

**HOUSE JOURNAL  
61ST LEGISLATURE  
THIRTY-THIRD LEGISLATIVE DAY**

Helena, Montana  
February 12, 2009

House Chambers  
State Capitol

House convened at 1:00 p.m. Mr. Speaker in the Chair. Invocation by Rep. Bean. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Rep. Lake asked for a moment of silence to honor Rep. Butcher's wife's mother. A moment of silence ensued.

**REPORTS OF STANDING COMMITTEES**

**APPROPRIATIONS** (Sesso, Chairman): 2/12/2009

**HB 163**, do pass. Report adopted.

**HB 273**, do pass. Report adopted.

**HB 294**, do pass. Report adopted.

**HB 384**, do pass. Report adopted.

**SB 18**, do pass. Report adopted.

**HUMAN SERVICES** (Becker, Chairman): 2/12/2009

**HJR 17**, do pass. Report adopted.

**JUDICIARY** (Stoker, Chairman): 2/12/2009

**HB 372**, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

**Strike:** "REQUIRING" on line 6 through "CASES;"

2. Page 1, line 15.

**Strike:** "based on undue hardship must"

**Insert:** "may"

3. Page 1, line 17.

**Strike:** "infirm"

**Insert:** "special needs"

**Strike:** "or a child"

4. Page 1, line 25 through line 28.

**Strike:** "If" on line 25 through "court." on line 28

And, as amended, do pass. Report adopted.

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**HB 397**, introduced bill, be amended as follows:

1. Title, line 5.

**Strike:** the first "GRANDPARENTS"

**Insert:** "CLOSE RELATIVES"

**Strike:** "THE GRANDPARENTS"

**Insert:** "THOSE RELATIVES"

**Strike:** "GRANDCHILD"

**Insert:** "RELATIVE'S CHILD"

2. Page 2, line 3.

**Strike:** "grandparents"

**Insert:** "close relatives of a child"

3. Page 2, line 4.

**Strike:** "the grandparents"

**Insert:** "those relatives"

4. Page 2, line 4.

**Strike:** "grandchild is to be"

**Insert:** "relative's child has been"

5. Page 2, line 5.

**Strike:** "parents, grandparents, and children"

**Insert:** "child and the child's parents and may contain the names of the child's grandparents, aunts, uncles, adult brothers, and adult sisters"

6. Page 2, line 6.

**Strike:** "parents, grandparents, and children"

**Insert:** "child and parents and any of the relatives whose names appear in the registry"

7. Page 2, line 7.

**Strike:** "before"

**Insert:** "on the first working day after"

8. Page 2, line 8.

**Following:** "registry."

**Insert:** "The fee may be charged only to those persons whose names are voluntarily entered in the registry."

And, as amended, do pass. Report adopted.

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**LOCAL GOVERNMENT** (Arntzen, Chairman):

2/12/2009

**HB 321**, do pass. Report adopted.

**HB 324**, introduced bill, be amended as follows:

1. Page 1, line 11.

**Following:** "may"

**Insert:** "request to"

2. Page 1, line 12.

**Strike:** "The purchase" through "value."

**Insert:** "If the request is accepted, the parties shall agree on the purchase price, not to exceed fair market value."

And, as amended, do pass. Report adopted.

**STATE ADMINISTRATION** (Himmelberger, Chairman):

2/12/2009

**HB 12**, introduced bill, be amended as follows:

1. Title, page 1, line 6.

**Strike:** "EMPLOYER"

2. Title, page 1, line 7.

**Following:** "SYSTEM"

**Insert:** ", "

3. Title, page 1, lines 8 and 9.

**Strike:** the first "AND" on line 8

**Following:** "SYSTEM" on line 8

**Insert:** ", "

**Strike:** "; " on line 8 through "UNDER" on line 9

**Insert:** "AND"

4. Title, page 1, line 10.

**Strike:** "19-3-1106,"

**Insert:** "19-3-319,"

**Strike:** "19-13-604,"

5. Page 1, line 15.

**Strike:** everything after the enacting clause

**Insert:** "**Section 1.** Section 19-3-316, MCA, is amended to read:

**"19-3-316. Employer contribution rates.** (1) Each employer shall contribute to the system. Except as provided in subsection (2), the employer shall pay as employer contributions 6.9% of the compensation paid to all of the employer's employees ~~plus any additional contribution under subsection (3), except for those employees properly excluded from membership~~ who are active members of the retirement system. Of employer contributions made under this subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for educational programs as provided in 19-3-112. Employer contributions for members under the defined contribution plan must be allocated as provided in 19-3-2117.

(2) Local government and school district employer contributions must be the total employer contribution rate provided in subsection (1) minus the state contribution rates under 19-3-319.

(3) Subject to subsection (4), each employer shall contribute to the system an additional employer contribution equal to ~~the following percentage~~ 0.27% of the compensation paid to all of the employer's employees;

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~~except for those employees properly excluded from membership:~~

~~(a) beginning July 1, 2007, 0.135%; and~~

~~(b) beginning July 1, 2009, 0.27% who are active members of the retirement system.~~

(4) (a) The board shall periodically review the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

(b) The employer contribution required under subsection (3) terminates on July 1 immediately following the system's actuarial valuation if:

(i) the actuarial valuation determines that the period required to amortize the system's unfunded liabilities, including adjustments made for any benefit enhancements enacted by the legislature after the valuation, is less than 25 years; and

(ii) terminating the additional employer contribution would not cause the amortization period as of the most recent actuarial valuation to exceed 25 years."

**Insert: "Section 2.** Section 19-3-319, MCA, is amended to read:

**"19-3-319. State contributions for local government and school district employers.** (1) The state shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.1% of the compensation paid to all employees of local government entities and school districts ~~on and after July 1, 1997, except those employees properly excluded from membership who are active members of the retirement system.~~

(2) (a) Subject to subsection (2)(b), in addition to the contribution required under subsection (1), the state shall contribute monthly from the general fund to the pension trust fund a sum equal to ~~the following percentage 0.27%~~ of the compensation paid to all employees of school districts ~~on and after July 1, 2007, except for those employees properly excluded from membership:~~

~~(i) beginning July 1, 2007, 0.135%; and~~

~~(ii) beginning July 1, 2009, 0.27% who are active members of the retirement system.~~

(b) The additional contribution under subsection (2)(a) terminates when the additional contribution under 19-3-316(3) terminates.

(3) The board shall certify amounts due under this section on a monthly basis, and the state treasurer shall transfer those amounts to the pension trust fund within 1 week. The payments in this section are statutorily appropriated as provided in 17-7-502."

**Insert: "NEW SECTION. Section 3. Contributions required for retirees who return to work.** (1) Beginning July 1, 2009, each state employer shall contribute the amount specified in 19-3-316 for retired members who return to work in a covered position but who, under the provisions of 19-3-1106, have not become active members.

(2) Beginning July 1, 2013, contracting local governments and school districts shall contribute the amounts specified 19-3-316 for retired members who return to work in a covered position but who, under the provisions of 19-3-1106, have not become active members.

(3) Beginning July 1, 2009, the state shall contribute the amounts specified in 19-3-319 for local government and school district employees who are retired members and have returned to work in a covered position but who, under the provisions of 19-3-1106, have not become active members."

**Insert: "Section 4.** Section 19-7-404, MCA, is amended to read:

**"19-7-404. Employer contributions.** (1) Each employer shall pay 9.535% of the compensation paid to all of the employer's employees ~~plus any additional contribution under subsection (3), except for those employees properly excluded from membership who are active members of the retirement system.~~

(2) If the required contribution to the retirement system exceeds the funds available to a county from general revenue sources, a county may, subject to 15-10-420, budget, levy, and collect annually a tax on the taxable value of all taxable property within the county that is sufficient to raise the amount of revenue needed to meet the county's obligation.

(3) Subject to subsection (4), each employer shall contribute to the system an additional employer contribution equal to ~~the following percentage 0.58%~~ of the compensation paid to all of the employer's employees; ~~except for those employees properly excluded from membership:~~

~~(a) beginning July 1, 2007, 0.29%; and~~

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~~(b) beginning July 1, 2009, 0.58% who are active members of the retirement system.~~

(4) (a) The board shall periodically review the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

(b) The employer contribution required under subsection (3) terminates on July 1 immediately following the system's actuarial valuation if:

(i) the actuarial valuation determines that the period required to amortize the system's unfunded liabilities, including adjustments made for any benefit enhancements enacted by the legislature after the valuation, is less than 25 years; and

(ii) terminating the additional employer contribution would not cause the amortization period as of the most recent actuarial valuation to exceed 25 years."

**Insert: "Section 5.** Section 19-7-1101, MCA, is amended to read:

**"19-7-1101. Reemployment of retired member -- employer contributions required.** (1) A retired member who returns to service for 480 hours or more in a calendar year must become an active member of the system. Upon reinstatement as an active member, benefit payments must cease until subsequent retirement.

(2) A retired member who returns to service for less than 480 hours in a calendar year may not become an active member. The retirement benefit of a retired member employed in service must be reduced by \$1 for each \$3 earned in excess of \$5,000 in a calendar year.

(3) The employer of a retired member who is returning to work pursuant to subsection (2) and who is not an active member shall contribute the amounts specified in 19-7-404."

**Insert: "Section 6.** Section 19-13-301, MCA, is amended to read:

**"19-13-301. Active membership -- inactive vested member -- inactive nonvested member.** (1) Except as provided in subsection (7), a full-paid firefighter becomes an active member of the retirement system:

(a) on the first day of the firefighter's service with an employer;

(b) on July 1, 1981, if the firefighter is employed by an employer on that date; or

(c) in the case of an employer who elects to join the retirement system, as provided in 19-13-211, on the effective date of the election if the firefighter is employed by the employer on that date.

(2) Upon becoming eligible for membership, the firefighter shall complete the forms and furnish any proof required by the board.

(3) A part-paid firefighter may elect to become a member of the retirement system by filing a membership application with the board within 6 months of becoming a part-paid firefighter.

(4) An active member becomes an inactive member upon the occurrence of the earliest of the following:

(a) the date on which the member ceases service with an employer;

(b) the 31st day of an approved absence from active duty with an employer; or

(c) the date on which the member ceases to be employed because of a reduction of the number of firefighters in the fire department as provided in 7-33-4125.

(5) (a) An inactive member with at least 5 years of membership service is an inactive vested member and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this chapter.

(b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit, the lump-sum payment consists of only the member's accumulated contributions and not the employer's contributions.

(6) (a) An inactive member with less than 5 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement system.

(b) An inactive nonvested member is eligible only for a refund of the member's accumulated contributions.

(7) (a) A firefighter previously employed in a position covered under the public employees' retirement system and who is first hired into a position covered under the firefighters' unified retirement system after attaining 45 years of age may elect to remain in the public employees' retirement system.

(b) A firefighter making an election to remain in the public employees' retirement system shall make the election in a manner prescribed by the board within 30 days of being hired into the position otherwise covered under the firefighters' unified retirement system.

~~(8) A retired member who is receiving a service retirement benefit or early retirement benefit may return~~

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to employment covered by the retirement system for a period not to exceed 480 hours in any calendar year without returning to active service and without any effect to the retiree's retirement benefit."

**Insert:** "Section 7. Section 19-13-605, MCA, is amended to read:

**"19-13-605. Employer contribution.** Each employer shall make its contribution on behalf of members through the city treasurer or other appropriate official from money available for this purpose. The employer shall pay as employer contributions 14.36% of the compensation paid to all of the employer's employees, ~~except those properly excluded from membership~~ who are active members of the retirement system. All contributions are payable monthly to the board, which shall, as soon as practicable after their receipt, deposit them in the pension trust fund."

**Insert:** "NEW SECTION. Section 8. Reemployment of retired member -- contributions required. (1) A retired member may, without returning to active service, return to work in a covered position for a period not to exceed 480 hours in any calendar year without affecting the retiree's retirement benefit.

(2) If a retired member returns to work in a covered position for more than 480 hours in a calendar year, the member returns to active service and the member's retirement benefits must cease until the member again terminates employment and retires.

(3) For each retired member who returns to work pursuant to subsection (1), the employer shall contribute the amount specified in 19-13-605 and the state shall contribute the amount specified in 19-13-604."

**Insert:** "NEW SECTION. Section 9. Codification instruction. (1) [Section 3] is intended to be codified as an integral part of Title 19, chapter 3, part 11, and the provisions of Title 19, chapter 3, part 11, apply to [section 3].

(2) [Section 8] is intended to be codified as an integral part of Title 19, chapter 13, and the provisions of Title 19, chapter 13, apply to [section 8]."

**Insert:** "NEW SECTION. Section 10. Effective date. [This act] is effective July 1, 2009."

And, as amended, do pass. Report adopted.

**HB 34**, introduced bill, be amended as follows:

1. Title, page 1, line 10.

**Following:** "SECTIONS"

**Insert:** "19-20-501,"

2. Page 2.

**Following:** line 25

**Insert:** "**Section 2.** Section 19-20-501, MCA, is amended to read:

**"19-20-501. Financial administration of money.** The members of the retirement board are the trustees of all money collected for the retirement system, and as trustees, they shall provide for the financial administration of the money as provided in Article VIII, section 15, of the Montana constitution in the following manner:

(1) The money must be invested and reinvested by the state board of investments.

(2) The retirement board shall annually establish the rate of regular interest.

(3) In accordance with the provisions of 19-20-605~~(7)~~(8), the amount to be credited to each reserve must be allocated from the interest and other earnings on the money of the retirement system actually realized during the preceding fiscal year, less the amount allocated to administrative expenses. The administrative expenses of the retirement system, less amortization of intangible assets, may not exceed 1.5% of retirement benefits paid.

(4) The state treasurer is the custodian of the collected retirement system money and of the securities in which the money is invested.

(5) For purposes of Article VIII, section 12, of the Montana constitution, all the reserves established by part 6 of this chapter must be accounts in the pension trust fund type of the treasury fund structure of the state.

(6) Benefits and refunds to eligible recipients are payable pursuant to a contract as contained in statute. Unless specifically provided for by statute, the contract does not contain revisions to statutes after the time of retirement or termination."

**Renumber:** subsequent sections

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3. Page 3, line 3.

**Strike:** "and retired member"

4. Page 3, line 8.

**Strike:** "and retired member"

5. Page 3.

**Following:** line 10

**Insert:** "(4) Beginning July 1, 2013, for each retired member who returns to covered employment under the provisions of 19-20-731 during all or part of the preceding payroll period, the employer shall pay into the pension accumulation account an amount equal to 9.85% of the total earned compensation paid to the retired member."

**Renumber:** subsequent subsections

And, as amended, do pass. Report adopted.

**TAXATION** (Lake, Chairman):

2/12/2009

**HB 428**, do pass. Report adopted.

**TRANSPORTATION** (Sonju, Chairman):

2/12/2009

**HB 306**, do pass. Report adopted.

**HB 387**, introduced bill, be amended as follows:

1. Page 1, line 29.

**Following:** "new"

**Strike:** "or used"

And, as amended, do pass. Report adopted.

**SB 88**, be concurred in as amended as follows.

1. Page 15, line 8.

**Strike:** "JURISDICTION"

**Insert:** "authority"

2. Page 15.

**Following:** line 10

**Insert:** "(7) A local authority shall consult with district officials for a school when:

(a) establishing or altering the area of a school zone near the school; or

(b) setting a speed limit pursuant to subsection (1)(d) in a school zone near the school."

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

**SB 152**, be concurred in. Report adopted.

**MESSAGES FROM THE SENATE**

**Senate bills** passed and transmitted to the House for concurrence:

2/12/2009

**SB 49**, introduced by Wanzenried

**SB 62**, introduced by Laible

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**SB 281**, introduced by Shockley  
**SB 311**, introduced by Gallus  
**SB 340**, introduced by Laslovich  
**SB 341**, introduced by Laslovich

**Senate joint resolution** passed and transmitted to the House for concurrence:

2/12/2009

**SJR 17**, introduced by Perry

**FIRST READING AND COMMITMENT OF BILLS**

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

**HB 574**, introduced by Vincent, referred to Judiciary.  
**HB 575**, introduced by McChesney, Ankney, Augare, Kerns, MacLaren, McChesney, McNutt, Sesso, Steenson, Bales, Keane, referred to Agriculture.  
**HB 576**, introduced by Warburton, O'Hara, Nooney, Vance, McGillvray, Getz, K. Peterson, Washburn, Klock, MacLaren, Mendenhall, Taylor, Blasdel, referred to State Administration.  
**HB 577**, introduced by Caferro, Henry, Sands, referred to Appropriations.  
**HB 578**, introduced by Caferro, referred to Human Services.  
**HB 579**, introduced by Caferro, Kaufmann, Sands, referred to Business and Labor.  
**HB 580**, introduced by Caferro, Sands, referred to Business and Labor.  
**HB 581**, introduced by Caferro, referred to Business and Labor.  
**HB 582**, introduced by Caferro, De. Barrett, B. Beck, Belcourt, Boss Ribs, Caferro, Dickenson, Hands, Hiner, A. Noonan, Roundstone, Sands, Sesso, Van Dyk, Wiseman, referred to Business and Labor.  
**HB 583**, introduced by Fleming, French, Black, Brueggeman, Getz, Campbell, Taylor, Grinde, Steinbeisser, Keane, Warburton, referred to Agriculture.  
**HB 584**, introduced by A. Noonan, referred to Federal Relations, Energy, and Telecommunications.  
**HB 585**, introduced by McClafferty, Arntzen, Augare, B. Beck, Belcourt, Dickenson, Ebinger, Hamilton, Hiner, Hollenbaugh, Howard, MacDonald, Malek, Mehlhoff, P. Noonan, Pease-Lopez, Roundstone, Sesso, Villa, Wilmer, Wilson, referred to Fish, Wildlife and Parks.  
**HB 586**, introduced by B. Beck, referred to Appropriations.  
**HB 587**, introduced by Howard, referred to Business and Labor.  
**HB 588**, introduced by Ankney, Berry, referred to Taxation.  
**HB 589**, introduced by Pomnichowski, referred to Business and Labor.  
**HB 590**, introduced by Wilmer, referred to State Administration.  
**HB 591**, introduced by Pease-Lopez, referred to State Administration.  
**HB 592**, introduced by Randall, Getz, Bean, Boniek, Taylor, Hinkle, referred to Agriculture.  
**HB 593**, introduced by Villa, Gallus, Hiner, Sesso, A. Noonan, Keane, McClafferty, P. Noonan, Laslovich, referred to Federal Relations, Energy, and Telecommunications.  
**HB 594**, introduced by Hunter, Zinke, referred to State Administration.

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

**SB 49**, introduced by Wanzenried, referred to State Administration.  
**SB 62**, introduced by Laible, referred to Natural Resources.  
**SB 281**, introduced by Shockley, J. Peterson, referred to Judiciary.  
**SB 311**, introduced by Gallus, referred to Judiciary.  
**SB 340**, introduced by Laslovich, referred to Judiciary.  
**SB 341**, introduced by Laslovich, referred to Judiciary.



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

**SJR 17**, introduced by Perry, referred to Agriculture.

Rep. Mendenhall requested a caucus for the House Republicans for 10 minutes.

Rep. Phillips announced the House Democrats will stand at ease.

Mr. Speaker announced that the House will be in recess until 1:20 p.m.

Mr. Speaker called the House to order at 1:32

**REPORTS OF STANDING COMMITTEES**

**JUDICIARY** (Stoker, Chairman):

2/12/2009

**HB 246**, introduced bill, be amended as follows:

1. Page 3, line 26 through line 30.

**Following:** "general."

**Strike:** subsection (1) in its entirety

2. Page 4, line 1.

**Strike:** "(2)"

And, as amended, do pass. Report adopted.

**HB 288**, introduced bill, be amended as follows:

1. Title, line 4.

**Following:** "BANNING"

**Insert:** "REPRODUCTIVE"

2. Page 1.

**Following:** line 20

**Insert:** "(6) "Reproductive human cloning" means human cloning intended to result in the gestation or birth of a child who is genetically identical to another conceptus, embryo, fetus, or human being, living or dead."

**Renumber:** subsequent subsection

3. Page 1, line 26.

**Following:** the second "perform"

**Insert:** "reproductive"

4. Page 1, line 27.

**Following:** "perform"

**Insert:** "reproductive"

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5. Page 1, line 28.  
**Strike:** "produced by"  
**Insert:** "for reproductive"

6. Page 1, line 30.  
**Following:** "of"  
**Insert:** "reproductive"

And, as amended, do pass. Report adopted.

**HB 403**, do pass. Report adopted.

**FIRST READING AND COMMITMENT OF BILLS**

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

**HB 595**, introduced by Caferro, referred to Federal Relations, Energy, and Telecommunications.

**HB 596**, introduced by Henry, Noonan, Henry, Larson, Wilmer, Villa, McAlpin, French, Pomnichowski, Steenson, Sesso, Barrett, Boland, Hands, Sands, Cohenour, Boss Ribs, Grinde, Reinhart, Malek, Becker, Kaufman, McDonald, Driscoll, Augare, referred to Human Services.

**HB 597**, introduced by Kerns, referred to Federal Relations, Energy, and Telecommunications.

**THIRD READING OF BILLS**

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

**HB 27** passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Jones, Jopek, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Reinhart, Roberts, Roundstone, Sands, Sesso, Steenson, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 63

Nays: Bean, B. Beck, Bennett, Blasdel, Boniek, Brown, Butcher, Hawk, Howard, Ingraham, Kasten, Kerns, Lake, MacLaren, McGillvray, McNutt, Mendenhall, Milburn, Miller, More, Peterson, Pomnichowski, Randall, Regier, Reichner, Sales, Smith, Sonju, Stahl, Stoker, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.

Total 37

Excused: None.

Total 0

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Absent or not voting: None.  
Total 0

**HB 133** passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roberts, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.  
Total 93

Nays: Becker, Boniek, Kasten, Randall, Roundstone, Sales, Wagner.  
Total 7

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

**HB 243** passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Jones, Jopek, Kasten, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.  
Total 92

Nays: Bennett, Boniek, Hawk, Howard, Kerns, Lake, Regier, Sales.  
Total 8

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

**SB 115** concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Jones, Jopek, Kasten, Klock, Kottel, Lake, MacDonald,

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MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Sonju, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 87

Nays: Boniek, Ingraham, Kerns, McGillvray, Mendenhall, Miller, Peterson, Randall, Sales, Smith, Stahl, Wagner, Warburton.

Total 13

Excused: None.

Total 0

Absent or not voting: None.

Total 0

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

Majority Leader Campbell moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative MacLaren in the chair.

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

**HB 160** - Representative Furey moved **HB 160** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, Miller, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Stahl, Steenson, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 89

Nays: Blasdel, Hawk, Kasten, Kerns, Mendenhall, More, Randall, Sales, Sonju, Stoker, Warburton.

Total 11

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 274** - Representative Hamilton moved **HB 274** do pass. Motion carried as follows:

Yeas: Augare, Barrett, P. Beck, Becker, Belcourt, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hunter, Ingraham, Jopek, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, A.

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Noonan, P. Noonan, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reinhart, Roundstone, Sands, Sesso, Steenson, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 52

Nays: Ankney, Arntzen, Bean, B. Beck, Bennett, Berry, Blasdel, Boniek, Brown, Butcher, Glaser, Hawk, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Jones, Kasten, Kerns, Klock, Lake, MacLaren, McGillvray, McNutt, Mendenhall, Milburn, Miller, More, Morgan, Nooney, O'Hara, Randall, Regier, Reichner, Roberts, Sales, Smith, Sonju, Stahl, Stoker, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.

Total 48

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 278** - Representative McChesney moved **HB 278** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Bean, B. Beck, P. Beck, Belcourt, Bennett, Berry, Blasdel, Blewett, Boniek, Brown, Butcher, Glaser, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hoven, Howard, Hunter, Ingraham, Jones, Kasten, Kerns, Klock, Lake, MacLaren, McAlpin, McChesney, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, O'Hara, Pease-Lopez, Peterson, Randall, Regier, Reichner, Roberts, Sales, Sesso, Smith, Sonju, Stahl, Stoker, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.

Total 62

Nays: Barrett, Becker, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Grinde, Hamilton, Hands, Hollenbaugh, Jopek, Kottel, MacDonald, Malek, McClafferty, A. Noonan, P. Noonan, Nooney, Phillips, Pomnichowski, Reinhart, Roundstone, Sands, Steenson, Van Dyk, Villa, Wilmer, Wilson, Wiseman.

Total 37

Excused: None.

Total 0

Absent or not voting: Mr. Speaker.

Total 1

**HB 285** - Representative Reinhart moved **HB 285** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 100

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Nays: None.  
Total 0

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

Rep. Campbell moved to pass consideration on **HB 328** for the day. Motion carried.

**HB 340** - Representative MacDonald moved **HB 340** do pass.

**HB 340** - Representative More moved **HB 340**, second reading copy, be amended as follows:

1. Page 1, line 22.

**Following:** "race"

**Insert:** "; and"

WHEREAS, the character demonstrated by former slaves should inspire us in this country to give thanks for the freedom won by so many people in all nations cherishing liberty and to strive for the goals of bringing freedom and democracy to people of other countries no matter what their race or religion

2. Page 1, line 27.

**Following:** "slavery"

**Insert:** ", to celebrate the freedom won by people in many countries, and to rededicate ourselves to the cause of liberty for people who yet suffer from tyranny and oppression"

Amendment adopted as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Sonju, Steenson, Taylor, Vance, Van Dyk, Vincent, Wagner, Washburn, Wilson, Wiseman, Mr. Speaker.

Total 85

Nays: B. Beck, Boniek, Cohenour, Hands, Hollandsworth, Kasten, Reichner, Sales, Stahl, Stoker, Villa, Warburton.  
Total 12

Excused: None.  
Total 0

Absent or not voting: A. Noonan, Welborn, Wilmer.  
Total 3

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**HB 340** - Representative MacDonald moved **HB 340** as amended do pass. Motion carried as follows:

Yeas: Augare, Barrett, P. Beck, Becker, Belcourt, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hunter, Jopek, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, More, A. Noonan, P. Noonan, Pease-Lopez, Phillips, Pomnichowski, Reinhart, Roundstone, Sands, Sesso, Steenson, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 51

Nays: Ankney, Arntzen, Bean, B. Beck, Bennett, Berry, Blasdel, Boniek, Brown, Butcher, Glaser, Hawk, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Ingraham, Jones, Kasten, Kerns, Klock, Lake, MacLaren, McGillvray, McNutt, Mendenhall, Milburn, Miller, Morgan, Nooney, O'Hara, Peterson, Randall, Regier, Reichner, Roberts, Sales, Smith, Sonju, Stahl, Stoker, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.

Total 49

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 365** - Representative Roberts moved **HB 365** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kerns, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 91

Nays: B. Beck, Brown, Hawk, Kasten, Lake, Mendenhall, Miller, Sales, Sonju.

Total 9

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 367** - Representative McGillvray moved **HB 367** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl,

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Stenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman.

Total 97

Nays: Hawk, Mr. Speaker.

Total 2

Excused: None.

Total 0

Absent or not voting: P. Beck.

Total 1

**HB 400** - Representative Kottel moved **HB 400** do pass. Motion carried as follows:

Yeas: Ankney, Barrett, Bean, B. Beck, P. Beck, Becker, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Brown, Butcher, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Jones, Jopek, Kasten, Kerns, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Randall, Reinhart, Roberts, Sales, Sands, Sesso, Sonju, Stahl, Steenson, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 83

Nays: Arntzen, Augare, Belcourt, Boss Ribs, Caferro, Hawk, Hendrick, Howard, Ingraham, Lake, McGillvray, Peterson, Regier, Reichner, Roundstone, Smith, Stoker.

Total 17

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HJR 4** - Representative Vincent moved **HJR 4** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Bean, B. Beck, Belcourt, Bennett, Berry, Blasdel, Boniek, Brown, Butcher, Getz, Glaser, Hawk, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Ingraham, Jones, Kasten, Kerns, Klock, Lake, MacLaren, McGillvray, McNutt, Mehlhoff, Mendenhall, Milburn, Miller, More, Morgan, Nooney, O'Hara, Peterson, Randall, Regier, Reichner, Roberts, Sales, Smith, Sonju, Stahl, Stoker, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.

Total 53

Nays: Augare, Barrett, P. Beck, Becker, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hunter, Jopek, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Menahan, A. Noonan, P. Noonan, Pease-Lopez, Phillips, Pomnichowski, Reinhart, Roundstone, Sands, Sesso, Steenson, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 47

Excused: None.



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Total 0

Absent or not voting: None.

Total 0

Majority Leader Campbell moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman MacLaren moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Hiner, Hollandsworth, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, Miller, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Sonju, Steenson, Stoker, Taylor, Van Dyk, Vincent, Wagner, Warburton, Washburn, Wilson, Wiseman, Mr. Speaker.

Total 83

Nays: Hawk, Hollenbaugh, Mendenhall, More, Randall, Regier, Sales, Vance, Villa.

Total 9

Excused: Wilmer.

Total 1

Absent or not voting: Ankney, Arntzen, Himmelberger, MacLaren, Smith, Stahl, Welborn.

Total 7

**REPORTS OF STANDING COMMITTEES**

**EDUCATION** (Grinde, Chairman):

2/12/2009

**HB 332**, introduced bill, be amended as follows:

1. Page 1, line 25.

**Following:** "cooperatives."

**Insert:** "Adequate notice of the meeting as well as an agenda must be provided to the public in advance."

2. Page 2, line 4.

**Strike:** "subsection (3)"

**Insert:** "this section"

3. Page 2, line 7.

**Following:** "district"

**Insert:** "or violation of the student code of conduct, as defined in accordance with district policy, within a week of graduation"

4. Page 2, line 23.

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**Following:** "~~the trustees of~~"  
**Insert:** "the trustees of"

5. Page 2, line 25.

**Following:** "activities"  
**Strike:** "as defined in and in accordance with district policy"  
**Strike:** "district"  
**Insert:** "trustees"

6. Page 2, line 27.

**Strike:** "board, the superintendent, or the principal has"  
**Insert:** "trustees have"

7. Page 2, lines 28 and 29.

**Following:** "infraction." on line 28  
**Strike:** remainder of line 28 through line 29 in their entirety

And, as amended, do pass. Report adopted.

**JUDICIARY** (Stoker, Chairman):  
**HB 235**, introduced bill, be amended as follows:

2/12/2009

1. Title, line 7.

**Following:** "15-30-101,"  
**Insert:** "15-31-101, 15-31-102,"

2. Page 6.

**Following:** line 13  
**Insert:** "**Insert: "Section 2.** Section 15-31-101, MCA, is amended to read:

**"15-31-101. Organizations subject to tax.** (1) The term "corporation" includes an association, joint-stock company, common-law trust or business trust that does business in an organized capacity, all other corporations whether created, organized, or existing under and pursuant to the laws, agreements, or declarations of trust of any state, country, or the United States, and any limited liability company, low-profit limited liability company, limited liability partnership, partnership, or other entity that is treated as an association for federal income tax purposes and that is not a disregarded entity.

(2) The terms "engaged in business" and "doing business" both mean actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(3) Except as provided in 15-31-103 or 33-2-705(4) or as may be otherwise specifically provided, every corporation engaged in business in the state of Montana shall annually pay to the state treasurer as a license fee for the privilege of carrying on business in this state the percentage or percentages of its total net income for the preceding taxable year at the rate set forth in this chapter. In the case of corporations having income from business activity which is taxable both within and outside of this state, the license fee must be measured by the net income derived from or attributable to Montana sources as determined under part 3. Except as provided in 15-31-502, this

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tax is due and payable on the 15th day of the 5th month following the close of the taxable year of the corporation. However, the tax becomes a lien as provided in this chapter on the last day of the taxable year in which the income was earned and is for the privilege of carrying on business in this state for the taxable year in which the income was earned.

(4) Every bank organized under the laws of the state of Montana, of any other state, or of the United States and every savings and loan association organized under the laws of this state or of the United States is subject to the Montana corporation license tax provided for under this chapter. For taxable years beginning on and after January 1, 1972, this subsection is effective in accordance with Public Law 91-156, section 2 (12 U.S.C. 548)."

**Insert: "Section 3.** Section 15-31-102, MCA, is amended to read:

**"15-31-102. Organizations exempt from tax -- unrelated business income not exempt.** (1) Except as provided in subsection (3), there may not be taxed under this title any income received by any:

- (a) labor, agricultural, or horticultural organization;
  - (b) fraternal beneficiary, society, order, or association operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of the society, order, or association or their dependents;
  - (c) cemetery company owned and operated exclusively for the benefit of its members;
  - (d) corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;
  - (e) business league, chamber of commerce, or board of trade not organized for profit, no part of the net income of which inures to the benefit of any private stockholder or individual;
  - (f) civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;
  - (g) club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;
  - (h) farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or similar organization of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses;
  - (i) cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis;
  - (j) corporations or associations organized for the exclusive purpose of holding title to property, collecting income from the property, and turning over the entire amount of the income, less expenses, to an organization that itself is exempt from the tax imposed by this title;
  - (k) wool and sheep pool, which is an association owned and operated by agricultural producers organized to market association members' wool and sheep, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses. Income, for this purpose, does not include expenses and money distributed to members contributing wool and sheep.
  - (l) corporation that qualifies as a domestic international sales corporation (DISC) under the provisions of section 991, et seq., of the Internal Revenue Code, 26 U.S.C. 991, et seq., and that has in effect for the entire taxable year a valid election under federal law to be treated as a DISC. If a corporation makes that election under federal law, each person who at any time is a shareholder of the corporation is subject to taxation under Title 15, chapter 30, on the earnings and profits of this DISC in the same manner as provided by federal law for all periods for which the election is effective.
  - (m) farmers' market association not organized for profit, no part of the net income of which inures to the benefit of any member, but that is organized for the sole purpose of providing for retail distribution of homegrown vegetables, handicrafts, and other products either grown or manufactured by the seller;
  - (n) common trust fund as defined in section 584(a) of the Internal Revenue Code, 26 U.S.C. 584(a).
- (2) In determining the license fee to be paid under this part, there may not be included any earnings derived from any public utility managed or operated by any subdivision of the state or from the exercise of any governmental function.

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(3) Any unrelated business taxable income, as defined by section 512 of the Internal Revenue Code, 26 U.S.C. 512, as amended, earned by any exempt ~~corporation~~ entity resulting in a federal unrelated business income tax liability of more than \$100 must be taxed as other corporation income is taxed under this title. An exempt ~~corporation~~ entity subject to taxation on unrelated business income under this section shall file a copy of its federal exempt organization business income tax return on which it reports its unrelated business income with the department of revenue.""

"

**Renumber:** subsequent sections

3. Page 8, lines 2 and 3.

**Following:** "not" on line 2

**Strike:** remainder of line 2 through "170(c)(2)(D)" on line 3

**Insert:** "attempt to influence legislation or participate or intervene in any political campaign, including publishing or distributing statements, on behalf of or in opposition to any candidate for public office"

And, as amended, do pass. Report adopted.

**HB 308**, introduced bill, be amended as follows:

1. Title, lines 6 and 7.

**Following:** "SENTENCE" on line 6

**Strike:** "TO PERFORM COMMUNITY SERVICE"

**Strike:** "SECTIONS" on line 6 through "46-18-250," on line 7

**Insert:** "SECTION 46-18-201,"

2. Page 1, line 11 through page 3, line 28.

**Strike:** sections 1 through 3 in their entirety

**Insert:** "**Section 1.** Section 46-18-201, MCA, is amended to read:

**"46-18-201. Sentences that may be imposed.** (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

~~(a)~~(i) a fine as provided by law for the offense;

~~(b)~~(ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

~~(c)~~(iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at

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a state prison to be designated by the department of corrections;

~~(d)~~(iv) commitment of:

~~(i)~~(A) an offender not referred to in subsection ~~(3)(d)(ii)~~ ~~(3)(a)(iv)(B)~~ to the department of corrections, with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), and 45-5-625(4); or

~~(ii)~~(B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

~~(e)~~(v) with the approval of the facility or program, placement of the offender in a community corrections facility or program as provided in 53-30-321;

~~(f)~~(vi) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, placement of the offender in a prerelease center or prerelease program for a period not to exceed 1 year;

~~(g)~~(vii) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; or

~~(h)~~(viii) any combination of subsections (2) ~~through (3)(g)~~ and ~~(3)(a)(i) through (3)(a)(vii)~~.

(b) A court may not more than twice annually, as part of a program available to an identifiable class of defendants owing fines imposed by the court, permit up to \$100 of the amount of the fine to be satisfied by a donation of food, clothing, or other necessities of life to a community organization dedicated to the provision of those items to low-income individuals.

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose upon the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) ~~of this section~~ may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

(m) with the approval of the department of corrections and with a signed statement from an offender that the offender's participation in the boot camp incarceration program is voluntary, an order that the offender complete the boot camp incarceration program established pursuant to 53-30-403;

(n) participation in a day reporting program provided for in 53-1-203;

(o) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or

(p) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(p).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243,

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has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) In addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise.""

**Renumber:** subsequent section

And, as amended, do pass. Report adopted.

**MOTIONS**

Rep. Campbell moved to reconsider previous actions on **SB 39** and it be moved from the Appropriations Committee and be placed on 3rd reading tomorrow. Motion carried.

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Representative Campbell moved that the House adjourn until 1:00 p.m., Friday, February 13, 2009. Motion carried.

House adjourned at 3:07 p.m.

DAVE HUNTER  
Chief Clerk of the House

BOB BERGREN  
Speaker of the House