

**SENATE JOURNAL
60TH LEGISLATURE
SIXTEENTH LEGISLATIVE DAY**

Helena, Montana
January 24, 2007

Senate Chambers
State Capitol

Senate convened at 1 p.m. President Cooney presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Pease, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 44

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

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):

1/24/2007

SB 42, do pass. Report adopted.

SB 53, introduced bill, be amended as follows:

1. Page 1, line 27.

Strike: "serves"

Insert: "benefits"

2. Page 1, line 28.

Following: "residents"

Insert: "and that benefit outweighs the potential increased cost to the public and limitation on competition"

And, as amended, do pass. Report adopted.

SB 54, do pass. Report adopted.

SB 157, introduced bill, be amended as follows:

1. Title, line 7.

Following: "33-1-201,"

Strike: "33-1-603,"

Insert: "33-1-311,"

Following: "33-4-312,"

Strike: "33-4-505,"

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2. Title, line 8.

Following: "33-20-1315,"

Insert: "33-22-121, 33-22-122,"

3. Page 2.

Following: line 17

Insert: "**Section 2.** Section 33-1-311, MCA, is amended to read:

"33-1-311. General powers and duties. (1) The commissioner shall enforce the applicable provisions of the laws of this state and shall execute the duties imposed on the commissioner by the laws of this state.

(2) The commissioner has the powers and authority expressly conferred upon the commissioner by or reasonably implied from the provisions of the laws of this state.

(3) The commissioner shall administer the department to ensure that the interests of insurance consumers are protected.

(4) The commissioner may conduct examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as the commissioner considers proper, to determine whether any person has violated any provision of the laws of this state or to secure information useful in the lawful administration of any provision. The cost of additional examinations and investigations must be borne by the state.

(5) The commissioner shall maintain as confidential any information or document received from:

(a) the national association of insurance commissioners; or

(b) an insurance department from another state ~~or~~, a federal agency, or a foreign government that treats the same information or document as confidential. The commissioner may provide information or documents, including information or documents that are confidential, to the national association of insurance commissioners, a state or federal law enforcement agency, a federal agency, a foreign government, or an insurance department in another state, if the recipient agrees to maintain the confidentiality of the information or documents.

(6) The department is a criminal justice agency as defined in 44-5-103."

Renumber: subsequent sections

4. Page 2, line 19 through page 3, line 1.

Strike: section 2 in its entirety

Renumber: subsequent sections

5. Page 3, line 14 through page 4, line 10.

Strike: section 4 in its entirety

Renumber: subsequent sections

6. Page 7, line 10.

Following: "disposition"

Insert: "resulting in disciplinary action"

Following: "against"

Insert: "or a conviction of"

7. Page 7, line 15.

Following: "(b)"

Insert: "(i)"

Following: line 16

Insert: "(ii) The term does not include an action that is dismissed or that results in an acquittal, for which no report is necessary."

8. Page 13.

Following: line 5

Insert: "Section 13. Section 33-22-121, MCA, is amended to read:

"33-22-121. Notice required for cancellation or refusal to renew. (1) An insurer may not cancel or refuse to renew a disability insurance policy or certificate until the insurer has mailed or delivered to the named insured and to the policyowner; or certificate holder, as appropriate if they are not the same as the named insured, at the last-known ~~post office~~ address shown in the records of the company, one written notice in addition to any billing statement, stating the date the cancellation ~~or refusal to renew~~ will become effective, which may not be ~~less~~ earlier than:

~~(a) 30 days after the date of mailing or delivery of the notice of cancellation for nonpayment of premiums or a material misrepresentation contained in the application~~ the beginning of the period for which premiums have not been paid in full if the notice of cancellation for nonpayment of premiums is mailed or delivered within 15 days after the due date of the missed premiums for that period;

~~(b) the date of mailing or delivery of notice of cancellation for nonpayment of premiums if notice of cancellation for nonpayment of premiums is not mailed or delivered within 15 days after the premium due date for the applicable policy period;~~ or

~~(b)(c) 90 days after the date of mailing or delivery of the notice of cancellation or refusal to renew for any reason other than nonpayment of premiums or a material misrepresentation contained in the application.~~

(2) An insurer shall give notice of cancellation at least 30 days in advance of cancellation for nonpayment of premiums or 90 days in advance of cancellation or refusal to renew for any reason other than nonpayment of premiums or a material misrepresentation contained in the application.

(3) An insurer may not cancel a disability insurance policy or a certificate based upon nonpayment of premiums if the premiums are paid in full within the 30-day notice period.

~~(2)(4)~~ The notice requirements in ~~subsection~~ subsections (1) and (2) run concurrently with any grace period required by 33-22-206."

Insert: "Section 14. Section 33-22-122, MCA, is amended to read:

"33-22-122. Contents of notice -- proof -- limitation on recovery -- exemptions. (1) (a) The notice of cancellation must state:

(i) the amount of the premium, installment, or interest due on the policy or certificate;

(ii) the place where it must be paid; and

(iii) the name and address of the person or company to which the premium is payable.

(b) The notice must also state:

(i) that, unless the premium or other sums are paid to the company or its insurance producer, the policy or certificate will lapse or be forfeited will be canceled; and

(ii) the date, determined in accordance with 33-22-121, on which cancellation will become effective.

(2) "Policyowner" or "certificate holder", as used in this section, means the owner of the policy or certificate or any other person designated as the person to receive premium notices, as shown by the records of the insurance company.

(3) ~~The affidavit of~~ If any responsible officer, clerk, or insurance producer of the insurance company authorized to mail the notice states in an affidavit that it is the standard practice of the company to mail to policyowners or certificate holders the notice required by this section, the affidavit is prima facie evidence that the notice has been ~~duly~~ given.

(4) An action may not be maintained to recover under a lapsed or forfeited policy or certificate on the ground that the insurance company failed to comply with this section unless the action is instituted within 2 years from the due date upon which default was made in paying the premium, installment, or interest for which lapse or forfeiture is claimed.

(5) Section 33-22-121 does not apply to:

(a) group ~~or group-type policies~~ health plans; or

(b) industrial life or industrial disability policies."

Renumber: subsequent sections

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9. Page 25, line 11.

Strike: "17"

Insert: "18"

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Schmidt, Chairman):

1/24/2007

HB 1, be amended as follows:

1. Page 1, line 14.

Strike: "\$2,576,550"

Insert: "\$2,651,550"

2. Page 1, line 15.

Strike: "4,467,043"

Insert: "4,617,043"

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

FISH AND GAME (Tropila, Chairman):

1/24/2007

SB 115, do pass. Report adopted.

JUDICIARY (Laslovich, Chairman):

1/24/2007

SB 2, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "DRINKING AND"

Following: "DRIVING"

Insert: "UNDER THE INFLUENCE"

2. Page 1, line 19 through line 20.

Following: "that" on line 19

Strike: remainder of line 19 through "law" on line 20

Insert: "can be made to current laws related to driving under the influence"

And, as amended, do pass. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

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

SB 338, introduced by Murphy, referred to Local Government.

SB 339, introduced by Murphy, Hawks, Cobb, Tash, Lewis, Barkus, Stapleton, Wanzenried, Sinrud referred to Local Government.

SB 340, introduced by Gillan, referred to Judiciary.

SB 341, introduced by Lewis, referred to State Administration.

SB 342, introduced by Squires, referred to Judiciary.

SB 343, introduced by Bales, referred to Business, Labor, and Economic Affairs.

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

HB 121, introduced by McChesney, referred to Highways and Transportation.

HB 226, introduced by Cohenour, referred to Fish and Game.

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

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

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

SB 45 - Senator Weinberg moved **SB 45** do pass. Motion carried unanimously.

SB 95 - Senator Smith moved **SB 95** do pass. Motion carried unanimously.

SB 22 - Senator Esp moved **SB 22**, second reading copy, be amended as follows:

1. Page 1, line 15.

Strike: "175%"

Insert: "150%"

Following: "level"

Insert: ", at a higher level up to 175% of the federal poverty level determined by the budget director as provided in subsection (5),"

2. Page 1, line 29.

Following: line 28

Insert: "(5) In order to maximize the use of federal funding, the budget director shall determine when there is sufficient funding, including general fund money, for the program, that the funding is sustainable in the anticipated federal granting period, and that there are uninsured persons who could be served. The budget director shall certify the conditions to the legislative finance committee and may direct the department to increase the percentage of the poverty level established in subsection (1)(b) in order to increase the number of persons who may be eligible to participate."

Amendment adopted unanimously.

SB 22 - Senator Weinberg moved **SB 22**, as amended, do pass. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lind, Moss, Murphy, Ryan, Schmidt, Smith, Squires, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 33

Nays: Bales, Balyeat, Barkus, Black, Brown, Jackson, Lewis, McGee, O'Neil, Perry, Peterson, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 16

Absent or not voting: None.

Total 0

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Excused: Pease.
Total 1

SB 65 - Senator Cobb moved **SB 65** do pass. Motion carried unanimously.

SB 137 - Senator Laible moved **SB 137** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lind, Moss, Murphy, Ryan, Schmidt, Shockley, Smith, Squires, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 35

Nays: Barkus, Brown, Curtiss, Esp, Jackson, Lewis, McGee, O'Neil, Perry, Peterson, Stapleton, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

Senator O'Neil moved **SB 15** be amended as follows:

1. Title, line 5.

Following: "DATE"

Strike: "AND"

Insert: ", "

2. Title, line 6.

Following: "DATE"

Insert: ", AND A TERMINATION DATE"

3. Page 3, line 18.

Following: line 17

Insert: "NEW SECTION. **Section 6. Termination.** [This act] terminates October 1, 2011."

Amendment **not** adopted as follows:

Yeas: Balyeat, Brown, Cobb, Cocchiarella, Elliott, Esp, Gebhardt, Harrington, Jackson, Juneau, Lind, Moss, O'Neil, Shockley, Weinberg, Williams.
Total 16

Nays: Bales, Barkus, Black, Brueggeman, Curtiss, Essmann, Gallus, Gillan, Hansen, Hawks, Jent, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Mr. President.
Total 33

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Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

Senator O'Neil moved **SB 15** be amended as follows:

1. Page 2, line 4.
Following: "from"
Strike: "funeral"
Insert: "burial"

2. Page 2, line 11 through line 12.
Following: "within" on line 11
Strike: remainder of line 11 through the first "funeral" on line 12
Insert: "600 feet of a burial"

3. Page 2, line 25 through line 26.
Strike: subsection (b) in its entirety
Renumber: subsequent subsection

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Brown, Cocchiarella, Elliott, Gebhardt, Harrington, Laslovich, Lind, Moss, O'Neil, Wanzenried, Weinberg, Williams, Mr. President.
Total 15

Nays: Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gallus, Gillan, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Lewis, McGee, Murphy, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila.
Total 34

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 15 - Senator J. Tropila moved **SB 15** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hansen, Hawks, Jackson, Jent, Juneau, Laible, Larson, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, J.Tropila, M.Tropila, Weinberg, Mr. President.
Total 35

Nays: Balyeat, Brown, Cocchiarella, Elliott, Gallus, Harrington, Kaufmann, Kitzenberg, Lind, Moss, O'Neil, Story, Wanzenried, Williams.

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Total 14

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

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

THIRD READING OF BILLS

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

SB 60 passed as follows:

Yeas: Bales, Balyeat, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 47

Nays: Barkus, O'Neil.

Total 2

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 36 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

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SB 122 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Gallus, Gillan, Hansen, Harrington, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Lind, Moss, Murphy, Ryan, Schmidt, Smith, Squires, Steinbeisser, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Brown, Curtiss, Elliott, Esp, Essmann, Gebhardt, Hawks, Jackson, Jent, Laible, Lewis, McGee, O'Neil, Perry, Peterson, Shockley, Stapleton, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 164 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 133 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.

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Total 1

SB 47 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 71 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 152 passed as follows:

Yeas: Black, Brown, Brueggeman, Cocchiarella, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Pease, Ryan, Schmidt, Smith, Squires, Stapleton, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 34

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Esp, Essmann, McGee, Murphy, O'Neil, Perry, Peterson, Shockley, Steinbeisser, Story, Tash.

Total 16

Paired: Pease, Aye; Esp, No.

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Williams moved that the Senate stand in recess until the hour of 6:40 p.m. this Legislative day.
Motion carried.

Senate recessed at 4:01p.m.

Senate reconvened at 6:40 p.m. President Cooney presiding.

Roll Call:

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 41

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

Absent or not voting: None.
Total 0

Excused: Cobb, Gillan, Hansen, Jackson, Pease.
Total 5

MOTIONS

Majority Leader Williams moved that the Senate recess and proceed to the House of Representatives for the Governor's State of the State address. She further moved that upon adjournment of the joint session, the Senate will adjourn until 1:00 p.m., Thursday, January 25, 2007. Motion carried.

STATE OF THE STATE ADDRESS

GOVERNOR BRIAN SCHWEITZER
JANUARY 24, 2007, 7:00 PM

Thank you. Mr. President, Mr. Speaker, Fellow Montanans, it is an honor to address this assembly of the 60th Legislature for the State of Montana.

Yesterday Nancy and I celebrated our 25th anniversary. I've learned a lot of lessons over the years on becoming a better husband. For example, in anniversaries gone by I would look around the house to find things that maybe we could improve around the house. One year I

bought a vacuum cleaner. Big mistake. This year we celebrated her birthday in November, I looked around the house to see some things that Nancy didn't have and maybe she would like to have. And I noticed that she was missing something pretty important in her life. And so I bought her a Smith and Wesson .38 with a laser sight. When she opened the gift on her birthday she was very surprised, and I've learned a lesson: I won't buy her another pistol. So this year for our 25th wedding anniversary once again I had to look around the house and finally I decided I should buy something very uniquely Montanan and so I bought her a palladium ring, the palladium coming from Stillwater Mining and from my home country in the Judith Basin, a Yogo sapphire. Show them your ring.

My Mom and Dad are here, my daughter Katrina. Mom, Dad, thank you for believing, thank you for pushing, thank you for instilling that fight. And my good friend, John Bohlinger, my friend, my confidante. John, two and a half years ago we took a proposition to the people of Montana, we simply said are you ready to accept a Republican and a Democrat working together in the Executive Branch? Enough people agreed with us that they gave us the opportunity. During the course of the last two years I've been to all 56 counties and I'm here to report to you that the people of Montana want Democrats and Republicans to work together. Thank you.

Two years ago, the last time we gathered in this Chamber, we honored Bette Bohlinger who was fighting the courageous fight against leukemia in a hospital in Billings. We honor Bette. She lost that battle but she'll always be in our hearts as she is here today. We love you, Bette.

We lost others during the course of the last two years. Frank Morrison, Governor Tom Judge and Senator Pat Goodover, the Republican Senator from Great Falls who without his action we would still not be able to turn right on red. And during the last two years we've lost more than a dozen courageous Montana heroes in Iraq. Let's take a moment to remember them all.

Ten score and two years ago the first European American expedition came to Montana, and when Lewis and Clark entered Montana they began to describe this wondrous place, the wide rivers, the endless prairies, the beautiful mountains. They described the wildlife, the fisheries and they described the first Montanans that they encountered, the Crows, the Assiniboine, the Blackfeet and the Salish. They found that the first Montanans, these people of the Great Plains who had lived sustainably on this land for nearly 10,000 years had a notion of leadership. Their leaders, their elders had a notion about protecting the future generations. Every decision made by elders considers the consequences on the seventh generation.

As we consider the options that we have before us, let us not forget the future generations and the generations that will follow them. The first European settlers who came to this place we now call Montana, the miners, the loggers and the homesteaders like my four grandparents, they came to this place with really nothing more than the clothes on their back, high hopes and faith in God. And they considered the future generations. My grandparents and your grandparents who came to this place, they never believed that they individually would ever serve in a Chamber like this, they never believed that they would be the leaders of this state, the bankers, the leaders of Congress. They wanted the next generation to have those opportunities. They fought for the

next generation and the generation that followed. They believed in a sustainable Montana as well. Let us remember we will be held responsible by the generations that follow us but we will be accountable to those who preceded us.

It was Teddy Roosevelt who in my opinion was the greatest President in the history of this country and, yes, he was a Republican. Teddy Roosevelt said, "We must treat each man on his worth and the merits as a man. We must see that each is given a square deal." Teddy Roosevelt was correct a hundred years ago and it's Teddy Roosevelt's ideals that have built what we call the Montana Square Deal.

The last time we gathered together I proclaimed to you Montana is open for business. And, boy, are we open for business. During the last 24 months we've created more than 24,000 jobs, more than 1,000 jobs per month. Our unemployment is the lowest in history, 2.8 %. There are more people working in Montana today than any time in the history of Montana. And for the first time in the history of Montana the wages in Montana are increasing at a faster rate than the average of the rest of the country. In fact, only two other states have wages increasing faster than Montana. Montana is open for business and on the move.

I've been on the move too. I've been to all 56 counties, been to the court houses and I've been outside of Montana. I've made some business trips outside of Montana. I went to Alberta a couple of times, met with some folks up there, and we attracted a company called Avmax to come to Great Falls. This company is in the business of repairing aircraft. They brought 98 jobs to Great Falls. We met with a transmission company who recently announced that they want to build a \$2 billion transmission line in Montana, called the Northern Lights Project. And another transmission company has announced that they would like to build a \$150 million transmission line from Lethbridge to Great Falls totally dedicated to clean green wind power.

I made a couple trips out to Seattle, met with some folks that used to be living in Montana, the Robbins family which were a great family from Butte, had started a wonderful business in Seattle, a foundry where they are employing hundreds of people. We talked to them about the opportunities of coming back to Butte and we provided to them the tools that they needed to be successful and now the Robbins family is back in Butte and employing 40 people. Welcome home.

I made a couple of trips to Denver and with the help of Senator Max Baucus we were able to land Direct TV and 700 new jobs in Missoula. We've been paying attention to Montana, we know collectively that Montana is on the move, we know that we're in a good economic place right now. But I'm here to tell you that Wall Street has also been paying attention. In fact, last week Budget Director Ewer and myself were on a conference call with Moody Investor Services and we told them about the position that we were in Montana and we described to them our budget and the amount of savings that we have included in this budget. And two days ago I read in a financial newspaper that Moody's has upgraded Montana's bond rating for the first time in 26 years.

The most reported news in Montana during the last three months is that Montana has a \$1 billion surplus. All of you legislators know where the \$1 billion are, but for the folks back home you need to understand that we don't actually have the billion dollars yet. This is a prediction,

this is a projection that if the wheat crop comes in for the next couple of years and the price of cattle remains high, if the rain comes on time, if the price of platinum and palladium and copper and gold stay high, if the stock market continues to grow, if the oil and gas prices stay high and Montana continues to develop our natural resources, at the end of two and a half years we may indeed have \$988 million more than we had in the last biennium.

So a Montana family, a Montana working family if their boss came to them and they said, you know, I think we're going to grow this business and if we grow it at the rate that I think we will, at the end of a two-year period I'll give you a \$1,000 bonus. Now how many families in Montana would rush home and say let's blow it, let's spend it? Some would. Some would put a down payment on a snowmobile, some would buy a pickup, others would buy a pistol for their wife. But still other families would say, no, we better save some of that money. Other families would say, how about if we put some in health care, we'll help our children with education, we'll put some money away for a college fund and we'll make our home a little more secure. Still others would say, we have some maintenance that we must do on our home, we have a leak in the roof above the garage and the city's been after us on that concrete out in front of our house for years, we'll do those long-term maintenance projects. That's what most families would do in Montana, and we have proposed a budget that's exactly like those families and small businesses would do across Montana.

For every dollar spent, a dollar saved. We're proposing to spend roughly \$400 million in ongoing projects. Roughly \$400 million in tax cuts and savings accounts and roughly \$200 million in long term construction projects. Let's talk about what those plans are. The \$400 million that we're spending ongoing, we're spending it for things that the state of Montana and most states spend their money on: education, medication and incarceration. Let's talk about education first. We're putting more money in K12, we're putting more money in higher education, in fact we've proposed to the Board of Regents that if we put \$50 million new money in higher education, they have agreed – we have a gentleman's handshake – that they will not increase tuition for the next two years, and that would be the first two years in 20 years that tuition is not increased. We'll put more money in K12 so we can attract teachers and keep them. In fact, we have proposed that when a young teacher graduates from college in Montana and is thousands of dollars in debt, if they will agree to teach in some of our rural schools across Montana, we will forgive a portion of their debt every year that they teach in Montana for up to four years and so that young teacher who has a \$20,000 debt and agrees to teach with Carol Lambert in Broadus, we will forgive \$3,000 of that debt for four consecutive years and Broadus will have a bright new young teacher.

We've asked you to put more money in the Best and Brightest Scholarship Program so that middle class families like the one that I came from whose parents didn't even graduate from high school but had a dream of sending the next generation to college, let's help these kids with scholarships. We've called it the Best and Brightest Scholarship Program and we believe that we can put more money out there so more kids will graduate from Montana colleges and universities.

And Linda McCulloch has been after me for years for full-time kindergarten. For the last

seven years, Linda's been telling me the benefits of full-time kindergarten. I tell you when I ran for governor I didn't say to the people of Montana I have an idea, full-time kindergartens. Actually I said to the people of Montana we need to train Montana's work force for the jobs that we're creating tomorrow in Montana. I knew that we needed to invest in higher education, in particular our two-year programs. I knew that we needed to invest in K12, but Linda continued to say, Brian, the best investment is full-time kindergarten.

Well, I've learned a little bit over the course of the last couple of years, Linda. I was at a Western Governors Association conference and we had three specialists who are renowned around the world. They are all published authors, people who had studied the education systems in Finland, Singapore and Germany and compared them to the states in the United States. They told us what we were doing right, they told us what we were doing wrong. And when they completed their discussion, one of them being an expert in K12, one of them was an expert in two-year colleges and one of them was an expert in universities, I had a question. I said to them, I'm going to make each of you governor of Montana for a day and I'm only going to give you one additional dollar for education. Where would you spend it? You're the experts.

So first the K12 expert considered it for a moment and she said if I only had one additional dollar I would put it in early education. Well, that's interesting. How about you, I said to the expert in two-year colleges, where would you put one extra dollar if you were governor for a day? He considered it and said if I only had one extra dollar I'd put it in full-time kindergarten. It surprised me. So I turned to the university specialist and I said where would you put the extra buck? And that person too said I would put it in early education.

And then later at a conference that we held here in Montana, sponsored by the National Governor's Association and Montana businesses – it was a conference on early education – a fellow by the name of Art Rolnick, an economist with the Federal Reserve in Minneapolis, spoke to us and he had studied education for some period of time. Mr. Rolnick said to us that there was a study conducted about 25 years ago, talked about a lot of studies but he focused on a special study. This one looked at families. One sibling was given the opportunity of full-time kindergarten, another did not. And then they followed the progress of these children and they found that the one who had full-time kindergarten was, imagine this, more successful in the first grade but also more successful in eighth grade, more likely to graduate from high school, less likely to be involved in correction systems, more likely to graduate from university, and at the end of 25 years had a higher salary than the ones who didn't have full-time kindergarten. Art Rolnick said to us that he's applied some economic measures and he says the investment that you make today in early education pays up to a 16 % dividend until that child goes to the work force. That's the best education that we can provide in Montana. Thank you, Linda McCulloch, for being a great leader.

Montana's population put in corrections is increasing at a faster rate than almost any other state. We have one of the highest percentages of our population involved in the corrections system. 93% of the people in our correction system today are there in part because of drug and alcohol addiction and more than 50% of a mental illness. And yet our correction system continues to warehouse people. We have sentencing in the hinterland, we send them to Deer

Lodge or Billings. They spend their time, they go home, they commit another crime and they end up back in the correction system and we have not treated the underlying cause, the drug or alcohol addiction, the mental illness. So we are challenging our corrections and health and human services to work together so that we are actually treating the root cause of these offenders because if we can treat the root cause, the mental illness, the drug or alcohol addiction, we will have more people in our communities more productive and fewer of these people in our correction system that has become a bloated part of our budget.

Thank you, John Morrison, for helping us when we started the Insure Montana Program. We have a proposal during this legislative session to put enough money so that we can add a thousand more employees in small businesses to the Insure Montana Program and more families in Montana will be insured. We need to increase our home based services and our community based services so that we can provide these Medicaid dollars closer to home so that people that we're treating we can treat with more dignity in their own community, in their own home and it's more efficient.

I thank Senator Dan Weinberg for proposing Senate Bill 22 to increase the child health insurance program of a compensation level from 150% of the federal poverty rate to 175%. That will increase by 3,000 children that we can insure in Montana. Thank you, Senator Weinberg.

There it is. You've heard pretty much how we're proposing to spend the \$400 million. Now let's talk about how we're going to save and how we'll have tax cuts of 400 million. Let start with tax cuts. We're proposing to send a \$400 check to 250,000 homeowners in Montana. Why pick homeowners first? Because as you know during the last 15 years as other classes of property taxes have been reduced, it's forced local school districts to raise their mill levies and so homeowners have had their tax bills go up as much as 50% to 75%. It is time for Montana working families to get a break and that's what that is about. That's politics.

So there is somebody out there in Montana right now saying what about me, I'm a small business person, how come I'm not getting a tax break? Well, hold on to your hat, cowboy, because you are. We're proposing other tax breaks. We're proposing to raise the level of the business equipment tax exemption from \$20,000 to \$150,000. Think about this, if you're a farmer or a rancher like me or a plumbing contractor, electrical contractor, concrete contractor and during the last 10 years you bought let's say six, seven hundred thousand dollars worth of business equipment, you've depreciated that equipment and now the value of that equipment is \$149,999. We're proposing to eliminate your business equipment tax and save you \$4,500. Pretty good for the small businessman in Montana.

But we're not done. As you know, we've proposed to suspend the water tax, the same business person may well have a spring and two wells paying 20 bucks on each one, 20 times three is 60 bucks. And they also own a home, so let's add it up. This small businessman in Montana gets \$4,500 plus \$400 for the home plus 60 bucks for water, the whole tax cut comes to 4960 bucks. That's real tax relief for real small businessmen in Montana.

So let's get talking about the savings, the best part of our budget. We are proposing an ending fund balance of \$100 million, effectively moving \$100 million from Montana's checking account to Montana's savings account. And thanks to the efforts of Senator Rick Laible we're

proposing the Big Sky Savings Account and for the first time in Montana's history not only will we have a savings account but we've got \$80 million bucks to put in it. Thank you, Senator Laible.

There is more. So we told you that we're going to move \$100 million from our checking account to our savings account. We told you that we're going to have a money market account and it's the Big Sky Savings Account. Well, there is another one you can call the 30-year bond. As you recall in 1991, in 2001 we changed the compensation level that state employees receive on their pension plan. And when I arrived on this job, I was told by the economist we had about a \$1 billion plus fiscal imbalance in our pension plan. So in the last legislative session, thank you very much, you put \$125 million toward paying down this problem. This time we're proposing another \$100 million and we're proposing a big change for any new state employee. This doesn't affect a single employee who is currently working for the state of Montana. Only new employees will be paying in at a higher rate so that they, when they retire, won't have a fiscal imbalance in the pension plan. This alone adds a \$400 million stability to our pension plan, we've created a balance of \$625 million towards a billion dollar deficit in just two years. I guess in the next 20 years we'll do more.

And as you legislators know, when you go door to door and you're running for office and running for reelection, whether you're in Butte or Billings or Bozeman or even Great Falls, as you're visiting with the folks they say, you know, we really ought to have an addition at the College of Technology, we really ought to have a bridge across this river, we really ought to have a new roof on the civic center that we have here in our town. So dutifully, you're the elected person, you come down to this body and you say we really need to have this project in our town. But then you find out we really don't have the money to pay for it, so we've had long-term building funds. It's called bonding. Now bonding simply means that we borrow money from somebody in the future to pay for our priorities today, right? But in our budgets we have no bonding, we borrow no money, we pay as we go. This is the most conservative and fiscally responsible budget in the history of the state.

The things we're going to pay for with cash, we're going to create a super computer system that will be one of the largest in America at Montana Tech. We're going to invest \$26 million in the chemistry building in Gaines Hall in Montana State University. We're going to put money in to the crime lab and we have deferred maintenance all across this state, we have over \$130 million that we will pay cash for that previous legislatures have bonded. That's a fiscally responsible thing to do.

We need a little help from you. Dan Bucks who is my Revenue Director has been on a mission because I told him to go on one. I said to him, Dan, I want you to close loopholes. I want you to find ways that Montana can raise money without raising taxes. And he's been looking around at Montana's tax code and he's found some loopholes that people who are not residents of Montana are using. They are making money in Montana but not paying taxes in Montana. They are competing with Montana businesses by not paying taxes when Montana businesses do pay taxes. We have given them a competitive advantage over Montana businesses, and Dan Bucks has proposed some rule changes to this legislature that will raise \$60

million from non-Montanans who are making money in Montana. I want you to help Dan Bucks collect that \$60 million.

Last night many of us watched the State of the Union address. We heard President Bush tell us about our circumstance and our addiction to foreign oil. He had some solutions that had to do with creating more energy and conservation measures here in the United States. But it was President Jimmy Carter 28 years ago who said, "Energy will be the immediate test of our ability to unite this nation and the standard of which we rally. On the battlefield of energy we can win for our nation and seize control again our common destiny." He said those words when we only imported 42% of our oil, and today we import 65% of our oil from people all over the world. During the last two years in Montana we have completed and announced an amazing array of energy programs. The Centennial Electric plant in Butte, the coal-fired electric plants, the Judith Gap Wind Farm, the Great Falls Wind Farm and Conoco Phillips has announced they're going to spend \$400 million to update their refinery in Billings. The Northern Light Transmission Line, the Alberta Tie transmission line and Peabody Coal, the largest coal company in America, has announced that they would like to build a coal liquefaction plant for \$1 billion. And Arch Coal Company, the second largest coal company in America, has announced that they will be part of a consortium that builds a \$1 billion coal gasification and liquefaction plant in Senator Gebhardt and Representative Olson's home town of Roundup. Every one of these projects are larger than the collective energy development in the previous 20 years in Montana. Montana, we're on the move.

Montana can and we will lead in clean and green energy for this entire country with our wind power, our biofuels, our solar potential. And in Montana we're developing oil, we're one of only two states that increased our oil production during the last year and we'll increase it again next year. We're increasing our gas production. It was California who changed their law, who said that they will no longer buy electricity, they will no longer buy electricity from anyone who increases the amount of carbon dioxide in the atmosphere. They are the 900 pound gorilla in the western United States for purchasing electricity. If we're going to sell in to the California market, we will have to sell using wind power and coal gasification with sequestration. California will not accept and Montana should not put carbon dioxide in our atmosphere.

Last night President Bush has joined in the climate change debate. Several months ago Richard Opper came to me and said, Brian, we ought to have a climate change advisory council. And there are two members of this body, Representative Sue Dickenson from Great Falls is a member of that advisory council and Senator Gary Perry is also part of that advisory council. Thank you for being ahead of your time.

We are proposing historic and dramatic property tax decreases for companies that build clean and green in Montana. For transmission lines, for pipelines, for pipelines carrying carbon dioxides, for coal gasification plants when they sequester the carbon dioxide, for manufacturing the biofuels and wind power, for fuel cell development using Montana Stillwater palladium and last but not least electric car manufacturing. Montana is on the move. Republican Governor Joe Dixon said our greatest national heritage is nature itself. And when combined with our national parks it becomes of unlimited value. He was joined by Mr. President's grandfather,

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Governor Frank Cooney, dedicating the building of the Going to the Sun Highway when he said, "There is no Highway which we'll get to see as the lover of grandeur of the Creator's handiwork, more thrills, more genuine satisfaction deep in his being than a trip over this road." Democrats, Republicans have agreed for a hundred years that the greatest treasure of the Treasure State is our wild places, our rivers, our mountains, our wildlife, our parks and our ability to access our public lands. That's something Democrats and Republicans agree on.

And working families from one corner of this state to the other access our public lands and in many cases our parks, and our places for accessing our rivers are becoming full. And at the same time the price of real estate is increasing at a very rapid rate in Montana. That's why we are proposing a \$15 million purchase of more access sites on our rivers and streams, more state parks, and this will be a legacy that you can send to the seventh generation of youth. Montana is unique in the Rocky Mountains in that the citizens of Montana have a constitutional right to access our streams. Senator Lane Larson, thank you for protecting our right to access our streams. And, Legislature, work together, maintain our access for future generations.

On my first full day on this job I rode a helicopter to Troy to my first military funeral. I've been to many more since, and yesterday I was at another one. I was with the families when they sent their loved ones to Iraq. I was in Ft. Lewis and Belgrade and Helena when they came home from Iraq. I was with the families when we sent our heroes to New Orleans and I visited our heroes in New Orleans. I visited our heroes in Iraq, Kuwait and Afghanistan. And I know this, that when our men and women serve overseas, there is someone who has a greater sacrifice at the end of the day, their families, their families back home. So that's why I thank Julie French who has proposed House Bill 179 that will make a one-time payment to these families when we call their loved one to active service. Thank you for remembering the families, Julie.

As you know, we will be together here for about 90 days. We've already started to move education and tax cut bills, over to the House, the House is doing some other work. Please do not delay the process, move the process along. The 90 days will come and go very quickly because the people back home will judge us by our contributions, not for the late nights, not for the early mornings, not for the speeches delivered. Do not allow the partisan among us to destroy the good intentions of the majority of Montana.

And as Matthew 12:33 reminds us, "for a tree will be known by its fruits." Members of the 60th Legislature, let our efforts bear fruit for this generation and the generations to follow.

God bless your families, God bless Montana and God bless America.

JOHN MUDD
Secretary of the Senate

MIKE COONEY
President of the Senate