

**SENATE JOURNAL
60TH LEGISLATURE
THIRTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
February 16, 2007

Senate Chambers
State Capitol

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

Roll Call. Senators Larson, Cobb excused. Quorum present.

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Laslovich, Lewis, Lind, McGee, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J. Tropila, M. Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 42

Nays: Balyeat, Esp, Gebhardt, Jackson, O'Neil, Shockley.
Total 6

Absent or not voting: None.
Total 0

Excused: Cobb, Larson.
Total 2

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 321, introduced bill, be amended as follows:

2/16/2007

1. Page 1, line 9.

Strike: "61"

Insert: "56"

2. Page 1, line 12.

Strike: "61"

Insert: "56"

3. Page 1, line 26.

Strike: "61"

Insert: "56"

4. Page 2, line 14.

Strike: "commerce"

Insert: "administration"

Strike: "2-15-1801"

Insert: "2-15-1001"

5. Page 2, line 20.

Strike: "61"

Insert: "56"

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6. Page 2, line 21.

Strike: "61"

Insert: "56"

7. Page 3, line 2.

Strike: "61"

Insert: "56"

8. Page 3, line 17.

Strike: "61"

Insert: "56"

9. Page 3, line 30.

Strike: "61"

Insert: "56"

10. Page 4, line 2.

Strike: "61"

Insert: "56"

11. Page 4, line 3.

Strike: "61"

Insert: "56"

12. Page 4, line 5.

Strike: "61"

Insert: "56"

13. Page 4, line 7.

Strike: "61"

Insert: "56"

14. Page 4, line 8.

Strike: "61"

Insert: "56"

15. Page 5, line 15.

Strike: "61"

Insert: "56"

16. Page 5, line 17.

Strike: "a crime"

Insert: "any felony or a misdemeanor"

17. Page 5, line 30.

Strike: "53"

Insert: "50"

18. Page 6, line 16.

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Strike: "61"

Insert: "56"

19. Page 7, line 19.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

20. Page 7, line 28.

Strike: "61"

Insert: "56"

21. Page 7, line 29.

Strike: "61"

Insert: "56"

22. Page 10, line 13.

Strike: "61"

Insert: "56"

23. Page 10, line 15.

Strike: "61"

Insert: "56"

24. Page 12, line 14.

Strike: "61"

Insert: "56"

25. Page 13, line 14.

Strike: "61"

Insert: "56"

26. Page 13, line 20 through page 14, line 1.

Strike: section 30 in its entirety

Insert: "NEW SECTION. **Section 30. Investigations -- powers -- failure to comply or testify.** (1) The department may investigate any matter, upon complaint or otherwise, if it appears that a person has engaged or offered to engage in any act or practice that is in violation of any provision of [sections 1 through 56] or any rule adopted or order issued by the department pursuant to [sections 1 through 56].

(2) The department may issue subpoenas to compel the attendance of any witnesses and the production of books, accounts, records, documents, and other evidence in any matter over which the department has jurisdiction, control, or supervision under [sections 1 through 56]. The department may administer an oath or affirmation to any person whose testimony is required.

(3) If a person refuses to obey a subpoena or to give testimony or produce evidence as required by the subpoena, a judge of the district court of Lewis and Clark County or the county in which the licensee's premises are located may, upon application and proof of the refusal, issue a subpoena or subpoena duces tecum for the witness to appear before the department to give testimony and produce evidence as may be required. The clerk of court shall issue the subpoena requiring the person to whom it is directed to appear at the time and place designated in the subpoena.

(4) If a person served with a court-ordered subpoena refuses to obey the subpoena or to give testimony or produce evidence as required by the subpoena, the department may proceed under the contempt provisions of Title 3, chapter 1, part 5.

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(5) Failure to comply with the requirements of a court-ordered subpoena is punishable under 45-7-309."

Renumber: subsequent sections

27. Page 14, line 3.

Following: "Fees"

Insert: "-- special revenue account"

28. Page 14, line 5.

Strike: "\$2,500"

Insert: "\$5,000"

29. Page 14, line 11.

Following: "establish"

Insert: "by rule"

30. Page 14.

Following: line 17

Insert: "(4) Fees collected under this section must be deposited in the special revenue account established in subsection (5).

(5) There is a special revenue account to the credit of the department for use in administering [sections 1 through 56]."

31. Page 15, line 9.

Strike: "61"

Insert: "56"

32. Page 15, line 13.

Strike: "61"

Insert: "56"

33. Page 15, line 20.

Strike: "61"

Insert: "56"

34. Page 15, line 30.

Strike: "61"

Insert: "56"

35. Page 17, line 28.

Strike: "61"

Insert: "56"

36. Page 18, line 2 through line 7.

Strike: section 41 in its entirety

Insert: "NEW SECTION. **Section 41. Injunction -- appointment of receiver.** (1) If in the opinion of the department a person is using, has used, or is about to use any method, act, or practice that violates any provision of [sections 1 through 56] or any rule adopted or order issued by the department pursuant to [sections 1 through 56], the department, upon determining that proceeding would be in the public interest, may bring an action in the name of the state to restrain by temporary or permanent injunction or temporary restraining order the use of the unlawful method, act, or practice.

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(2) The notice for an action pursuant to subsection (1) must state generally the relief sought and must be served at least 20 days before the hearing of the action in which the relief sought is a temporary or permanent injunction. The notice for a temporary restraining order is governed by 27-19-315.

(3) An action under this section may be brought in the district court of Lewis and Clark County.

(4) (a) A district court may issue a temporary or a permanent injunction or a temporary restraining order to restrain and prevent violations of [sections 1 through 56], and an injunction must be issued without bond to the department.

(b) If the department is successful in obtaining an injunction or a restraining order under this section, the department is entitled to reasonable attorney fees and costs.

(5) (a) In addition to all other means provided by law for the enforcement of a restraining order or an injunction, the district court of Lewis and Clark County may impound and appoint a receiver for the property and business of the defendant, including books, accounts, records, and documents pertaining to the property or business, or as much of the property or business as the court considers reasonably necessary to prevent violations of [sections 1 through 56].

(b) The receiver, when appointed and qualified, has the powers and duties conferred by the court that may include custody, collection, administration, winding up of business, and liquidation of the property and business."

Renumber: subsequent sections

37. Page 18, line 9 through line 12.

Strike: section 42 in its entirety

Insert: "NEW SECTION. Section 42. Cease and desist orders. (1) If it appears to the department that a person is engaged in or is about to engage in any act or practice constituting a violation of any provision of [sections 1 through 56] or any rule adopted or order issued by the department pursuant to [sections 1 through 56], the department may issue an order directing the person to cease and desist from continuing the act or practice after reasonable notice and opportunity for hearing. The department may issue a temporary order pending the hearing that:

(a) remains in effect until 10 days after the hearings examiner issues proposed findings of fact and conclusions of law; or

(b) becomes final if the person to whom notice is addressed does not request a hearing within 10 days after receipt of the notice.

(2) A violation of an order issued pursuant to this section is subject to the penalty provisions of [sections 1 through 56]."

Renumber: subsequent sections

38. Page 18, line 14 through line 22.

Strike: section 43 in its entirety

Insert: "NEW SECTION. Section 43. Penalties -- license suspension and revocation -- restitution. (1) If, after providing a 10-day written notice that includes a statement of alleged violations and a notice of an opportunity for a hearing as provided in Title 2, chapter 4, the department finds that any licensee or unlicensed person or any officer, director, partner, trustee, employee, or representative of the licensee or unlicensed person has violated any of the provisions of [sections 1 through 56], has failed to comply with the rules or orders adopted by the department, has failed or refused to make required reports to the department, has furnished false information to the department, or has operated without a license, the department may:

(a) impose a civil penalty not to exceed \$1,000 for each violation or, in the case of a continuing violation, \$1,000 a day;

(b) issue an order revoking or suspending the right of the licensee or person, directly or through an officer, director, partner, trustee, employee, or representative, to do business in this state as a licensee or to engage in the business of a BIDCO; or

(c) issue an order requiring restitution to borrowers and reimbursement of the department's cost in bringing the administrative action.

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(2) All notices, hearing schedules, and orders must be mailed to the licensee or person by certified mail to the address for which the license was issued or, in the case of an unlicensed business, to the last-known address of record.

(3) A revocation, suspension, or surrender of a license does not relieve the licensee from civil or criminal liability for acts committed prior to the revocation, suspension, or surrender of the license.

(4) (a) The department may reinstate any suspended or revoked license if there is not a fact or condition existing at the time of reinstatement that would have justified the department refusing to originally issue the license.

(b) If a license has been revoked for cause, an application may not be made for issuance of a new license or the reinstatement of a revoked license for a period of 6 months from the date of revocation.

(5) All civil penalties collected under this section must be deposited in the general fund."

Renumber: subsequent sections

39. Page 18, line 24 through line 30.

Strike: section 44 in its entirety

Renumber: subsequent sections

40. Page 19, line 5.

Following: "and"

Insert: "an opportunity for"

41. Page 19, line 6.

Strike: "61"

Insert: "56"

42. Page 20, line 18.

Strike: "61"

Insert: "56"

43. Page 20, line 19.

Strike: "45"

Insert: "44"

44. Page 20, line 22.

Following: "section"

Strike: "42" through "46"

Insert: "44(3) or 45"

45. Page 20, line 24 through line 25.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

46. Page 20, line 30.

Strike: "61"

Insert: "56"

47. Page 21, line 1 through line 2.

Following: "section"

Strike: "42" on line 1 through "46" on line 2

Insert: "44(3) or 45"

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48. Page 21, line 23.

Following: "and"

Insert: "an opportunity for"

49. Page 21, line 25.

Strike: "61"

Insert: "56"

50. Page 22, line 20.

Strike: "61"

Insert: "56"

51. Page 22, line 23.

Strike: "50"

Insert: "49"

52. Page 22, line 26 through line 27.

Following: "conservator" on line 26

Strike: "one of" on line 26 through "another" on line 27

Insert: "a"

53. Page 22, line 28.

Strike: "division" through "institutions"

Insert: "department"

54. Page 22, line 29 through line 30.

Strike: "division"

Insert: "department"

Strike: "Upon" on line 29 through the first "the" on line 30

Insert: "The"

Strike: "division" on line 30

Insert: "department"

55. Page 23, line 1.

Strike: "division" through "institutions"

Insert: "department"

56. Page 23, line 10 through page 24, line 9.

Strike: sections 52 through 54 in their entirety

Renumber: subsequent sections

57. Page 24, line 12.

Strike: "46" through "53"

Insert: "45, 49, or 50"

58. Page 24, line 16.

Strike: "61"

Insert: "56"

59. Page 24, line 17.

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Strike: "61"
Insert: "56"

60. Page 24, line 30.
Strike: "61"
Insert: "56"

61. Page 25, line 2.
Strike: the first "61"
Insert: "56"
Strike: the second "61"
Insert: "56"

62. Page 25, line 4.
Strike: section 59 in its entirety
Renumber: subsequent sections

63. Page 25, line 6.
Strike: "61"
Insert: "56"

64. Page 25, line 11.
Strike: "61"
Insert: "56"

65. Page 25, line 19.
Strike: "61"
Insert: "56"

66. Page 25, line 21.
Strike: "61"
Insert: "56"

67. Page 25, line 22.
Strike: the first "35"
Insert: "32"
Strike: the second "35"
Insert: "32"
Strike: "61"
Insert: "56"

And, as amended, do pass. Report adopted.

SB 369, do pass. Report adopted.

SB 412, do pass. Report adopted.

SB 444, do pass. Report adopted.

SB 453, introduced bill, be amended as follows:

1. Page 2, line 9.
Following: "37-1-405."

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Insert: "The rules may require the posting of only the licensee's name and the fact that a hearing is being held when the information is being posted on a publicly available website prior to a decision leading to a suspension or revocation of a license or other final decision of a board or the department."

2. Page 4, line 20 through line 24.

Strike: subsections (b) and (c) in their entirety

Insert: "(b) In addition to any other means of notice, the department shall post the required information on a publicly available website.

(c) This subsection (2) may not be construed to require a meeting to be open or records to be disseminated when the demands of individual privacy clearly exceed the merits of public disclosure."

3. Page 5, line 10 through line 14.

Strike: subsections (b) and (c) in their entirety

Insert: "(b) In addition to any other means of notice, the department shall post the required information on a publicly available website.

(c) This subsection (2) may not be construed to require a meeting to be open or records to be disseminated when the demands of individual privacy clearly exceed the merits of public disclosure."

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Schmidt, Chairman):

2/16/2007

SB 166, do pass. Report adopted.

SB 235, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman):

2/16/2007

SB 100, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

Following: "AMENDING" on line 6

Strike: remainder of line 6 through first "AND" on line 7

Insert: "SECTION"

2. Page 1, line 13.

Strike: "this chapter"

Insert: "Title 37, chapter 47,"

3. Page 1, line 14.

Strike: "this chapter"

Insert: "Title 37, chapter 47"

4. Page 1, line 26.

Following: "department"

Strike: "of fish, wildlife, and parks"

5. Page 2, line 12 through line 20.

Following: "were provided." on line 12

Strike: remainder of line 12 through line 20

6. Page 2, line 21.

Insert: "(5) As used in this section, "consideration" is defined as remuneration given in exchange for outfitting

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services supplied predicated on a business relationship between parties. This does not include reimbursement for shared trip expenses.

(6)(a) As used in this section, "outfitting" means providing hunting or fishing services for consideration, including any saddle or pack animal, facilities, camping equipment, personal service, or vehicle, watercraft, or other conveyance for any person to hunt, fish, trap, capture, take, kill, or pursue any game, including fish. The term includes accompanying that person, either part or all of the way, on an expedition for any of these purposes or supervision of a licensed guide or professional guide in accompanying that person.

(b) The term does not include the provision of the services listed in subsection (6)(a) by a person on real property that the person owns for the primary pursuit of bona fide agricultural interests."

7. Page 2, line 22 through page 4, line 3.

Strike: section 2 in its entirety

Renumber: subsequent sections

8. Page 4, line 24.

Following: "Title" in two places

Strike: "37"

Insert: "87"

Following: "chapter" in two places

Strike: "47"

Insert: "3"

Following: "part" in two places

Strike: "3"

Insert: "1"

And, as amended, do pass. Report adopted.

SB 128, introduced bill, be amended as follows:

1. Page 18, line 9.

Following: "parks"

Insert: "until June 30, 2019"

2. Page 19, line 28.

Strike: "30"

Insert: "90"

3. Page 21, line 12.

Following: line 11

Insert: "(6) (a) From [the effective date of this act] through June 30, 2019, the department of fish, wildlife, and parks may change, pursuant to this section, the appropriation rights that it holds in fee simple to instream flow purposes on no more than 12 stream reaches.

(b) After June 30, 2019, the department may not change the appropriation rights that it holds in fee simple to instream flow purposes on any stream reaches.

(7) After June 30, 2019, the department may not enter into any new lease agreements pursuant to this section or renew any leases that expire after that date."

And, as amended, do pass. Report adopted.

SB 314, do pass. Report adopted.

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BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 276, introduced bill, be amended as follows:

2/16/2007

1. Page 1, line 10.

Following: "means"

Strike: "a contract or"

Insert: "an"

2. Page 1, line 11.

Following: "policy"

Insert: "or certificate"

Following: "requires"

Insert: "a one-time payment or"

3. Page 1, line 17.

Strike: "whole"

4. Page 1, line 19.

Strike: "a certificate of authority to transact insurance"

Insert: "an insurance producer's license in this state"

5. Page 1, line 21.

Strike: "a certification of authority to transact insurance"

Insert: "an insurance producer's license"

6. Page 1, line 22 through line 27.

Strike: "limits" on line 22

Insert: "limit"

Strike: "are:" on line 22 through "2008," on line 23

Insert: "is"

Strike: "; and" on line 23 through "2007" on line 27

7. Page 1, line 29.

Following: "plan"

Insert: ", as described in 37-19-827,"

8. Page 2, line 2.

Following: "product;"

Insert: "and"

9. Page 2, line 4 through line 5.

Following: "undertaker"

Strike: "; and" on line 4 through "purpose" on line 5

10. Page 2.

Following: line 5

Insert: "(4) The funeral insurance policy must state that the insurance company may, as a condition of paying the benefits of the insurance policy, require from the funeral director, mortician, mortuary, or undertaker:

(a) a certified copy of the certificate of death of the insured or other evidence of death satisfactory to the insurance company; and

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(b) a certificate of completion signed by the funeral director, mortician, or undertaker stating that the funeral director, mortician, undertaker, or mortuary has delivered all the goods and performed all the services contracted for, by, or on behalf of the insured.

(5) (a) Notwithstanding the provisions of 33-15-414, the funeral insurance policy must contain an assignability clause that allows the policy to be assigned or otherwise transferred to another funeral director, mortician, mortuary, or undertaker in conjunction with the assumption of the contractual obligation to provide the funeral goods or services.

(b) The assignability clause may not be used by a funeral director, mortician, mortuary, or undertaker to pledge, assign, transfer, borrow from, or otherwise encumber an insurance policy assigned to it for purposes of purchasing funeral goods or services prior to delivering all of the goods and performing all of the services contracted for, by, or on behalf of the insured."

11. Page 2, line 25.

Following: "~~disability~~"

Insert: "life or disability insurance, with the sole exception of a license to transact "

Strike: "[section 1(1)(c)(i)]"

Insert: "[section 1(1)(c)(ii)]"

12. Page 6, line 7.

Strike: "other"

13. Page 7, line 1.

Following: "sell"

Insert: "any"

Following: "insurance,"

Insert: "other than"

Strike: "[section 1(1)(c)(i)]"

Insert: "[section 1(1)(c)(ii)]"

14. Page 7, line 3.

Strike: "that sells" through "[section 1(1)(c)(i)],"

And, as amended, do pass. Report adopted.

SB 434, introduced bill, be amended as follows:

1. Title, line 5.

Following: "PURPOSE"

Insert: "AND SIZE"

2. Page 1, line 17.

Strike: "seven"

Insert: "eight"

3. Page 1, line 18.

Strike: "Two"

Insert: "Three"

4. Page 3, line 16.

Strike: "1,500"

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Insert: "1,000"

5. Page 3, line 28 through page 4, line 2.

Strike: subsection (3) in its entirety

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Schmidt, Chairman):

2/16/2007

SB 55, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "DEPOSITED IN A"

Insert: "TRANSFERRED FROM THE GUARANTEE ACCOUNT TO THE"

2. Title, page 1, line 8.

Strike: "RATHER THAN THE GUARANTEE ACCOUNT"

3. Title, page 1, line 10.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "17-6-340"

Insert: "AND 20-9-622"

4. Page 1, line 27.

Following: "~~guarantee account~~"

Insert: "guarantee account and transferred to the"

5. Page 1.

Following: line 28

Insert: "**Section 3.** Section 20-9-622, MCA, is amended to read:

"20-9-622. Guarantee account. (1) There is a guarantee account in the state special revenue fund. The guarantee account is intended to:

(a) stabilize the long-term growth of the permanent fund; and

(b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. Except as provided in subsections (2) and (3), the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of 2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is currently outstanding. When the loan is fully paid, all mineral royalties deposited in the guarantee account must be transferred to the school facility improvement account pursuant to 17-6-340.

(3) The revenue distributed through 20-9-534 must be used for the purposes of 20-9-533."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 68, introduced bill, be amended as follows:

1. Page 1, line 9 through line 19.

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Strike: line 9 through line 19

2. Page 3, line 7.

Strike: "subsection"

Insert: "subsections"

Following: "(2)"

Insert: "and (3)"

3. Page 3, line 16 through line 17.

Following: "documents"

Strike: ", EXCEPT" on line 16 through "(2)(H)"

4. Page 4, line 11 through line 12.

Following: "RELATES TO"

Strike: "HOW" on line 11 through "VERIFIED" on line 12

Insert: "the portfolio valuation methodology used by the manager"

Following: ";

Insert: "or"

5. Page 4, line 13 through line 14.

Strike: subsections (i) and (j) in their entirety

Insert: "(i) is a summary of fund investment information, including:

(i) manager history, names of key personnel, and the name of the independent auditor;

(ii) how the fund strategy aligns with the board's approved asset allocation;

(iii) targeted fund size and targeted return;

(iv) fund term or commitment period;

(v) management and incentive fees; and

(vi) fund investment limitations or risk controls."

6. Page 4, line 15 through line 16.

Strike: subsection (3) in its entirety

Insert: "(3) The records in subsection (1)(b) may be disclosed to the legislative auditor as provided in 5-13-309."

And, as amended, do pass. Report adopted.

SB 79, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "ELIMINATING THE LONG-RANGE BUILDING PROGRAM ACCOUNT;"

2. Title, line 8.

Strike: "AN INTERNAL SERVICE FUND"

Insert: "BUILDING MAINTENANCE RATES"

3. Title, line 9.

Following: "MAINTENANCE;"

Insert: "PROVIDING A FUND TRANSFER;"

Strike: "2-17-811,"

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Following: "16-11-119,"

Insert: "17-7-123, 17-7-205,"

4. Title, line 10.

Strike: "SECTION 17-7-205, MCA, AND"

5. Title, line 11.

Following: "PROVIDING"

Insert: "EFFECTIVE DATES AND"

6. Page 1, lines 15 through 25.

Strike: section 1 in its entirety

Renumber: subsequent sections

7. Page 4, line 24.

Insert: "Section 3. Section 17-7-123, MCA, is amended to read:

"17-7-123. Form of executive budget. (1) The budget submitted must set forth a balanced financial plan for funds subject to appropriation and enterprise funds that transfer profits to the general fund or to accounts subject to appropriation for each accounting entity and for the state government for each fiscal year of the ensuing biennium. The base level plan must consist of:

(a) a consolidated budget summary setting forth the aggregate figures of the budget in a manner that shows a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress. The consolidated budget summary must be supported by explanatory schedules or statements.

(b) budget and full-time equivalent personnel position comparisons by agency, program, and appropriated funds for the current and subsequent biennium;

(c) the departmental mission and a statement of goals and objectives for the department;

(d) base budget disbursements for the completed fiscal year of the current biennium, estimated comparable disbursements for the current fiscal year, and the proposed present law base budget plus new proposals, if any, for each department and each program of the department;

(e) a statement containing recommendations of the governor for the ensuing biennium by program and disbursement category, including:

(i) explanations of appropriation and revenue measures included in the budget that involve policy changes;

(ii) matters not included as a part of the budget bill but included as a part of the executive budget, such as the state employee pay plan, programs funded through separate appropriations measures, and other matters considered necessary for comprehensive public and legislative consideration of the state budget; and

(iii) a summary of budget requests that include proposed expenditures on information technology resources. The summary must include funding, program references, and a decision package reference;

(f) a report on:

(i) enterprise funds not subject to the requirements of subsections (1)(a) through (1)(e), including retained earnings and contributed capital, projected operations and charges, and projected fund balances; and

(ii) fees and charges in the internal service fund type and capital projects fund type, including changes in the level of fees and charges, projected use of the fees and charges, and projected fund balances. Fees and charges in the internal service fund type must be approved by the legislature in the general appropriations act. Fees and charges in a biennium may not exceed the level approved by the legislature in the general appropriations act effective for that biennium.

(g) any other financial or budgetary material agreed to by the budget director and the legislative fiscal analyst.

(2) The statement of departmental goals and objectives and the schedule for each fund required in

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17-7-111(3)(b) of the executive budget are not required to be printed but must be available in the office of budget and program planning and on the internet."

Insert: "Section 4. Section 17-7-205, MCA, is amended to read:

"17-7-205. Long-range building program account. (1) There is a long-range building program account in the capital projects fund type.

~~(2) Cigarette tax revenue deposited in the account pursuant to 16-11-119 must be obligated prior to obligating other funds in the account.~~

~~(3) Coal severance taxes allocated to the account under 15-35-108 may be appropriated for the long-range building program or debt service payments on building projects. Coal severance taxes required for general obligation bond debt service may be transferred to the debt service fund.~~

(2) Money must be deposited in the account from the rates assessed pursuant to 17-7-206.

~~(4)(3) Interest earnings, project carryover funds, administrative fees, and miscellaneous revenue must be retained in the account."~~

Renumber: subsequent sections

8. Page 4, line 29.

Following: "maintenance."

Insert: "The amount appropriated for maintenance must be deposited in the long-range building account for use in future maintenance."

9. Page 5, lines 5 and 6.

Following: "buildings." on line 5

Strike: remainder of line 5 through line 6 in its entirety

10. Page 5, line 7.

Strike: "There is an internal service fund for building maintenance."

11. Page 5, line 8.

Following: "agencies"

Insert: "annual"

Following: "rates"

Insert: ", payable from the general fund,"

Following: "occupancy of"

Insert: "certain"

12. Page 5, line 13.

Strike: "subsections"

Insert: "subsection"

Strike: "and (4)(c)"

Following: "(4)(c)."

Insert: "The department shall establish rates for all long-range building program-eligible buildings for which all maintenance is administered by the department."

13. Page 5, line 14.

Strike: "2007"

Insert: "2009"

14. Page 5, lines 27 through 30.

Strike: subsection (c) in its entirety

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15. Page 6, line 24.

Insert: "NEW SECTION. Section 8. Fund transfer. There is transferred to the long-range building capital projects account from the state general fund \$7.15 million on July 1, 2007, and July 1, 2008."

Renumber: subsequent sections

16. Page 6, line 25.

Strike: "17-7-205, MCA, and section"

17. Page 6, line 26.

Strike: "are"

Insert: "is"

18. Page 6, line 30.

Insert: "NEW SECTION. Section 11. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2009.

(2) [Section 8] is effective July 1, 2007."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 413, introduced bill, be amended as follows:

1. Page 2, line 15 through line 16.

Following: "(6)" on line 15

Strike: "₂" through "weekly" on line 16

2. Page 2, line 17.

Following: "₂"

Insert: "The department shall review the proposal to ensure that deposits are made at least weekly, unless the requesting agency shows hardship due to peak processing times."

3. Page 2, line 30.

Strike: "an"

Insert: "a"

4. Page 3, line 1.

Strike: "agent or"

5. Page 3, line 1 through line 2.

Following: "if" on line 1

Strike: "₂" through "(a)" on line 2

6. Page 3, line 2.

Strike: "agent or"

7. Page 3, line 2 through line 4.

Following: "sources" on line 2

Strike: "₂" through "2-15-3401" on line 4

And, as amended, do pass. Report adopted.

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HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 2/16/2007

SB 122, do pass. Report adopted.

HB 126, be concurred in. Report adopted.

HB 127, be concurred in. Report adopted.

JUDICIARY (Laslovich, Chairman): 2/16/2007

SJR 10, be adopted. Report adopted.

LOCAL GOVERNMENT (Gillan, Chairman): 2/16/2007

SB 51, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "CONSIDER"

Insert: "EVALUATE THE POTENTIAL FOR"

2. Title, line 12.

Following: "REGULATIONS;"

Insert: "REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ADOPT RULES TO ADDRESS DEVELOPMENT IN THE WILDLAND-URBAN INTERFACE; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO ADOPT RULES THAT IDENTIFY CONSTRUCTION TECHNIQUES TO MITIGATE FIRE HAZARDS;"

Following: "76-3-501,"

Strike: "AND"

3. Title, line 12.

Strike: "AND"

4. Title, line 13.

Following: "76-3-504,"

Insert: "AND 76-13-109,"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE"

5. Page 1, line 17 through page 7, line 25.

Strike: everything after the enacting clause

Insert: "Section 1. Section 76-1-601, MCA, is amended to read:

"76-1-601. Growth policy -- contents. (1) A growth policy may cover all or part of the jurisdictional area.

(2) ~~A growth policy must include the elements listed in subsection (3) by October 1, 2006.~~ The extent to which a growth policy addresses the elements of a growth policy that are listed in subsection (3) is at the full discretion of the governing body.

(3) A growth policy must include:

(a) community goals and objectives;

(b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, including:

(i) land uses;

(ii) population;

(iii) housing needs;

(iv) economic conditions;

(v) local services;

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- (vi) public facilities;
- (vii) natural resources; and
- (viii) other characteristics and features proposed by the planning board and adopted by the governing bodies;
- (c) projected trends for the life of the growth policy for each of the following elements:
 - (i) land use;
 - (ii) population;
 - (iii) housing needs;
 - (iv) economic conditions;
 - (v) local services;
 - (vi) natural resources; and
 - (vii) other elements proposed by the planning board and adopted by the governing bodies;
- (d) a description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to subsection (3)(a);
- (e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;
 - (f) an implementation strategy that includes:
 - (i) a timetable for implementing the growth policy;
 - (ii) a list of conditions that will lead to a revision of the growth policy; and
 - (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary;
 - (g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains:
 - (i) if a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy;
 - (ii) if a governing body is a county, how the governing body will coordinate and cooperate with cities and towns located within the county's boundaries on matters related to the growth policy;
 - (h) a statement explaining how the governing bodies will:
 - (i) define the criteria in 76-3-608(3)(a); and
 - (ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a); ~~and~~
 - (i) a statement explaining how public hearings regarding proposed subdivisions will be conducted; ~~and~~
 - (j) an evaluation of the potential for fire and wildland fire in the jurisdictional area, including whether or not there is a need to:
 - (i) delineate the wildland-urban interface; and
 - (ii) adopt regulations requiring:
 - (A) defensible space around structures;
 - (B) adequate ingress and egress to and from structures and developments to facilitate fire suppression activities; and
 - (C) adequate water supply for fire protection.
- (4) A growth policy may:
 - (a) include one or more neighborhood plans. A neighborhood plan must be consistent with the growth policy.
 - (b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;
 - (c) address the criteria in 76-3-608(3)(a);
 - (d) evaluate the effect of subdivision on the criteria in 76-3-608(3)(a);
 - (e) describe zoning regulations that will be implemented to address the criteria in 76-3-608(3)(a); and
 - (f) identify geographic areas where the governing body intends to authorize an exemption from review of the criteria in 76-3-608(3)(a) for proposed subdivisions pursuant to 76-3-608.
- (5) The planning board may propose and the governing bodies may adopt additional elements of a growth policy in order to fulfill the purpose of this chapter. ""

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Insert: "Section 2. Section 76-3-501, MCA, is amended to read:

"76-3-501. Local subdivision regulations. The governing body of every county, city, and town shall adopt and provide for the enforcement and administration of subdivision regulations reasonably providing for:

- (1) the orderly development of their jurisdictional areas;
- (2) the coordination of roads within subdivided land with other roads, both existing and planned;
- (3) the dedication of land for roadways and for public utility easements;
- (4) the improvement of roads;
- (5) the provision of adequate open spaces for travel, light, air, and recreation;
- (6) the provision of adequate transportation, water, and drainage;
- (7) subject to the provisions of 76-3-511, the regulation of sanitary facilities;
- (8) the avoidance or minimization of congestion; and
- (9) the avoidance of subdivisions that would involve unnecessary environmental degradation and danger

of injury to health, safety, or welfare by reason of natural hazard, including but not limited to fire and wildland fire, or the lack of water, drainage, access, transportation, or other public services or that would necessitate an excessive expenditure of public funds for the supply of the services."

Insert: "Section 3. Section 76-3-504, MCA, is amended to read:

"76-3-504. Subdivision regulations -- contents. (1) The subdivision regulations adopted under this chapter must, at a minimum:

- (a) list the materials that must be included in a subdivision application in order for the application to be determined to contain the required elements for the purposes of the review required in 76-3-604(1);
- (b) except as provided in 76-3-210, 76-3-509, or 76-3-609, require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;
- (c) establish procedures consistent with this chapter for the submission and review of subdivision applications and amended applications;
- (d) prescribe the form and contents of preliminary plats and the documents to accompany final plats;
- (e) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development, and The regulations must prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques, or other mitigation measures. Approved construction techniques or other mitigation measures may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in [section 5].
- (f) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;
- (g) prescribe standards for:
 - (i) the design and arrangement of lots, streets, and roads;
 - (ii) grading and drainage;
 - (iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that meet the:
 - (A) regulations adopted by the department of environmental quality under 76-4-104 for subdivisions that will create one or more parcels containing less than 20 acres; and
 - (B) standards provided in 76-3-604 and 76-3-622 for subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres; and
 - (iv) the location and installation of public utilities;
- (h) provide procedures for the administration of the park and open-space requirements of this chapter;
- (i) provide for the review of subdivision applications by affected public utilities and those agencies of local, state, and federal government identified during the preapplication consultation conducted pursuant to subsection (1)(q) or those having a substantial interest in a proposed subdivision. A public utility or agency review may not delay the governing body's action on the application beyond the time limits specified in this chapter, and the failure of any agency to complete a review of an application may not be a basis for rejection of the application by the governing body.
- (j) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:
 - (i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a

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legal right to the water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

(k) (i) except as provided in subsection (1)(k)(ii), require the subdivider to establish ditch easements in the subdivision that:

(A) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

(B) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

(C) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

(ii) Establishment of easements pursuant to this subsection (1)(k) is not required if:

(A) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(B) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(l) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

(m) require the subdivider to describe, dimension, and show public utility easements in the subdivision on the final plat in their true and correct location. The public utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of public utility facilities for the provision of public utility services within the subdivision.

(n) establish whether the governing body, its authorized agent or agency, or both will hold public hearings;

(o) establish procedures describing how the governing body or its agent or agency will address information presented at the hearing or hearings held pursuant to 76-3-605 and 76-3-615;

(p) establish criteria that the governing body or reviewing authority will use to determine whether a proposed method of disposition using the exemptions provided in 76-3-201 or 76-3-207 is an attempt to evade the requirements of this chapter. The regulations must provide for an appeals process to the governing body if the reviewing authority is not the governing body.

(q) establish a preapplication process that:

(i) allows a subdivider to meet with the agent or agency, other than the governing body, that is designated by the governing body to review subdivision applications prior to the subdivider submitting the application;

(ii) requires, for informational purposes only, identification of the state laws, local regulations, and growth policy provisions, if a growth policy has been adopted, that may apply to the subdivision review process;

(iii) requires a list to be made available to the subdivider of the public utilities, those agencies of local, state, and federal government, and any other entities that may be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies, and other entities are given to respond. If, during the review of the application, the agent or agency designated by the governing body contacts a public utility, agency, or other entity that was not included on the list originally made available to the subdivider, the agent or agency shall notify the

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subdivider of the contact and the timeframe for response.

(iv) requires that a preapplication meeting take place no more than 30 days from the date that the agent or agency receives a written request for a preapplication meeting from the subdivider; and

(v) establishes a time limit after a preapplication meeting by which an application must be submitted as provided in 76-3-604.

(2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster development.

(3) The governing body may establish deadlines for submittal of subdivision applications."

Insert: "Section 4. Section 76-13-109, MCA, is amended to read:

"76-13-109. Rules. (1) The department may adopt ~~and enforce~~ reasonable rules for the purpose of enforcing and accomplishing the provisions and purposes of this part and part 2.

(2) By October 1, 2008, the department shall adopt rules addressing development within the wildland-urban interface, including but not limited to:

(a) best practices for development within the wildland-urban interface; and

(b) criteria for providing grant and loan assistance to local government entities to encourage adoption of best practices for development within the wildland-urban interface."

Insert: "NEW SECTION. Section 5. Purpose -- rulemaking.

(1) The purpose of [sections 5 and 6] is to provide specific rulemaking authority to the department of labor and industry for the purposes of 76-3-504(1)(e).

(2) By October 1, 2008, the department shall adopt rules identifying appropriate construction techniques that may be used by a local government in mitigation of identified fire hazards pursuant to 76-3-504(1)(e). Rules adopted under this section may not be construed to be part of the state building code as provided in 50-60-203. The adoption, amendment, or repeal of a rule under this section is of significant public interest for the purposes of 2-3-103."

Insert: "NEW SECTION. Section 6. Enforcement. Rules promulgated under [section 5] may be enforced only as provided in Title 76, chapter 3, part 5. The powers and duties for enforcement provided in 76-3-501 apply to rules adopted under [section 5] and do not apply to or include any rules adopted under Title 50, chapter 60, parts 1 through 8. "

Insert: "NEW SECTION. Section 7. Codification instruction. [Sections 5 and 6] are intended to be codified as an integral part of Title 50, chapter 60, and the provisions of Title 50, chapter 60, apply to [sections 5 and 6]."

Insert: "NEW SECTION. Section 8. Effective date -- applicability. [This act] is effective on passage and approval and applies on or after October 1, 2008."

And, as amended, do pass. Report adopted.

SB 110, introduced bill, be amended as follows:

1. Title, line 21.

Following: "70-23-301,"

Insert: "76-1-103,"

2. Title, line 22.

Strike: "76-2-228,"

3. Title, line 23.

Strike: "76-2-328,"

4. Title, line 24.

Following: "MCA"

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Insert: "; REPEALING SECTION 76-3-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE"

5. Page 3.

Following: line 24

Insert: "Section 5. Section 76-1-103, MCA, is amended to read:

"76-1-103. **Definitions.** As used in this chapter, the following definitions apply:

- (1) "City" includes incorporated cities and towns.
- (2) "City council" means the chief legislative body of a city or incorporated town.
- (3) "Governing body" or "governing bodies" means the governing body of any governmental unit represented on a planning board.
- (4) "Growth policy" means ~~a comprehensive development plan, master plan, or comprehensive plan that was adopted pursuant to this chapter before October 1, 1999, or~~ a policy that was adopted pursuant to this chapter on or after October 1, 1999.
- (5) "Mayor" means mayor of a city.
- (6) "Neighborhood plan" means a plan for a geographic area within the boundaries of the jurisdictional area that addresses one or more of the elements of the growth policy in more detail.
- (7) "Person" means any individual, firm, or corporation.
- (8) "Planning board" means a city planning board, a county planning board, or a joint city-county planning board.
- (9) "Plat" means a subdivision of land into lots, streets, and areas, marked on a map or plan, and includes replats or amended plats.
- (10) "Public place" means any tract owned by the state or its subdivisions.
- (11) "Streets" includes streets, avenues, boulevards, roads, lanes, alleys, and all public ways.
- (12) "Utility" means any facility used in rendering service that the public has a right to demand."

Renumber: subsequent sections

6. Page 5, lines 20 and 21.

Following: "be published"

Strike: "in" on line 20 through "hearing" on line 21

Insert: "in accordance with 7-1-2121"

7. Page 5, line 26.

Strike: "resident"

8. Page 6, line 3.

Strike: "of the proposed district"

9. Page 7, line 4.

Following: "A"

Insert: "knowing, negligent, or purposeful"

10. Page 7, lines 6 and 7.

Strike: "The" on line 6 through "45-2-104." on line 7

11. Page 7, line 9.

Following: "violation."

Insert: "A governing body may not assess a fine for any period of time prior to the violator being given notice in writing of the violation."

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12. Page 8, line 27.

Following: "fire"

Strike: ", panic,"

13. Page 11, line 12.

Following: "A"

Insert: "knowing, negligent, or purposeful"

14. Page 11, lines 14 and 15.

Strike: "The" on line 14 through "45-2-104." on line 15

15. Page 11, line 17.

Following: "violation."

Insert: "A governing body may not assess a fine for any period of time prior to the violator being given notice in writing of the violation."

16. Page 11, line 19 through line 22.

Strike: section 20 in its entirety

Renumber: subsequent sections

17. Page 13, line 9.

Following: "fire"

Strike: ", panic,"

18. Page 14, line 2.

Following: "A"

Insert: "knowing, negligent, or purposeful"

19. Page 14, lines 5 and 6.

Strike: "The" on line 5 through "45-2-104." on line 6

20. Page 14, line 9.

Following: "violation."

Insert: "A city or town council or other legislative body may not assess a fine for any period of time prior to the violator being given notice in writing of the violation."

21. Page 14, lines 11 through 14.

Strike: section 25 in its entirety

Renumber: subsequent sections

22. Page 15, lines 9 and 10.

Strike: "exempt" on line 9 through "of" on line 10

Insert: "not subdivisions under"

Following: "chapter"

Strike: "₂"

Following: "but"

Insert: "but"

23. Page 15, line 11.

Strike: "not amounting to"

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Insert: "other than"

Following: "subdivisions"

Strike: "₂"

24. Page 15, line 25.

Strike: "will show"

Insert: "shows"

25. Page 15, line 26.

Strike: "expunged"

Insert: "eliminated"

Strike: "will be depicted"

Insert: "are established"

26. Page 16, line 4.

Strike: "review under parts 5 and 6"

Insert: "the provisions"

27. Page 17, line 15.

Strike: "76-3-210,"

28. Page 23, line 7.

Strike: "adverse impacts"

Insert: "the impact"

29. Page 23, line 8.

Strike: "use"

Insert: "user"

30. Page 25, line 9.

Following: "hearing"

Insert: "or a subsequent public hearing under 76-3-615"

31. Page 26, lines 11 and 12.

Following: "information presented" on line 11

Insert: "at that public hearing or meeting"

Strike: "has" on line 11 through "agency" on line 12

Insert: "is new information"

32. Page 26, line 13.

Strike: "as" through "(3)"

Insert: "that has never before been presented to or considered by the governing body or its authorized agent or agency"

33. Page 26, line 14.

Following: "information"

Insert: "is new information as"

34. Page 26, line 15.

Strike: "is new information"

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35. Page 28.

Following: line 6

Insert: "NEW SECTION. **Section 37. Repealer.** Section 76-3-210, MCA, is repealed."

36. Page 28, lines 8 and 9.

Strike: "13" in both places

Insert: "14" in both places

37. Page 28.

Following: line 9

Insert: "NEW SECTION. **Section 39. Effective date -- applicability.** [This act] is effective on passage and approval and applies on or after October 1, 2008."

And, as amended, do pass. Report adopted.

SB 147, introduced bill, be amended as follows:

1. Page 2.

Following: line 2

Insert: "(4) For the purposes of this section, "official business" includes but is not limited to the functions of governmental agencies and the activities of utilities, cooperatives, and telecommunications providers to operate, construct, repair, and maintain utility facilities that are essential to the public."

And, as amended, do pass. Report adopted.

SB 264, introduced bill, be amended as follows:

1. Page 2, lines 22 and 23.

Strike: "Special" through "just"

Insert: "A municipality may set special rates, charges, and classifications to assist and benefit low-income persons"

And, as amended, do pass. Report adopted.

SB 284, introduced bill, be amended as follows:

1. Title, line 5.

Following: "ALLOCATING"

Insert: "A PORTION OF"

2. Page 1, line 30 through page 2, line 7.

Strike: subsections (b) through (f) in their entirety

Renumber: subsequent subsections

3. Page 2, line 10.

Strike: "1.03%"

Insert: "2%"

4. Page 2, line 11.

Strike: "and"

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5. Page 2, line 12.

Strike: "(1)(i)(ii), 23.53%"

Insert: "(1)(d)(ii), \$500,000"

6. Page 2, line 13.

Following: "corporations"

Insert: ", to be used to support cultural and heritage tourism,"

7. Page 2, line 16.

Strike: "23.53%"

Insert: "\$500,000"

8. Page 2, line 17.

Following: "district"

Insert: "; and

(e) all remaining proceeds to the state general fund"

9. Page 2, lines 25 and 26.

Following: "commerce for" on line 25

Strike: remainder of line 25 through "commercials" on line 26

Insert: "the support of cultural and heritage tourism"

And, as amended, do pass. Report adopted.

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

2/16/2007

SB 142, introduced bill, be amended as follows:

1. Title, line 10.

Following: "PROFESSIONALS;"

Insert: "REQUIRING INCORPORATION OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM REQUIREMENTS IN THE STATE DISASTER AND EMERGENCY PLAN;"

2. Title, line 11.

Following: "10-3-111,"

Insert: "10-3-301,"

3. Page 1, line 15.

Following: "through"

Insert: "7 and"

4. Page 1, line 18.

Following: "through"

Insert: "7 and"

5. Page 1, line 25.

Strike: subsection (2) in its entirety

Renumber: subsequent sections

6. Page 1, line 28.

Strike: subsection (5) in its entirety

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Renumber: subsequent subsections

7. Page 2, line 12.

Following: ";"

Insert: "or"

8. Page 2, line 13.

Strike: "the appearance of a novel or previously controlled or eliminated"

Insert: "an"

Following: "agent"

Insert: ", toxic agent, radiologic agent,"

Following: ";"

Insert: "and"

9. Page 2, lines 14 and 15.

Strike: lines 14 and 15 in their entirety

10. Page 2, line 19.

Strike: "to an infectious or toxic agent"

11. Page 2, line 27.

Strike: "(16)(a)"

Insert: "(14)(a)"

12. Page 3, line 4.

Strike: "(17)(a)"

Insert: "(15)(a)"

13. Page 3, line 9.

Following: "including"

Insert: "the national incident management system requirements, which must be incorporated in"

14. Page 3, lines 10 and 11.

Following: "10-3-301" on line 10

Strike: remainder of line 10 through "10-3-504" on line 11

15. Page 4, lines 15 and 16.

Following: "necessary." on line 15

Strike: remainder of line 15 through line 16 in its entirety

16. Page 4, line 28.

Following: "through"

Insert: "7 and"

17. Page 5, line 7 through line 24.

Following: "**Emergency powers.**" on line 7

Strike: remainder of line 7 through line 24 in its entirety

Insert: "During a state of public health emergency, the governor has all powers and authorities vested in the governor under parts 1 through 4 of this chapter."

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18. Page 6, line 22.

Following: "emergency"

Insert: ", as defined in [section 2]"

19. Page 6, line 24 through page 7, line 25.

Following: "state" on page 6, line 24

Strike: remainder of line 24 through "emergency" on page 7, line 25

Insert: "as outlined in the public health emergency plan described in [section 3]"

20. Page 7, line 28.

Following: "through"

Insert: "7 and"

21. Page 9, line 9.

Following: "through"

Insert: "7 and"

22. Page 9, line 10.

Following: "through"

Insert: "7 and"

23. Page 9, line 17.

Following: "through"

Insert: "7 and"

24. Page 9, line 18.

Following: "through"

Insert: "7 and"

25. Page 9, line 30.

Insert: "**Section 12.** Section 10-3-301, MCA, is amended to read:

"10-3-301. State disaster and emergency plan. (1) The state disaster and emergency plan and program may provide for:

(a) prevention and minimization of injury and damage caused by disaster;

(b) prompt and efficient response to an incident, emergency, or disaster;

(c) emergency relief;

(d) identification of areas particularly vulnerable to disasters;

(e) recommendations for preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

(f) organization of personnel and chains of command;

(g) coordination of federal, state, and local disaster and emergency activities; and

(h) other necessary matters.

(2) (a) In preparing and maintaining the state disaster and emergency plan and program, the division may seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations, and community leaders. In advising local and interjurisdictional agencies, the division may encourage them to seek advice from these sources.

(b) The national incident management system requirements must be incorporated in the state disaster and emergency plan."

Renumber: subsequent sections

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26. Page 10, line 15.

Following: "through"

Insert: "7 and"

27. Page 11, line 8.

Following: "through"

Insert: "7 and"

28. Page 11, line 27.

Strike: "Title 10, chapter 3, parts 1 through 4, and [sections 1 through 9]"

Insert: "[sections 6 and 7]"

29. Page 11, line 29.

Following: "through"

Insert: "7 and "

30. Page 12, line 1.

Following: "through"

Insert: "7 and"

31. Page 12, line 2.

Following: line 1

Insert: "(2) [Section 8] is intended to be codified as an integral part of Title 50, chapter 1, part 2, and the provisions of Title 50, chapter 1, part 2, apply to [section 8]."

Renumber: subsequent subsection

32. Page 12, line 2.

Strike: "15"

Insert: "16"

33. Page 12, line 3.

Strike: "15"

Insert: "16"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

2/16/2007

SR 4, be adopted. Report adopted.

TAXATION (Elliott, Chairman):

2/16/2007

SB 418, do pass. Report adopted.

HB 419, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence:

2/15/2007

HB 24, introduced by Olson

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House bill passed and transmitted to the Senate for concurrence: 2/15/2007

HB 58, introduced by Keane

House bill passed and transmitted to the Senate for concurrence: 2/15/2007

HB 105, introduced by Windy Boy

House bill passed and transmitted to the Senate for concurrence: 2/15/2007

HB 420, introduced by Koopman

MOTIONS

SEN. TRUDI SCHMIDT, SD 11, GREAT FALLS moved **SB 269** be re-referred to Finance and Claims Committee. Motion carried.

SEN. GREG LIND, SD 50, MISSOULA moved **SB 480** be re-referred to Judiciary Committee. Motion carried.

SEN. STEVE GALLUS, SD 37, BUTTE moved change his vote on **SB 318** from "yes" to "no". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 514, introduced by Balyeat, Essmann, Shockley, Black, Sales, Brown, Lewis, Murphy, Gallus, Jackson, J. Peterson, Barkus, Story, McGillvray, O'Neil, Steinbeisser, Laible, Wanzenried, referred to Taxation.

SB 515, introduced by Balyeat, Black, Jackson, Sales, Steinbeisser, Murphy, Barkus, O'Neil, Shockley, referred to Taxation.

SB 516, introduced by Black, referred to Business, Labor, and Economic Affairs.

SB 517, introduced by Black, referred to State Administration.

SB 518, introduced by Perry, referred to Public Health, Welfare and Safety.

SB 519, introduced by Esp, referred to Business, Labor, and Economic Affairs.

SB 520, introduced by Squires, referred to Highways and Transportation.

SB 521, introduced by Esp, referred to Public Health, Welfare and Safety.

SB 522, introduced by Weinberg, referred to Public Health, Welfare and Safety.

SB 523, introduced by Laslovich, referred to Judiciary.

SB 524, introduced by Wanzenried, referred to Business, Labor, and Economic Affairs.

SB 525, introduced by Elliott, referred to Taxation.

SB 526, introduced by Kitzenberg, referred to State Administration.

SB 527, introduced by Gillan, referred to Local Government.

SB 528, introduced by Wanzenried, Pomnichowski, Campbell, Cohenour, Hollenbaugh, Hiner, Jopek, Bergren, Jacobson, Grinde, Dickenson, Bixby, Musgrove, Keane, Erickson, Ebinger, Hamilton, French, Henry, Sands, Cordier, Becker, Noonan, Raser, Groesbeck, Driscoll, Wilmer, Reinhart, McAlpin, Wilson, Wiseman, Caferro, Hands, Franklin, Augare, Kitzenberg, McChesney, Windy Boy, Furey, referred to Education and Cultural Resources.

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

SJR 17, introduced by Elliott, referred to Business, Labor, and Economic Affairs.

SJR 18, introduced by Pease, referred to Fish and Game.

SJR 19, introduced by Gillan, referred to Public Health, Welfare and Safety.

SJR 20, introduced by Cooney, Parker, referred to Natural Resources and Energy.

**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 Brown in the chair.

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

SB 430 - Senator Elliott moved **SB 430** do pass. Motion carried unanimously.

SB 76 - Senator Gillan moved **SB 76** do pass. Motion carried unanimously.

SB 403 - Senator Lind moved **SB 403** do pass. Motion carried unanimously.

SB 341 - Senator Lewis moved **SB 341** do pass. Motion carried with Senator Weinberg voting nay.

SB 295 - Senator Tash moved **SB 295** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Laible, Larson, Laslovich, Lewis, McGee, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Williams, Mr. President.

Total 39

Nays: Cobb, Juneau, Kaufmann, Lind, Moss, O'Neil, Shockley, Squires, Wanzenried, Weinberg.

Total 10

Absent or not voting: Kitzenberg.

Total 1

Excused: None.

Total 0

SB 260 - Senator Shockley moved **SB 260** do pass. Motion **failed** as follows:

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

Total 21

Nays: Brown, Cobb, Cocchiarella, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Ryan, Schmidt, Smith, Squires, Stapleton, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 29

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 260 - Senator Williams moved **SB 260** be indefinitely postponed. Motion carried as follows:

Yeas: Brown, Cobb, Cocchiarella, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, O'Neil, Perry, Peterson, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 299 - Senator Moss moved **SB 299** do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Lind, Moss, Murphy, Pease, Ryan, Schmidt, Smith, Squires, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Curtiss, Esp, Essmann, Jackson, Laible, Lewis, McGee, O'Neil, Perry, Peterson, Shockley, Stapleton, Steinbeisser, Story.
Total 20

Absent or not voting: Gebhardt.
Total 1

Excused: None.
Total 0

SB 301 - Senator Moss moved **SB 301** do pass. Motion carried as follows:

Yeas: Cocchiarella, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lind, Moss, Murphy, Pease, Ryan, Schmidt, Smith, Squires, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Jackson, Lewis, McGee, O'Neil, Perry, Peterson, Shockley, Stapleton, Steinbeisser, Story.
Total 21

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 269 - Senator Bales moved **HB 269** be concurred in. Motion carried with Senator Balyeat voting nay.

SB 102 - Senator Lind moved **SB 102** do pass. Motion carried unanimously.

SB 130 - Senator Story moved **SB 130** do pass. Motion carried unanimously.

SJR 5 - Senator Brueggeman moved **SJR 5** be adopted. Motion carried with Senators Esp, McGee, Stapleton voting nay.

SB 41 - Senator Perry moved **SB 41**, second reading copy, be amended as follows:

1. Page 3, line 16.

Strike: "a property tax levy"

Insert: "public funds"

Amendment adopted with Senator Balyeat, O'Neil voting nay.

SB 41 - Senator Elliott moved **SB 41**, as amended, do pass. Motion carried with Senator Gillan voting nay.

SB 363 - Senator Kaufmann moved **SB 363** do pass. Motion carried with Senator Gillan voting nay.

SB 93 - Senator Pease moved **SB 93** do pass. Motion carried with Senator Balyeat, Shockley voting nay.

HB 121 - Senator Black moved **HB 121** be concurred in. Motion carried with Senator McGee voting nay.

Senator Williams moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Cooney in the chair. Chairman Brown 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 8 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, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 50

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 348 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, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 422 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, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 318 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kitzenberg, Laible, Larson, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Weinberg, Williams.
Total 44

Nays: Gallus, Kaufmann, Laslovich, Squires, Wanzenried, Mr. President.

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Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 75 passed as follows:

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

Total 49

Nays: Gebhardt.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 333 concurred in as follows:

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

Total 42

Nays: Brown, Esp, Juneau, Kaufmann, Lind, McGee, Story, Wanzenried.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 258 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Hawks, Jackson, Jent, Kitzenberg, Laible, Larson, Lewis, McGee, Murphy, O'Neil, Pease, Perry, Peterson, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash.

Total 31

Nays: Cobb, Cocchiarella, Gallus, Hansen, Harrington, Juneau, Kaufmann, Laslovich, Lind, Moss, Ryan,

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Schmidt, Smith, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 19

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 adjourn until 8:00 a.m., Saturday, February 17, 2007. Motion carried.

Senate adjourned at 3:05 p.m.

JOHN MUDD
Secretary of the Senate

MIKE COONEY
President of the Senate