

HOUSE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 16, 2005

HOUSE JOURNAL
59TH LEGISLATURE
THIRTY-EIGHTH LEGISLATIVE DAY

Helena, Montana
February 16, 2005

House Chambers
State Capitol

House convened at 1:30 p. m. Mr. Speaker in the Chair. Invocation by Rep. Lindeen. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Representative Caferro, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS (Barrett, Chairman): 2/16/2005
Correctly printed: **HB 109, HB 170, HB 372, HB 505, HB 513, HB 550, HB 556, HB 647, HB 684, HJR 16.**
Correctly engrossed: **HB 18, HB 99, HB 219, HB 340, HB 450, HB 473, HB 492, HB 493.**
Correctly enrolled: **HB 84, HB 193, HB 194.**
Examined by the sponsor and found to be correct: **HB 84, HB 193, HB 194.**

BUSINESS AND LABOR (Keane, Chairman): 2/16/2005
HB 418, introduced bill, be amended as follows:

1. Page 2, line 24 through page 3, line 7.

Strike: "who" on page 2, line 24 through "section." on page 3, line 7

Insert: "having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees, having responsibility to direct them, to adjust their grievances, or effectively to recommend the above actions, if in connection with the foregoing the exercise of the authority is not of a merely routine or clerical nature but requires the use of independent judgment.

(b) An employee designated as a working foreman is not a supervisory employee. For the purposes of this subsection, "working foreman" means an employee who directs the work activities of other employees and also performs work activities in conjunction with those employees."

And, as amended, do pass. Report adopted.

HB 521, introduced bill, be amended as follows:

1. Page 2, line 19.

Following: "harvested."

Insert: "or"

Following: "raised"

Strike: ", collected,"

Insert: "in Montana, or if packaged"

Following: "manufactured"

Insert: ", it must be packaged or manufactured in Montana and the contents must be at least 50% produced in Montana"

And, as amended, do pass. Report adopted.

HB 549, introduced bill, be amended as follows:

1. Title, line 8.

Strike: "SECTION"

Insert: "SECTIONS"

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2. Title, line 9.

Following: "2-8-303"

Insert: "AND 18-4-302"

3. Page 1, line 19.

Strike: "Except as provided in 18-4-302, a"

Insert: "A"

4. Page 2, following line 20.

Insert: "Section 3. Section 18-4-302, MCA, is amended to read:

"18-4-302. Methods of source selection -- authorization for alternative procurement methods. (1)

Unless otherwise authorized by law, all state contracts for supplies and services must be awarded by a source selection method provided for in this title. Supplies or services offered for sale, lease, or rental by public utilities are exempt from this requirement if the prices of the supplies or services are regulated by the public service commission or other governmental authority.

(2) When the department or another agency opens bids or proposals, if a supplier's current publicly advertised or established catalog price is received at or before the time that the bids or proposals are opened and is less than the bid of the lowest responsible and responsive bidder or offeror or improves upon the conditions for the best proposal received using the same factors and weights included in the proposal, the department or agency may reject all bids and purchase the supply from that supplier without meeting the requirements of 18-4-303 through 18-4-306.

~~(3) An office supply procured by the department's central stores program may be purchased by an agency, without meeting the requirements of 18-4-303 through 18-4-306, from a supplier whose publicly advertised price, established catalog price, or discount price offered to the agency is less than the price offered by the central stores program if the office supply conforms in all material respects to the terms, conditions, and quality offered by the central stores program. A state office supply term contract must include a provision by which the contracting parties acknowledge and agree to the provisions of this subsection.~~

~~(4)(3)~~ (a) Under rules adopted by the department, an agency may request from the department authorization for an alternative procurement method.

(b) A request for authorization must specify:

(i) the problem to be solved;

(ii) the proposed alternative procurement method;

(iii) the reasons why the alternative procurement method may be more appropriate than a method authorized by law; and

(iv) how competition and fairness will be achieved by the alternative procurement method.

(c) Within 30 days after receiving the request, the department shall:

(i) evaluate the request;

(ii) approve or deny the request; and

(iii) issue a written statement providing the reasons for its decision.

(d) Whenever the department approves a request submitted under this section, the department:

(i) may authorize the alternative procurement method on a trial basis; and

(ii) if the alternative procurement method is employed, shall make a written determination as to the success of the method.

(e) If the department determines that the alternative procurement method is successful and should be an alternative that is generally available, it shall promulgate rules that establish the use of the alternative procurement method as an additional source selection method. The rules promulgated by the department under this subsection must reflect the purposes described in 18-4-122. (Subsection ~~(4)~~ (3) terminates June 30, 2005--sec. 29, Ch. 181, L. 2001.)"

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

HB 638, do pass. Report adopted.

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EDUCATION (Galvin-Halcro, Chairman):
HB 151, introduced bill, be amended as follows:

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1. Title, page 1, line 6.

Following: "SPECIALISTS"

Insert: "WHO ARE EMPLOYED FULL-TIME IN A MONTANA PUBLIC SCHOOL OR PARTICIPATING IN AN OFFICE OF PUBLIC INSTRUCTION INTERNSHIP TO ADD AN ENDORSEMENT TO THEIR EXISTING LICENSES AND WHO HAVE BEEN TEACHING 10 YEARS OR LESS AFTER BEING CERTIFIED"

2. Title, page 1, line 8.

Following: "ACCRUE"

Strike: "ONE" through "YEARS"

Insert: "THREE CREDITS IN ONE 5-YEAR PERIOD"

3. Page 2, line 14.

Strike: "five"

Insert: "three"

4. Page 2, line 15.

Following: "specialist"

Insert: "who is employed full-time in a Montana public school or participating in an office of public instruction internship to add an endorsement to an existing license and who has been teaching 10 years or less after being"

5. Page 2, line 16.

Strike: "five"

Insert: "three"

And, as amended, do pass. Report adopted.

HJR 17, introduced joint resolution, be amended as follows:

1. Title, line 5 through line 6.

Strike: "REQUIRE" on line 5 through "EDUCATION" on line 6

Insert: "CONSIDER THE BENEFITS OF INCREASING HEALTH ENHANCEMENT"

2. Title, line 6.

Strike: "HIGH SCHOOL"

Insert: "SCHOOLS"

Following: "ENCOURAGING"

Strike: "HIGH"

3. Page 1, line 15.

Following: "29%"

Insert: "of all high school students and 23% of all 7th and 8th grade students"

4. Page 1, line 18.

Following: "school"

Insert: "and junior high school"

5. Page 1.

Following: line 19

Insert: "WHEREAS, health enhancement is part of the Montana accreditation standards upon which a quality education is built; and"

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6. Page 1, line 25 through line 26.
Strike: "require" on line 25 through "education" on line 26
Insert: "consider additional health enhancement"

7. Page 1, line 26.
Strike: "high"

8. Page 1, line 27.
Strike: "high"

9. Page 2, line 1.
Strike: "high"
Following: "school"
Insert: "district"

And, as amended, be adopted. Report adopted.

FISH, WILDLIFE AND PARKS (Golie, Chairman):
HJR 13, be adopted. Report adopted.

2/16/2005

JUDICIARY (Rice, Chairman):
HB 392, do pass. Report adopted.

2/16/2005

HB 585, introduced bill, be amended as follows:

1. Page 1, line 12.
Strike: "and who" through "pregnant"

2. Page 1, line 14.
Strike: "20"
Insert: "30"

3. Page 1, line 21.
Strike: "offender" through "the"

4. Page 1, line 23.
Strike: "5 years or"
Insert: "10 years and"
Strike: ", or both"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Jent, Chairman):
HB 173, do pass. Report adopted.
HB 376, do pass. Report adopted.
HB 536, introduced bill, be amended as follows:

2/16/2005

1. Title, page 1, line 5.
Strike: "REMOVING"
Insert: "EXTENDING"

2. Title, page 1, line 7.

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Following: "MCA"
Insert: ", AND SECTION 5, CHAPTER 498, LAWS OF 2003"

3. Title, page 1, line 8.
Following: "MCA"
Strike: ", " through "2003"

4. Page 1, line 14.
Following: "(Temporary)"
Insert: "(Temporary)"

5. Page 1, line 28.
Following: "2003)"
Insert: "(Terminates June 30, 2009.)"

6. Page 1.
Following: line 28
Insert: "Section 2. Section 5, Chapter 498, Laws of 2003, is amended to read:
"Section 5. Termination. [This act] terminates June 30, ~~2005~~ 2009."
Renumber: subsequent sections

7. Page 1, line 30 through page 2, line 1.
Following: "MCA" on line 30
Strike: ", " line 30 through "are" on page 2, line 1
Insert: "is"

And, as amended, do pass. Report adopted.

HB 587, introduced bill, do pass and be placed on the consent calendar. Report adopted.

TAXATION (Waitschies, Chairman):
HB 433, do pass. Report adopted.
HB 541, do pass. Report adopted.
HB 607, do pass. Report adopted.
HB 625, introduced bill, be amended as follows:

2/16/2005

1. Title, line 6.
Strike: the first "THE" through "COUNTY"
Insert: "A RESIDENT OF THE AREA"

2. Title, page 1, line 12 through page 16.
Strike: "REVISING" on line 12 through "DISTRICT;" on line 16
Insert: "REQUIRING THAT A PETITION FOR ESTABLISHING A RESORT AREA BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION;"

3. Title, page 1, line 16.
Following: "7-6-1506,"
Insert: "AND"
Strike: "7-6-1533, AND 7-6-1536,"

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4. Page 2, line 8.

Strike: "the board of county commissioners"

Insert: "a person who is a resident of the area"

5. Page 2, line 17.

Strike: "the governing body"

Insert: "a person who is a resident"

6. Page 4, line 28 through line 30.

Strike: subsection (c) in its entirety

7. Page 5, line 2.

Following: "7-6-1504."

Insert: "The petition must be published in a newspaper that meets the qualifications of 7-6-1504(6)(b) 4 weeks before the petition is submitted to the board of county commissioners."

8. Page 5, line 6 through page 6, line 8.

Strike: section 5 through section 8 in their entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

MESSAGES FROM THE SENATE

Senate bills passed and transmitted to the House for concurrence:

2/16/2005

SB 131, introduced by Black

SB 293, introduced by Black

SB 296, introduced by Black

SB 337, introduced by Weinberg

FIRST READING AND COMMITMENT OF BILLS

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

HB 741, introduced by Peterson, Bales, Ross, Witt, Black, Lake, Essmann, Story, Mangan, referred to Taxation.

HB 742, introduced by Buzzas, Harris, Dickenson, Gutsche, Wiseman, Henry, Musgrove, Kaufmann, Raser, Hamilton, Roberts, Franklin, Dowell, A. Olson, Hiner, Lambert, Wanzenried, Lenhart, referred to Human Services.

HB 743, introduced by Harris, Campbell, Hendrick, MacLaren, Jacobson, Noennig, McGillvray, B. Olson, Andersen, Eaton, Stahl, Maedje, Jopek, Barrett, Henry, McAlpin, Arntzen, referred to Local Government.

HB 744, introduced by Maedje, Larson, referred to Natural Resources.

HB 745, introduced by Matthews, Cooney, referred to Appropriations.

HB 746, introduced by Klock, referred to Transportation.

HB 747, introduced by Driscoll, referred to Education.

HB 748, introduced by Wells, referred to Appropriations.

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

HR 2, introduced by Sonju, referred to Judiciary.

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Rep. Lange announced the House Republicans will caucus. Speaker Matthews stated the House will stand in recess until 2:00 p.m.

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 16 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Callahan, Campbell, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Milburn, Morgan, Musgrove, Noennig, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.

Total 91

Noes: Everett, Koopman, Sales.

Total 3

Excused: Caferro.

Total 1

Absent or not voting: Clark, Gallik, Jayne, Mendenhall, Noonan.

Total 5

HB 177 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Branae, D. Brown, R. Brown, Butcher, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.

Total 94

Noes: Galvin-Halcro, Jayne.

Total 2

Excused: Caferro.

Total 1

Absent or not voting: Bixby, Noonan, Stahl.

Total 3

HB 232 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, R. Brown, Butcher, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Milburn, Morgan, Musgrove, Noennig, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sesso, Sinrud,

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Small-Eastman, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 87

Noes: D. Brown, Everett, Jackson, Koopman, Mendenhall, Sales, Sonju, Warden, Wells, Witt.
Total 10

Excused: Caferro.
Total 1

Absent or not voting: Jayne, Noonan.
Total 2

HB 304 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Wiseman, Witt, Mr. Speaker.
Total 96

Noes: Windy Boy.
Total 1

Excused: Caferro.
Total 1

Absent or not voting: Jayne, Noonan.
Total 2

HB 331 passed as follows:

Ayes: Andersen, Arntzen, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Heinert, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McNutt, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Roberts, Ross, Sesso, Sinrud, Small-Eastman, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Warden, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 83

Noes: Balyeat, Hawk, Hendrick, Koopman, Lake, McKenney, Mendenhall, Milburn, Rice, Ripley, Sales, Sonju, Ward, Wells.
Total 14

Excused: Caferro.
Total 1

Absent or not voting: Henry, Jayne.
Total 2

HB 365 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Golie, Groesbeck, Harris, Hawk, Heinert, Hendrick, Himmelberger, Jackson, Jacobson, L. Jones, W. Jones, Keane, Klock, Koopman,

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Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, Noonan, Peterson, Raser, Rice, Ripley, Roberts, Sales, Sesso, Sinrud, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Ward, Warden, Wells, Wilson, Witt, Mr. Speaker.
Total 57

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Grinde, Gutsche, Hamilton, Henry, Hiner, Jent, Jopek, Juneau, Kaufmann, Lenhart, Lindeen, McAlpin, Musgrove, A. Olson, B. Olson, Parker, Ross, Small-Eastman, Waitschies, Wanzenried, Windham, Windy Boy, Wiseman.
Total 41

Excused: Caferro.
Total 1

Absent or not voting: Jayne.
Total 1

HB 366 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Bergren, R. Brown, Butcher, Campbell, Clark, Cohenour, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Golie, Hamilton, Hawk, Heinert, Hendrick, Himmelberger, Hiner, Jackson, Jacobson, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Wiseman, Witt, Mr. Speaker.
Total 73

Noes: Becker, Bixby, Branae, D. Brown, Buzzas, Callahan, Dickenson, Dowell, Galvin-Halcro, Grinde, Groesbeck, Gutsche, Harris, Henry, Jent, Jopek, Juneau, Kaufmann, Keane, Musgrove, Noennig, Sesso, Small-Eastman, Windy Boy.
Total 24

Excused: Caferro.
Total 1

Absent or not voting: Glaser, Jayne.
Total 2

HB 437 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Ripley, Roberts, Ross, Sesso, Small-Eastman, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 91

Noes: Everett, MacLaren, Rice, Sales, Sinrud, Sonju, Wells.
Total 7

Excused: Caferro.
Total 1

Absent or not voting: Jayne.
Total 1

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HB 508 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.

Total 98

Noes: None.

Total 0

Excused: Caferro.

Total 1

Absent or not voting: Jayne.

Total 1

HB 530 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.

Total 98

Noes: None.

Total 0

Excused: Caferro.

Total 1

Absent or not voting: Jayne.

Total 1

SB 60 concurred in as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.

Total 97

Noes: None.

Total 0

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Excused: Caferro.
Total 1

Absent or not voting: Jayne, Taylor.
Total 2

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

Dem. Floor Leader Parker moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative McNutt in the chair.

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

Representative Parker moved consideration of **HB 379** be placed below #11 on the second reading board. Motion carried.

HB 359 - Representative Gutsche moved **HB 359** do pass. Motion carried as follows:

Ayes: Arntzen, Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Heinert, Hendrick, Henry, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McNutt, Milburn, Musgrove, Noennig, Noonan, Parker, Raser, Roberts, Sesso, Sinrud, Small-Eastman, Stahl, Stoker, Villa, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 67

Noes: Andersen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Hawk, Himmelberger, Jackson, W. Jones, Klock, Koopman, Lake, Lambert, Lange, McGillvray, McKenney, Mendenhall, A. Olson, B. Olson, Peterson, Rice, Ripley, Ross, Sales, Sonju, Taylor, Wagman, Waitschies, Witt.
Total 31

Voted Absentee: Caferro, Aye.

Excused: None.
Total 0

Absent or not voting: L. Jones, Morgan.
Total 2

HB 436 - Representative Himmelberger moved **HB 436** do pass. Motion carried as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Campbell, Cohenour, Dowell, Driscoll, Everett, Facey, Galvin-Halcro, Glaser, Grinde, Groesbeck, Hawk, Heinert, Hendrick, Himmelberger, Hiner, Jackson, Jayne, Jent, L. Jones, W. Jones, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Milburn, Morgan, Noennig, Noonan, A. Olson, B. Olson, Peterson, Raser, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Sonju, Stoker, Taylor, Villa, Wagman, Waitschies, Ward, Warden, Wells, Wiseman, Mr. Speaker.
Total 69

Noes: Bergren, Bixby, Branae, Callahan, Clark, Dickenson, Eaton, Franklin, Furey, Gallik, Golie, Gutsche, Hamilton, Harris, Henry, Jacobson, Jopek, Juneau, Kaufmann, McAlpin, Mendenhall, Musgrove, Parker, Rice, Small-Eastman, Stahl, Wanzenried, Wilson, Windham, Windy Boy, Witt.
Total 31

Voted Absentee: Caferro, Aye.

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Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 379 - Representative Windy Boy moved **HB 379** do pass.

HB 379 - Representative Windy Boy moved **HB 379**, second reading copy, be amended as follows:

1. Title, line 7.

Strike: "FEDERAL MINERAL LEASE AND ROYALTY INCOME"

Insert: "PROCEEDS THAT WERE DEDICATED TO THE ORPHAN SHARE ACCOUNT FROM THE RESOURCE INDEMNITY AND GROUND WATER ASSESSMENT TAX PROCEEDS AND FROM THE DISTRIBUTION OF OIL AND GAS PRODUCTION TAXES"

2. Title, line 8.

Strike: "SECTION 17-3-240"

Insert: "SECTIONS 15-36-331, 15-38-106, AND 75-10-743"

3. Page 1, line 17.

Strike: "money" through the second "and"

Insert: "funds allocated from the resource indemnity and ground water assessment tax proceeds provided for in 15-38-106;

(b) funds received from the distribution of oil and natural gas production taxes pursuant to 15-36-331; and"

4. Page 1, line 18.

Strike: "(b)"

Insert: "(c)"

5. Page 1, line 30 through page 2, line 18.

Strike: section 2 in its entirety

Insert: "**Section 2.** Section 15-36-331, MCA, is amended to read:

"**15-36-331. Distribution of taxes.** (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 15-1-501, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(3) (a) For tax year 2003 and succeeding tax years, the amount of oil and natural gas production taxes determined under subsection (1)(b) plus the phased-out amount distributed pursuant to 15-36-324(12)(b) as that section read on December 31, 2002, is allocated to each county according to the following schedule:

2003 2004 2005 2006 and succeeding tax years

Big Horn	45.03%	45.04%	45.04%	45.05%
Blaine	57.56%	57.84%	58.11%	58.39%
Carbon	50.24%	49.59%	48.93%	48.27%
Chouteau	56.67%	57.16%	57.65%	58.14%
Custer	103.63%	92.27%	80.9%	69.53%
Daniels	48.31%	49.15%	49.98%	50.81%
Dawson	56.32%	53.48%	50.64%	47.79%
Fallon	39.89%	40.52%	41.15%	41.78%
Fergus	112.2%	97.86%	83.52%	69.18%
Garfield	54.51%	51.66%	48.81%	45.96%
Glacier	76.56%	70.65%	64.74%	58.83%

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Golden Valley	55.5%	56.45%	57.41%	58.37%
Hill	66.97%	66.15%	65.33%	64.51%
Liberty	63.32%	61.53%	59.73%	57.94%
McCone	58.75%	55.81%	52.86%	49.92%
Musselshell	57.06%	54.25%	51.44%	48.64%
Petroleum	67.8%	61.21%	54.62%	48.04%
Phillips	53.3%	53.54%	53.78%	54.02%
Pondera	104.14%		87.51%	70.89% 54.26%
Powder River	64.7%	63.44%	62.17%	60.9%
Prairie	38.43%	39.08%	39.73%	40.38%
Richland	45.23%	45.97%	46.72%	47.47%
Roosevelt	46.75%	46.4%	46.06%	45.71%
Rosebud	37.41%	38.05%	38.69%	39.33%
Sheridan	46.64%	47.09%	47.54%	47.99%
Stillwater	56.05%	55.2%	54.35%	53.51%
Sweet Grass	58.23%	59.24%	60.24%	61.24%
Teton	53.01%	50.71%	48.4%	46.1%
Toole	56.2%	56.67%	57.14%	57.61%
Valley	59.82%	57.02%	54.22%	51.43%
Wibaux	47.71%	48.19%	48.68%	49.16%
Yellowstone	50.69%	49.37%	48.06%	46.74%
All other counties	50.15%	50.15%	50.15%	50.15%

(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

(4) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

(a) for the fiscal year ending June 30, 2003, to be distributed as follows:

(i) a total of \$400,000 to the coal bed methane protection account established in 76-15-904; and

(ii) all remaining proceeds to the state general fund;

(b) for the fiscal year beginning July 1, 2003, through the fiscal year ending June 30, 2011, to be distributed as follows:

(i) 1.23% to the coal bed methane protection account established in 76-15-904;

(ii) 2.95% to the reclamation and development grants special revenue account established in 90-2-1104;

(iii) 2.95% to the ~~orphan share account established in 75-10-743~~ long-term or perpetual water treatment permanent trust fund provided for in [section 1];

(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and

(v) all remaining proceeds to the state general fund;

(c) for fiscal years beginning after June 30, 2011, to be distributed as follows:

(i) 4.18% to the reclamation and development grants special revenue account established in 90-2-1104;

(ii) 2.95% to the ~~orphan share account established in 75-10-743~~ long-term or perpetual water treatment permanent trust fund provided for in [section 1];

(iii) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and

(iv) all remaining proceeds to the state general fund."

Insert: "Section 3. Section 15-38-106, MCA, is amended to read:

"15-38-106. (Temporary) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 15-1-501, deposit in the following order:

(a) annually in due course, from the proceeds of the tax to the CERCLA match debt service fund provided in 75-10-622, the amount necessary, as certified by the department of environmental quality, after crediting to the CERCLA match debt service fund amounts transferred from the CERCLA cost recovery account established under 75-10-631, to pay the principal of, premium, if any, and interest during the next fiscal year on bonds or notes issued pursuant to 75-10-623;

(b) \$366,000 of the proceeds of the resource indemnity and ground water assessment taxes in the ground water assessment account established by 85-2-905;

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(c) 50% of the remaining proceeds in the reclamation and development grants account established by 90-2-1104, for the purpose of making grants to be used for mineral development reclamation projects;

(d) \$150,000 of the remaining proceeds of the resource indemnity and ground water assessment taxes in the natural resource workers' tuition scholarship account established in 39-10-106 for the first fiscal year following July 1 immediately after the date that the governor certifies that the resource indemnity trust fund balance has reached \$100 million and for succeeding fiscal years, the amount required under 39-10-106(4);

(e) all remaining proceeds in the ~~orphan share account established in 75-10-743~~ long-term or perpetual water treatment permanent trust fund provided for in [section 1].

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer. (Terminates June 30, 2007--sec. 10, Ch. 586, L. 2001.)

15-38-106. (Effective July 1, 2007) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 15-1-501, deposit in the following order:

(a) annually in due course, from the proceeds of the tax to the CERCLA match debt service fund provided in 75-10-622, the amount necessary, as certified by the department of environmental quality, after crediting to the CERCLA match debt service fund amounts transferred from the CERCLA cost recovery account established under 75-10-631, to pay the principal of, premium, if any, and interest during the next fiscal year on bonds or notes issued pursuant to 75-10-623;

(b) \$366,000 of the proceeds in the ground water assessment account established by 85-2-905;

(c) 50% of the remaining proceeds in the ~~orphan share account established in 75-10-743~~ long-term or perpetual water treatment permanent trust fund provided for in [section 1]; and

(d) all remaining proceeds in the reclamation and development grants account established by 90-2-1104, for the purpose of making grants to be used for mineral development reclamation projects.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer."

Insert: "Section 4. Section 75-10-743, MCA, is amended to read:

"75-10-743. Orphan share state special revenue account -- reimbursement of claims -- payment of department costs. (1) There is an orphan share account in the state special revenue fund established in 17-2-102 that is to be administered by the department. Money in the account is available to the department by appropriation and must be used to reimburse remedial action costs claimed pursuant to 75-10-742 through 75-10-751 and, except as provided in subsection (10), to pay costs incurred by the department in defending the orphan share.

(2) There must be deposited in the orphan share account:

(a) all penalties assessed pursuant to 75-10-750(12);

(b) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202;

~~(c) funds allocated from the resource indemnity and ground water assessment tax proceeds provided for in 15-38-106;~~

~~(d) funds received from the distribution of oil and natural gas production taxes pursuant to 15-36-331;~~

~~(e)(c)~~ unencumbered funds remaining in the abandoned mines state special revenue account;

~~(f)(d)~~ interest income on the account;

~~(g)(e)~~ funds received from settlements pursuant to 75-10-719(7); and

~~(h)(f)~~ funds received from reimbursement of the department's orphan share defense costs pursuant to subsection (6).

(3) If the orphan share fund contains sufficient money, valid claims must be reimbursed subsequently in the order in which they were received by the department. If the orphan share fund does not contain sufficient money

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to reimburse claims for completed remedial actions, a reimbursement may not be made and the orphan share fund, the department, and the state are not liable for making any reimbursement for the costs. The department and the state are not liable for any penalties if the orphan share fund does not contain sufficient money to reimburse claims, and interest may not accrue on outstanding claims.

(4) Except as provided in subsection (8), claims may not be submitted and remedial action costs may not be reimbursed from the orphan share fund until all remedial actions, except for operation and maintenance, are completed at a facility.

(5) Reimbursement from the orphan share fund must be limited to actual documented remedial action costs incurred after the date of a petition provided for in 75-10-745. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs.

(6) (a) The department's costs incurred in defending the orphan share must be paid by the persons participating in the allocation under 75-10-742 through 75-10-751 in proportion to their allocated shares. The orphan share fund is responsible for a portion of the department's costs incurred in defending the orphan share in proportion to the orphan share's allocated share, as follows:

(i) If sufficient funds are available in the orphan share fund, the department's costs incurred in defending the orphan share must be paid from the orphan share fund in proportion to the share of liability allocated to the orphan share.

(ii) If sufficient funds are not available in the orphan share fund, persons participating in the allocation under 75-10-742 through 75-10-751 shall pay all the orphan share's allocated share of the department's costs incurred in defending the orphan share in proportion to each person's allocated share of liability.

(b) A person who pays the orphan share's proportional share of costs has a claim against the orphan share fund and must be reimbursed as provided in subsection (3).

(7) If sufficient money remains in the orphan share fund on June 29, 2003, \$999,000 must be transferred to the general fund.

(8) If the lead liable person under 75-10-746 presents evidence to the department that the person cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will cause undue financial hardship on the person, the department may allow the submission of claims and may reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early reimbursement unless the person is in substantial compliance with all department-approved remedial action plans.

(9) A person participating in the allocation process who received funds under the mixed funding pilot program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive reimbursement from the orphan share fund for the amount of funds received under the mixed funding pilot program that are later attributed to the orphan share under the allocation process.

(10) For the biennium beginning July 1, 2003, and subject to the provisions of section 4, Chapter 199, Laws of 2003, the department may transfer funds from the orphan share fund to the environmental quality protection fund established in 75-10-704, the hazardous waste/CERCLA account established in 75-10-621, or both. The total amount transferred pursuant to this subsection may not exceed \$600,000."

Renumber: subsequent sections

Amendment adopted as follows:

Ayes: Arntzen, Balyeat, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jacobson, Jayne, Jent, L. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Ripley, Roberts, Sesso, Sinrud, Small-Eastman, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 91

Noes: Andersen, Barrett, Jackson, W. Jones, McGillvray, Rice, Ross, Sales, Sonju.
Total 9

Voted Absentee: Caferro, Aye.

Excused: None.
Total 0

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Absent or not voting: None.
Total 0

HB 379 - Representative Windy Boy moved **HB 379**, as amended, do pass. Motion carried as follows:

Ayes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Hendrick, Henry, Hiner, Jacobson, Jayne, Jent, L. Jones, Jopek, Juneau, Kaufmann, Keane, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, McAlpin, Milburn, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Sesso, Small-Eastman, Stahl, Stoker, Villa, Waitschies, Wanzenried, Ward, Warden, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 67

Noes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Heinert, Himmelberger, Jackson, W. Jones, Klock, Koopman, Lake, Malcolm, McGillvray, McKenney, Mendenhall, Morgan, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Taylor, Wagman, Wells, Witt.
Total 32

Voted Absentee: Caferro, Aye.

Excused: None.
Total 0

Absent or not voting: McNutt.
Total 1

Dem. Floor Leader Parker moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman McNutt moved the Committee of the Whole report be adopted. Report adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McKenney, McNutt, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Ripley, Roberts, Ross, Sesso, Small-Eastman, Sonju, Stoker, Taylor, Villa, Waitschies, Wanzenried, Ward, Warden, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 84

Noes: Butcher, Everett, Golie, Hawk, Koopman, McGillvray, Mendenhall, Rice, Sales, Sinrud, Stahl, Wagman, Wells.
Total 13

Excused: Caferro.
Total 1

Absent or not voting: R. Brown, W. Jones.
Total 2

MOTIONS

Dem. Floor Leader Parker moved that HB 379 be re-referred to the House Appropriations Committee. Without objection, so ordered.

Rep. Stoker moved HB 490 be taken from the State Administration Committee and placed on 2nd Reading. Speaker Matthews stated this is a blast motion and requires a 3/5 vote. Motion passed as follows:

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Ayes: Arntzen, Barrett, Bergren, Branae, D. Brown, R. Brown, Butcher, Callahan, Clark, Driscoll, Everett, Facey, Franklin, Furey, Glaser, Gutsche, Hawk, Hendrick, Henry, Himmelberger, Jackson, Jayne, L. Jones, W. Jones, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, Noonan, A. Olson, Parker, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Witt, Mr. Speaker.

Total 66

Noes: Andersen, Balyeat, Becker, Bixby, Buzzas, Campbell, Cohenour, Dickenson, Dowell, Eaton, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Hamilton, Harris, Hiner, Jacobson, Jent, Jopek, Juneau, Kaufmann, Malcolm, Musgrove, B. Olson, Raser, Small-Eastman, Villa, Windy Boy, Wiseman.

Total 31

Excused: Caferro.

Total 1

Absent or not voting: Heinert, Windham.

Total 2

Rep. Ward moved HB 602 be taken from the Judiciary Committee and placed on 2nd Reading. Speaker Matthews stated this is a blast motion and requires a 3/5 vote. Motion failed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Campbell, Dowell, Everett, Glaser, Harris, Hawk, Heinert, Hendrick, Himmelberger, Jackson, Jacobson, Jayne, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Witt.

Total 55

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Clark, Cohenour, Dickenson, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Henry, Hiner, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.

Total 44

Excused: Caferro.

Total 1

Absent or not voting: None.

Total 0

UNFINISHED BUSINESS

Rep. Parker requested the following sponsors be added to HB 721: Rep. Lange, Sen. Black, Sen. Cocchiarella, Sen. Gillan, Sen. Harrington, Sen. Mangan, Sen. Roush, Sen. Ryan, Sen. Schmidt, Sen. Tropila, and Sen. Wheat.

Rep. Lange requested the following sponsors be added to HB 728: Rep. Arntzen, Rep. Becker, Rep. Branae, Rep. R. Brown, Rep. Buzzas, Rep. Driscoll, Rep. Eaton, Rep. Facey, Rep. Glaser, Rep. Grinde, Rep. Gutsche, Rep. Hamilton, Rep. Henry, Rep. Himmelberger, Rep. Lindeen, Rep. McGillvray, Rep. Morgan, Rep. Noennig, Rep. A. Olson, Rep. Raser, Rep. Roberts, and Rep. Wanzenried.

REPORTS OF STANDING COMMITTEES

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JUDICIARY (Rice, Chairman):

2/16/2005

HB 611, introduced bill, be amended as follows:

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

Strike: "PROVIDING" on line 5 through "MISDEMEANOR;" on line 6

2. Page 1, line 30.

Strike: "a state prison"

Insert: "the county jail"

3. Page 2, line 1.

Following: "than"

Insert: "7 days or more than"

Strike: "or more than 2 years"

4. Page 2, line 2.

Following: "~~or second~~"

Insert: "or second"

5. Page 2, line 5 through line 6.

Strike: "in a state" on line 5 through "prison" on line 6

Strike: "1 year" on line 6

Insert: "90 days"

6. Page 2, line 8.

Following: "~~prison.~~"

Insert: "If the term of imprisonment does not exceed 1 year, the person shall be imprisoned in the county jail. If the term of imprisonment exceeds 1 year, the person shall be imprisoned in the state prison."

And, as amended, do pass. Report adopted.

HB 614, do pass. Report adopted.

HB 615, introduced bill, be amended as follows:

1. Page 1, line 10.

Following: "shall"

Insert: ", at the request of the department of environmental quality,"

2. Page 1, line 14.

Following: "also"

Insert: ", at their request,"

And, as amended, do pass. Report adopted.

HB 637, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: "DATE"

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Insert: "AND A TERMINATION DATE"

2. Page 5, line 10.

Insert: "NEW SECTION. **Section 7. Termination.** [Sections 1 through 5] terminate July 1, 2007. "

And, as amended, do pass. Report adopted.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Dem. Floor Leader Parker moved that the House adjourn until 1:00 p.m., Thursday, February 17, 2005.
Motion carried.

House adjourned at 2:57 p.m.

MARILYN MILLER
Chief Clerk of the House

GARY MATTHEWS
Speaker of the House