 - Conference Committee Report No. 1 - Senator Barkus moved the Conference Committee report to **HB 363** be adopted. Motion carried unanimously.

SB 415 - House Amendments - Senator F. Thomas moved House amendments to **SB 415** be concurred in. Motion carried with Senators Butcher and McGee voting nay.

HB 247 - Free Conference Committee Report No. 1 - Senator Mangan moved the Free Conference Committee report to **HB 247** be adopted. Motion carried as follows:

Yeas: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington,

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Johnson, Laible, Mahlum, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 31

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Glaser, Kitzenberg, McGee, McNutt, Perry, Taylor, Mr. President.

Total 15

Absent or not voting: Cobb.

Total 1

Excused: Sprague, Stapleton, Stonington.

Total 3

SB 484 - Governor's Amendments - Senator Mangan moved Governor's amendments to **SB 484** be concurred in. Motion carried unanimously.

HB 42 - Governor's Amendments - Senator Bales moved Governor's amendments to **HB 42** be concurred in. Motion carried unanimously.

HB 744 - Governor's Amendments - Senator Stonington moved Governor's amendments to **HB 744** be concurred in. Motion carried unanimously.

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

MOTIONS

Senator Thomas moved the Senate stand in recess until the hour of 5:45 p.m. this day. Motion carried.

Senate recessed at 5:13 p.m.

Senate reconvened at 5:42 p.m.

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

MOTIONS

Senator Thomas moved Senate rule 50-170 be suspended to allow bills from second reading this day to be placed on third reading this day. Motion carried as follows:

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

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Absent or not voting: None.
Total 0

Excused: Harrington, Sprague.
Total 2

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

Session 4

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

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

Senator Harrington present at this time.

*****SB 485 - House Amendments** - Senator Cobb moved House amendments to **SB 485** be **not** concurred in. Motion carried unanimously.

HB 107 - Conference Committee Report No. 1 - Senator Glaser moved the Conference Committee report to **HB 107** be adopted. Senator Thomas made a **substitute motion** that **HB 107** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, 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 45

Nays: Black, Bohlinger, Glaser, Mangan.
Total 4

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

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

MOTIONS

HB 701 - Senator Wheat moved the Senate override the Governor's veto of **HB 701**. Motion **failed** to receive the necessary two-thirds vote as follows:

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

Total 26

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

Total 23

Absent or not voting: None.

Total 0

Excused: Sprague.

Total 1

SB 485 - Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee on **SB 485**, and request the House to appoint a like committee to confer on **SB 485**. Motion carried. The President appointed the following members:

Senator Cobb, Chair

Senator Stapleton

Senator Stonington

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:30 a.m., Saturday, April 26, 2003. Motion carried.

Senate adjourned at 6:48 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate