

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2005

SENATE JOURNAL
59TH LEGISLATURE
SIXTY-FOURTH LEGISLATIVE DAY

Helena, Montana
March 23, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Mr. Carl Edward Venne. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Bales, Smith, Squires, and Toole, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Smith, Squires, Toole.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/23/2005
Correctly printed: **SB 224, SB 249, SB 287, SB 303, SB 323, SB 406, SB 491, SB 504, SB 521, SB 522, SJR 29, SJR 32, SR 4, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 14, HB 16, HB 18, HB 34, HB 49, HB 212, HB 257, HB 270, HB 271, HB 307, HB 349, HB 507, HB 555, HB 559, HB 574, HB 581, HB 615, HB 636, HB 696, HB 743.**
Correctly printed: **SB 276, HB 34, HB 212, HB 257, HB 270, HB 271, HB 507, HB 559, HB 581, HB 636, HB 652, HB 681, HB 743.**
Correctly engrossed: **SB 217, SB 236, SB 319, SB 358, SB 428, SB 507, SB 511, SJR 30, SR 5, SR 13, HB 142, HB 157, HB 179, HB 220, HB 230, HB 331, HB 385, HB 453, HB 476, HB 668, HB 721.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/23/2005
HB 18, be concurred in. Report adopted.
HB 159, be amended as follows:

1. Page 12.
Following: line 1
Insert: "(e) expenses for displaced homemaker programs provided for under 39-7-305;"
Renumber: subsequent subsections

2. Page 23.
Following: line 3
Insert: "COORDINATION SECTION. Section 15. Coordination instruction. If both House Bill No. 760 and [this act] are passed and approved, then [section 118] of House Bill No. 760, amending 39-51-1301, is void."
Renumber: subsequent section

3. Page 23, line 5.
Strike: "14"

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Insert: "15"

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

HB 179, be amended as follows:

1. Title, page 1, line 10.

Following: "PROGRAM;"

Insert: "ELIMINATING THE REQUIREMENT THAT THE SECRETARY OF STATE PARTICIPATE IN THE MONTANA SMALL BUSINESS LICENSING COORDINATION PROGRAM AND ON THE BOARD OF REVIEW;"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "30-16-201"

Insert: ", "

Following: "~~30-16-303~~"

Insert: "30-16-302, AND 30-16-303"

2. Page 3.

Following: line 16

Insert: "**Section 2.** Section 30-16-302, MCA, is amended to read:

"**30-16-302. Board of review.** (1) There is a board of review. The board of review's duty is to provide policy direction to the department of revenue in the establishment and operation of the system. The board of review includes the directors of the departments of agriculture, labor and industry, environmental quality, livestock, revenue, justice, and public health and human services, ~~the secretary of state~~, a member appointed by the president of the senate, and a member appointed by the speaker of the house. If an agency that is not a member of the board of review requests inclusion in the streamlined registration and licensing plan as provided in 30-16-303, that agency's director must be appointed to the board of review by the governor.

(2) The governor shall appoint a presiding officer from among the members of the board of review.

(3) The board of review shall meet at the call of the presiding officer at least once each calendar quarter to:

(a) establish interagency policy and guidelines for the plan;

(b) review the findings, status, and problems of system operations and recommend courses of action; and

(c) receive reports from industry and agency task forces that the board of review may request to inquire into particular issues.

(4) The board of review may implement a plan for streamlined registration and licensing to include licenses not specified in 30-16-301, as provided in 30-16-303.

(5) The board of review is attached to the department of revenue for administrative purposes only as provided in 2-15-121."

Insert: "**Section 3.** Section 30-16-303, MCA, is amended to read:

"**30-16-303. Participation of state agencies.** (1) The legislature directs full participation in the implementation of this chapter by:

(a) the departments of agriculture, environmental quality, revenue, justice, labor and industry, and public health and human services;

~~(b) the secretary of state;~~

~~(c)~~(b) the public service commission; and

~~(d)~~(c) other agencies as directed by the governor.

(2) The board of review may include licenses not specified in 30-16-301 in a plan for streamlined registration and licensing if:

(a) the agency administering the license requests that the license be included in the plan;

(b) the board of review approves including the license by a majority vote of a quorum of the board of review;

and

(c) licensees affected by the license's inclusion in the plan are given 60 days' notice of the plan's implementation and the notice sets forth in detail the changes in the licensing procedures.

(3) If a license is included in a streamlined registration and licensing plan pursuant to subsection (2):

(a) the agency administering the license may provide for a variance in the timing of the payment of the

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license fee and a variance in the application form, filing date, and penalty provisions in order to conform with the plan's criteria;

(b) the board of review shall provide for the equitable proration to the agency administering the license of any fees paid by a licensee prior to the plan's implementation; and

(c) the license must be processed and issued by the department of revenue as provided in this chapter.

(4) (a) In order to defray the costs associated with administering a streamlined registration and licensing plan, the department may require a transfer of funds from the participating agencies in an amount equal to no more than one-half of the total cost of processing and issuing a license.

(b) The amount remaining of the total cost of processing and issuing a license may be charged to the license applicant.

(c) The amount of funds transferred by an agency must be based on the number of licenses processed and issued on behalf of that agency versus the total number of licenses processed and issued under the streamlined registration and licensing plan."

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

HB 257, be concurred in. Report adopted.

HB 270, be concurred in. Report adopted.

HB 271, be concurred in. Report adopted.

HB 559, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):

3/23/2005

HB 681, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman):

3/23/2005

SB 224, do pass. Report adopted.

SB 319, introduced bill, be amended as follows:

1. Page 21, line 22.

Following: line 21

Insert: "COORDINATION SECTION. Section 32. Coordination instruction. If the general appropriations act approved by the 59th legislature does not include an appropriation of at least \$300,000 to implement the provisions of [this act], then section 34 of [this act] must be amended to read as follows:

NEW SECTION. Section 34. Effective dates. (1) Except as provided in subsection (2), [this act] is effective ~~October 1, 2005~~ July 1, 2007.

(2) [Sections 22, 31, 33, 35, and 36 and this section] are effective on passage and approval."

Renumber: subsequent sections

2. Page 21, line 28.

Strike: "32, 34, and 35"

Insert: "33, 35, and 36"

And, as amended, do pass. Report adopted.

SB 358, introduced bill, be amended as follows:

1. Page 1, line 15.

Following: the first "law"

Insert: "under 42 U.S.C. 1396p"

2. Page 1, line 16.

Strike: "1915"

Insert: "1115"

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Strike: "XIX"
Insert: "XI"
Strike: "1396n"
Insert: "1315"

And, as amended, do pass. Report adopted.

SB 428, introduced bill, be amended as follows:

1. Page 2, line 25.
Strike: "25"
Insert: "20"

2. Page 5, line 25.
Insert: "NEW SECTION. Section 11. Performance of required functions. It is the intent of the legislature that the functions required in [this act] be conducted with existing employees and within existing levels of funding."
Renumber: subsequent sections

And, as amended, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman):
HB 34, be concurred in. Report adopted.
HB 668, be amended as follows:

3/23/2005

1. Title, line 8.
Following: "SECTIONS"
Insert: "87-5-703,"

2. Page 1, following line 11.
Insert: "**Section 1.** Section 87-5-703, MCA, is amended to read:
"**87-5-703. Applicability to other provisions for importation or introduction of wildlife.** Sections 87-5-701 through 87-5-704, 87-5-711, 87-5-713 through 87-5-716, and 87-5-721 do not apply to ~~the importation of wildlife for the commercial pet trade or to~~ the provisions on importation or introduction of wildlife contained in the following laws:

- (1) Title 80;
- (2) 87-3-207 and 87-3-208;
- (3) 87-3-221 through 87-3-224 or 87-3-209, 87-3-210, and 87-3-225 through 87-3-227;
- (4) 87-4-422;
- (5) 87-5-112;
- (6) 87-5-205;
- (7) 87-5-302; or
- (8) Title 81, chapter 2."

Renumber: subsequent sections

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

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):
SB 507, introduced bill, be amended as follows:

3/23/2005

1. Title, page 1, line 9.
Following: "OBTAIN"
Strike: "AN INDIVIDUAL MONTANA DRIVING RECORD"
Insert: "A CERTIFICATE OF TITLE"

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2. Title, page 1, line 10.
Following: "SECTIONS"
Insert: "61-3-203, 61-3-204,"
Following: "61-9-204,"
Strike: "AND 61-11-105,"
Insert: "61-9-407, AND 61-9-430,"

3. Page 5, line 3.

Insert: "Section 4. Section 61-3-203, MCA, is amended to read:

"61-3-203. Fee for original certificate of title -- disposition. (1) A person applying for a certificate of title shall pay the department, its authorized agent, or a county treasurer a fee of ~~\$10~~ \$14 for issuance of an original certificate of title. ~~The fee must be collected by the county treasurer or by an authorized agent of the department at the time of application. An additional fee of \$2 must be paid for light vehicles, trucks and buses weighing less than 1 ton, and logging trucks. The fees must be paid to the county treasurer or agent of the department and, of the \$10 fee, \$5 must be forwarded to the department of revenue and deposited in the state general fund. The remaining \$5 must be forwarded to the department for deposit~~

(2) The \$14 fee imposed in subsection (1) must be forwarded to the department, and \$5 of the fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550. The remaining amount must be deposited in the state general fund."

Insert: "Section 5. Section 61-3-204, MCA, is amended to read:

"61-3-204. Replacement certificate of title -- application. (1) If a certificate of title is lost, stolen, destroyed, mutilated, or becomes illegible or if the owner wants to update personal information on the electronic record of title or have a replacement certificate of title issued with updated information, the owner, as shown on the electronic record of title, may apply for and request the department to issue a replacement certificate of title. The application must include satisfactory evidence of the facts requiring the replacement certificate of title and be accompanied by a fee of ~~\$10~~ \$14. ~~Of the \$10 fee, \$5 must be deposited in the state general fund in accordance with 15-1-504, and the remaining \$5~~

(2) The \$14 fee must be forwarded to the department, for deposit and \$5 of the fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550. The remaining amount must be deposited in the state general fund.

~~(2)(3)~~ Each replacement certificate of title issued by the department must contain the following statement: "This replacement voids any previously issued title."""

Renumber: subsequent sections

4. Page 8, line 2 through page 9, line 5.

Strike: section 7 in its entirety

Insert: "Section 9. Section 61-9-407, MCA, is amended to read:

"61-9-407. Fenders, splash aprons, or flaps required on certain vehicles -- dimension and location. (1) A person may not move, or permit to be moved, a vehicle, except a motorcycle, quadricycle, motor-driven cycle, or farm tractor, as defined in this title, upon the public highways without having first equipped the rearmost wheels or set of wheels of the vehicle with fenders, splash aprons, or flaps. The fenders, splash aprons, or flaps must be designed, constructed, and attached to the vehicle in a manner that arrests and deflects dirt, mud, water, rocks, and other substances that may be picked up by the rear wheels of the vehicle and thrown into the air, as follows:

(a) If the vehicle is equipped with fenders, the fenders must extend in full width from a point above and forward of the center of the tire or tires over and to the rear of the tires.

(b) If the vehicle is equipped with splash aprons or flaps, the splash aprons or flaps must extend downward in full width from a point not lower than halfway between the center of the tire or tires and the top of the tire or tires and to the rear of the tires.

(c) If the vehicle is in excess of 8,000 pounds gross vehicle weight or rating, the fenders, splash aprons, or flaps must extend downward to a point that is not more than 10 inches above the surface of the highway when the vehicle is empty.

(d) If the vehicle is 8,000 pounds or less gross vehicle weight or rating, the fenders, splash aprons, or flaps must extend downward to a point that is not more than 20 inches above the surface of the highway when the vehicle is empty.

(2) Fenders, splash aprons, or flaps, as used in subsection (1), must be constructed as follows:

(a) when measured on the cross-sections of the tread of the wheel or on the combined cross-sections of the treads of multiple wheels, the fender, splash apron, or flap extends at least to each side of the width of the tire or of the combined width of the multiple tires; and

(b) the fender, splash apron, or flap is capable at all times of arresting and deflecting dirt, mud, water, or other

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substance that may be picked up and carried by the wheel or wheels.

(3) This section does not apply to a street rod ~~vehicles, as defined in [section 1]~~, motor vehicles not originally equipped with fenders, splash aprons, or flaps; or motor vehicles for which fenders, splash aprons, or flaps were not required by federal law or regulation at the time of manufacture.

~~(4) For purposes of 61-9-430 and this section, "street rod" means a vehicle manufactured before 1949 that has been modified in body style or design."~~

Insert: "Section 10. Section 61-9-430, MCA, is amended to read:

"61-9-430. Bumpers. (1) A motor vehicle of less than 10,000 pounds gross vehicle weight or rating registered in Montana, except a motorcycle, a quadricycle, a motor-driven cycle, or a farm tractor, must be equipped with a front bumper and, unless the vehicle is equipped with work-performing features that make installation impractical or unnecessary, with a rear bumper.

(2) This section does not apply to a street rod ~~vehicles, as defined in 61-9-407(4) [section 1]~~, vehicles not originally equipped with front or rear bumpers, or vehicles for which bumpers were not required by federal law or regulation at the time of manufacture."

Renumber: subsequent sections

5. Page 9, line 16.

Following: "(2)"

Strike: "[Section 7] is"

Insert: "[Sections 4 and 5] are"

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

3/23/2005

HB 331, be amended as follows:

1. Title, page 1, line 5.

Strike: "AND"

2. Title, page 1, line 6.

Strike: "ALL"

Insert: "CERTAIN"

Following: "INSURANCE"

Insert: "; PROVIDING A PROCESS FOR DETERMINING AVAILABILITY OF MEDICAL MALPRACTICE INSURANCE; CREATING A STABILIZATION RESERVE FUND; AND AMENDING SECTION 33-11-105, MCA"

3. Page 1, line 10.

Following: "finds that"

Insert: "if"

4. Page 1, line 12.

Strike: "and lack of affordability"

5. Page 1, line 13.

Following: "policyholder"

Insert: ", alternative programs should be employed to help ensure that medical malpractice insurance remains available to Montana health care providers and health care facilities"

6. Page 1, line 14.

Strike: "14"

Insert: "20"

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7. Page 1, line 15.

Strike: "14"

Insert: "20"

8. Page 1, line 19.

Strike: "14"

Insert: "20"

9. Page 1, line 22.

Strike: "14"

Insert: "20"

10. Page 1.

Following: line 22

Insert: "(2) "Committee" means a committee designated by the commissioner to coordinate the activities of the market assistance plan and composed of licensed insurance producers, insurers authorized to sell medical malpractice insurance in this state, and eligible surplus lines insurers."

Renumber: subsequent subsections

11. Page 1.

Following: line 23

Insert: "(4) "Market assistance plan" means a voluntary mechanism operated by a committee to assist health care providers and health care facilities to buy medical malpractice insurance when medical malpractice insurance is not reasonably available in the voluntary market."

Renumber: subsequent subsections

12. Page 1, line 28.

Following: the first "insurance"

Insert: ", excluding premiums on professional malpractice insurance and premiums written by a risk retention group as defined in 33-11-102,"

13. Page 1.

Following: line 30

Insert: "(7) "Voluntary market" means insurers authorized to write medical malpractice insurance in this state, captive insurers authorized to write medical malpractice insurance in this state, and eligible surplus lines insurers, if approved by the commissioner based on financial stability of the surplus lines insurer and the cost and coverage of the medical malpractice policies available from the surplus lines insurers."

14. Page 2.

Following: line 1

Insert: "NEW SECTION. Section 3. Market review. (1) After providing notice to all insurers eligible to sell medical malpractice insurance in this state, including eligible surplus lines insurers, the commissioner shall perform a market review to determine the availability of medical malpractice insurance before implementing a market assistance plan under [section 4] or a joint underwriting association under [section 5].

(2) The commissioner shall compile a list of insurers in the voluntary market.

(3) After holding a hearing, the commissioner shall determine whether medical malpractice insurance is reasonably available pursuant to subsection (4) for:

(a) health care providers, other than health care facilities; or

(b) health care facilities.

(4) In determining whether medical malpractice insurance is reasonably available, the commissioner shall consider whether:

(a) there is a significant likelihood of a lack of available health care services to the public because of the cost

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or unavailability of medical malpractice insurance;

(b) a significant portion of the members of a class of health care providers:

(i) cannot obtain medical malpractice insurance from medical malpractice insurers for reasons not attributable to negligence, neglect, oversight, or willfulness of the health care providers; or

(ii) is uninsured as a result of new underwriting restrictions unrelated to the acts or omissions of the health care providers or because of the insolvency of a medical malpractice insurer."

Insert: "NEW SECTION. Section 4. Market assistance plan. (1) If the commissioner determines under [section 3] that medical malpractice insurance is not reasonably available, the commissioner shall attempt to form a market assistance plan for medical malpractice insurance before implementing a joint underwriting association under [section 5].

(2) The commissioner may establish a market assistance plan only if the commissioner determines that there exists a sufficient number of insurers in the voluntary market willing to underwrite standard risks at adequate coverage limits.

(3) If an insurer in the voluntary market declines to participate in the market assistance plan, the insurer shall state both the business and the financial reasons for not participating in the market assistance plan.

(4) The commissioner, in consultation with the committee, shall develop a plan of operation for the market assistance plan.

(5) The market assistance plan may include a reasonable processing fee to applicants that seek medical malpractice insurance coverage through the market assistance plan.

(6) Licensed insurance producers may receive a reasonable commission for medical malpractice insurance placed in the market assistance plan. The plan of operation may allow a commission to be paid regardless of whether the producer is appointed or otherwise represents the insurer accepting the risk."

Renumber: subsequent sections

15. Page 2, lines 2 through 3.

Strike: "-- determination of" on line 2 through "insurance" on line 3

16. Page 2, line 4.

Strike: "OR"

Insert: "and"

17. Page 2, line 5.

Following: "policies"

Insert: "but excluding insurers writing professional malpractice insurance and risk retention groups"

18. Page 2, lines 10 through 13.

Following: "facilities" on line 10

Insert: ", "

Strike: ", after" on line 10 through "members" on line 13

Insert: "has conducted a market review under [section 3], determined that medical malpractice insurance is not reasonably available for health care providers, other than health care facilities, in the voluntary market, and attempted to establish a market assistance plan. Upon the commissioner determining that the market assistance plan has not achieved reasonably available medical malpractice insurance, the commissioner shall notify the association that it"

19. Page 2, line 14.

Following: "facilities"

Strike: ", but the"

Insert: ". The"

20. Page 2, lines 17 through 19.

Following: "commissioner"

Strike: ", after" on line 17 through "authorized to" on line 19

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Insert: "has conducted a market review under [section 3], determined that medical malpractice insurance is not reasonably available for those facilities in the voluntary market, and attempted to establish a market assistance plan. Upon the commissioner determining that the market assistance plan has not achieved reasonably available medical malpractice insurance, the commissioner shall notify the association that it may"

21. Page 2, line 20.

Following: "facilities"

Strike: ", but the"

Insert: ". The"

22. Page 2, line 27 through page 3, line 6.

Strike: subsection (5) in its entirety

23. Page 3.

Following: line 6

Insert: "(5) The association may operate for a period of 3 years. At the end of the 3-year period, the association must be dissolved unless the commissioner, after notice and a hearing, reauthorizes the operations of the association. If the commissioner determines that adequate medical malpractice insurance is available in the voluntary market, the commissioner shall order the association to end its underwriting operations and shall supervise the dissolution of the association, including settlement of all financial and legal obligations and distribution of any remaining assets."

24. Page 3, line 9.

Strike: "\$3"

Insert: "\$2"

25. Page 3, line 10.

Strike: "\$9"

Insert: "\$4"

26. Page 3, line 17.

Strike: "14"

Insert: "20"

27. Page 3, line 26.

Strike: "final"

28. Page 4, line 2.

Strike: ", or by the commissioner"

29. Page 4, line 5.

Strike: "3(2)"

Insert: "5(2)"

30. Page 4, line 10.

Following: "then"

Strike: "an"

Insert: "the"

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Following: "association"
Strike: "member"

31. Page 4, line 14.
Strike: "-- recoupment of deficit"

32. Page 4, line 16.
Strike: "members"
Following: "statistics"
Strike: "are subject" through "giving"
Insert: "pursuant to 33-1-501, 33-1-502, and Title 33, chapter 16, must give"

33. Page 4, line 18.
Strike: "the members of"

34. Page 4, line 19.
Strike: "members"
Insert: "association"

35. Page 4, lines 20 through 21.
Strike: "for" on line 20 through "commissioner" on line 21

36. Page 4, lines 22 through 24.
Strike: "members" on line 22 through "commissioner" on line 24
Insert: "pursuant to 33-1-501, 33-1-502, and Title 33, chapter 16"

37. Page 4, lines 25 through 29.
Strike: subsection (3) in its entirety
Renumber: subsequent subsection

38. Page 5, line 1.
Strike: "association members"
Insert: "association's"

39. Page 5.
Following: line 4
Insert: "NEW SECTION. Section 10. Recoupment of deficit and member assessments. (1) (a) If the association experiences an underwriting deficit for any year, the deficit must be recouped as provided in the plan of operation and the rating plan must contain the procedures provided for in subsections (1)(b) and (1)(c).
(b) The board of directors shall certify the underwriting deficit to the commissioner. The certification is subject to the review of the commissioner.
(c) After review of the certification, the deficit must be recouped by:
(i) first, reimbursement of the deficit in the following order:
(A) from the stabilization reserve fund, as provided in [section 11];
(B) a premium contingency assessment on the association's policyholders, as provided in [section 12], if the reimbursement in subsection (1)(c)(i)(A) is insufficient; and
(C) an assessment upon the members, as provided in [section 15], if the reimbursement in subsections (1)(c)(i)(A) and (1)(c)(i)(B) is insufficient; and
(ii) second, a premium rate increase on the association's policyholders applicable prospectively, as provided in [section 9].

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(2) Reimbursements from the stabilization reserve fund and premium contingency assessments imposed under this section and premiums collected under [sections 9 and 16] and subsection (1)(c)(ii) of this section must be sufficient to recoup all expenses of the association and to reimburse the members for all assessments imposed on them by the association."

Insert: "NEW SECTION. Section 11. Stabilization reserve fund. (1) The commissioner shall establish a stabilization reserve fund.

(2) (a) Each policyholder shall pay to the association a stabilization reserve fund charge equal to 15% of each premium payment due for insurance through the association. The stabilization reserve fund charge must be stated separately in the policy and is payable with each premium payment. The association shall cancel the policy of any policyholder who fails to pay the premium stabilization reserve fund charge.

(b) The stabilization reserve fund charge does not constitute a part of the premium and is not subject to premium taxation, servicing fees, acquisition costs, commissions, or any other charges. The stabilization reserve fund charge may not be considered a premium for the purpose of any assessments levied under [section 15].

(3) (a) The association shall collect and administer the stabilization reserve fund charge. The stabilization reserve fund charge must be treated as a liability of the association along with and in the same manner as premium and loss reserves.

(b) All money received by the stabilization reserve fund must be held in trust by a corporate trustee selected by the association. The corporate trustee may invest the money held in trust, subject to the approval of the association. All investment income must be credited to the stabilization reserve fund. All expenses of administration of the stabilization reserve fund must be charged against the fund. The money held in trust may be used only for the purpose of recoupment of any deficit sustained by the association, as provided in [section 10].

(c) Collections of the stabilization reserve fund charge continue throughout each calendar year for which the fund is established. However, a charge may not be assessed:

(i) during the next succeeding calendar year if the net balance in the stabilization reserve fund after recoupment of any prior year's deficit equals or exceeds the association's estimate of the projected sum of premiums to be written in the calendar year following the valuation date of the fund; or

(ii) in any year in which a premium contingency assessment is collected, as provided in [section 12].

(4) The stabilization reserve fund charge is not refundable if the policy is canceled after the 90th day of coverage.

(5) Upon dissolution of the association as provided in [section 5(5)], the commissioner shall order that any funds remaining in the stabilization reserve fund be reimbursed to the policyholders in proportion to the amounts of the stabilization reserve fund charges paid by the policyholders."

Renumber: subsequent sections

40. Page 5, line 7 through line 9.

Following: "year" on line 7

Strike: ", the board" on line 7 through "POLICYHOLDERS" on line 9

Insert: "and recoupment of the underwriting deficit by reimbursement, as provided in [section 10(1)(c)(i)(A)], is insufficient, each association policyholder"

41. Page 5, line 10.

Strike: "that bears"

Insert: "as provided in the plan of operation. The assessment must bear"

42. Page 5, line 13.

Following: "need not"

Insert: "defend or"

43. Page 5, lines 15 through 19.

Strike: "or policyholders" on line 15 through "ASSOCIATION" on line 19

44. Page 5, lines 20 through 21.

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Strike: subsection (2) in its entirety
Renumber: subsequent subsection

45. Page 5, lines 23 through 24.
Strike: "the members of" on line 23
Strike: "shall," on line 23 through "commissioner," on line 24
Insert: "may"
Strike: "their" on line 24
Insert: "its"
Following: "accordingly." on line 24
Insert: "
(3)"

46. Page 5.
Following: line 26
Insert: "(4) The association may not collect stabilization reserve assessments, as provided in [section 11], in any year in which premium contingency assessments are collected under this section."

47. Page 5, line 28.
Strike: "and occurrence-based policies"
Following: "The"
Insert: "association shall offer policies on a claims-made basis."

48. Page 5, lines 29 through 30.
Strike: "commissioner" on line 29 through "option." on line 30
Strike: "both" on line 30

49. Page 6, line 1.
Strike: "and occurrence-based"
Following: "basis"
Insert: "and as provided in Title 33, chapter 16"

50. Page 6.
Following: line 1
Insert: "**NEW SECTION. Section 14. Risk management.** (1) The association shall establish a risk management program for persons or entities insured by the association.
(2) The risk management program must include:
(a) standards for systematic investigation and reporting of claims and incidents; and
(b) a loss control program. The loss control program must include procedures for:
(i) analysis of claim frequency, severity, and causes of loss;
(ii) identification of situations that may produce large losses;
(iii) development of measures to control losses;
(iv) monitoring of the effectiveness of the loss control measures that are implemented; and
(v) education of insured health care providers and health care facilities on methods to reduce or prevent losses.
(3) The commissioner shall appoint an advisory council consisting of three health care providers and three professional insurance risk managers to provide advice to the association on risk management activities."
Renumber: subsequent sections

51. Page 6, lines 12 through 13.
Strike: "a given" on line 12 through "and the" on line 13
Insert: "any calendar year in an amount greater than 1% of the member's net direct written premium for the preceding calendar year on policies written in this state for casualty insurance. The"

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52. Page 6, line 16.

Strike: "for a"

Insert: "in any"

Strike: "their" through "policyholders"

Insert: "the member's net direct written premium for the preceding calendar year on policies written in this state for casualty insurance"

53. Page 6, line 18.

Following: "participation."

Insert: "A member may not be assessed an amount that would jeopardize that member's solvency."

54. Page 6.

Following: line 18

Insert: "NEW SECTION. Section 16. Recognition of assessments in rates. The rates and premiums charged for insurance policies to which [sections 1 through 20] apply must include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member less any amounts returned to the member by the association, and these rates may not be considered excessive because they contain an amount reasonably calculated to recoup assessments paid by the member."

Renumber: subsequent sections

55. Page 6, line 30.

Following: "insurance"

Strike: "insurer person, or insurer"

Insert: "insured health care provider or health care facility, or association member"

56. Page 7, line 8.

Strike: "any"

Insert: "that"

57. Page 7.

Following: line 12

Insert: "**Section 21.** Section 33-11-105, MCA, is amended to read:

"33-11-105. Compulsory associations. (1) A risk retention group may not join or contribute financially to any insurance insolvency guaranty fund or similar mechanism in this state. In addition, a risk retention group or its insureds may not receive any benefit from any guaranty fund for claims arising out of the operations of the risk retention group.

(2) (a) ~~Except as provided in subsection (2)(b),~~ a risk retention group shall participate in this state's joint underwriting associations, mandatory liability pools, and similar mechanisms.

(b) A risk retention group is excluded from participating in the joint underwriting association provided for in [section 5] and related financing mechanisms.

(3) When a purchasing group obtains insurance covering its members' risks from an insurer not authorized in this state or from a risk retention group, the risks, wherever resident or located, may not be covered by any insurance guaranty fund or similar mechanism in this state.

(4) When a purchasing group obtains insurance covering its members' risks from an authorized insurer, only risks resident or located in this state may be covered by the state guaranty fund, subject to Title 33, chapter 10, part 1."

Renumber: subsequent section

58. Page 7, line 14.

Strike: "14"

Insert: "20"

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59. Page 7, line 15.

Strike: "14"

Insert: "20"

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

HB 385, be amended as follows:

1. Page 7, line 6.

Following: "department,"

Strike: "on either:"

Insert: "no later than"

2. Page 7, line 7.

Following: line 6

Strike: "(i)"

3. Page 7, line 9 through line 10.

Following: "States" on line 9

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

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

HB 476, be amended as follows:

1. Page 5, line 17.

Following: line 16

"COORDINATION SECTION. Section 9. Coordination instruction. If both Senate Bill No. 67 and [this act] are passed and approved, then the amendments to 25-1-201 in both Senate Bill No. 67 and [this act] are void and 25-1-201 must read as follows:

"25-1-201. Fees of clerk of district court. (1) The clerk of district court shall collect the following fees:

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor, \$80; for filing a petition for dissolution of marriage, \$160; for filing a petition for legal separation, \$150; and for filing a petition for a contested amendment of a final parenting plan, \$120;

(b) from each defendant or respondent, on appearance, \$60;

(c) on the entry of judgment, from the prevailing party, \$45;

(d) (i) except as provided in subsection (1)(d)(ii), for preparing copies of papers on file in the clerk's office, \$1 a page for the first 10 pages of each file, for each request, and 50 cents for each additional page;

(ii) for a copy of a marriage license, \$5, and for a copy of a dissolution decree, \$10;

(e) for each certificate, with seal, \$2;

(f) for oath and jurat, with seal, \$1;

(g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7 years, and an additional \$1 for each name for any additional year searched;

(h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

(j) for transmission of records or files or transfer of a case to another court, \$5;

(k) for filing and entering papers received by transfer from other courts, \$10;

(l) for issuing a marriage license, ~~\$30~~ \$53;

(m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

(n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;

(o) for filing a declaration of marriage without solemnization, ~~\$30~~ \$53;

(p) for filing a motion for substitution of a judge, \$100;

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- (q) for filing a petition for adoption, \$75.
- (2) Except as provided in subsections (3) and (5) through (7), fees collected by the clerk of district court must:
- ~~(a) prior to July 1, 2003, be forwarded to the department of revenue for deposit in the state general fund; and~~
~~(b) after June 30, 2003, be deposited in the state general fund as specified by the supreme court administrator.~~
- (3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's trust fund account established in 52-7-102, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.
- (b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund account established in 52-7-102 and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.
- (4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under subsection (1)(a).
- ~~(5) Through June 30, 2003, the clerk of district court shall remit to the credit of the special revenue account established in 42-2-105 \$70 of the filing fee required in subsection (1)(q);~~
- ~~(6)(5)~~ Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714.
- ~~(7)(6)~~ The fees collected under subsections (1)(d), (1)(g), and (1)(j) must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.
- (7) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without solemnization, \$13 must be deposited in the domestic violence intervention account established by [section 1 of House Bill No. 476] and \$10 must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.
- (8) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not otherwise specifically allocated must be deposited in the state general fund."

"COORDINATION SECTION. Section 10. Coordination instruction. If both Senate Bill No. 67 and [this act] are passed and approved, then the amendments to 40-1-202 in both Senate Bill No. 67 and [this act] are void and 40-1-202 must read as follows:

"40-1-202. License issuance. When a marriage application has been completed and signed by both parties to a prospective marriage and at least one party has appeared before the clerk of the district court and paid the marriage license fee of ~~\$30~~ \$53, the clerk of the district court shall issue a license to marry and a marriage certificate form upon being furnished:

- (1) satisfactory proof that each party to the marriage will have attained the age of 18 years at the time the marriage license is effective or will have attained the age of 16 years and has obtained judicial approval as provided in 40-1-213;
- (2) satisfactory proof that the marriage is not prohibited; and
- (3) a certificate of the results of any medical examination required by the laws of this state."

Insert: **"COORDINATION SECTION. Section 11. Coordination instruction.** If both Senate Bill No. 67 and [this act] are passed and approved, then the amendments to 40-1-311 in both Senate Bill No. 67 and [this act] are void and 40-1-311 must read as follows:

"40-1-311. Declaration of marriage without solemnization. (1) Persons desiring to consummate a marriage by written declaration in this state without the solemnization provided for in 40-1-301 ~~must shall~~, prior to executing the declaration, secure the medical certificate required by this chapter, which ~~shall must~~ be firmly attached to the declaration and ~~shall must~~ be filed by the clerk of the district court in the county where the contract was executed.

- (2) A declaration of marriage must contain substantially the following:
 - (a) the names, ages, and residences of the parties;
 - (b) the fact of marriage;
 - (c) the name of father and maiden name of mother of both parties and address of each;
 - (d) a statement that both parties are legally competent to enter into the marriage contract.
- (3) The declaration must be subscribed by the parties and attested by at least two witnesses and formally acknowledged before the clerk of the district court of the county.
- (4) The fee for filing a declaration is ~~\$30~~ \$53 and ~~shall must~~ be paid to the clerk at time of filing. ""

Renumber: subsequent section

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

HB 721, be amended as follows:

1. Page 1, line 29.

Strike: "10"

Insert: "9"

2. Page 2, line 2.

Page 2, line 6.

Page 2, line 9 in two places.

Page 2, line 23.

Strike: "10"

Insert: "9"

3. Page 4, line 28.

Page 4, line 29.

Strike: "10"

Insert: "9"

4. Page 5, line 1.

Page 5, line 26.

Page 5, line 28.

Strike: "10"

Insert: "9"

5. Page 6, line 26.

Strike: "10"

Insert: "9"

6. Page 7, line 5.

Page 7, line 8.

Page 7, line 10.

Strike: "10"

Insert: "9"

7. Page 7, line 12 through line 16.

Strike: section 8 in its entirety

Renumber: subsequent sections

8. Page 7, line 18.

Page 7, line 21.

Page 7, line 24.

Page 7, line 26.

Strike: "10"

Insert: "9"

9. Page 8, line 5 through line 7.

Strike: section 14 in its entirety

Renumber: subsequent section

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

LOCAL GOVERNMENT (Mangan, Chairman):

HB 142, be amended as follows:

3/23/2005

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1. Page 3, line 16.

Following: "rate"

Insert: ",

Strike: "or"

2. Page 3, line 17.

Following: "principal"

Insert: ", or a combination of both"

3. Page 4.

Following: line 3

Insert: "COORDINATION SECTION. Section 6. Coordination instruction. If both Senate Bill No. 58 and [this act] are passed and approved, then the first sentence of subsection (3) of 17-5-805 in [this act] must read:

"(3) Bond, grant, or revenue anticipation notes maturing not more than 3 years after the date of issue may be issued from time to time as the proceeds are needed.""

Renumber: subsequent section

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

HB 212, be concurred in. Report adopted.

HB 220, be amended as follows:

1. Title, line 6.

Following: the first "STATE AGENCY"

Insert: "AND IF THE LOCAL GOVERNMENTS HAVE THE TECHNOLOGY TO CONDUCT ELECTRONIC FUNDS TRANSFERS"

2. Title, line 7.

Following: "TRANSFER"

Insert: "IF THE LOCAL GOVERNMENTS HAVE THE TECHNOLOGY TO RECEIVE PAYMENTS BY ELECTRONIC FUNDS TRANSFER"

3. Page 1, line 23.

Following: "agency"

Insert: "and if the county has the technology to conduct electronic funds transfers"

4. Page 2, line 7.

Following: "agency"

Insert: "and if the city or town has the technology to conduct electronic funds transfers"

5. Page 2, line 21.

Following: "treasurer"

Insert: "if the entity receiving the payment has the technology to receive payment by electronic funds transfer"

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

HB 230, be amended as follows:

1. Page 2.

Following: line 6

Insert: "COORDINATION SECTION. Section 2. Coordination instruction. If both Senate Bill No. 116 and [this

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act] are passed and approved, then 76-4-127 must read as follows:

"76-4-127. Notice of certification that adequate storm water drainage and adequate municipal facilities will be provided. (1) To qualify for the exemption from review set out in 76-4-125(2)(d), the governing body, as defined in 76-3-103, shall, ~~within 20 days after preliminary plat approval~~ prior to final plat approval under the Montana Subdivision and Platting Act, send notice of certification to the reviewing authority that a subdivision has been submitted for approval and that adequate storm water drainage and adequate municipal facilities will be provided for the subdivision.

(2) The notice of certification must include the following:

- (a) the name and address of the applicant;
- (b) a copy of the preliminary plat included with the application for the proposed subdivision or a final plat when a preliminary plat is not necessary;
- (c) the number of proposed parcels in the subdivision;
- (d) a copy of any applicable zoning ordinances in effect;
- (e) how construction of the sewage disposal and water supply systems or extensions will be financed;
- (f) certification that the subdivision is within an area covered by a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and a copy of the growth policy, when applicable, if one has not yet been submitted to the reviewing authority;
- (g) the relative location of the subdivision to the city or town;
- (h) certification that adequate municipal facilities for the supply of water and disposal of sewage and solid waste are available or will be provided ~~within 1 year after the notice of certification is issued~~ the time provided in 76-3-507;
- (i) if water supply, sewage disposal, or solid waste facilities are not municipally owned, certification from the facility owners that adequate facilities are available; and
- (j) certification that the governing body has reviewed and approved plans to ensure adequate storm water drainage."

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

HB 507, be concurred in. Report adopted.

HB 636, be concurred in. Report adopted.

HB 743, be concurred in. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

3/23/2005

HB 453, be amended as follows:

1. Page 3, line 12.

Strike: "\$250"

Insert: "\$50"

2. Page 3, line 13.

Strike: "\$1,000"

Insert: "\$250"

3. Page 6.

Following: line 11

Insert: "COORDINATION SECTION. Section 9. Coordination instruction. If both House Bill No. 429 and [this act] are passed and approved, then the amendments to 75-10-228 in both House Bill No. 429 and [this act] are void and 75-10-228 must read as follows:

"75-10-228. Civil penalties. (1) A person who violates ~~any~~ a provision of this part, a rule adopted or an order issued under this part, or a license provision is subject to an administrative penalty not to exceed \$250 or a civil penalty not to exceed \$1,000. Each day of violation constitutes a separate violation.

(2) The department may institute and maintain in the name of the state any enforcement proceedings under this section. The enforcement or collection action must be brought in the district court of the county in which the violation occurred or, if mutually agreed upon by the parties, in the district court of the first judicial district, Lewis and Clark County. Upon request of the department, the attorney general or the county attorney of the county where the violation occurred shall petition the district court to impose, assess, and recover the civil penalty.

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(3) Penalties assessed under this section must be determined in accordance with the penalty factors in [section 1 of House Bill No. 429].

~~(3)(4) Fines and penalties collected for violations of this part under this section must be deposited in the solid waste management account provided for in 75-10-117."~~

Insert: "COORDINATION SECTION. Section 10. Coordination instruction. If both House Bill No. 429 and [this act] are passed and approved, then the amendments to 75-10-542 in both House Bill No. 429 and [this act] are void and 75-10-542 must read as follows:

"75-10-542. Penalties. (1) A person who ~~willfully~~ purposely or knowingly violates this part, except 75-10-520, is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$250, be imprisoned in the county jail for a term not to exceed 30 days, or both.

(2) A person who violates a provision of this part, except 75-10-520, a rule of the department, or an order issued as provided in this part ~~shall be~~ is subject to an administrative penalty of not more than \$250 or a civil penalty of not more than ~~\$50~~ \$250. Each day upon which a violation of this part, ~~or a rule,~~ or an order occurs is a separate violation.

(3) Penalties assessed under subsection (2) must be determined in accordance with the penalty factors in [section 1 of House Bill No. 429]. The penalties provided for in this section are recoverable in an enforcement or collection action brought by the department. An action to recover penalties must be brought in the district court of the county in which the violation occurred or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County."

Insert: "COORDINATION SECTION. Section 11. Coordination instruction. If House Bill No. 429 and [this act] are passed and approved, then [section 19(2)] of House Bill No. 429 is void."

Renumber: subsequent sections

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

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
HB 581, be concurred in. Report adopted.
HJR 30, be amended as follows:

3/23/2005

1. Page 1.

Following: line 11

Insert: "WHEREAS, Medicaid programs provide a very basic component of the safety net for many Montanans; and

WHEREAS, Medicaid programs support the disabled, elderly, children, and pregnant women and the poorest of the poor; and

WHEREAS, proposed federal Medicaid cuts could harm a great many vulnerable Montanans who could suffer devastating health and economic consequences as a result of federal Medicaid cuts; and

WHEREAS, per capita incomes in Montana are proportionally lower than the national average, and a large number of Montanans rely on Medicaid programs; and

WHEREAS, Montana eligibility standards for Medicaid programs are at or near federally required minimum eligibility standards; and

WHEREAS, Montana is a rural state with a very low population density throughout most of the state, and the public Medicaid health system helps ensure that services are available statewide for all persons; and

WHEREAS, local governments do not have enough surplus funds to offset Medicaid funding reductions for local nursing homes and hospitals; and"

2. Page 1, lines 26 through 30.

Following: "standards" on line 26

Strike: "; and" on page 1, line 26 through "cuts" on page 1, line 30

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

STATE ADMINISTRATION (Squires, Chairman):
SR 4, be adopted. Report adopted.
SR 5, introduced resolution, be amended as follows:

3/23/2005

1. Page 2, line 28.

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Strike: "Reising"
Insert: "Reisig"

And, as amended, be adopted. Report adopted.

SR 6, be adopted. Report adopted.
SR 7, be adopted. Report adopted.
SR 8, be adopted. Report adopted.
SR 9, be adopted. Report adopted.
SR 10, be adopted. Report adopted.
SR 11, be adopted. Report adopted.
SR 13, introduced resolution, be amended as follows:

1. Page 2, line 9 through line 11.
Strike: lines 9 through 11 in their entirety

And, as amended, be adopted. Report adopted.

SR 14, be adopted. Report adopted.

TAXATION (Elliott, Chairman):
SB 511, introduced bill, be amended as follows:

3/23/2005

1. Title, lines 4 and 5.
Strike: "EXCLUDING FROM" on line 4
Insert: "ALLOWING A DEDUCTION FOR"
Strike: "ADJUSTED" on line 4 through "INCOME" on line 5
Insert: "PURPOSES ON"

2. Title, line 7 through line 8.
Strike: "15-30-110" on line 7 through "15-30-111," on line 8
Insert: "15-30-121"

3. Page 1, line 12 through page 6, line 26.
Strike: section 1 through section 2 in their entirety
Insert: "**Section 1.** Section 15-30-121, MCA, is amended to read:
"**15-30-121. Deductions allowed in computing net income.** (1) In computing net income, there are allowed as deductions:
(a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code, 26 U.S.C. 161 and 211, subject to the following exceptions, which are not deductible:
(i) items provided for in 15-30-123;
(ii) state income tax paid;
(iii) premium payments for medical care as provided in subsection (1)(g)(i);
(iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii); and
(v) a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701;
(b) federal income tax paid within the tax year, not to exceed \$5,000 for each taxpayer filing singly, head of household, or married filing separately or \$10,000 if married and filing jointly;
(c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as follows:
(i) expenses for household and dependent care services necessary for gainful employment incurred for:
(A) a dependent under 15 years of age for whom an exemption can be claimed;
(B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to provide self-care because of physical or mental illness; and
(C) a spouse who is unable to provide self-care because of physical or mental illness;
(ii) employment-related expenses incurred for the following services, but only if the expenses are incurred

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to enable the taxpayer to be gainfully employed:

- (A) household services that are attributable to the care of the qualifying individual; and
 - (B) care of an individual who qualifies under subsection (1)(c)(i);
 - (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and the individual's spouse;
 - (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:
 - (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during the year only to the extent that the expenses do not exceed \$4,800;
 - (B) expenses for services in the household are deductible under subsection (1)(c)(i) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the expenses incurred during the year do not exceed:
 - (I) \$2,400 in the case of one qualifying individual;
 - (II) \$3,600 in the case of two qualifying individuals; and
 - (III) \$4,800 in the case of three or more qualifying individuals;
 - (v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;
 - (vi) for purposes of this subsection (1)(c):
 - (A) married couples shall file a joint return or file separately on the same form;
 - (B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred are deductible only if:
 - (I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or
 - (II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);
 - (C) an individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance may not be considered as married;
 - (D) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;
 - (E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;
 - (d) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code of 1954 (now repealed) that were in effect for the tax year that ended December 31, 1978;
 - (e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;
 - (f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to the conditions set forth in 15-30-156;
 - (g) the entire amount of premium payments made by the taxpayer, except premiums deducted in determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:
 - (i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer; and
 - (ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for:
 - (A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or
 - (B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer for tax years beginning after December 31, 1996;
 - (h) light vehicle registration fees, as provided for in 61-3-560 through 61-3-562, paid during the tax year;
- and
- (i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209, 81-7-118, or 81-7-201; and
 - (j) capital gains on common or preferred stock that was purchased in a qualified corporation, as provided in subsection (3), after December 31, 2004, and that was held for at least 3 years.
- (2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child and at least one unrelated child in the ordinary course of business may deduct employment-related expenses considered to have

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been paid for the care of the child.

(b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of care. The employment-related expenses apply regardless of whether any expenses actually have been paid. Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

(c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the deduction under this subsection (2).

(3) For the purposes of subsection (1)(j), "qualified corporation" means a corporation that:

(a) is a C. corporation and has been reported as a C. corporation for federal tax purposes for the 2 years immediately preceding the year in which the exemption is claimed;

(b) was not publicly traded on a stock exchange or listed for over-the-counter trading or was not affiliated, as defined in 13 CFR 121.103, with a publicly traded company at the time the stock was purchased;

(c) is headquartered within the state and has its principal business operations located within the state;

(d) has at least 35% of its directors and officers and 60% of its employees residing in the state in the year in which the exemption is claimed and for at least the 2 years immediately preceding the year in which the exemption is claimed;

(e) employed fewer than 100 full-time equivalent employees at the time the stock was purchased and has fewer than 500 full-time equivalent employees when the exemption is claimed;

(f) is an active operating entity that produces goods or services. An active operating entity under this subsection (3)(f) does not include a passive investment entity that primarily engages in buying, holding, and trading assets for speculation on price changes such as:

(i) real estate holding companies, real estate investment trusts, and companies whose assets predominantly consist of real property or whose income is predominantly derived from the sale, rental, or management of real property or interests in real property such as leaseholds or mineral rights;

(ii) companies whose assets predominantly consist of or whose income predominantly arises from financial instruments such as futures contracts, insurance contracts, mortgages, or debt obligations;

(iii) shell business entities, as defined in 33-12-102, whose assets predominantly consist of share and equity interests in other companies. ""

Renumber: subsequent section

4. Page 8, line 18.

Strike: "15-30-110(2)(b)"

Insert: "15-1-121(3), that was purchased after December 31, 2004, and that was held for at least 3 years"

And, as amended, do pass. Report adopted.

ADVERSE COMMITTEE REPORTS

STATE ADMINISTRATION (Squires, Chairman):

3/23/2005

SB 12, do not pass. Adverse Committee Report adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Steinbeisser, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Story, Tash.

Total 21

Absent or not voting: None.

Total 0

Excused: Smith, Squires, Toole.

Total 3

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MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 3/23/2005

SB 105, introduced by Cobb
SB 326, introduced by Laslovich

SB 278 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 278**: 3/23/2005

Representative Gallik
Representative Heinert
Representative Keane
Representative McKenney

Senate bills concurred in and returned to the Senate: 3/23/2005

SB 42, introduced by Keenan
SB 178, introduced by Barkus
SB 359, introduced by Story

House bills passed and transmitted to the Senate for concurrence: 3/23/2005

HB 522, introduced by W. Jones
HB 765, introduced by Maedje

MOTIONS

Senator McGee moved **HB 236** be placed back on the 2nd Reading calendar for the purpose of amendment. Motion carried.

Senator Cooney moved action on the adoption of the Senate State Administration standing committee report on **SR 5** and **SR 13** be reconsidered due to clerical error. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SJR 32, introduced by Elliott, Story, referred to Taxation.
SB 521, introduced by Elliott, referred to Taxation.
SB 522, introduced by Elliott, referred to Taxation.

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

HB 522, introduced by W. Jones, Kitzenberg, referred to Education and Cultural Resources.
HB 765, introduced by Maedje, D. Brown, Heinert, Hendrick, Everett, W. Jones, referred to Highways and Transportation.

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

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

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

SB 105 - House Amendments - Senator Cobb moved House amendments to **SB 105** be concurred in. Motion carried unanimously.

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SB 317 - House Amendments - Senator Lind moved House amendments to **SB 317** be concurred in. Motion carried unanimously.

SB 326 - House Amendments - Senator Laslovich moved House amendments to **SB 326** be concurred in. Motion carried with Senator Kitzenberg voting nay.

SB 238 - Senator Wheat moved **SB 238** do pass. Motion **failed** as follows:

Yeas: Cocchiarella, Cromley, Gallus, Gillan, Hansen, Harrington, Laible, Mangan, Moss, Roush, Schmidt, Smith, Tropila, Weinberg, Williams.
Total 15

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, McGee, O'Neil, Pease, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Wheat, Mr. President.
Total 32

Absent or not voting: Grimes.
Total 1

Excused: Squires, Toole.
Total 2

SB 238 - Senator Wheat moved **SB 238** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Wheat, Williams, Mr. President.
Total 42

Nays: Cocchiarella, Laible, Ryan, Tropila, Weinberg.
Total 5

Absent or not voting: Grimes.
Total 1

Excused: Squires, Toole.
Total 2

SB 249 - Senator Cobb moved **SB 249** do pass. Motion carried unanimously.

SB 287 - Senator Schmidt moved **SB 287** do pass. Motion carried unanimously.

SB 303 - Senator Ellingson moved **SB 303** do pass. Motion carried with Senator Cobb voting nay.

SB 323 - Senator Black moved **SB 323** do pass. Motion carried unanimously.

SB 406 - Senator Shockley moved **SB 406** do pass. Motion carried with Senators Balyeat, Cobb, Lind, O'Neil, and Perry voting nay.

SB 491 - Senator Gallus moved **SB 491** do pass. Motion carried with Senator Balyeat voting nay.

HB 192 - Senator Harrington moved consideration of **HB 192** be passed for the day. Motion carried.

SB 219 - Senator Brueggeman moved **SB 219** do pass.

SB 219 - Senator Brueggeman moved **SB 219**, second reading copy, be amended as follows:

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1. Page 2, line 10.

Strike: "THAT DOES NOT OFFER A BACCALAUREATE"

Insert: "while pursuing an associate"

Amendment adopted unanimously.

SB 219 - Senator Brueggeman moved **SB 219**, as amended, do pass. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Shockley, Smith, Story, Tash, Tropila, Wheat, Williams, Mr. President.

Total 36

Nays: Bales, Balyeat, Cobb, Elliott, Essmann, Laible, Larson, O'Neil, Schmidt, Steinbeisser, Weinberg.

Total 11

Absent or not voting: Stapleton.

Total 1

Excused: Squires, Toole.

Total 2

SB 504 - Senator Laible moved **SB 504** do pass. Motion carried with Senators Cooney, Ellingson, Hawks, Larson, and Wheat voting nay.

SJR 29 - Senator Laslovich moved **SJR 29** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Esp.

Total 1

Absent or not voting: Black, Grimes, Stapleton.

Total 3

Excused: Squires, Toole.

Total 2

HB 49 - Senator Perry moved **HB 49** be concurred in. Motion carried unanimously.

HB 307 - Senator Shockley moved **HB 307** be concurred in. Motion carried unanimously.

HB 555 - Senator Cobb moved **HB 555** be concurred in. Motion carried with Senator O'Neil voting nay.

HB 615 - Senator Wheat moved **HB 615** be concurred in. Motion carried with Senators Bales, Curtiss, and Stapleton voting nay.

HB 696 - Senator Pease moved **HB 696** be concurred in. Motion carried with Senator O'Neil voting nay.

HB 16 - Senator Gillan moved **HB 16** be concurred in. Motion carried unanimously.

HB 236 - Senator Perry moved **HB 236** be concurred in. Motion carried as follows:

Yeas: Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Hansen,

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Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Perry, Ryan, Schmidt, Stapleton, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Black, Curtiss, Esp, Essmann, Gillan, Grimes, Laible, McGee, Pease, Roush, Shockley, Smith, Steinbeisser, Story, Tash, Tropila.
Total 18

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 349 - Senator Mangan moved **HB 349** be concurred in. Motion carried unanimously.

HB 574 - Senator Mangan moved **HB 574** be concurred in. Motion carried as follows:

Yeas: Bales, Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Balyeat, Barkus, Brueggeman, Curtiss, Gebhardt, Keenan, McGee, O'Neil, Shockley, Steinbeisser.
Total 10

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 236 - Senator McGee made a **substitute motion** that **HB 236** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

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

THIRD READING OF BILLS

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

SB 66 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Bales, Balyeat, Barkus, Esp, Keenan, McGee, O'Neil, Perry, Shockley, Story.
Total 10

Absent or not voting: None.
Total 0

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Excused: Squires, Toole.
Total 2

HB 206 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Story, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Steinbeisser, Tash.
Total 2

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 363 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 420 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Mangan.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 425 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Tash,

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Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Bales, Esp, Stapleton, Steinbeisser, Story.
Total 5

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 457 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 473 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 520 concurred in as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Essmann, Gebhardt, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Tash.
Total 13

Paired: Squires, Toole, Ayes; McGee, Stapleton, Noes.

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 726 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 737 concurred in as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, Perry, Shockley, Stapleton, Story.
Total 18

Paired: Squires, Toole, Ayes; McGee, Stapleton, Noes.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 738 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Esp, Mangan.
Total 2

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

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HJR 30 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Esp, Keenan, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

SB 146 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

SJR 5 adopted as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Steinbeisser, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Balyeat, Curtiss, Esp, McGee, O'Neil, Stapleton, Story.
Total 8

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

ANNOUNCEMENTS

Afternoon committee meetings were announced by committee chairs.

Majority Leader Ellingson moved the Senate recess until 5:00 p.m. Motion carried.

Senate Recessed 3:07 p.m.
Senate Reconvened 5:01 p.m.

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President Pro Tempore Harrington in the Chair.

Roll Call. All members present, except Ryan, Squires, Tester, Toole, Tropila. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Weinberg, Wheat, Williams.
Total 42

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Ryan, Squires, Toole, Tropila, Mr. President.
Total 5

MOTIONS

Senator Cooney moved **HB 18** be taken from the 3rd Reading calendar and referred to Senate Finance and Claims for examination of the fiscal note. Motion carried.

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

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

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

HB 192 - Senator Ellingson moved consideration of **HB 192** be passed for the day. Motion carried.

HB 270 - Senator Ellingson moved consideration of **HB 270** be passed for the day. Motion carried.

HB 271 - Senator Ellingson moved consideration of **HB 271** be passed for the day. Motion carried.

HB 236 - Senator Perry moved **HB 236** be concurred in.

HB 236 - Senator McGee moved **HB 236**, second reading copy, be amended as follows:

Amendment Text: **641655CW**

Amendment adopted with Senator Lind voting nay.

HB 236 - Senator Perry moved **HB 236**, as amended, be concurred in. Motion carried with Senators Ellingson and Smith voting nay.

HB 652 - Senator Black moved **HB 652** be concurred in. Motion carried unanimously.

HB 18 - Senator Smith moved **HB 18** be concurred in. Motion carried unanimously.

HB 34 - Senator Bales moved **HB 34** be concurred in. Motion carried with Senator McGee voting nay.

HB 212 - Senator Hawks moved **HB 212** be concurred in. Motion carried unanimously.

HB 257 - Senator Grimes moved **HB 257** be concurred in. Motion carried unanimously.

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HB 507 - Senator Wheat moved **HB 507** be concurred in. Motion carried unanimously.

HB 559 - Senator Tash moved **HB 559** be concurred in. Motion carried unanimously.

HB 581 - Senator Moss moved **HB 581** be concurred in. Motion carried as follows:

Vote Count: 927/(0-0)

HB 636 - Senator Gebhardt moved **HB 636** be concurred in. Motion carried with Senators Black, Esp, and Ryan voting nay.

HB 743 - Senator Laible moved **HB 743** be concurred in. Motion carried unanimously.

SB 276 - Senator Tester assumed the chair.

SB 276 - Senator Bales moved **SB 276** do pass. Motion carried as follows:

Vote Count: 928/(0-0)

HB 270 - Senator Roush moved **HB 270** be concurred in. Motion carried with Senators Joe Balyeat, Esp, and O'Neil voting nay.

HB 271 - Senator Roush moved **HB 271** be concurred in. Motion carried with Senators Bales, Joe Balyeat, McGee, and O'Neil voting nay.

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

THIRD READING OF BILLS

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

SB 224 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Grimes, Hansen, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Esp, Keenan, Stapleton.
Total 3

Absent or not voting: None.
Total 0

Excused: Gillan, Harrington, Squires, Toole.
Total 4

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Thursday, March 24, 2005. Motion carried.

Senate adjourned at 6:24 p.m.

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BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate