

**SENATE JOURNAL
59TH LEGISLATURE
SIXTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
March 30, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Barkus, Cocchiarella, Elliott, Gillan, Laslovich, and Squires, excused. Quorum present.

Yeas: Bales, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Balyeat, Gebhardt, Grimes, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: Barkus, Cocchiarella, Elliott, Gillan, Laslovich, Squires.
Total 6

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

3/30/2005

Correctly printed: **SB 518, SB 523, SJR 31, SJR 32, SJR 33, HB 153, HB 172, HB 199, HB 316, HB 359, HB 414, HB 421, HB 492, HB 514, HB 577, HB 628, HB 684, HB 746, HB 759, HB 765, HJR 12.**

Correctly engrossed: **SB 213, SB 512, SB 514, SB 516, SB 519, HB 63, HB 73, HB 272, HB 431.**

Examined by the sponsor and found to be correct: **SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 13, SR 14.**
Signed by the President at 2:21 p.m., March 30, 2005: **SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 13, SR 14.**

Signed by the Secretary of the Senate at 2:00 p.m., March 30, 2005: **SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 13, SR 14.**

Delivered to the Secretary of State at 3:30 p.m., March 30, 2005: **SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 13, SR 14.**

Examined by the sponsor and found to be correct: **SB 105, SB 317, SB 326.**

Signed by the Speaker at 3:30 p.m., March 30, 2005: **SB 105, SB 317, SB 326.**

Signed by the President at 2:21 p.m., March 30, 2005: **SB 105, SB 317, SB 326.**

Signed by the Secretary of the Senate at 2:00 p.m., March 30, 2005: **SB 105, SB 317, SB 326.**

Delivered to the Governor for approval at 4:00 p.m., March 30, 2005: **SB 105, SB 317, SB 326.**

Examined by the sponsor and found to be correct: **SB 42, SB 178, SB 359.**

Signed by the Speaker at 4:45 p.m., March 30, 2005: **SB 42, SB 178, SB 359.**

Signed by the President at 3:10 p.m., March 30, 2005: **SB 42, SB 178, SB 359.**

Signed by the Secretary of the Senate at 2:40 p.m., March 30, 2005: **SB 42, SB 178, SB 359.**

Delivered to the Secretary of State at 10:40 a.m., March 30, 2005: **SB 42, SB 178, SB 359.**

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BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/30/2005
HB 628, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman): 3/30/2005
SJR 31, be adopted. Report adopted.
HB 153, be concurred in. Report adopted.
HB 199, be concurred in. Report adopted.
HB 316, be concurred in. Report adopted.

FISH AND GAME (Tropila, Chairman): 3/30/2005
HB 172, be concurred in. Report adopted.
HB 272, be amended as follows:

1. Title, line 4.

Strike: "50"

Insert: "25"

2. Title, line 5.

Following: "~~A-3, A-4~~,"

Insert: "A-3, A-4,"

Following: "B-7;"

Insert: ", "

3. Page 1, line 15.

Strike: ", except as provided in subsection (3)"

4. Page 1, line 22.

Following: "TOTAL OF"

Strike: "50"

Insert: "25 Class A-3 deer A tags, 25 Class A-4 deer B tags, 25"

Following: "TAGS,"

Strike: "50"

Insert: "25"

5. Page 1, line 23.

Following: "TAGS, AND"

Strike: "50"

Insert: "25"

6. Page 1, line 24.

Following: "choice"

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Insert: ", except in a region, district, or area where the number of licenses are less than the number of applicants, in which case qualifying disabled veterans are eligible for no more than 10% of the total licenses for that region, district, or area"

7. Page 3, line 16.
Following: "applicable."
Strike: "FIFTY"
Insert: "Twenty-five"

8. Page 3, lines 19 through 20.
Strike: "Deer" on line 19 through "87-2-506." on line 20

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

HB 421, be concurred in. Report adopted.
HB 514, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 3/30/2005
HB 492, be concurred in. Report adopted.
HB 684, be concurred in. Report adopted.
HB 746, be concurred in. Report adopted.
HB 759, be concurred in. Report adopted.
HB 765, be concurred in. Report adopted.
HJR 12, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman): 3/30/2005
HB 414, be concurred in. Report adopted.
HB 577, be concurred in. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman): 3/30/2005
HB 73, be amended as follows:

1. Title, line 5.
Strike: "BY MINORS"

2. Page 1, line 19.
Strike: "by" through "communities"

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

HB 359, be concurred in. Report adopted.
HB 431, be amended as follows:

1. Page 3, line 24 through page 4, line 7.

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Strike: subsection (2) in its entirety

Insert: "(2) If the improvements are the construction of sanitary sewers, the protests may be overruled by a unanimous vote of the board if:

(a) the improvements are ordered by the department of environmental quality or the federal environmental protection agency; or

(b) the governing body makes written findings after a public hearing and public comment, based on evidence in the record, that the proposed improvements protect public health or the environment, mitigate harm to the public health or environment, and are achievable under current technology."

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

TAXATION (Elliott, Chairman):

3/30/2005

SB 213, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "REMOVING THE EXEMPTION TO"

Insert: "ALLOWING"

Following: "CREDIT"

Insert: "TO BE USED"

2. Title, line 7.

Following: "FROM"

Insert: "CERTAIN"

Following: "AMENDING"

Insert: "SECTION 15-32-604, MCA,"

3. Title, line 9.

Strike: "REPEALING SECTION 15-32-604, MCA;"

4. Page 1, line 13.

Insert: "**Section 1.** Section 15-32-604, MCA, is amended to read:

"**15-32-604. (Temporary) Limitation of credit.** Notwithstanding the provisions of 15-32-602 and 15-32-603, a tax credit may not be claimed for an investment in property used to produce energy from the following reclaimed material:

(1) hazardous wastes or substances as defined in 76-7-103;

(2) plastics; or

(3) used oil that exceeds the specifications established in 40 CFR 279.11. (~~Terminates December 31, 2005--secs. 5, 7, Ch. 398, L. 2001.~~)"

Renumber: subsequent sections

5. Page 2, line 29.

Strike: section 9 in its entirety

Renumber: subsequent section

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And, as amended, do pass. Report adopted.

SB 512, introduced bill, be amended as follows:

1. Title, line 15 through line 16.

Strike: "17-3-213" on line 15 through "20-9-308," on line 16

Strike: "20-9-347, 20-9-361," on line 16

2. Page 47, line 19 through page 59, line 14.

Strike: section 54 through section 62 in their entirety

Renumber: subsequent sections

3. Page 59, line 17.

Strike: "~~Sales~~" through "revenue"

Insert: "Revenue"

4. Page 59, line 18.

Following: "(1)"

Insert: "(a)"

5. Page 59, line 21 through line 23.

Strike: "There" on line 21 through "for" on line 23

Insert: "For"

Strike: "." on line 23

Insert: ", "

6. Page 59, line 24.

Strike: "The" through "funds"

Insert: "the revenue under this section"

7. Page 60, line 4.

Following: line 3

Insert: "(b) If other revenue prescribed by this section produces more revenue than is required to repay a state advance, if any, for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the state advance was received."

8. Page 60, line 17.

Following: "17-3-213;"

Insert: "and"

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9. Page 60, line 18 through line 19.

Strike: subsection (f) and subsection (g) in their entirety

Insert: "(f) any money appropriated by the legislature that is designated as county elementary equalization aid."

10. Page 60, line 22.

Strike: "Sales" through "revenue"

Insert: "Revenue"

11. Page 60, line 23.

Following: "(1)"

Insert: "(a)"

12. Page 60, line 26 through line 28.

Strike: "There" on line 26 through "for" on line 28

Insert: "For"

Strike: "." on line 28

Insert: ", "

13. Page 60, line 29.

Strike: "The" through "funds"

Insert: "the revenue collected under this section"

14. Page 61, line 9.

Following: line 8

Insert: "(b) If revenue prescribed by this section produces more revenue than is required to repay a state advance, if any, for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the state advance was made."

15. Page 61, line 16.

Following: "17-3-213;"

Insert: "and"

Strike: subsection (c) and subsection (d) in their entirety

Insert: "(c) any money appropriated by the legislature that is designated as county high school equalization aid."

16. Page 61, line 20 through page 62, line 16.

Strike: section 65 through section 66 in their entirety

Renumber: subsequent sections

17. Page 65, line 20.

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Strike: "67"
Insert: "56"

18. Page 65, line 21.
Strike: "67"
Insert: "56"

And, as amended, do pass. Report adopted.

SB 514, introduced bill, be amended as follows:

1. Page 18, line 7.
Following: "Sections"
Insert: "1,"
Following: "2"
Insert: ", "

2. Page 18, line 8.
Strike: "2004"
Insert: "2003"

And, as amended, do pass. Report adopted.

SB 516, introduced bill, be amended as follows:

1. Title, line 6.
Strike: "30"
Insert: "60"

2. Title, line 15.
Strike: "90"
Insert: "120"

3. Page 2, line 28.
Strike: "30"
Insert: "60"

4. Page 3, line 1.
Strike: "and"

5. Page 3, line 3.

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Strike: "."
Insert: "; and"

6. Page 3, line 4.
Following: line 3
Insert: "(f) a statement that if both parties agree to mediation, the cost of mediation must be shared equally."

7. Page 8, line 3.
Strike: "90"
Insert: "120"
Following: "hearing"
Insert: "or completion of the transcript, whichever occurs later"

8. Page 9, line 18.
Strike: "90"
Insert: "120"

9. Page 9, line 19.
Following: "hearing"
Insert: "or completion of the transcript, whichever occurs later"

10. Page 9, line 27.
Strike: "and notwithstanding the provisions of subsection (5)(c)"

11. Page 10, line 1.
Following: "one"
Insert: "request for an"
Following: "extension"
Insert: "by each party"

12. Page 10, line 3 through line 8.
Strike: subsection (c) in its entirety

And, as amended, do pass. Report adopted.

SB 518, do pass. Report adopted.
SB 519, introduced bill, be amended as follows:

1. Page 1, line 26.
Strike: "2005"
Insert: "2004"

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Strike: "or"
Insert: "and"
Following: "operated"
Insert: "or leased and operated"

2. Page 1, line 29 through page 2, line 1.
Strike: subsection (c) in its entirety
Renumber: subsequent subsections

3. Page 2, line 23.
Strike: "December 31"
Insert: "January 1"
Strike: "or"
Insert: "and"

4. Page 2, line 24.
Following: "operated"
Insert: "or leased and operated"

5. Page 3, line 8.
Strike: "2005"
Insert: "2004"
Strike: "or"
Insert: "and"
Following: "operated"
Insert: "or leased and operated"

6. Page 3, line 10.
Strike: "; and"
Insert: "."

7. Page 3, line 11 through line 13.
Strike: subsection (i) in its entirety

And, as amended, do pass. Report adopted.

SJR 32, be adopted. Report adopted.

MOTIONS

Senator Hansen moved his vote on **HB 142** be changed from "nay" to "aye". Motion carried.

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Senator Shockley moved his vote on **SB 477** be changed from "nay" to "aye". Motion carried.

Senator Hansen moved **HB 484** be taken from Senate Business, Labor and Economic Affairs and placed in Senate Agriculture, Livestock and Irrigation. Motion carried.

Senator Tash moved action on **HJR 9** be reconsidered. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 25

Absent or not voting: Shockley.

Total 1

Excused: Gillan, Squires.

Total 2

FIRST READING AND COMMITMENT OF BILLS

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

SB 523, introduced by Essmann, referred to Taxation.

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

SJR 33, introduced by Weinberg, Ellingson, Elliott, Essmann, Gebhardt, Harrington, McGee, Schmidt, Shockley, Story, Toole, Wheat, referred to Taxation.

**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 Laslovich in the chair.

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

HB 63 - Senator Ryan moved **HB 63** be concurred in.

HB 63 - Senator Ryan moved **HB 63**, second reading copy, be amended as follows:

1. Page 7, line 14.

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Strike: "\$5,534"
Insert: "\$5,584"

2. Page 7, line 26.
Strike: "\$5,534"
Insert: "\$5,584"

3. Page 9, line 15.
Strike: "\$5,654"
Insert: "\$5,704"

4. Page 9, line 27.
Strike: "\$5,654"
Insert: "\$5,704"

Amendment adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: Gallus.
Total 1

Excused: Gillan, Squires.
Total 2

HB 63 - Senator Esp moved **HB 63**, second reading copy, be further amended as follows:

1. Title, line 8.
Strike: "AND"
Insert: ", "

2. Title, line 9.
Following: "2007"
Insert: ", AND SCHOOL FISCAL YEAR 2008"

3. Title, line 15 through line 17.
Strike: "REVISING" on line 15 through "INSURANCE" on line 17
Insert: "CLARIFYING A SCHOOL DISTRICT'S USE OF ITS RETIREMENT FUND TO PAY FOR BENEFITS FOR SCHOOL DISTRICT OR COOPERATIVE EMPLOYEES"

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4. Page 8, line 5.

Strike: "44.7%" in both places

Insert: "45.3%" in both places

5. Page 9, line 3.

Strike: "44.7%" in both places

Insert: "45.3%" in both places

6. Page 9, line 15.

Strike: "\$5,654"

Insert: "\$5,694"

7. Page 9, line 19.

Strike: "\$4,456"

Insert: "\$4,496"

8. Page 9, line 24.

Strike: "\$4,456"

Insert: "\$4,496"

9. Page 9, line 27.

Strike: "\$5,654"

Insert: "\$5,694"

10. Page 9.

Following: line 29

Insert: "**Section 12.** Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for ~~44.7%~~ 45.3% of the basic entitlement and ~~44.7%~~ 45.3% of the total per-ANB entitlement for the general fund budget of a district; and

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) \$220,646 for each high school district;

(b) \$19,859 for each elementary school district or K-12 district elementary program without an approved

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and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows:

(i) \$19,859 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) \$220,646 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Direct state aid" means ~~44.7%~~ 45.3% of the basic entitlement and ~~44.7%~~ 45.3% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(8) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(9) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(10) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,371~~ \$5,586 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of ~~\$4,031~~ \$4,358 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of ~~\$4,031~~ \$4,358 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$5,371~~ \$5,586 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB."

Renumber: subsequent sections

11. Page 22, line 15.

Following: "~~(2)~~(a)"

Insert: "as provided in subsection (2)(a)"

12. Page 23.

Following: line 5

Insert: "(2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the retirement fund for the following:

(i) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from state or local funding sources;

(ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the cooperative's interlocal agreement fund if the fund is supported solely

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from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321, or are paid from the miscellaneous programs fund, provided for in 20-9-507, or from money received from the medicaid program, pursuant to 53-6-101;

(iii) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; and

(iv) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district's impact aid fund, pursuant to 20-9-514."

Renumber: subsequent subsections

13. Page 24, line 22.

Strike: "~~4~~(a)"

Insert: "(5)(a)"

14. Page 27, line 4.

Strike: "~~23~~"

Insert: "24"

15. Page 27, line 6.

Strike: "~~23~~"

Insert: "24"

16. Page 27, line 8.

Strike: "~~12~~"

Insert: "13"

Strike: "~~15~~"

Insert: "16"

17. Page 27, line 11.

Strike: "~~17~~"

Insert: "18"

Strike: "~~19~~"

Insert: "20"

Strike: "~~21~~"

Insert: "22"

Strike: "~~27~~"

Insert: "28"

18. Page 27, line 14.

Strike: "~~20~~"

Insert: "21"

19. Page 27.

Following: line 17

Insert: "(6) [Section 12] is effective July 1, 2007, and applies to school budgets for the school fiscal years beginning on or after July 1, 2007."

Renumber: subsequent subsection

20. Page 27, line 18.

Strike: "~~16~~"

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Insert: "17"

21. Page 27, line 22.

Strike: "AND"

Following: "11"

Strike: "THROUGH 16"

Insert: ", and 13 through 17"

Amendment **not** adopted as follows:

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

Total 21

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 63 - Senator Ryan moved **HB 63**, second reading copy, be further amended as follows:

1. Page 23, line 27.

Strike: "(9)"

Insert: "(8)"

2. Page 23, line 28.

Strike: "(4)(a)"

Insert: "(3)(a)"

Amendment adopted unanimously.

HB 63 - Senator Ryan moved **HB 63**, second reading copy, be further amended as follows:

1. Title, line 20.

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Following: "AGREEMENTS;"

Insert: "AUTHORIZING THE TRANSFER OF ANY ENDING FUND BALANCE FROM THE RETIREMENT OR TRANSPORTATION FUNDS TO THE SCHOOL FLEXIBILITY FUND;"

2. Page 26.

Following: line 27

Insert: "NEW SECTION. Section 25. Transfer of ending fund balance. A school district may transfer any ending fund balance from the retirement fund under 20-9-501 or the transportation fund under 20-10-144 to the school flexibility fund established in 20-9-543."

3. Page 27, line 4.

Following: "INSTRUCTION."

Insert: "(1)"

4. Page 27.

Following: line 6

Insert: "(2) [Section 25] is intended to be codified as an integral part of Title 20, chapter 9, part 5, and the provisions of Title 20, chapter 9, part 5, apply to [section 25]."

Amendment adopted as follows:

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

Total 27

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

Total 21

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 63 - Senator Ryan moved **HB 63**, second reading copy, be further amended as follows:

1. Title, page 1, line 20.

Following: "AGREEMENTS;"

Insert: "AUTHORIZING AND LIMITING A SCHOOL DISTRICT'S AUTHORITY TO LEVY FOR HEALTH INSURANCE PREMIUMS TO THE INCREASE IN PREMIUMS DURING FISCAL YEARS 2006 AND 2007;"

2. Page 1, line 21.

Following: "SECTIONS"

Insert: "2-9-212,"

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3. Page 1, line 28.

Following: line 27

Insert: "**Section 1.** Section 2-9-212, MCA, is amended to read:

"2-9-212. Political subdivision tax levy to pay premiums. (1) (a) Subject to 15-10-420 and ~~subsection subsections (1)(b) and (2)~~ of this section, a political subdivision, except for a school district, may levy an annual property tax in the amount necessary to fund the premium for insurance, deductible reserve fund, and self-insurance reserve fund as authorized in this section and to pay the principal and interest on bonds or notes issued pursuant to 2-9-211(5).

(b) A school district's levying authority under this section is limited to the amount necessary to pay for any increase in its insurance premiums during fiscal year 2006 and fiscal year 2007.

(2) (a) If a political subdivision made contributions for group benefits under 2-18-703 on or before July 1, 2001, the increase in the political subdivision's property tax levy for the political subdivision's premium contributions for group benefits under 2-18-703 beyond the amount of contributions in effect at the beginning of the last fiscal year is not subject to the mill levy calculation limitation provided for in 15-10-420. Levies implemented under this section must be calculated separately from the mill levies calculated under 15-10-420 and are not subject to the inflation factor described in 15-10-420(1)(a). If tax-billing software is capable, the county treasurer shall list separately the cumulative mill levy or dollar amount on the tax notice sent to each taxpayer under 15-16-101(2). The amount must also be reported to the department of administration pursuant to 7-6-4003. The mill levy must be described as the permissive medical levy.

(b) Each year prior to implementing a levy under subsection (2)(a), after notice of the hearing given under 7-1-2121 or 7-1-4127, a public hearing must be held regarding any proposed increases.

(c) A levy under this section in the previous year may not be included in the amount of property taxes that a governmental entity is authorized to levy for the purposes of determining the amount that the governmental entity may assess under the provisions of 15-10-420(1)(a). When a levy under this section decreases or is no longer levied, the revenue may not be combined with the revenue determined in 15-10-420(1)(a)."

Renumber: subsequent sections

4. Page 27, line 4.

Strike: "23"

Insert: "24"

5. Page 27, line 6.

Strike: "23"

Insert: "24"

6. Page 27, line 8.

Strike: "AND" through "15"

Insert: ", 2, and 13 through 16"

7. Page 27, line 11.

Strike: "SECTIONS" through "27"

Insert: "[Sections 3, 4, 6 through 10, 18 through 20, and 22 through 29]"

8. Page 27, line 13

Strike: "4"

Insert: "5"

9. Page 27, line 14.

Strike: "SECTIONS 10 AND 20"

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Insert: "[Sections 11 and 21]"

10. Page 27, line 16.

Strike: "11"

Insert: "12"

11. Page 27, line 18.

Strike: "16"

Insert: "17"

12. Page 27, line 21.

Strike: "10"

Insert: "11"

13. Page 27, line 22.

Strike: "1, 3, AND 11 THROUGH 16"

Insert: "2, 4, and 12 through 17"

Amendment adopted as follows:

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

Total 26

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

Total 22

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 63 - Senator Keenan moved consideration of **HB 63** be passed for the day. Motion failed as follows:

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

Total 21

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

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Total 0

Excused: Gillan, Squires.

Total 2

HB 63 - Senator Ryan moved **HB 63**, as amended, be concurred in. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

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

Total 20

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

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

Senator McGee made a **substitute motion** that the Committee of the Whole report **not** be adopted. Motion failed as follows:

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

Total 21

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 26

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Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

THIRD READING OF BILLS

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

HB 142 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, 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, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

HB 179 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, 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, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

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HB 192 concurred in as follows:

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

Nays: Gebhardt, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

HB 220 concurred in as follows:

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

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

HB 230 concurred in as follows:

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

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.

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Total 2

HB 385 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, 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, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 453 concurred in as follows:

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

Total 24

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

Total 24

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 668 concurred in as follows:

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

Total 47

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

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Excused: Gillan, Squires.

Total 2

SB 445 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, 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, Toole, Tropila, Wheat, Williams, Mr. President.

Total 45

Nays: Cobb, Hansen, Weinberg.

Total 3

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

SB 477 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, 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, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Balyeat, Cobb.

Total 2

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

SB 499 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, 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, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

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Total 0

Excused: Gillan, Squires.

Total 2

SB 511 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Hansen, Harrington, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Stapleton, Story, Tropila, Wheat, Williams, Mr. President.

Total 36

Nays: Cobb, Cooney, Grimes, Hawks, Lewis, O'Neil, Perry, Smith, Steinbeisser, Tash, Toole, Weinberg.

Total 12

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Thursday, March 31, 2005. Motion carried.

Senate adjourned at 3:29 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate