

**SENATE JOURNAL
61ST LEGISLATURE
THIRTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
February 17, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

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

BILLS AND JOURNALS:

2/17/2009

Correctly printed: **SB 46, SB 236, SB 330, SB 400, SB 405.**

Correctly engrossed: **SB 8, SB 292, SB 326, SB 350.**

Signed by the Speaker at 3:31 p.m., February 16, 2009: **SB 39, SB 115.**

Signed by the President at 3:55 p.m., February 16, 2009: **SB 39, SB 115.**

Delivered to the Governor for approval at 9:42 a.m., February 17, 2009: **SB 39, SB 115.**

REPORTS OF STANDING COMMITTEES

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

2/16/2009

SB 151, introduced bill, be amended as follows:

1. Title, page 1, line 8 through line 9.

Strike: "EXPANDING" on line 8 through "CONTRACTS;" on line 9

2. Title, page 1, line 10 through line 11.

Strike: "REVISING DISCLOSURE" on line 10 through "BROKERS;" on line 11

3. Title, page 1, line 13 through line 15.

Strike: "REVISING PRACTICES" on line 13 through "BROKERS;" on line 15

4. Title, page 1, line 16.

Strike: "33-19-104,"

Strike: "33-20-1311,"

5. Title, page 1, line 17.

Strike: "33-20-1313,"

6. Page 1, line 22.

Strike: "contract"

7. Page 1, line 25.

Strike: "contract"

8. Page 1, line 27.

Strike: "contract"

9. Page 1, line 30.

Following: "₂"

Insert: "and"

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

10. Page 2, line 1 through line 6.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

11. Page 2, line 11.

Strike: "contract"

12. Page 2, line 12.

Strike: "contract"

13. Page 2, line 18.

Strike: "contract"

14. Page 2.

Following: line 18

Insert: "(2) A person commits the act of insurance fraud or viatical settlement fraud by engaging in any transaction, act, practice, course of business, or course of dealing that involves a violation of insurable interest laws."

Renumber: subsequent subsections

15. Page 2, line 23.

Strike: "contract"

16. Page 2, line 27.

Strike: "contract"

17. Page 2, line 28.

Strike: "insurance fraud"

Insert: "a violation of this part"

18. Page 2, line 29.

Strike: the first "insurer," through "producer"

Insert: "person"

19. Page 4, line 6 through line 11.

Strike: subsections (2) and (3) in their entirety

Renumber: subsequent subsections

20. Page 4, line 12 through line 13.

Strike: ":" on line 12

Strike: "(a)" on line 13

Following: "settlements;" on line 13

Strike: "or"

21. Page 4, line 14 through line 15.

Strike: subsection (b) in its entirety

22. Page 5, line 10.

Strike: "contract"

23. Page 5, line 17.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: "contract"

24. Page 5, line 19 through page 10, line 6.

Strike: section 5 in its entirety

Renumber: subsequent sections

25. Page 11, line 12 through page 15, line 20.

Strike: sections 7 and 8 in their entirety

Renumber: subsequent sections

26. Page 16, line 8 through page 17, line 25.

Strike: section 10 in its entirety

Renumber: subsequent sections

27. Page 18, line 20.

Strike: "[Sections 10 and 11] are"

Insert: "[Section 7] is"

28. Page 18, line 21.

Strike: "[sections 10 and 11]"

Insert: "[section 7]"

29. Page 18, line 29.

Strike: "[Sections 6 through 11] are"

Insert: "[Section 5] is"

And, as amended, do pass. Report adopted.

SB 192, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "EQUAL"

Insert: "AN"

2. Title, page 1, line 5.

Strike: "UNDER"

Insert: "BY ALLOWING POOLED RISK SAFETY GROUPS IN"

3. Title, page 1, line 6 through line 8.

Strike: "RELIEF" on line 6

Insert: "AN OPPORTUNITY FOR A RETURN ON PREMIUM BASED ON REDUCED LOSSES"

Following: "THAT" on line 6

Strike: "IMPLEMENT" on line 6 through "THAT" on line 8

4. Title, page 1, line 9 through line 10.

Strike: "SECTIONS"

Insert: "SECTION"

Strike: "39-71-2315 " on line 9 through "39-71-2330," on line 10

Strike: "A TERMINATION"

Insert: "AN APPLICABILITY"

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

5. Page 1, line 20.

Following: "businesses"

Insert: "; and

WHEREAS, the opportunity to pool risk in a group that has made a commitment to safety yields the potential to benefit small businesses by reducing losses and possibly generating a return on premium"

6. Page 1, line 24 through page 2, line 30.

Strike: section 1 through section 2 in their entirety

Insert: "NEW SECTION. Section 1. Workplace safety program. (1) An employer that is not eligible for the tier with the lowest-rated premium for workers' compensation purposes is eligible to join a state fund pooled risk safety group, as provided in [section 2], if the employer:

(a) adopts and maintains a written, comprehensive workplace safety program that has been in place for more than 1 year and that meets the criteria established by rule implementing Title 39, chapter 71, part 15.

(b) adopts transitional and return-to-work programs;

(c) has at least 3 years of experience without losses;

(d) uses available safety consultation services or programs offered by the department or the state fund. Safety consultation may be provided to individual employers or to groups. The department and the state fund shall notify each employer in a group, as provided in [section 2], regarding the availability of safety and return-to-work resources.

(e) complies with the terms and conditions of the state fund pooled risk safety group as provided in [section 2].

(2) The state fund and the department shall share information on workplace safety programs and transitional and return-to-work programs."

Insert: "NEW SECTION. Section 2. Pooled risk safety group. (1) The state fund may establish one or more groups of individual policies in a pooled risk safety group to promote safety as a way to reduce losses among members of the pooled risk safety group.

(2) Each member of a pooled risk safety group must be eligible as provided in [section 1] and must have an individual workers' compensation plan No. 3 policy. An individual policy may be included in only one group.

(3) The state fund shall annually establish the terms and conditions of the plan that defines the requirements of participation for a pooled risk safety group. The plan must include the criteria to be eligible for an aggregate return of premium and a method for apportioning the return of premium among members of the group.

(4) The aggregate record of the individual members of the pooled risk safety group is the basis for determining if the members of the pooled risk safety group qualify for a return on premiums."

7. Page 3, line 6.

Strike: "Subject" through "premium"

Insert: "Premium"

8. Page 3, line 12.

Strike: "of 20" through "rating"

Insert: "that are not eligible for the tier with the lowest-rated premium for workers' compensation purposes"

9. Page 3, line 15 through line 16.

Strike: "and recognizing" on line 15 through "injury" on line 16

10. Page 3, line 17 through line 18.

Strike: "and may" on line 17 through "promotions" on line 18

11. Page 3, line 23 through page 7, line 4.

Strike: section 4 through section 7 in their entirety

Renumber: subsequent sections

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

12. Page 7, line 10.

Following: "date"

Insert: "-- applicability"

Following: "2009"

Insert: ", and applies to groups formed on or after July 1, 2010"

13. Page 7, line 12 through line 13.

Strike: section 10 in its entirety

And, as amended, do pass. Report adopted.

SB 234, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "SECTIONS"

Insert: "33-1-102,"

2. Page 1, line 13.

Strike: "dependent"

Following: "child"

Insert: "18 years of age or younger"

3. Page 1, line 14.

Strike: "an individual"

Insert: "a child"

4. Page 1, line 23.

Following: "that are"

Insert: "medically"

Following: "develop"

Strike: ", maintain,"

5. Page 1, line 24.

Strike: "dependent"

6. Page 1, line 27.

Strike: "by a dietitian registered in this state or"

7. Page 1, line 28.

Strike: "nutritionist,"

8. Page 1, line 29 through page 2, line 3.

Strike: "applied behavior" on page 1, line 29 through "behavior" on page 2, line 3

Insert: "medically necessary interactive therapies derived from evidence-based research, including applied behavior analysis, which is also known as Lovaas therapy, discrete trial training, pivotal response training, intensive intervention programs, and early intensive behavioral intervention"

9. Page 2, line 4.

Following: "who" on line 4

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: "has been"

Insert: "is licensed by the behavior analyst certification board or is"

10. Page 2, line 5 through line 6.

Strike: "qualified" on line 5 through "analysis" on line 6

Insert: "family support specialist with an autism endorsement"

11. Page 2, line 7.

Following: "(4)"

Insert: "(a)"

12. Page 2, line 8.

Following: "benefit of"

Insert: ":"

(i)"

Following: "\$50,000 a year"

Strike: "."

Insert: "for a child 8 years of age or younger; and

(ii) \$20,000 a year for a child 9 years of age through 18 years of age.

(b)"

13. Page 2, line 9.

Strike: "dependent"

14. Page 2, line 15 through line 18.

Following: "(6)"

Strike: "Upon request" on line 15 through "status." on line 18

Following: "may request"

Insert: "that the treating physician provide"

15. Page 2, line 20.

Strike: "frequency" through "updated."

Insert: "reasons the treatment is medically necessary. The treatment plan must be based on evidence-based screening criteria. The insurer may ask that the treatment plan be updated every 6 months."

16. Page 2.

Following: line 20

Insert: "(7) As used in this section, "medically necessary" means any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a physician or psychologist licensed in this state and that will or is reasonably expected to:

(a) prevent the onset of an illness, condition, injury, or disability;

(b) reduce or improve the physical, mental, or developmental effects of an illness, condition, injury, or disability; or

(c) assist in achieving maximum functional capacity in performing daily activities, taking into account both the functional capacity of the recipient and the functional capacities that are appropriate for a child of the same age."

Renumber: subsequent subsections

17. Page 2.

Following: line 26

Insert: "**Section 2.** Section 33-1-102, MCA, is amended to read:

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

"33-1-102. Compliance required -- exceptions -- health service corporations -- health maintenance organizations -- governmental insurance programs -- service contracts. (1) A person may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect to:

- (a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;
- (b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and
- (c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations or to managed care community networks, as defined in 53-6-702, to the extent that the existence and operations of those organizations are governed by chapter 31 or to the extent that the existence and operations of those networks are governed by Title 53, chapter 6, part 7. The department of public health and human services is responsible to protect the interests of consumers by providing complaint, appeal, and grievance procedures relating to managed care community networks and health maintenance organizations under contract to provide services under Title 53, chapter 6.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, parts 21 and 23, and related sections.

(6) The department of public health and human services may limit the amount, scope, and duration of services for programs established under Title 53 that are provided under contract by entities subject to this title. The department of public health and human services may establish more restrictive eligibility requirements and fewer services than may be required by this title.

(7) ~~This~~ Except as otherwise provided in Title 33, chapter 22, this code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8.

(8) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(9) (a) ~~This~~ Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) ~~This~~ Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(10) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making of, proposal to make, and administration of a service contract.

(b) A "service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair, replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service. A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or accidental damage from handling. A service contract does not include motor club service as defined in 61-12-301.

(11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for the financial risk under the contract with the third party as provided in 7-34-103.

(b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or town, the entity is subject to the provisions of this code."

Renumber: subsequent sections

18. Page 4, line 9.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: "and"

19. Page 4, line 10.

Following: "~~and~~"

Insert: "; and"

20. Page 4, line 11.

Following: "~~autism~~"

Insert: "(g) autism"

Following: the first "."

Insert: "(7) Coverage for a child with autism who is 18 years of age or younger must comply with [section 1(3) through (5)] if the child is diagnosed with:

(a) autistic disorder;

(b) Asperger's disorder; or

(c) pervasive developmental disorder not otherwise specified."

21. Page 5, line 22.

Strike: "and"

22. Page 5, line 23.

Following: "~~and~~"

Insert: "; and"

23. Page 5, line 24.

Following: "~~autism~~"

Insert: "(g) autism"

24. Page 5, line 25.

Insert: "(7) Coverage for a child with autism who is 18 years of age or younger must comply with [section 1(3) through (5)] if the child is diagnosed with:

(a) autistic disorder;

(b) Asperger's disorder; or

(c) pervasive developmental disorder not otherwise specified."

25. Page 8, line 9.

Insert: "NEW SECTION. Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 356, introduced bill, be amended as follows:

1. Page 1, line 11.

Strike: "A"

Insert: "(a) Except as provided in subsection (1)(b), a"

2. Page 1, line 12.

Strike: "registered"

Insert: "titled"

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

3. Page 1.

Following: line 13

Insert: "(b) This section does not apply to a person buying, selling, exchanging, accepting on consignment, or acting as a broker of a used manufactured home that is not titled in the person's name."

And, as amended, do pass. Report adopted.

SB 363, introduced bill, be amended as follows:

1. Page 4, line 6.

Strike: "employment of"

2. Page 4, line 6 through line 7.

Following: "person" on line 6

Strike: "to speak" on line 6 through "workshop" on line 7

Insert: "who performs educational services as a speaker"

3. Page 4, line 7.

Following: "institution"

Strike: "z"

4. Page 4, line 8.

Strike: "individual"

Insert: "person and when the person receives less than \$100 a year from the institution"

And, as amended, do pass. Report adopted.

SB 375, do pass. Report adopted.

SB 395, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

2/16/2009

SB 263, introduced bill, be amended as follows:

1. Title, line 4.

Following: ""AN ACT"

Strike: "REVISING LAWS GOVERNING"

Insert: "ESTABLISHING A FLAT FEE FOR SERVICES PROVIDED BY"

Following: "OFFICE OF"

Insert: "STATE"

2. Title, line 5 through line 7.

Following: "DEFENDER;" on line 5

Strike: remainder of line 5 through "CASES;" on line 7

Insert: "REQUIRING PUBLIC DEFENDER COSTS TO BE INCLUDED IN A CRIMINAL JUDGMENT;"

3. Title, line 8.

Following: "OFFICE OF"

Insert: "STATE"

4. Title, line 8 through line 10.

Following: "COURT;" on line 8

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: remainder of line 8 through "COST-EFFECTIVE;" on line 10

5. Title, line 11.

Following: "46-8-113"

Strike: ",47-1-104, 47-1-105,"

Insert: "AND"

Following: "47-1-111,"

Strike: "47-1-201, 47-1-202, 47-1-215, AND 47-1-216,"

6. Page 1, line 17.

Following: "counsel --"

Strike: "bill of costs"

Insert: "fees for public defender costs -- inclusion in judgment"

7. Page 1, line 21 through line 22.

Following: "as" on line 21

Strike: remainder of line 21 through "47-1-104(5)."

Insert: "provided in subsection (5). The costs must be included in the judgment drafted by the county attorney."

8. Page 1, line 30.

Following: "payment."

Insert: "(5) The court shall include public defender costs in the judgment at the following rates:

(a) misdemeanor guilty plea, other than a misdemeanor under 61-8-401, 61-8-406, or 61-8-410, \$250;

(b) misdemeanor guilty plea under 61-8-401, 61-8-406, or 61-8-410, \$500;

(c) misdemeanor trial, \$1,000;

(d) felony guilty plea, \$1,000; and

(e) felony trial, \$1,000 per day of trial."

9. Page 2, line 2 through page 5, line 30.

Strike: section 2 through section 3 in their entirety

Renumber: subsequent sections

10. Page 6, line 15.

Following: "am"

Strike: "a verified"

Insert: "an"

11. Page 7, line 16 through page 11, line 18.

Strike: section 5 through section 8 in their entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 285, do pass. Report adopted.

SB 441, introduced bill, be amended as follows:

1. Title, line 6.

Following: "JUDGMENT DEBTOR"

Insert: "OR GARNISHEE"

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

2. Page 3, line 1.

Following: "judgment debtor"

Insert: "or garnishee"

3. Page 3, line 17.

Strike: "necessaries"

Insert: "necessities"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

2/17/2009

SB 345, introduced bill, be amended as follows:

1. Page 2, lines 25 and 26.

Strike: "who" on line 25 through "regulations" on line 26

Insert: "within the proposed district"

2. Page 2, lines 27 and 28.

Strike: "area" on line 27 through "regulations" on line 28

Insert: "proposed district"

3. Page 3, line 16.

Strike: "(a)"

4. Page 3, line 24 through line 25.

Strike: subsection (6)(b) in its entirety

5. Page 4, line 10.

Strike: "1 year"

Insert: "6 months"

6. Page 4, line 11.

Strike: "The"

Insert: "Subject to the provisions of subsections (3)(c) and (3)(d), the"

7. Page 4, lines 22 through 24.

Strike: subsections (3)(a)(iv) and (3)(a)(v) in their entirety

Renumber: subsequent subsections

8. Page 4, lines 28 and 29.

Strike: ";" on line 28 through "(i)" on line 29

9. Page 4, line 30 through page 5, line 2.

Strike: "; and" on page 4, line 30 through "discretion" on page 5, line 2

10. Page 5, line 3.

Following: "(c)"

Insert: "(i)"

11. Page 5, lines 4 through 6.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: "The" on line 4 through "adoption." on line 6

12. Page 5.

Following: line 6

Insert: "(ii) The interim zoning district or interim regulation remains in effect for 6 months from the date of adoption of the resolution under subsection (3)(c)(i). The board of county commissioners may adopt a resolution to extend the duration of the interim zoning district or interim regulation for an additional 1-year period if:

(A) not less than 60 days before conclusion of the 6-month period, the board holds a public hearing for which notice is provided as required in subsection (3)(a);

(B) at the public hearing the board gives the public an opportunity to be heard regarding extending the duration of the interim zoning district or interim regulation;

(C) for 30 days after the public hearing, the board accepts written protests to extending the duration of the interim zoning district or interim regulation as provided in subsection (3)(d); and

(D) protest is not sufficient to prevent extending the duration of the interim zoning district or interim regulation."

13. Page 5, line 7.

Strike: "adoption of the resolution to establish"

Insert: "the public hearing on extending the duration of"

14. Page 5, line 8.

Strike: "the creation"

Insert: "extending the duration"

15. Page 5, line 10.

Strike: "(A)"

16. Page 5, line 13.

Strike: "the establishment"

Insert: "extending the duration"

17. Page 5, line 14.

Strike: "resolution" through "void"

Insert: "board may not adopt a resolution to extend the duration of the interim zoning district or interim regulation and may not consider the area for inclusion in an interim zoning district or to be subject to an interim regulation for a period of 1 year"

18. Page 5, line 15 through line 19.

Strike: "(B)" on line 15 through "year." on line 19

And, as amended, do pass. Report adopted.

SB 390, do pass. Report adopted.

SB 392, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

2/17/2009

SB 303, introduced bill, be amended as follows:

1. Title, page 1, line 6.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: "A"
Strike: "COUNCIL"
Insert: "COUNCILS"

2. Page 2, line 2.
Strike: line 2 in its entirety

3. Page 2, line 3.
Strike: "(c)"
Insert: "(b)"

4. Page 2, line 4.
Strike: "(d)"
Insert: "(c)"

5. Page 2, line 6.
Strike: "(e)"
Insert: "(d)"

6. Page 2, line 6.
Following: "means"
Insert: ", such as an evaluation of opportunities for storage of water by both private and public entities,"

7. Page 2, line 8.
Strike: "(f)"
Insert: "(e)"

8. Page 2, line 9.
Strike: "(g)"
Insert: "(f)"

9. Page 2, line 10 through line 11.
Strike: "that" on line 10 through "interests" on line 11
Following: "basin." on line 11
Insert: "(b) Each council consists of representatives of existing watershed groups or councils within the basin.
(c) The department shall attempt to ensure that each council is representative of all water interests in that basin."

10. Page 2, line 11.
Strike: "The"
Insert: "(d) Each"

11. Page 2, line 12.
Strike: "(b) The"
Insert: "(e) Each"

And, as amended, do pass. Report adopted.

SB 306, introduced bill, be amended as follows:

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

1. Title, page 1, line 5.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "76-3-103"

Insert: "AND 76-3-609"

2. Page 1, line 9 through line 10.

Strike: "A" on line 9 through "remainder" on line 10

Insert: "Only one remainder may be created from a subdivision or the use of an exemption under 76-3-201 or 76-3-207"

3. Page 1, line 12.

Strike: "immediate transfer"

Insert: "sale, lease, or creating a security interest under 76-3-201(1)(b)"

4. Page 1, line 13.

Strike: "1 year"

Insert: "18 months"

5. Page 1, line 21.

Strike: "subdivider resides"

Insert: "subdivider's primary residence is"

6. Page 1, line 22 through line 23.

Strike: "subdivider" through "remainder;" on line 23

Insert: "remainder is taxed for agricultural purposes under Title 76, chapter 2, part 9; or"

7. Page 1, line 24 through line 30.

Strike: ";" on line 24 through "or" on line 25

Insert: "."

8. Page 1, line 26 through line 27.

Strike: line 26 through line 27 in their entirety

9. Page 4.

Following: line 8

Insert: "Section 3. Section 76-3-609, MCA, is amended to read:

"76-3-609. Review procedure for minor subdivisions -- determination of sufficiency of application -- governing body to adopt regulations. (1) Minor subdivisions must be reviewed as provided in this section and subject to the applicable local regulations adopted pursuant to 76-3-504.

(2) If the tract of record proposed to be subdivided has not been subdivided or created by a subdivision under this chapter or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201, ~~or~~ 76-3-207, or [section 1] since July 1, 1973, then the proposed subdivision is a first minor subdivision from a tract of record and, when legal and physical access to all lots is provided, must be reviewed as follows:

(a) Except as provided in subsection (2)(b), the governing body shall approve, conditionally approve, or deny the first minor subdivision from a tract of record within 35 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review. The determination and notification to the subdivider must be made in the same manner as is provided in 76-3-604(1) through (3).

(b) The subdivider and the reviewing agent or agency may agree to an extension or suspension of the review

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

period, not to exceed 1 year.

(c) Except as provided in subsection (2)(d)(iii), an application must include a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608(3).

(d) The following requirements do not apply to the first minor subdivision from a tract of record as provided in subsection (2):

(i) the requirement to prepare an environmental assessment;

(ii) the requirement to hold a hearing on the subdivision application pursuant to 76-3-605; and

(iii) the requirement to review the subdivision for the criteria contained in 76-3-608(3)(a) if the minor subdivision is proposed in the portion of a jurisdictional area that has adopted zoning regulations that address the criteria in 76-3-608(3)(a).

(e) The governing body may adopt regulations that establish requirements for the expedited review of the first minor subdivision from a tract of record. The following apply to a proposed subdivision reviewed under the regulations:

(i) 76-3-608(3); and

(ii) the provisions of Title 76, chapter 4, part 1, whenever approval is required by those provisions.

(3) Except as provided in 76-3-616 and subsection (4) of this section, any minor subdivision that is not a first minor subdivision from a tract of record, as provided in subsection (2), is a subsequent minor subdivision and must be reviewed as provided in 76-3-601 through 76-3-605, 76-3-608, 76-3-610 through 76-3-614, and 76-3-620.

(4) The governing body may adopt subdivision regulations that establish requirements for review of subsequent minor subdivisions that meet or exceed the requirements that apply to the first minor subdivision, as provided in subsection (2) and this chapter.

(5) (a) Review and approval, conditional approval, or denial of a subdivision under this chapter may occur only under those regulations in effect at the time that a subdivision application is determined to contain sufficient information for review as provided in subsection (2).

(b) If regulations change during the period that the application is reviewed for required elements and sufficient information, the determination of whether the application contains the required elements and sufficient information must be based on the new regulations."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 360, do pass. Report adopted.

SB 437, do pass. Report adopted.

SB 451, do pass. Report adopted.

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

2/17/2009

SB 399, introduced bill, be amended as follows:

1. Title, page 1, lines 5 through 7.

Strike: "REQUIRING" on line 5 through "PROVIDERS;" on line 7

Insert: "AND"

2. Title, page 1, line 7.

Following: "ESTABLISHING"

Insert: "DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES"

3. Title, page 1, line 8.

Following: "REQUIREMENTS"

Strike: "; through "MCA"

Insert: "REGARDING HIGH-RISK CHILDREN WITH MULTIAGENCY SERVICE NEEDS"

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

4. Page 1, lines 24 and 25.

Strike: "-- review of placements"

5. Page 1, line 25.

Strike: "(1)"

6. Page 1, line 30.

Strike: "(a)"

Insert: "(1)"

Renumber: subsequent subsections

7. Page 2, line 2 through line 20.

Strike: subsection (2) through subsection (4) in their entirety

8. Page 2, line 23.

Following: "requirements"

Insert: "regarding high-risk children with multiagency service needs"

9. Page 3, line 13 through page 7, line 4.

Strike: section 3 through section 5 in their entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 401, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/17/2009

SB 348, do pass. Report adopted.

SR 2, do pass. Preliminary report.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/16/2009

HB 74, introduced by Van Dyk

HB 230, introduced by McClafferty

HB 291, introduced by Sonju

HB 293, introduced by Hiner

HB 317, introduced by Furey

HB 328, introduced by MacLaren

HB 345, introduced by K. Peterson

HB 366, introduced by McGillvray

HB 378, introduced by Blasdel

HB 412, introduced by Wiseman

FIRST READING AND COMMITMENT OF BILLS

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

SB 484, introduced by Balyeat, Hinkle, Black, Gebhardt, Barkus, Jackson, Bales, Shockley, Essmann, referred to

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Business, Labor, and Economic Affairs.

SB 485, introduced by Juneau, referred to Education and Cultural Resources.

SB 486, introduced by T. Brown, Arntzen, referred to Taxation.

SB 487, introduced by Shockley, referred to Local Government.

MOTIONS

Senator Essmann moved to re-refer SB 348 to State Administration. Motion carried.

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

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

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

SB 213 - Senator Bales moved **SB 213** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 336 - Senator Balyeat moved **SB 336** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 40

Nays: Erickson, Gallus, Juneau, Kaufmann, Keane, Laible, Larsen, Moss, Squires, Williams.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Total 0

SB 344 - Senator J. Peterson moved **SB 344** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 376 - Senator Black moved **SB 376** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 19 - Senator J. Peterson moved **SJR 19** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Total 0

Excused: None.

Total 0

SB 51 - Senator Murphy moved **SB 51** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Branae, R. Brown, Brueggeman, Gebhardt, Gillan, Hamlett, Hinkle, Laslovich, Lewis, Moss, J. Tropila, M. Tropila.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 248 - Senator Brueggeman moved **SB 248** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved that SB 250 be passed for the day. Motion carried.

SB 271 - Senator Squires moved **SB 271** do pass. Motion carried as follows:

Yeas: Barrett, Branae, R. Brown, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Laslovich, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brenden, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle,

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Jackson, Keane, Laible, Larsen, Lewis, McGee, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 331 - Senator Balyeat moved **SB 331** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 335 - Senator Balyeat moved **SB 335** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Keane, McGee, Moss.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

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 236 passed as follows:

Yeas: Branae, R. Brown, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 27

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Peterson, Ripley, Tutvedt, Mr. President.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

Senator Balyeat moved that **SB 484** be re-referred from Business, Labor, and Economic Affairs to State Administration. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Peterson announced the Senate would begin at 12:00 noon on Thursday and Friday, February 19-20, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, February 18, 2009. Motion carried.

Senate adjourned at 2:30 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate