

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTIETH LEGISLATIVE DAY**

Helena, Montana
April 2, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. 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, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

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

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Majority Leader Ellingson moved the Senate recess to caucus. Motion carried.

Senate recessed 8:05 a.m.
Senate reconvened 8:28 a.m.

Roll Call. All members present. 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, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

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

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

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BILLS AND JOURNAL:

4/2/2005

Correctly printed: **SB 19, SB 516, SB 518, SB 521, SJR 32, HB 336, HB 431, HB 740.**

Correctly engrossed: **SB 213, SB 271, SB 513, SB 520, HB 73, HB 140, HB 177, HB 297, HB 687, HB 732, HB 790, HJR 19.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
HB 140, be amended as follows:

4/2/2005

1. Title, page 1, line 9.

Following: "LAWS:"

Strike: "AND"

Insert: "AMENDING SECTION 5, CHAPTER 125, LAWS OF 2005;"

2. Title, page 1, line 10.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 6, line 20.

Insert: "**Section 8.** Section 5, Chapter 125, Laws of 2005, is amended to read:

"**Section 5. Retroactive applicability -- applicability.** (1) Except as provided in subsection (2), [This this act] applies retroactively, within the meaning of 1-2-109, to loans subject to [this act] made on or after October 1, 1985, the effective date of Chapter 406, Laws of 1985.

(2) [This act] does not apply to loans that are the subject of a lawsuit filed prior to [the effective date of this act]."

"**NEW SECTION. Section 9. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.""

Renumber: subsequent sections

4. Page 6.

Following: line 26

Insert: "NEW SECTION. Section 12. Effective date. [This act] is effective on passage and approval."

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

HB 687, be amended as follows:

1. Page 10, line 24.

Strike: "\$100,000"

Insert: "\$75,000"

2. Page 10, line 26.

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Strike: "\$200,000"

Insert: "\$150,000"

3. Page 12, line 25.

Strike: "2.5%"

Insert: "1.5%"

4. Page 14, line 1.

Strike: "and moist snuff"

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

HB 732, be amended as follows:

1. Title, page 1, line 6.

Strike: "OR EXPUNGE"

2. Title, page 1, lines 10 through 12.

Strike: "REQUIRING" on line 10 through "CUSTOMER;" on line 12

Strike: "REMEDIES AND" on line 12

3. Title, page 1, line 13.

Strike: "AN"

4. Title, page 1, line 14.

Strike: "DATE"

Insert: "DATES"

5. Page 1, line 23 through line 24.

Strike: "must" through "45-6-332"

Insert: "shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, pursuant to 15 U.S.C. 1681c-2"

6. Page 1, line 29.

Following: "mailed"

Insert: ", as provided in [section 3]"

7. Page 2, line 22.

Strike: "2006"

Insert: "2005"

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8. Page 4, line 3.

Strike: "9"

Insert: "8"

9. Page 4, line 6.

Strike: "9"

Insert: "8"

10. Page 4, line 8.

Following: "(1)"

Insert: "(a)"

11. Page 4, line 12.

Following: "records."

Insert: "The term also includes industries regulated by the public service commission or under Title 30, chapter 10.

(b) The term does not include industries regulated under Title 33."

12. Page 4, lines 16 through 20.

Strike: "any" on line 16 through "information." on line 20

Insert: "an individual's name, signature, address, or telephone number, in combination with one or more additional pieces of information about the individual, consisting of the individual's passport number, driver's license or state identification number, insurance policy number, bank account number, credit card number, debit card number, passwords or personal identification numbers required to obtain access to the individual's finances, or any other financial information as provided by rule. A social security number, in and of itself, constitutes personal information."

13. Page 4, line 21.

Following: "on which"

Insert: "personal"

14. Page 4, lines 22 through 23.

Strike: "or preserved" on line 22 through "transmitted" on line 23

15. Page 4, line 24.

Following: "containing"

Insert: "personal"

16. Page 4, line 30 through page 5, line 1.

Strike: "through any" on page 4, line 30 through "means" on page 5, line 1

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17. Page 5, line 7.

Strike: "in the most expedient time possible and"

18. Page 5, line 9.

Following: "(3), or"

Insert: "consistent with"

19. Page 5, line 16.

Following: "investigation"

Insert: "and requests a delay in notification"

20. Page 5, line 20.

Following: "that"

Insert: "materially"

21. Page 5, line 21.

Following: the first "business"

Insert: "and causes or is reasonably believed to cause loss or injury to a Montana resident"

22. Page 6, line 6.

Strike: "or"

23. Page 6.

Following: line 6

Insert: "(iii) telephonic notice; or"

Renumber: subsequent subsection

24. Page 6, line 11.

Strike: "all of"

25. Page 6, line 13.

Following: "persons;"

Insert: "and"

26. Page 6, line 15.

Strike: "and"

Insert: "or"

27. Page 6, line 16.

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Strike: "major"

Insert: "applicable local or"

28. Page 6, lines 18 through 19.

Following: "and that" on line 18

Strike: remainder of line 18 through "9]" on line 19

Insert: "does not unreasonably delay notice"

29. Page 6.

Following: line 21

Insert: "(7) If a business discloses a security breach to any individual pursuant to this section and gives a notice to the individual that suggests, indicates, or implies to the individual that the individual may obtain a copy of the file on the individual from a consumer credit reporting agency, the business shall coordinate with the consumer reporting agency as to the timing, content, and distribution of the notice to the individual. The coordination may not unreasonably delay the notice to the affected individuals."

30. Page 6, line 23 through page 15, line 22.

Strike: section 8 through section 9 in their entirety

Insert: "NEW SECTION. **Section 8. Department to restrain unlawful acts -- penalty.** (1) Whenever the department has reason to believe that a person has violated [sections 2 through 8] and that proceeding would be in the public interest, the department may bring an action in the name of the state against the person to restrain by temporary or permanent injunction or temporary restraining order the use of the unlawful method, act, or practice upon giving appropriate notice to that person, pursuant to 30-14-111(2).

(2) The provisions of 30-14-111(3) and (4) and 30-14-112 through 30-14-115 apply to [sections 2 through 8].

(3) A violation of [sections 2 through 8] is a violation of 30-14-103, and the penalties for a violation of [sections 2 through 8] are as provided in 30-14-142."

Insert: "NEW SECTION. **Section 9. Computer security breach.** (1) Any licensee or insurance-support organization that conducts business in Montana and that owns or licenses computerized data that includes personal information shall provide notice of any breach of the security of the system following discovery or notice of the breach of the security of the system to any individual whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person. The notice must be made without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3), or consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(2) Any person to whom personal information is disclosed in order for the person to perform an insurance function pursuant to this part that maintains computerized data that includes personal information shall notify the licensee or insurance-support organization of any breach of the security of the system in which the data is maintained immediately following discovery of the breach of the security of the system if the personal information was or is reasonably believed to have been acquired by an unauthorized person.

(3) The notice required by this section may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation and requests a delay of notice. The notice required by this section must be made after the law enforcement agency determines that the notice will not compromise the investigation.

(4) Licensees, insurance-support organizations, and persons to whom personal information is disclosed pursuant to this part shall develop and maintain an information security policy for the safeguarding of personal information and security breach notice procedures that provide expedient notice to individuals as provided in subsection (1).

(5) For purposes of this section, the following definitions apply:

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(a) "Breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a licensee, insurance-support organization, or person to whom information is disclosed pursuant to this part. Acquisition of personal information by a licensee, insurance-support organization, or employee or agent of a person as authorized pursuant to this part is not a breach of the security of the system.

(b) (i) "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when the name and the data elements are not encrypted:

(A) social security number;

(B) driver's license number or state identification number;

(C) account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(ii) Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records."

31. Page 15, line 24.

Following: "instruction."

Insert: "(1)"

Strike: "9"

Insert: "8"

32. Page 15, line 25.

Strike: "part 1," in two places

33. Page 15, line 26.

Strike: "9"

Insert: "8"

34. Page 15.

Following: line 26

Insert: "(2) [Section 9] is intended to be codified as an integral part of Title 33, chapter 19, part 3, and the provisions of Title 33, chapter 19, part 3, apply to [section 9]."

35. Page 16, line 2.

Following: "date."

Insert: "(1)"

Strike: "[This act]"

Insert: "Except as provided in subsection (2), [this act]"

Strike: "July 1, 2005."

Insert: "March 1, 2006."

(2) [Sections 1, 10, and 11 and this section] are effective on passage and approval."

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

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NATURAL RESOURCES (Roush, Chairman):
HB 790, be amended as follows:

4/2/2005

1. Page 2, line 19.

Strike: "AND DUST MITIGATION"

Following: "MITIGATION,"

Insert: "ONSITE WATER IMPOUNDMENTS, AND"

Following: "THE"

Insert: "QUALITY AND"

2. Page 2, line 19 through line 20.

Strike: ", AND" on line 19 through "IMPOUNDMENTS" on line 20

3. Page 3, line 4.

Strike: "AND EFFECTS ON DOWNSTREAM WATER USERS"

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

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

4/2/2005

HB 336, be concurred in. Report adopted.

HB 740, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

4/4/2005

HB 177, be amended as follows:

1. Title, page 1, line 14.

Following: "VOTE;"

Insert: "PROVIDING THAT QUESTIONABLE VOTES ARE NOT VALID VOTES;"

2. Title, page 1, line 17.

Following: "SECTIONS"

Insert: "13-1-101,"

3. Title, page 1, line 19.

Following: "~~13-16-414,~~"

Insert: "13-16-414,"

4. Page 1.

Following: line 21

Insert: "**Section 1.** Section 13-1-101, MCA, is amended to read:

"**13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

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- (1) "Active elector" means an elector who voted in the previous federal general election and whose name is on the active list.
- (2) "Active list" means a list of active electors maintained pursuant to 13-2-220.
- (3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.
- (4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.
- (5) "Ballot" means:
 - (a) a paper ballot used with a paper-based system, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots; or
 - (b) a nonpaper ballot, such as a ballot used with a nonpaper-based system, such as a lever machine, a direct recording electronic machine, or other technology.
- (6) "Candidate" means:
 - (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;
 - (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:
 - (i) solicitation is made;
 - (ii) contribution is received and retained; or
 - (iii) expenditure is made; and
 - (c) an officeholder who is the subject of a recall election.
- (7) (a) "Contribution" means:
 - (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;
 - (ii) a transfer of funds between political committees;
 - (iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.(b) "Contribution" does not mean:
 - (i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;
 - (ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;
 - (iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or
 - (iv) filing fees paid by the candidate.
- (8) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.
- (9) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.
- (10) "Elector" means an individual qualified to vote under state law.
- (11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.
- (b) "Expenditure" does not mean:

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- (i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);
- (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;
- (iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or
- (iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(14) "Inactive elector" means an individual who failed to vote in the preceding federal general election and whose name was placed on an inactive list pursuant to 13-2-220.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220.

(16) "Individual" means a human being.

(17) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon approval by the secretary of state of the form of the petition or referral.

(18) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(20) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(21) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(22) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(23) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law.

(24) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose eligibility has not yet been verified as provided by law.

(25) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(26) "Registrar" means the county election administrator and any regularly appointed deputy or assistant

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election administrator.

(27) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(28) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(29) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

(30) "Valid vote" means a vote that has been counted as valid ~~or determined to be valid~~ as provided in 13-15-206.

(31) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper or nonpaper ballot."

{Internal References to 13-1-101:

x13-27-111 x13-37-103 x13-37-228 x13-37-250

x20-20-421}"

Renumber: subsequent sections

5. Page 4, line 21.

Strike: "13-15-206(5)"

Insert: "13-15-206(4)"

6. Page 7, line 19.

Strike: "13-15-206(5)"

Insert: "13-15-206(4)"

7. Page 11, line 17.

Strike: "13-15-206(5)"

Insert: "13-15-206(4)"

8. Page 12, line 2.

Strike: "(7)"

Insert: "(6)"

9. Page 12, line 3.

Strike: "entire" through "subsection (4)"

Insert: "vote may not be counted"

10. Page 12, line 14.

Strike: "on a paper ballot or nonpaper ballot"

11. Page 12, line 16.

Strike: "on a paper" through "system"

Insert: "is determined by the system to be an overvote or undervote"

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12. Page 12, line 18.

Strike: "(7)"

Insert: "(6)"

13. Page 12, line 19 through line 22.

Strike: "(i)" on line 19 through "(ii)" on line 22

14. Page 12, line 22.

Strike: "determines"

Insert: "has reason to believe"

15. Page 12, line 24.

Strike: "subsection (4) and"

16. Page 12, line 26 through page 13, line 5.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

17. Page 14.

Following: line 30

Insert: "**Section 18.** Section 13-16-414, MCA, is amended to read:

"13-16-414. Recount of votes using voting system. (1) (a) Before a voting system may be used to automatically recount votes or if the election administrator has reason to believe that during a count conducted pursuant to 13-15-206 the voting system may not be tabulating votes properly, the recount board shall test the ~~automatic tabulating~~ voting system equipment in accordance with rules adopted pursuant to 13-17-211.

(b) If the test does not show any errors, the votes cast for the candidates or on the issues for which a recount is ordered must be recounted by the ~~tabulating equipment~~ voting system as provided in 13-15-206(3).

(c) (i) If any errors are found in the test or if any questions remain as to the accuracy of the voting system, the board shall have the system checked by a qualified individual who did not participate in the original preparation of the system.

(ii) If the errors are corrected, the recount must proceed as provided in 13-15-206(3).

(iii) If the errors are not corrected, the recount must be conducted as provided in subsection (3).

(2) The board may order a recount, which must be conducted as provided in subsection (3), if the board unanimously agrees that a recount is necessary to resolve all questions relating to the election.

(3) (a) A recount of paper ballots under this subsection (3) must be conducted manually as provided in 13-15-206(2).

(b) A recount of ballots cast using a nonpaper-based system must be conducted as provided in rules adopted under 13-17-211."

Renumber: subsequent sections

18. Page 15, line 8.

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Following: "day"

Insert: "and is received by 3 p.m. the Monday following the election"

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

HB 297, be amended as follows:

1. Title, page 1, line 5.

Following: "COUNTED;"

Insert: "PROVIDING AN EXCEPTION ONLY TO FACILITATE VOTING BY DISABLED VOTERS;"

2. Page 1, line 20.

Strike: "(2)"

Insert: "(3)"

3. Page 1, line 28.

Following: "counted"

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

4. Page 1.

Following: line 28

Insert: "(2) A direct recording electronic system that does not mark a paper ballot may be used to facilitate voting by a disabled voter pursuant to the Help America Vote Act of 2002, 42 U.S.C. 15301, et seq., if:

(a) (i) a direct recording electronic system that uses a paper ballot has not yet been certified by the federal election assistance commission; or

(ii) a direct recording electronic system that marks a paper ballot has not yet been approved by the secretary of state pursuant to 13-17-101; and

(b) the system records votes in a manner that will allow the votes to be printed and manually counted or audited if necessary."

Renumber: subsequent subsection

5. Page 2.

Following: line 2

Insert: "COORDINATION SECTION. Section 2. Coordination instruction. If Senate Bill No. 302 and [this act] are both passed and approved and if Senate Bill No. 302 amends 13-17-103 to add a subsection (1)(k) allowing the use of a direct recording electronic voting system, then subsection (1)(k) of Senate Bill No. 302 is void."

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

HJR 19, be amended as follows:

1. Page 1, line 11.

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Strike: "17"

Insert: "15"

2. Page 1, line 12.

Following: "according to"

Strike: "a" through "Report"

Insert: "an examination conducted by the U.S. Consumer Product Safety Commission"

3. Page 1, line 13.

Strike: "can"

Insert: "may be able to"

4. Page 1, line 14.

Strike: "exceeds"

Insert: "may exceed"

5. Page 1.

Strike: line 17 through line 18 in their entirety

6. Page 1, line 20.

Following: "WHEREAS,"

Insert: "although"

Strike: "found"

Insert: "not yet conclusively proved"

7. Page 1, line 21.

Following: "bats"

Strike: "that"

Following: "them"

Insert: ", "

8. Page 1, line 22.

Strike: "have" through "this"

Insert: "there is at least anecdotal evidence, including the death of Brandon Patch, that the use of nonwood bats"

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

TAXATION (Elliott, Chairman):

4/2/2005

SB 271, introduced bill, be amended as follows:

1. Page 1, line 12 through line 16.

Strike: section 1 in its entirety

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Renumber: subsequent sections

2. Page 1, line 18.

Strike: "Eligibility for state"

Insert: "State"

3. Page 1, line 19 through line 20.

Strike: "(1)" on line 19

Strike: "and" on line 19 through "years," on line 20

Insert: "through 2004 that exceeds 10% of the district's taxable valuation in each respective year, upon resolution of the protest,"

4. Page 1, line 21.

Strike: "under subsection (3)"

Insert: ", using the revised valuation,"

5. Page 1, line 22.

Strike: "receives"

Insert: "received"

Strike: "in subsection (3)"

6. Page 1, line 23 through line 26.

Strike: "difference" on line 23 through "account" on line 26

Insert: "superintendent of public instruction shall request an appropriation for the difference"

7. Page 1, line 27 through page 2, line 14.

Strike: subsections 2 through (4) in their entirety

8. Page 2, line 16 through line 18.

Strike: section 3 in its entirety

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence:

4/2/2005

HB 410, introduced by Facey

Senate bills concurred in and returned to the Senate:

4/2/2005

SB 77, introduced by Hansen

SB 126, introduced by Brueggeman

SB 206, introduced by Lewis

SB 286, introduced by Ryan

SB 401, introduced by Laslovich

SB 451, introduced by Wheat

SB 479, introduced by Lind

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Senate joint resolution concurred in and returned to the Senate:

4/2/2005

SJR 21, introduced by Roush

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

4/2/2005

SB 38, introduced by Schmidt

SB 81, introduced by Stapleton

SB 244, introduced by Squires

SB 325, introduced by Gebhardt

SB 369, introduced by Cocchiarella

MOTIONS

Senator Mangan moved **SB 19** be moved below **SB 516** on the second reading calendar. Motion carried.

Senator Essmann moved **SB 450** be moved below **SB 523** in the second reading calendar. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

HB 410, introduced by Facey, 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 Wheat in the chair.

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

SB 213 - Senator Tester assumed the chair.

SB 213 - Senator Story moved **SB 213** do pass.

SB 213 - Senator Wheat moved **SB 213**, second reading copy, be amended as follows:

1. Page 1, line 19.

Following: line 18

Insert: "(2) tires;"

Renumber: subsequent subsections

Amendment adopted as follows:

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

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 213 - Senator Story moved **SB 213**, as amended, do pass. Motion carried with Senators Joe Balyeat, Gebhardt, O'Neil, and Stapleton voting nay.

SB 513 - Senator Wheat assumed the chair.

SB 520 - Senator Elliott moved consideration of **SB 520** be placed below SB 521 on the second reading board. Motion carried.

SB 513 - Senator Elliott moved **SB 513** do pass.

SB 513 - Senator Ellingson moved **SB 513**, second reading copy, be amended as follows:

1. Title, line 15.

Following: "~~TAX~~"

Insert: "TO PREVENT THEIR USE AS VEHICLES TO AVOID MONTANA TAX"

2. Title, page 1, line 29.

Following: "~~15-31-119~~;"

Insert: "15-31-114, 15-31-119,"

3. Page 26, line 18.

Following: "2-18-1303"

Insert: ";

Following: "and"

Insert: "and"

4. Page 26, line 20.

Following: "~~15-31-114~~"

Insert: "(r) dividends received from a real estate investment trust to the extent they are taxed in Montana as provided in 15-31-113 and 15-31-114"

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5. Page 33, line 11.

Strike: "AND"

6. Page 33, line 16.

Following: "law"

Insert: ";

Strike: " _"

Insert: "and"

7. Page 33, line 23.

Following: line 22

Insert: "(iii) a capital gain dividend treated by the shareholder or holder of a beneficial interest in a real estate investment trust as gain from the sale or exchange of a capital asset held for more than 1 year described in section 857(b)(3) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(3), as that section may be amended or renumbered, and the amount designated by a real estate investment trust and includable in computing the long-term capital gains of a shareholder or holder of a beneficial interest described in section 857(b)(3)(D) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(3)(D), as that section may be amended or renumbered."

8. Page 33, line 29.

Following: "~~(a)~~"

Insert: "(a)"

Strike: "THE"

Insert: "Except as provided in subsection (2)(b), the"

9. Page 35, line 9.

Following: line 8

Insert: "(b) If the corporation is taxed as a regulated investment company as provided in section 851 through 855 of the Internal Revenue Code of 1986, 26 U.S.C. 851 through 855, as those sections may be amended or renumbered, the term "net income" means "investment company income" as defined in subsection (2)(c). If a corporation is taxed as a real estate investment trust as provided in section 856 through 859 of the Internal Revenue Code of 1986, 26 U.S.C. 856 through 859, as those sections may be amended or renumbered, the term "net income" means REIT income, as defined in subsection (2)(d).

(c) "Investment company income" means investment company taxable income, as defined in section 852(b)(2) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(2), as that section may be amended or renumbered, modified as follows:

(i) section 852(b)(2)(A) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(2)(A), as that section may be amended or renumbered, relating to an exclusion for net capital gain, does not apply;

(ii) section 852(b)(2)(B) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(2)(B), as that section may be amended or renumbered, relating to net operating losses, is modified to deny the deduction allowed under 15-31-119 in lieu of denying the deduction allowed by section 172 of the Internal Revenue Code of 1986, 26 U.S.C. 172, as that section may be amended or renumbered;

(iii) the deduction for dividends paid, under section 852(b)(2)(D) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(2)(D), as that section may be amended or renumbered, is modified to allow capital gain dividends and exempt interest dividends, to the extent that interest is included in gross income under this part, to be included in the computation of the deduction;

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(iv) section 852(b)(3)(A) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(3), as that section may be amended or renumbered, relating to imposition of a separate tax on net capital gains, does not apply; and

(v) section 852(b)(5)(B) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(5)(B), as that section may be amended or renumbered, relating to treatment of exempt interest dividends by shareholders, does not apply.

(d) "REIT income" means real estate investment trust taxable income, as defined in section 857(b)(2) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(2), as that section may be amended or renumbered, modified as follows:

(i) section 857(b)(2)(D) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(2)(D), as that section may be amended or renumbered, relating to an exclusion for an amount equal to the net income from foreclosure property, does not apply;

(ii) section 857(b)(2)(E) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(2)(E), as that section may be amended or renumbered, relating to a deduction for an amount equal to the tax imposed in the case of failure to meet certain requirements for the tax year, does not apply;

(iii) section 857(b)(2)(F) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(2)(F), as that section may be amended or renumbered, relating to an exclusion for an amount equal to any net income derived from prohibited transactions, does not apply; and

(iv) no deduction for dividends paid is allowed, whether provided in sections 561, 858, or 860 of the Internal Revenue Code of 1986, 26 U.S.C. 561, 858, or 860, as those sections may be amended or renumbered."

10. Page 40, line 2.

Insert: "Section 22. Section 15-31-114, MCA, is amended to read:

"15-31-114. Deductions allowed in computing income. (1) In computing the net income, the following deductions are allowed from the gross income received by the corporation within the year from all sources:

(a) all the ordinary and necessary expenses paid or incurred during the taxable tax year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation contained in this section, and rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title or in which it has no equity. A deduction is not allowed for salaries paid upon which the recipient has not paid Montana state income tax. However, when domestic corporations are taxed on income derived from outside the state, salaries of officers paid in connection with securing the income are deductible. A deduction is not allowed for claims paid by an insurer subject to the provisions of Title 33, chapter 2, part 7.

(b) (i) all losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business. The allowance is determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable tax year. All elections for depreciation must be the same as the elections made for federal income tax purposes. A deduction is not allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and a deduction may not be made for any amount of expense of restoring property or making good the exhaustion of property for which an allowance is or has been made. A depreciation or amortization deduction is not allowed on a title plant as defined in 33-25-105(15).

(ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of 15-31-119.

(c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements. The reasonable allowance must be determined according to the provisions of the Internal Revenue Code in effect for the taxable tax year. All elections made under the Internal Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling expenses for corporation license tax purposes must be the same as the elections made for federal income tax purposes.

(d) the amount of interest paid within the year on its indebtedness incurred in the operation of the business

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from which its income is derived. Interest may not be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance, or improvement of property or for the conduct of business unless the income from the property or business would be taxable under this part.

(e) (i) taxes paid within the year, except the following:

(A) taxes imposed by this part;

(B) taxes assessed against local benefits of a kind tending to increase the value of the property assessed;

(C) taxes on or according to or measured by net income or profits imposed by authority of the government of the United States;

(D) taxes imposed by any other state or country upon or measured by net income or profits.

(ii) Taxes deductible under this part must be construed to include taxes imposed by any county, school district, or municipality of this state.

(f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

(g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that qualify for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, as amended.

(ii) The public service commission may not allow in the rate base of a regulated corporation the inclusion of contributions made under this subsection.

(iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701.

(h) 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.

(2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

(a) the contribution is made no later than 5 years after the manufacture of the donated property is substantially completed;

(b) the property is not transferred by the donee in exchange for money, other property, or services; and

(c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the property and representing that the use and disposition of the property will be in accordance with the provisions of subsection (2)(b).

(3) In the case of a regulated investment company or a fund of a regulated investment company, as defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered, except that the deduction for dividends is not allowed with respect to dividends attributable to any income that is not subject to tax under this chapter when earned by the regulated investment company. For the purposes of computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply. A regulated investment company is not allowed a deduction for dividends received as defined in sections 243 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be amended or renumbered. A deduction is not allowed for any dividend received from:

(a) a regulated investment company including, without limitation, a capital gains dividend as defined in section 852(b)(3) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(3), as that section may be amended or renumbered, or any amount treated as a dividend under section 854(b) of the Internal Revenue Code of 1986, 26 U.S.C. 854(b), as that section may be amended or renumbered;

(b) a real estate investment trust including, without limitation, a capital gain dividend as defined in section 857(b)(3)(C) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(3)(C), as that section may be amended or renumbered, a capital gain dividend treated by the shareholder or holder of a beneficial interest in a real estate investment trust as gain from the sale or exchange of a capital asset held for more than 1 year described in section

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857(b)(3)(B) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(3)(B), as that section may be amended or renumbered, and the amount designated by a real estate investment trust and includable in computing the long-term capital gains of a shareholder or holder of a beneficial interest described in section 857(b)(3)(D) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(3)(D), as that section may be amended or renumbered."

Insert: "Section 23. Section 15-31-119, MCA, is amended to read:

"15-31-119. Net operating losses -- carryovers and carrybacks. (1) The net operating loss deduction is the aggregate of net operating loss carryovers to the taxable period plus the net operating loss carrybacks to the taxable period.

(2) ~~(a) The~~ Except as provided in subsection (2)(b), the term "net operating loss" means the excess of the deductions allowed by this section 15-31-114 over the gross income, with the modifications specified in subsection (6) of this section.

~~(b) The net operating loss of a real estate investment trust must be computed with the adjustments provided in 15-31-113(2)(d).~~

~~(3) If for any taxable period beginning after December 31, 1970 tax year, a net operating loss is sustained, the loss must be a net operating loss carryback to each of the three taxable periods preceding the taxable period of the loss and must be a net operating loss carryover to each of the five taxable periods tax years following the taxable period tax year of the loss.~~

~~(4) A net operating loss for any taxable period ending after December 31, 1975 tax year, in addition to being a net operating loss carryback to each of the three preceding taxable periods, must be a net operating loss carryover to each of the seven taxable periods 7 tax years following the taxable period tax year of the loss.~~

~~(5) Except as provided in subsection (11), the portion of the loss that must be carried to each of the other taxable tax years must be the excess, if any, of the amount of the loss over the sum of the net income for each of the prior taxable periods tax years to which the loss was carried. For purposes of this subsection, the net income for the prior taxable period tax year must be computed with the modification specified in subsection (6)(b) and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss period or any taxable period tax year after the loss period, and the net income so computed may not be considered to be less than zero.~~

~~(6) The modifications referred to in subsection (2) are as follows:~~

~~(a) The net operating loss deduction may not be allowed.~~

~~(b) The deduction for depletion may not exceed the amount that would be allowable if computed under the cost method.~~

~~(c) Except to the extent provided in section 1382(b) of the Internal Revenue Code of 1986, 26 U.S.C. 1382(b), as that section may be amended or renumbered, a deduction for dividends paid or considered paid is not allowed.~~

~~(d) Any net operating loss carried over to any taxable tax year must be calculated under the provisions of this section effective for the taxable tax year for which the return claiming the net operating loss carryover is filed.~~

~~(7) A net operating loss deduction may be allowed only with regard to losses attributable to the business carried on within the state of Montana.~~

~~(8) In the case of a merger of corporations, the surviving corporation may not be allowed a net operating loss deduction for net operating losses sustained by the merged corporations prior to the date of merger. In the case of a consolidation of corporations, the new corporate entity may not be allowed a deduction for net operating losses sustained by the consolidated corporations prior to the date of consolidation.~~

~~(9) Notwithstanding the provisions of 15-31-531, interest may not be paid with respect to a refund of tax resulting from a net operating loss carryback or carryover.~~

~~(10) The net operating loss deduction must be allowed with respect to taxable periods tax years.~~

~~(11) A taxpayer entitled to a carryback period for a net operating loss may elect to forego the entire carryback period. If the election is made, the loss may be carried forward only. The election must be made on or before the date on which the return is due, including any extension of the due date, for the tax year of the net operating loss for which the election is to be in effect. The election is irrevocable for the year made.~~

~~(12) Notwithstanding any other provision of this section, the net operating loss deduction is not allowed in the case of a regulated investment company or a fund of a regulated investment company, as defined in section 851(a)~~

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or 851(b) of the Internal Revenue Code of 1986, as that section may be amended or renumbered.""

11. Page 42, line 23.

Strike: "24"

Insert: "26"

Amendment **not** adopted as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Moss, Pease, Ryan, Smith, Squires, Toole, Wheat, Williams, Mr. President.

Total 20

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Keenan, Laible, Laslovich, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg.

Total 30

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 513 - Senator Elliott moved **SB 513**, second reading copy, be further amended as follows:

1. Page 2, line 21 through line 24.

Strike: "treatment" on line 21 through "state" on line 24

Insert: "the reporting or reflecting of information on any return filed for Montana income tax purposes in a manner inconsistent with the manner in which the same or similar information was reported or reflected on any return filed by the same taxpayer, or by a member of a unitary group of which the same taxpayer is a member, in another state with respect to a tax on or measured by net income for the same tax year"

2. Page 4, line 13 through line 18.

Strike: ":" on line 13 through "transaction" on line 18

Insert: "any transaction or arrangement with respect to which information is required to be included with a state return or statement because, as determined under rules prescribed pursuant to [sections 1 through 9], the transaction or arrangement is of a type that the department determines has a potential for avoidance or evasion of the tax imposed by Title 15, chapter 30 or 31, whether through deduction or credit, the excludability or omission of any income, the manipulation of any allocation or apportionment rule, or the securing of any other tax benefit, and is carried out through or invested in by at least one individual or entity that is organized in Montana, doing business in Montana, deriving income from sources in Montana, subject to Title 15, chapter 30 or 31, or is otherwise subject to the jurisdiction of Montana. A reportable transaction includes but is not limited to any transaction or arrangement described in U.S. treasury regulations section 1.6011-4(b)(1) through (7), 26 CFR 1.6011-4(b)(1) through (7), when the transaction or arrangement is of a type that the U.S. secretary of treasury determines has a potential for tax avoidance or evasion, an abusive tax shelter, a listed transaction, and a noneconomic substance transaction"

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3. Page 9, line 25.

Following: "Montana"

Insert: "but that does not report or pay Montana income tax"

4. Page 15, line 18 through line 20.

Strike: "and" on line 18 through "1031" on line 20

5. Page 16, line 14.

Strike: "or"

6. Page 16, line 16.

Following: "Montana"

Insert: "; or

(vii) the transferor is an individual who is a Montana resident"

7. Page 16, line 22.

Following: "amount"

Strike: "required to be withheld"

8. Page 16, line 28.

Insert: "(7) If the disposition of the Montana real estate is an installment sale, withholding may be made as provided by the department by rule."

9. Page 33, line 28.

Following: "premiums"

Insert: "and income from investment of premiums"

10. Page 40, line 8.

Strike: "from"

Following: "received"

Insert: "or income from investment of premiums"

11. Page 40, line 14.

Following: "premiums"

Insert: "and income from investment of premiums"

Amendment adopted with Senators Balyeat, Esp, Gebhardt, McGee, and Stapleton voting nay.

SB 513 - Senator Elliott moved **SB 513**, as amended, do pass. Motion carried as follows:

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

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 521 - Senator Elliott moved **SB 521** do pass. Motion carried as follows:

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

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 520 - Senator Elliott moved **SB 520** do pass.

SB 520 - Senator Elliott moved **SB 520**, second reading copy, be amended as follows:

1. Page 2, line 2.

Following: "to"

Insert: "\$155 for tax year 2006 and up to"

Following: "\$135"

Insert: "for tax years after 2006"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams.
Total 30

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Nays: Barkus, Black, Brueggeman, Cromley, Curtiss, Esp, Essmann, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 17

Absent or not voting: Roush, Squires, Mr. President.

Total 3

Excused: None.

Total 0

SB 520 - Senator Elliott moved **SB 520**, as amended, do pass. Motion carried as follows:

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

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 272 - Senator Toole moved **SB 272** do pass.

SB 272 - Senator Mangan moved **SB 272**, second reading copy, be amended as follows:

1. Title, line 8.

Strike: "DEPOSIT"

Insert: "ALLOCATION"

Strike: "IN THE STATE GENERAL FUND"

2. Page 4, line 4.

Strike: "deposited, pursuant to 15-1-501, in the state general fund"

Insert: "allocated as follows:

(1) for the fiscal year ending June 30, 2006, \$1 million to the equity infusion board established in [section 2 of Senate Bill No. 168] for the repayment of the loan under 17-6-309;

(2) \$250,000 a year to the department of commerce to fund the main street program established in [section 1 of House Bill No. 481]; and

(3) the balance to be distributed by the department to the incorporated cities and towns based upon population"

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3. Page 6, line 7.

Insert: "COORDINATION SECTION. **Section 11. Coordination instruction.** (1) If Senate Bill No. 168 is not passed and approved, then [section 4(1) of this act] is void.

(2) If House Bill No. 481 is not passed and approved, then [section 4(2) of this act] is void."

Renumber: subsequent sections

Amendment **not** adopted as follows:

Yeas: Barkus, Brueggeman, Cocchiarella, Essmann, Gallus, Hansen, Kitzenberg, Laible, Laslovich, Mangan, McGee, Perry, Smith, Mr. President.

Total 14

Nays: Bales, Balyeat, Black, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Larson, Lewis, Lind, Moss, O'Neil, Pease, Roush, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 35

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 272 - Senator Toole moved **SB 272**, as amended, do pass. Motion **failed** as follows:

Yeas: Ellingson, Gallus, Hansen, Harrington, Kitzenberg, Larson, Mangan, Moss, Pease, Roush, Smith, Squires, Toole, Tropila, Wheat, Williams.

Total 16

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hawks, Keenan, Laible, Laslovich, Lewis, Lind, McGee, O'Neil, Perry, Ryan, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg, Mr. President.

Total 34

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 272 - Senator Keenan moved **SB 272** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 33

Nays: Ellingson, Gallus, Gillan, Hansen, Harrington, Kitzenberg, Larson, Pease, Roush, Ryan, Smith, Squires, Toole,

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Tropila, Weinberg, Wheat, Williams.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Wheat moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Schmidt, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 23

Nays: Bales, Barkus, Brueggeman, Curtiss, Esp, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Squires, Stapleton, Steinbeisser, Tash.
Total 18

Absent or not voting: Balyeat, Black, Cobb, Essmann, Gillan, Ryan, Smith, Story, Toole.
Total 9

Excused: None.
Total 0

Majority Leader Ellingson moved the Senate recess. Motion carried.

Senate recessed 12:33 p.m.
Senate reconvened 12:45 p.m.

SB 514 - Senator Wheat reassumed the chair.

SB 514 - Senator Elliott moved **SB 514** do pass. Motion carried as follows:

Yeas: Bales, Cobb, Cocchiarella, Cooney, Curtiss, Elliott, Essmann, Harrington, Hawks, Kitzenberg, Larson, Mangan, Moss, Smith, Story, Toole, Weinberg.
Total 17

Nays: Balyeat, Barkus, Black, Brueggeman, Cromley, Ellingson, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Keenan, Laible, Laslovich, Lewis, Lind, McGee, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Tash, Tropila, Wheat, Williams, Mr. President.
Total 32

Absent or not voting: Ryan.
Total 1

Excused: None.

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Total 0

SB 514 - Senator Elliott moved **SB 514** be **indefinitely postponed**. Motion carried as follows:

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

Total 45

Nays: Balyeat, Cobb, Cocchiarella, Lind.

Total 4

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 519 - Senator Elliott moved **SB 519** do pass. Motion **failed** as follows:

Yeas: Ellingson, Elliott, Hansen, Harrington, Keenan, Kitzenberg, Mangan, Moss, Pease, Roush, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 18

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Laible, Larson, Laslovich, Lewis, Lind, McGee, O'Neil, Perry, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash.

Total 31

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 519 - Senator Elliott moved **SB 519** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Perry, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Mr. President.

Total 40

Nays: Balyeat, Hansen, Harrington, Mangan, Pease, Roush, Smith, Tropila, Williams.

Total 9

Absent or not voting: Ryan.

Total 1

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Excused: None.

Total 0

SB 510 - Senator Esp moved **SB 510** do pass. Motion **failed** as follows:

Yeas: Bales, Black, Cooney, Cromley, Curtiss, Ellingson, Esp, Gebhardt, Larson, Lewis, Lind, Mangan, McGee, Pease, Smith, Story, Tash, Toole, Weinberg, Williams.

Total 20

Nays: Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Moss, O'Neil, Perry, Roush, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Tropila, Wheat, Mr. President.

Total 29

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 510 - Senator Esp moved **SB 510** be **indefinitely postponed**. Motion **failed** as follows:

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

Total 42

Nays: Cooney, Curtiss, Esp, Gallus, Mangan, Tash, Toole.

Total 7

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 516 - Senator Gillan moved **SB 516** do pass.

SB 516 - Senator Cromley moved **SB 516**, second reading copy, be amended as follows:

1. Title, line 11 through line 14.

Strike: "REQUIRING" on line 11 through "DISPUTE;" on line 14

2. Page 6, line 16.

Following: "requested"

Insert: "and was granted"

Strike: "as provided in"

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Insert: "for a proceeding under"

3. Page 7, line 5.

Following: "requested"

Insert: "and was granted"

Strike: "as provided in"

Insert: "for a proceeding under"

4. Page 10, line 1 through line 7.

Strike: subsection (5) in its entirety

Renumber: subsequent subsection

Amendment **not** adopted as follows:

Yeas: Cromley, Elliott, Gallus, Grimes, Harrington, Hawks, Laslovich, Shockley, Toole, Wheat.

Total 10

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Esp, Essmann, Gebhardt, Gillan, Hansen, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Williams, Mr. President.

Total 39

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 516 - Senator Gillan moved **SB 516** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams.

Total 38

Nays: Balyeat, Cromley, Elliott, Grimes, Hawks, Laslovich, Lind, Shockley, Toole, Mr. President.

Total 10

Absent or not voting: Harrington.

Total 1

Excused: Ryan.

Total 1

SB 19 - Senator Mangan moved **SB 19** do pass. Motion carried as follows:

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Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Kitzenberg, Laible, Larson, Mangan, McGee, Moss, Pease, Roush, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Tropila, Wheat.

Total 30

Nays: Balyeat, Cooney, Ellingson, Elliott, Esp, Hansen, Keenan, Laslovich, Lewis, Lind, O'Neil, Shockley, Stapleton, Toole, Weinberg, Williams, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: Harrington, Perry, Ryan.

Total 3

SB 512 - Senator Kitzenberg moved **SB 512** do pass. Motion **failed** as follows:

Yeas: Black, Cromley, Gebhardt, Gillan, Hawks, Keenan, Kitzenberg, Larson, Mangan, McGee, Moss, Pease, Roush, Schmidt, Steinbeisser, Story, Tash, Wheat.

Total 18

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Grimes, Hansen, Harrington, Laible, Laslovich, Lewis, Lind, O'Neil, Ryan, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 31

Absent or not voting: None.

Total 0

Excused: Perry.

Total 1

SB 512 - Senator Mangan moved **SB 512** be **indefinitely postponed**. Motion carried as follows:

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

Total 46

Nays: Cromley, Kitzenberg, Steinbeisser.

Total 3

Absent or not voting: None.

Total 0

Excused: Perry.

Total 1

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SB 517 - Senator Essmann moved **SB 517** do pass. Motion **failed** as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Essmann, Gebhardt, Gillan, Grimes, Hawks, Keenan, Kitzenberg, Mangan, McGee, Pease, Schmidt, Stapleton, Steinbeisser, Story, Tash, Wheat.
Total 24

Nays: Balyeat, Cooney, Ellingson, Elliott, Gallus, Hansen, Harrington, Laible, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Roush, Ryan, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: Esp, Perry.
Total 2

SB 517 - Senator Toole moved **SB 517** be **indefinitely postponed**. Motion carried as follows:

Yeas: Balyeat, Cooney, Curtiss, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Mangan, McGee, Pease, Stapleton, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: Esp, Perry.
Total 2

SB 523 - Senator Essmann moved consideration of **SB 523** be passed for the day. Motion carried.

SB 518 - Senator Ellingson moved consideration of **SB 518** be placed at the top of the second reading board. Motion carried.

SJR 32 - Senator Ellingson moved consideration of **SJR 32** be placed at the top of the second reading board. Motion carried.

HB 73 - Senator Ellingson moved consideration of **HB 73** be placed at the top of the second reading board. Motion carried.

HB 431 - Senator Ellingson moved consideration of **HB 431** be placed at the top of the second reading board. Motion carried.

HB 450 - Senator Kitzenberg moved consideration of **HB 450** be passed for the day. Motion carried.

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SB 518 - Senator Elliott moved **SB 518** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Elliott, Essmann, Gallus, Gillan, Grimes, Harrington, Keenan, Laible, Larson, Lewis, McGee, Moss, O'Neil, Pease, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Wheat.

Total 31

Nays: Cobb, Cooney, Ellingson, Gebhardt, Hansen, Hawks, Kitzenberg, Laslovich, Lind, Mangan, Schmidt, Smith, Squires, Toole, Weinberg, Williams, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: Esp, Perry.

Total 2

SJR 32 - Senator Elliott moved **SJR 32** be adopted. Motion carried unanimously.

HB 73 - Senator Moss moved **HB 73** be concurred in.

HB 73 - Senator Esp moved **HB 73**, second reading copy, be amended as follows:

1. Page 1, line 23.

Insert: "COORDINATION SECTION. Section 3. Coordination instruction. If Senate Bill No. 301 and [this act] are both passed and approved, then [this act] is void and [section 7] of Senate Bill No. 301 is amended to read:

"**Section 7. County taxation -- purposes.** A county may impose a property tax levy for any public or governmental purpose not specifically prohibited by law. Public and governmental purposes include but are not limited to:

- (1) district court purposes as provided in 7-6-2511;
- (2) county-owned or county-operated health care facility purposes as provided in 7-6-2512;
- (3) county law enforcement services and maintenance of county detention center purposes as provided in 7-6-2513 and search and rescue units as provided in 7-32-235;
- (4) multijurisdictional service purposes as provided in 7-11-1106;
- (5) transportation services for senior citizens and persons with disabilities as provided in 7-14-111;
- (6) support for a port authority as provided in 7-14-1132;
- (7) county road, bridge, and ferry purposes as provided in 7-14-2101, 7-14-2501, 7-14-2502, 7-14-2503, 7-14-2801, and 7-14-2807;
- (8) recreational, educational, and other activities of the elderly as provided in 7-16-101;
- (9) purposes of county fair activities, parks, cultural facilities, and any county-owned civic center, youth center, recreation center, or recreational complex as provided in 7-16-2102, 7-16-2109, and 7-21-3410;
- (10) programs for the operation of licensed day-care centers and homes as provided in 7-16-2108 and 7-16-4114;
- (11) support for a museum, facility for the arts and the humanities, or collection of exhibits as provided in 7-16-2205;
- (12) extension work in agriculture and home economics as provided in 7-21-3203;
- (13) weed control and management purposes as provided in 7-22-2142;
- (14) insect control programs as provided in 7-22-2306;
- (15) fire control as provided in 7-33-2209;

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- (16) ambulance service as provided in 7-34-102;
- (17) public health purposes as provided in 50-2-111 and 50-2-114;
- (18) public assistance purposes as provided in 53-3-115;
- (19) indigent assistance purposes as provided in 53-3-116;
- (20) developmental disabilities facilities as provided in 53-20-208;
- (21) mental health services as provided in 53-21-1010;
- (22) airport and landing field purposes as provided in 67-10-402 and 67-11-302;
- (23) purebred livestock shows and sales as provided in 81-8-504; ~~and~~
- (24) economic development purposes as provided in 90-5-112; and
- (25) prevention programs, including programs that reduce substance abuse.""

Renumber: subsequent section

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Essmann, Gallus, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.
Total 26

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, Moss, Pease, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams.
Total 22

Absent or not voting: None.
Total 0

Excused: Esp, Perry.
Total 2

HB 73 - Senator Moss moved **HB 73**, as amended, be concurred in. Motion carried unanimously.

HB 431 - Senator Tester reassumed the chair.

HB 431 - Senator Wheat moved **HB 431** be concurred in. Motion carried with Senators Lind, Mangan, and McGee voting nay.

SB 38 - Senator Ellingson moved consideration of **SB 38** be placed at the top of the second reading board. Motion carried.

SB 61 - Senator Ellingson moved consideration of **SB 61** be placed at the top of the second reading board. Motion carried.

SB 325 - Senator Ellingson moved consideration of **SB 325** be placed at the top of the second reading board. Motion carried.

SB 369 - Senator Ellingson moved consideration of **SB 369** be placed at the top of the second reading board. Motion carried.

SB 38 - House Amendments - Senator Schmidt moved House amendments to **SB 38** be concurred in. Motion carried

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unanimously.

SB 61 - Governor's Amendments - Senator Cocchiarella moved Governor's amendments to **SB 61** be concurred in. Motion carried unanimously.

SB 325 - House Amendments - Senator Gebhardt moved House amendments to **SB 325** be concurred in. Motion carried unanimously.

SB 369 - House Amendments - Senator Cocchiarella moved House amendments to **SB 369** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Wheat 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:

HB 153 concurred in as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 172 concurred in as follows:

Yeas: Bales, Barkus, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Ryan, Schmidt, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 31

Nays: Balyeat, Black, Brueggeman, Cobb, Curtiss, Esp, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, McGee, O'Neil, Roush, Shockley, Smith, Steinbeisser, Story, Mr. President.
Total 19

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 199 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, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 316 concurred in as follows:

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

Total 45

Nays: Balyeat, Gebhardt, Keenan, Stapleton, Story.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 483 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, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Keenan, McGee, Steinbeisser.

Total 3

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 492 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, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 514 concurred in as follows:

Yeas: Balyeat, Black, Cocchiarella, Cooney, Cromley, 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, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Barkus, Brueggeman, Cobb, Curtiss, Esp, Keenan, McGee, Steinbeisser, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 517 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Perry, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 37

Nays: Bales, Curtiss, Esp, Gebhardt, Gillan, Keenan, Lewis, McGee, Pease, Roush, Shockley, Stapleton, Tropila.

Total 13

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 606 concurred in as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Bales, Balyeat, Curtiss, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Shockley, Steinbeisser.
Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 15 concurred in as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 41

Nays: Balyeat, Barkus, Esp, Gebhardt, Keenan, Laible, McGee, Story, Tash.
Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 39 passed 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, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp, Keenan.

Total 2

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Schmidt thanked the pages for their service.

Senator Ryan was declared the winner of the Ugly Tie Contest for the week.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Monday, April 4, 2005. Motion carried.

Senate adjourned at 3:59 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate