

**HOUSE JOURNAL  
62ND LEGISLATURE  
SIXTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana  
March 25, 2011

House Chambers  
State Capitol

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

Roll Call. All members present, except Representatives Hansen, Kerns, and Yates, excused. Quorum present.

**BILLS** (O'Hara, Chairman):

3/25/2011

Correctly printed: **HB 607, HB 614, HB 627, HB 638, SB 160, SB 174, SB 184.**

Correctly engrossed: **HB 240, HB 397, HB 518, HB 595, HB 616, HB 618, SB 29, SB 43, SB 135, SB 255.**

Examined by the sponsor and found to be correct: **HB 25, HB 142, HB 212, HB 338, HB 403, HB 428, HB 467, HB 479.**

Correctly enrolled: **HB 25, HB 110, HB 142, HB 212, HB 338, HB 403, HB 428, HB 467, HB 479.**

Signed by the Speaker at 9:55 a.m., March 25, 2011: **HB 80, HB 82, HB 117, HB 171, HB 229, HB 250, HB 298, HB 319, HB 324, HB 333, HB 337, HB 401, HB 422, HB 432, HB 449, HB 481, HB 517, HB 523, HB 531, HB 559, HB 568, HJR 17.**

Signed by the Chief Clerk of the House at 9:15 a.m., March 25, 2011: **HB 80, HB 82, HB 117, HB 171, HB 229, HB 250, HB 298, HB 319, HB 324, HB 333, HB 337, HB 401, HB 422, HB 432, HB 449, HB 481, HB 517, HB 523, HB 531, HB 559, HB 568, HJR 17.**

Signed by the Chief Clerk of the House at 4:30 p.m., March 25, 2011: **HB 25, HB 142, HB 212, HB 338, HB 403, HB 428, HB 467, HB 479.**

**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 49** passed as follows:

Yeas: Ankney, Arntzen, Bangarter, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Blasdel, Boland, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hands, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Klock, Knudsen, Lavin, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Stahl, Swanson, Taylor, Warburton, Washburn, Welborn, Williams, Wilmer, Mr. Speaker.

Total 81

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Nays: G. Bennett, Blyton, Brodehl, Burnett, Esp, Hale, Kary, Kennedy, Knox, Loney, More, Skattum, Skees, C. Smith, Wagner.  
Total 15

Excused: Hansen, Kerns, Yates.  
Total 3

Absent or not voting: Vance.  
Total 1

**HB 110** passed as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Boland, Brodehl, Clark, Connell, Cook, Court, Cuffe, Driscoll, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Klock, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skees, Small, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Warburton, Washburn, Welborn, Williams, Wilmer, Mr. Speaker.  
Total 88

Nays: Blyton, Burnett, Edmunds, Kennedy, Knox, O'Neil, Skattum, C. Smith, Wagner.  
Total 9

Excused: Hansen, Kerns, Yates.  
Total 3

Absent or not voting: None.  
Total 0

**HB 140** passed as follows:

Yeas: Arntzen, Bangerter, Barrett, B. Beck, B. Bennett, G. Bennett, Berry, Blasdel, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Greef, Hale, Hands, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Kary, Klock, Lavin, Loney, MacDonald, MacLaren, Malek, McClafferty, McGillvray, McNiven, McNutt, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Sands, Schmidt, Small, F. Smith, Squires, Swanson, Warburton, Washburn, Welborn, Williams, Wilmer, Mr. Speaker.  
Total 72

Nays: Ankney, Belcourt, Blyton, Boland, Court, Driscoll, Gibson, Howard, Ingraham, Kennedy, Knox, Knudsen, McChesney, McNally, Mehlhoff, Randall, Reinhart, Sesso, Skattum, Skees, C.

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Smith, Stahl, Taylor, Vance, Wagner.

Total 25

Excused: Hansen, Kerns, Yates.

Total 3

Absent or not voting: None.

Total 0

**HB 209** passed as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Harris, Hendrick, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Ingraham, Kary, Kennedy, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McGillvray, McNiven, McNutt, Mehlhoff, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier,

Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Squires, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Mr. Speaker.

Total 71

Nays: Barrett, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hunter, MacDonald, Malek, McClafferty, McNally, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Swanson, Williams, Wilmer.

Total 26

Excused: Hansen, Kerns, Yates.

Total 3

Absent or not voting: None.

Total 0

**HB 243** passed as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Furey, Gibson, Greef, Hands, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, More, Noonan, O'Hara, Osmundson, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Salomon, Schmidt, Sesso, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Washburn, Welborn, Williams, Wilmer, Mr. Speaker.

Total 84

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Nays: Flynn, Hale, Kennedy, Malek, Miller, O'Neil, Pease-Lopez, Rosendale, Sands, Skattum, Vance, Wagner, Warburton.

Total 13

Excused: Hansen, Kerns, Yates.

Total 3

Absent or not voting: None.

Total 0

**HB 283** passed as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Flynn, Gibson, Greef, Hale, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Mr. Speaker.

Total 64

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Fitzpatrick, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 33

Excused: Hansen, Kerns, Yates.

Total 3

Absent or not voting: None.

Total 0

**HB 296** passed as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, Belcourt, B. Bennett, Berry, Boland, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Fitzpatrick, Furey, Gibson, Hale, Hands, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Kennedy, Klock, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNutt, Mehlhoff, Menahan, Miller, Noonan, O'Hara, Pease-Lopez, Phillips, Price, Read, Reichner, Reinhart, Roberts, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Swanson, Welborn, Williams, Wilmer, Mr. Speaker.

Total 58

Nays: B. Beck, G. Bennett, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Esp, Evans, Flynn, Greef, Harris, Hendrick, Howard, Ingraham, Kary, Knox, Knudsen, Lavin, McGillvray, McNiven, More, O'Neil, Osmundson, Peterson, Randall, Regier, Rosendale, Salomon, Skattum, Skees, C.

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Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn.  
Total 39

Excused: Hansen, Kerns, Yates.  
Total 3

Absent or not voting: None.  
Total 0

**HB 377** passed as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McGillvray, McNally, McNiven, McNutt, Menahan, Miller, More, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Mr. Speaker.  
Total 91

Nays: Boland, McClafferty, Mehlhoff, Noonan, Reinhart, Squires.  
Total 6

Excused: Hansen, Kerns, Yates.  
Total 3

Absent or not voting: None.  
Total 0

**HB 423** passed as follows:

Yeas: Ankney, Barrett, Belcourt, B. Bennett, Berry, Blasdel, Clark, Cook, Cuffe, Driscoll, Ehli, Evans, Furey, Gibson, Hands, Hill, Hiner, Hollandsworth, Hollenbaugh, Hunter, Klock, Knudsen, Lavin, MacLaren, McChesney, McClafferty, McNally, McNutt, Menahan, Miller, Noonan, O'Neil, Pease-Lopez, Phillips, Randall, Reinhart, Rosendale, Salomon, Sands, Sesso, Small, F. Smith, Squires, Stahl, Swanson, Vance, Washburn, Welborn, Wilmer.  
Total 49

Nays: Arntzen, Bangerter, B. Beck, G. Bennett, Blyton, Boland, Brodehl, Burnett, Connell, Court, Edmunds, Esp, Fitzpatrick, Flynn, Greef, Hale, Harris, Hendrick, Hoven, Howard, Ingraham, Kary, Kennedy, Knox, Loney, MacDonald, Malek, McGillvray, McNiven, Mehlhoff, More, O'Hara,

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Osmundson, Peterson, Price, Read, Regier, Reichner, Roberts, Schmidt, Skattum, Skees, C. Smith, Taylor, Wagner, Warburton, Williams, Mr. Speaker.  
Total 48

Excused: Hansen, Kerns, Yates.  
Total 3

Absent or not voting: None.  
Total 0

**HB 439** passed as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Boland, Clark, Connell, Cook, Court, Cuffe, Driscoll, Ehli, Evans, Fitzpatrick, Flynn, Furey, Gibson, Hale, Hands, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Kary, Klock, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNutt, Mehlhoff, Menahan, Miller, Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Price, Read,

Reichner, Reinhart, Roberts, Salomon, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Stahl, Swanson, Warburton, Washburn, Welborn, Williams, Wilmer, Mr. Speaker.  
Total 72

Nays: G. Bennett, Blasdel, Blyton, Brodehl, Burnett, Edmunds, Esp, Greef, Howard, Kennedy, Knox, Knudsen, McNiven, More, O'Neil, Osmundson, Randall, Regier, Rosendale, Skattum, Skees, C. Smith, Taylor, Vance, Wagner.  
Total 25

Excused: Hansen, Kerns, Yates.  
Total 3

Absent or not voting: None.  
Total 0

**HB 502** passed as follows:

Yeas: Ankney, Bangerter, Barrett, Belcourt, B. Bennett, Berry, Blyton, Boland, Brodehl, Connell, Cook, Cuffe, Ehli, Evans, Fitzpatrick, Furey, Greef, Hale, Hands, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Kennedy, Klock, Knox, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNutt, Mehlhoff, Menahan, Miller, Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Price, Read, Reichner, Reinhart, Salomon, Sands, Schmidt, Sesso, F. Smith, Squires, Stahl, Swanson, Washburn, Williams, Wilmer, Mr. Speaker.  
Total 60

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Nays: Arntzen, B. Beck, G. Bennett, Blasdel, Burnett, Clark, Court, Edmunds, Esp, Flynn, Gibson, Harris, Hendrick, Ingraham, Kary, Knudsen, Lavin, Loney, McGillvray, McNiven, More, O'Neil, Osmundson, Randall, Regier, Roberts, Rosendale, Skattum, Skees, Small, C. Smith, Taylor, Vance, Wagner, Warburton, Welborn.

Total 36

Excused: Hansen, Kerns, Yates.

Total 3

Absent or not voting: Driscoll.

Total 1

**HB 567** passed as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Mr. Speaker.

Total 95

Nays: Evans, Pease-Lopez.

Total 2

Excused: Hansen, Kerns, Yates.

Total 3

Absent or not voting: None.

Total 0

**HB 585** passed as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Mr. Speaker.

Total 65

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Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 32

Excused: Hansen, Kerns, Yates.

Total 3

Absent or not voting: None.

Total 0

**HB 615** passed as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Connell, Cook, Court, Driscoll, Ehli, Esp, Evans, Fitzpatrick, Furey, Gibson, Greef, Hands, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Kary, Klock, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNutt, Mehlhoff, Menahan, More, Noonan, O'Hara, O'Neil, Pease-Lopez, Phillips, Price, Read, Regier, Reichner,

Reinhart, Roberts, Salomon, Sands, Schmidt, Sesso, Skees, Small, F. Smith, Squires, Stahl, Swanson, Taylor, Washburn, Welborn, Williams, Wilmer, Mr. Speaker.

Total 72

Nays: G. Bennett, Burnett, Clark, Cuffe, Edmunds, Flynn, Hale, Harris, Howard, Ingraham, Kennedy, Knox, Knudsen, McGillvray, McNiven, Miller, Osmundson, Peterson, Randall, Rosendale, Skattum, C. Smith, Vance, Wagner, Warburton.

Total 25

Excused: Hansen, Kerns, Yates.

Total 3

Absent or not voting: None.

Total 0

**HB 621** passed as follows:

Yeas: Ankney, Bangerter, Barrett, Belcourt, B. Bennett, Berry, Burnett, Connell, Court, Cuffe, Driscoll, Ehli, Esp, Fitzpatrick, Furey, Gibson, Hands, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Klock, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Roberts, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Swanson, Washburn, Welborn, Wilmer.

Total 53

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Nays: Arntzen, B. Beck, G. Bennett, Blasdel, Blyton, Boland, Brodehl, Clark, Cook, Edmunds, Evans, Flynn, Greef, Hale, Harris, Hendrick, Ingraham, Kary, Kennedy, Knox, Knudsen, Lavin, Loney, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Rosendale, Salomon, Skattum, Skees, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Williams, Mr. Speaker.

Total 44

Excused: Hansen, Kerns, Yates.

Total 3

Absent or not voting: None.

Total 0

Representative McGillvray moved that the House Republicans caucus. Motion carried.  
Representative Hands moved that the House Democrats caucus. Motion carried.

House Recessed.

House Reconvened.

### COMMUNICATIONS AND PETITIONS

Mr. Speaker: We, your committee on Legislative Administration, having examined the daily journals for the fifty-first, fifty-second, fifty-third, fifty-fourth, and fifty-fifth legislative days, find the same to be correct.

Representative O'Hara, Chair

### REPORTS OF STANDING COMMITTEES

**BUSINESS AND LABOR** (Arntzen, Chairman):

3/23/2011

**SB 29**, be amended as follows:

1. Title, page 1, line 6.

**Following:** "PENALTY;"

**Insert:** "REQUIRING CONSIDERATION OF MITIGATING CIRCUMSTANCES;"

2. Page 1, line 16.

**Following:** "establishments"

**Insert:** "and manufacturers"

**Following:** "beverages"

**Insert:** "to the public"

3. Page 1, line 19.

**Following:** "."

**Insert:** "[Sections 1 through 9] do not apply to special permits issued under 16-4-301."

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4. Page 2, line 30.

**Strike:** "HAVE"

**Insert:** "not provide"

5. Page 3, line 1 through line 2.

**Strike:** "IF" on line 1 through "(1)" on line 2

6. Page 3, line 8.

**Following:** "Penalty."

**Insert:** "(1)"

7. Page 3, line 10.

**Strike:** "\$200 fine"

**Insert:** "\$50 penalty for a first offense, a \$200 penalty for a second offense, and a \$350 penalty for a third offense in a 3-year period"

8. Page 3, following line 12.

**Insert:** "(2) The department shall consider the following as mitigating circumstances before taking an action pursuant to 16-4-406 against a licensee who is not in compliance with the provisions of [sections 1 through 9]:

(a) the licensee's prior violation history;

(b) the licensee's good faith effort to prevent a violation;

(c) the existence of written policies governing employee conduct; and

(d) whether the evidence of a violation was based solely on the investigating authority creating an opportunity for the violation rather than on complaints received or observed misconduct."

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

**FISH, WILDLIFE AND PARKS** (Washburn, Chairman):

3/24/2011

**HB 607**, do pass. Report adopted.

**SB 43**, be amended as follows:

1. Page 1, line 20.

**Strike:** subsection (3) in its entirety

**Renumber:** subsequent subsections

2. Page 2, line 17.

**Strike:** "EXISTING"

3. Page 2, line 20.

**Strike:** "nonmotorized"

**Strike:** "existing"

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4. Page 2, line 21.

**Following:** "VAULT"

**Insert:** "and electrical service"

**Following:** "ONLY"

**Strike:** "A"

**Insert:** "the"

5. Page 2, line 22.

**Strike:** "PAD"

**Insert:** "pads"

6. Page 2, line 30.

**Following:** "~~(1)(e)~~"

**Insert:** "or (1)(e)"

7. Page 3, line 2.

**Following:** "~~unnecessary~~"

**Insert:** "unnecessary"

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

**SB 135**, be amended as follows:

1. Page 2, line 13 through line 14.

**Strike:** " " on line 13 through "(l)" on line 14

2. Page 2, line 14.

**Strike:** " " <sub>1</sub>

**Insert:** " " <sub>1</sub>

3. Page 2.

**Strike:** line 15 through "(B)" on line 18

4. Page 2, line 18.

**Following:** "manner"

**Insert:** " :  
(i)"

5. Page 2, line 19.

**Strike:** " " <sub>1</sub>

**Insert:** " ;" <sub>1</sub>

6. Page 2, line 20.

**Strike:** "(C)"

**Insert:** "(ii)"

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**Strike:** "During"

**Insert:** "during"

**Strike:** "any person"

**Insert:** "whether"

**Strike:** "a tracking"

**Insert:** "the"

**Following:** "dog"

**Insert:** ", "

7. Page 2, line 21.

**Strike:** " "

**Insert:** " ;

(iii) may carry any weapon allowed by law;

(iv) may dispose of the wounded game animal using any weapon allowed by the valid hunting license; and

(v) shall immediately tag an animal that has been reduced to possession in accordance with 87-2-509."

8. Page 2, line 22.

**Strike:** "(D)"

**Insert:** "(b)"

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

**SB 160**, be concurred in. Report adopted.

**SB 174**, be concurred in. Report adopted.

**SB 184**, be concurred in. Report adopted.

**SB 255**, be amended as follows:

1. Title, page 1, line 6.

**Following:** "~~TRAP~~"

**Insert:** "OR FISH"

2. Page 1, line 10.

**Following:** "~~trapping~~"

**Insert:** "and fishing"

3. Page 1, line 11.

**Following:** "~~and~~"

**Insert:** "fish and"

4. Page 1, line 13.

**Following:** "~~and~~"

**Insert:** "fish and"

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5. Page 1, line 15.

**Following:** "and"

**Insert:** "fish and"

6. Page 1, line 20 through line 22.

**Strike:** "Any" on line 20 through "hunt" on line 22

7. Page 1, line 23.

**Following:** "trap"

**Insert:** "Any allocative commission decision made only during a biennial or quadrennial seasonal rule adoption conducted pursuant to this part that sets seasons, quotas, permitting, or licensing for the hunting or fishing of wildlife, fish, game, or waterfowl in the state"

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

**JUDICIARY** (Peterson, Chairman):

3/25/2011

**HB 518**, introduced bill, be amended as follows:

1. Page 4, line 18 through line 21.

**Strike:** subsection (7) in its entirety

2. Page 7, line 10 through line 12.

**Strike:** "court" on line 10 through "law" on line 12

**Insert:** "directive has no legal effect during a period of involuntary inpatient commitment or a period during which a person is subject to a court order for the care, custody, and treatment of the person pursuant to Title 46, chapter 14"

And, as amended, do pass. Report adopted.

**HB 627**, do pass. Report adopted.

**HB 638**, do pass. Report adopted.

**TAXATION** (Blasdel, Chairman):

3/24/2011

**HB 240**, introduced bill, be amended as follows:

1. Title, page 1, line 5.

**Strike:** "CONDEMNOR'S"

**Following:** "OFFER"

**Insert:** "BY THE STATE OR ITS AGENT"

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

**Strike:** "PROVIDING" on line 8 through "USED;" on line 9

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3. Title, page 1, line 9.

**Following:** "70-30-111,"

**Strike:** "AND"

**Following:** "70-30-305,"

**Insert:** "AND 70-30-311,"

4. Page 1, line 14 through page 7, line 1.

**Strike:** everything after the enacting clause

**Insert:** "**Section 1.** Section 70-30-101, MCA, is amended to read:

**"70-30-101. Eminent domain defined -- definitions.** (1) Eminent domain is the right of the state to take private property for public use. This right may be exercised in the manner provided in this chapter.

(2) As used in this chapter, unless the context indicates otherwise, the following definitions apply:

(a) "Appraisal" means a written statement, independently and impartially prepared by a certified real estate appraiser as defined in 37-54-102 with a minimum of 5 years of experience, setting forth an opinion of defined value of an adequately described property or property interest on a specific date and supported by the presentation and analysis of relevant market information.

(b) "Final written offer" means the last written offer presented to the property owner at least 30 days before service of process in a civil action pursuant to 70-30-202.

(c) "Negotiation" means a communication process of give-and-take discussions between parties."

**Insert:** "**Section 2.** Section 70-30-110, MCA, is amended to read:

**"70-30-110. Survey and location of property to be taken -- greatest public good -- least private injury.** (1) In all cases in which land is required for public use, the state or its agents in charge of the public use may survey and locate the land to be used. The use must be located in the manner that will be most compatible with the greatest public good and the least private injury, and the location is subject to the provisions of 70-30-206. The state or its agents in charge of the public use may, after giving 30 days' written notice to the owners and persons in possession of the land, enter upon the land and make examination, surveys, and maps of the land. The entry does not constitute a cause of action in favor of the owners of the land except from injuries resulting from negligence or intentional acts. Upon written request of the state or its agents, the owner shall provide the names and addresses of all persons who are in possession of the owner's land within 14 days from receipt of the written notice. The state or its agents shall within 14 days from receipt of that information furnish written notice to the listed persons. The notice to the listed persons must be sent to the address provided by the owner, and if the owner fails to provide the address then there is no obligation to send the notice unless the state or its agent otherwise has an address for the listed person. The notice to the listed persons does not affect the deadline of the original 30 days' notice or the right of the state or its agent to enter upon the land upon the expiration of the 30 days.

(2) Prior to or at the time of rejection of the final written offer as referred to in 70-30-111(4) 70-30-111(1)(d), the condemnee may provide to the condemnor the condemnee's claim of appropriate measures that the condemnee considers necessary to minimize damages to the property directly affected by the project as well as to minimize damages incurred to the remaining parcel of property."

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**Insert: "Section 3.** Section 70-30-111, MCA, is amended to read:

**"70-30-111. Facts necessary to be found before condemnation.** (1) Before property can be taken, the condemnor shall show by a preponderance of the evidence that the public interest requires the taking based on the following findings:

~~(1)(a)~~ (a) the use to which the property is to be applied is a public use pursuant to 70-30-102;

~~(2)(b)~~ (b) the taking is necessary to the public use;

~~(3)(c)~~ (c) if already being used for a public use, that the public use for which the property is proposed to be used is a more necessary public use;

~~(4)(d)~~ (d) an effort to obtain the property interest sought to be taken was made by submission of a written offer and the offer was rejected; a final written offer of just compensation was made and the property owner was given at least 30 days to provide a written acceptance or rejection of the offer in accordance with subsection (2); and

(e) the appraisal, negotiation, and other condemnation procedures required pursuant to [section 6] have been satisfied.

(2)(a) The written offer must be sent by certified mail to the owner's property tax address unless the owner has advised the state or its agent in writing of a different address for notices for purposes of the negotiations.

(b) A written offer is considered rejected if no written acceptance is received within 30 days after its delivery."

**Insert: "Section 4.** Section 70-30-305, MCA, is amended to read:

**"70-30-305. Condemnor to make offer upon appeal -- award of expenses of litigation.**

(1) The condemnor shall, within 30 days after an appeal is perfected from the condemnation commissioner's award or report or not more than 60 days after the waiver of appointment of commissioners, submit to the condemnee a written final offer of judgment for the property sought to be taken, together, if the award was in excess of the final written offer as provided in 70-30-111(1)(d), with the accrued necessary expenses of the condemnee. If at any time prior to 10 days before trial the condemnee serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with proof of service of the acceptance, and judgment must be entered. An offer not accepted is considered withdrawn and evidence of the offer is not admissible at the trial except in a proceeding to determine costs. The fact that an offer is made but not accepted does not preclude a subsequent offer.

(2) In the event of litigation and when the condemnee prevails by receiving an award in excess of the final ~~offer of the condemnor~~ written offer as provided in 70-30-111(1)(d), the court shall award necessary expenses of litigation to the condemnee."

**Insert: "Section 5.** Section 70-30-311, MCA, is amended to read:

**"70-30-311. Putting condemnor in possession.** (1) At any time after the filing of the preliminary condemnation order pursuant to 70-30-206 or an order as provided in 60-4-104(4) and (5) and while it retains jurisdiction, the court upon application of the condemnor may make an order that:

(a) upon payment into court of the amount of compensation claimed by the condemnee in the condemnee's statement of claim of just compensation under 70-30-207, ~~or~~ the amount assessed either by the commissioners or by the jury, or 125% of the amount of the condemnor's final written offer pursuant to [section 6(8)], the condemnor is authorized:

(i) if already in possession of the property of the condemnee that is sought to be taken, to continue in possession; or

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(ii) except as provided in subsection (3)(b), if not in possession, to take possession of the property and use and possess the property during the pendency and until the final conclusion of the proceedings and litigation; and

(b) all actions and proceedings against the condemnor on account of the possession are stayed until the final conclusion of the proceedings and litigation.

(2) If the condemnee fails to file a statement of claim of just compensation within the time specified in 70-30-207, the condemnor may obtain an order for possession provided for in subsection (1), subject to the condition subsequent that a condemnor's payment into court of the amount assessed either by the commissioners or by the jury must be made within 10 days of receipt of the ~~condemnee's statement of claim~~ report of the condemnation commissioners under 70-30-303 or the jury verdict under 70-30-304.

(3)(a) However, when an appeal is taken by the condemnee, the court, upon request of the condemnee, may require the condemnor ~~before continuing or taking possession,~~ in addition to paying into court the amount assessed, to give a bond or undertaking with sufficient sureties approved by the court and in an amount that the court may direct, conditioned to pay the condemnee any additional damages and costs above the amount assessed, which is finally determined as the amount that the condemnee is entitled to for the taking of the property, and all damages that the condemnee may sustain if for any cause the property is not finally taken for public use.

(b) The condemnor may remain in possession of the property during the proceedings to determine the bond or undertaking and may continue in possession if the condemnor posts the bond or undertaking within 10 days of the court's order determining the bond or undertaking.

(4) The amount assessed by the commissioners or by the jury on appeal is considered, for the purposes of this section and until reassessed or changed in the further proceedings, as just compensation for the property taken. However, the condemnor, by payment into court of ~~the an~~ amount ~~claimed in the answer or the amount assessed~~ under subsection (1)(a) or by giving security as provided in subsection (3), may not be prevented from appealing from the assessment but may appeal in the same manner and with the same effect as if money had not been deposited or security had not been given.

(5) (a) Subject to subsection (5)(b), in all cases in which the condemnor deposits ~~the an~~ amount of ~~the assessment~~ under subsection (1)(a) and continues in possession or takes possession of the property, as provided in this section, the condemnee, if there is no dispute as to the ownership of the property, may at any time demand and receive upon order of the court all or any part of the money deposited. The demand or receipt may not preclude the condemnee's right of appeal from the assessment. However, if the amount of the assessment is finally reduced on appeal by either party, the condemnee who has received all or any part of the amount deposited is liable to the condemnor for any excess of the amount received over the amount finally assessed, with legal interest on the excess from the time the condemnee received the money deposited. The excess, plus interest, may be recovered by a civil action. Upon any appeal from an assessment by the commissioners to a jury, the jury may make a finding for any amount that it considers appropriate.

(b) The court may not order the delivery to any condemnee of more than 75% of the money deposited on the condemnee's account except upon posting of bond by the condemnee equal to the amount in excess of 75%, with sureties to be approved by the court, to repay to the condemnor amounts withdrawn that are in excess of the condemnee's final award in the proceedings.""

"NEW SECTION. **Section 6. Written offer, negotiation, and other condemnation**

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**policies mandated.** Unless the property owner and the state or its agent agree in writing otherwise, the state or its agent shall comply with the following policies for the acquisition of real property:

(1) Before the initiation of negotiations for the acquisition of real property, an amount must be established by the state or its agent that is reasonably believed to be just compensation for the property or interest taken and that amount must be offered for the property as a written statement of the initial offer. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for the improvement, other than an amount due to physical deterioration within the reasonable control of the owner, must be disregarded in determining the compensation for the property. The owner of the real property to be acquired must be provided with a written statement of the initial offer and a summary of the basis for the amount established as just compensation. When appropriate, the just compensation for the real property to be acquired and for damages to remaining real property must be separately stated. The written statement of the initial offer must be sent by certified mail to the owner's property tax address unless the owner has advised the state or its agent in writing of a different address for statements and notices for the purposes of the negotiations.

(2)(a) The owner of the property sought to be taken shall reply to the state or its agent in writing within 30 days of delivery of the written statement of the initial offer pursuant to subsection (1) or additional offers pursuant to subsection (3) in accordance with subsections (2)(b) and (2)(c) or the offer is considered rejected.

(b) In a reply to the written statement of the initial offer or additional written offers, the owner of the property sought to be taken shall accept, reject, or provide a counteroffer to the state or its agent.

(c) The reply must be delivered by certified mail.

(3) After receiving a response to the written statement of the initial offer pursuant to subsection (2), the state or its agent may continue negotiations with the owner of the property sought to be taken by providing additional written offers. If the state or its agent provides additional written offers to the owner of the property sought to be taken, the property owner shall respond as provided in subsection (2).

(4) Forty-five days after the owner receives the written statement of the initial offer, the state or its agent may send written notice to the property owner to end initial negotiations. The notice must be sent by certified mail to the property owner's property tax address unless the owner has advised the state or its agent in writing of a different address for notices and statements for the purposes of the negotiations. The notice may request that the parties begin a mediation process under subsection (5).

(5) The state or its agent shall make every reasonable effort to expeditiously acquire real property by negotiation using the process in subsections (1) through (4). If:

(a) within 45 days of the written statement of the initial offer a voluntary property interest agreement has not been signed by both parties, a formal mediation process may begin if the parties mutually agree to a mediation process. The mediator must be paid for by the state or its agent acquiring the property. A reasonable effort does not require mediation.

(b) within 90 days of the delivery of the written statement of the initial offer the parties cannot agree on a mediation process, the mediation efforts do not produce a settlement agreement, or the parties do not otherwise reach agreement on a mutually signed property interest agreement, the state or its agent acquiring the property shall make the final written offer provided for in 70-30-

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111(1)(d) based upon an appraisal. The property owner has 30 days from delivery of the final written offer to either accept or reject the final written offer, and a lack of acceptance or rejection on the part of the property owner within that time means that the property owner has rejected the final written offer.

(c) the final written offer is rejected as provided in subsection (5)(b), a civil action may be filed pursuant to 70-30-202.

(6) A property owner's claim for appropriate measures under 70-30-110(2) may not be considered a rejection of the final written offer by the state or its agent referred to in 70-30-111(1)(d).

(7)(a) Real property must be appraised before the final written offer, and the owner or the owner's designated representative must be given an opportunity to accompany the appraiser during the appraiser's inspection of the property. The appraiser has the right to enter upon property for the purposes of appraising the property, and the entry does not constitute a cause of action in favor of the owner except from injuries resulting from negligence or intentional acts.

(b) For appraisals done by appraisers licensed by another state, the licensure qualifications for that state must be as stringent as those provided for in Title 37, chapter 54, part 2.

(8) An owner may not be required to surrender possession of real property before the agreed purchase price and relocation costs are paid or before there is deposited with the court, in accordance with 70-30-311(1)(a) and subsection (11) of this section, for the benefit of the owner, an amount not less than 125% of the amount of the final written offer by the state or its agent, the amount of the award of compensation in the condemnation proceeding of the property, or the amount of compensation claimed by the condemnee in the condemnee's statement of claim of just compensation under 70-30-207.

(9) The construction or development of a program or project must be scheduled so that, to the greatest extent practicable, a person lawfully occupying real property is not required to move from a dwelling or to materially move the person's business or farm operation without at least 90 days' written notice of the date by which a move is required.

(10) If an owner or tenant is permitted to occupy the real property acquired on a rental basis, on a short-term basis, or for a period subject to termination by the condemnor on short notice, the amount of rent required may not exceed the fair rental value of the property to a short-term occupier.

(11) The timeframe for condemnation and negotiations must be in accordance with this chapter, and the deposit of funds in court for the use of the owner may not be deferred. Any other action coercive in nature may not be taken to compel an agreement on the price to be paid for the property.

(12) If an interest in real property is to be condemned for a public use as defined in 70-30-102, formal condemnation proceedings must be instituted as provided in this chapter. The state or its agent may not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of the owner's real property.

(13) If the fee acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the uneconomic remnant must be made.

(14) A person whose real property is being acquired may, after being fully informed of the person's right to receive just compensation, donate to the state or its agent the property, any interest in the property, or any compensation received for the property.

**Insert:**        "NEW SECTION. Section 7. Codification instruction. [Section 6] is intended to

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be codified as an integral part of Title 70, chapter 30, part 1, and the provisions of Title 70, chapter 30, part 1, apply to [section 6]."

**Insert:** "NEW SECTION. Section 8. 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]."

**Insert:** "NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

**MESSAGES FROM THE SENATE**

**Senate bill** passed and transmitted to the House for concurrence: 3/24/2011

**SB 343**, introduced by Jackson

**House bills** concurred in and returned to the House: 3/24/2011

**HB 25**, introduced by Roberts

**HB 142**, introduced by Sands

**HB 212**, introduced by Ingraham

**HB 338**, introduced by Esp

**HB 403**, introduced by MacLaren

**HB 428**, introduced by Berry

**HB 467**, introduced by Brodehl

**HB 479**, introduced by Small

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

3/24/2011

**HB 469**, introduced by Clark

**HB 541**, introduced by Welborn

**HB 584**, introduced by Mehlhoff

**MESSAGES FROM THE GOVERNOR**

March 24, 2011

The Honorable Mike Milburn  
Speaker of the House  
State Capitol  
Helena, Montana 59620

Dear Representative Milburn:

**STATE INTERNET/BBS COPY**

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Please be informed that I have signed **House Bill 58** sponsored by Representative Belcourt and **House Bill 268** sponsored by Representative Klock et al., on March 24, 2011.

Sincerely,

BRIAN SCHWEITZER  
Governor

**FIRST READING AND COMMITMENT OF BILLS**

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

**HB 642**, introduced by Blasdel, Sonju, C. Williams, McGillvray, Hollenbaugh, Essmann, Buttrey, Vincent, Olson, Sesso, Milburn, Gillan, referred to Taxation.

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

**SB 343**, introduced by Jackson, Taylor, Murphy, Edmunds, Walker, Vincent, Mowbray, McGillvray, Harris, Lewis, G. Bennett, Salomon, Blewett, Augare, Gallus, Larsen, Ingraham, Beck, Zinke, Mehlhoff, Caferro, O'Neil, Hendrick, Facey, Vance, Branae, Kaufmann, Osmundson, Arntzen, Hawks, Wanzenried, Moss, Loney, Arthun, Priest, J. Peterson, Regier, Blasdel, Sesso, Reichner, Brodehl, Connell, Skees, Hoven, Read, Skattum, Hamlett, K. Williams, Hale, Lavin, O'Hara, referred to Agriculture.

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

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

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

**HB 358** - Representative MacLaren moved **HB 358** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Price, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Schmidt, Skattum, Skees, Small, C. Smith, F.

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Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates.

Total 84

Nays: Barrett, B. Bennett, Boland, Court, Hill, Kerns, MacDonald, Noonan, Pease-Lopez, Phillips, Reinhart, Sands, Sesso, Squires.

Total 14

Excused: None.

Total 0

Absent or not voting: Swanson, Mr. Speaker.

Total 2

**HB 83** - Representative Berry moved **HB 83** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Klock, Knox, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, More, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 89

Nays: G. Bennett, Edmunds, Kennedy, Kerns, Knudsen, Miller, O'Neil, Randall, Skattum, Skees, C. Smith.

Total 11

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 157** - Representative Stahl moved **HB 157** do pass. Motion carried as follows:

Yeas: Arntzen, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Clark, Connell, Cuffe, Edmunds, Ehli, Esp, Evans, Flynn, Greef, Hale, Hansen, Harris, Hendrick, Howard, Ingraham, Kary, Kennedy, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Rosendale, Salomon,

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Skattum, Skees, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Yates, Mr. Speaker.  
Total 54

Nays: Ankney, Bangerter, Barrett, Belcourt, B. Bennett, Boland, Burnett, Cook, Court, Driscoll, Fitzpatrick, Furey, Gibson, Hands, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Kerns, Klock, MacDonald, Malek, McChesney, McClafferty, McNally, McNutt, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Roberts, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Swanson, Welborn, Williams, Wilmer.  
Total 46

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

**HB 165** - Representative Hollandsworth moved **HB 165** do pass.

**HB 165** - Representative Hollandsworth moved **HB 165**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

**Following:** "ACCOUNT"

**Insert:** "AND THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT"

2. Page 2, line 4 through line 5.

**Strike:** first "in" on line 4 through "schools" on line 5

**Insert:** "as follows:

(a) from July 1, 2011, through June 30, 2014, to the guarantee account provided for in 20-9-622; and

(b) on or after July 1, 2014, to the school facility and technology account provided for in 20-9-516"

3. Page 2, line 19.

**Strike:** "and"

4. Page 2, line 20.

**Following:** "~~;~~and"

**Insert:** "; and"

5. Page 2, line 21.

**Following:** "~~77-4-208~~"

**Insert:** "(c) the income received from certain lands and riverbeds as provided in 17-3-1003(5)"

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Amendment adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Harris, Hendrick, Hill, Hollandsworth, Hollenbaugh, Hoven, Howard, Ingraham, Kary, Kennedy, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Mehlhoff, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, F. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Yates, Mr. Speaker.  
Total 72

Nays: B. Bennett, Boland, Court, Furey, Hands, Hiner, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, Squires, Swanson, Welborn, Williams, Wilmer.  
Total 26

Excused: Hansen, Kerns.  
Total 2

Absent or not voting: None.  
Total 0

**HB 165** - Representative Hollandsworth moved **HB 165**, as amended, do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.  
Total 66

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, O'Hara, O'Neil, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.  
Total 34

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

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**HB 183** - Representative C. Smith moved **HB 183** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 67

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 32

Excused: None.

Total 0

Absent or not voting: Loney.

Total 1

**HB 184** - Representative C. Smith moved **HB 184** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 67

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 32

Excused: None.

Total 0

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Absent or not voting: Hale.

Total 1

**HB 186** - Representative Hunter moved **HB 186** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Boland, Clark, Connell, Cook, Court, Cuffe, Driscoll, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Hands, Hansen, Harris, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Kary, Klock, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Read, Reichner, Reinhart, Roberts, Salomon, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Stahl, Swanson, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 71

Nays: G. Bennett, Blasdel, Blyton, Brodehl, Burnett, Edmunds, Greef, Hale, Hendrick, Howard, Ingraham, Kennedy, Kerns, Knox, Knudsen, Lavin, Miller, More, O'Neil, Randall, Regier, Rosendale, Skattum, Skees, C. Smith, Taylor, Vance, Wagner, Warburton.

Total 29

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 316** - Representative Cook moved **HB 316** do pass.

**HB 316** - Representative Miller moved **HB 316**, second reading copy, be amended as follows:

1. Title, page 1, line 16 through line 17.

**Following:** "FEES;" on line 16

**Strike:** remainder of line 16 through "TAX;" on line 17

2. Title, page 1, line 30.

**Strike:** "15-65-121,"

3. Page 13, line 23 through page 15, line 6.

**Strike:** section 6 in its entirety

**Renumber:** subsequent sections

Amendment **not** adopted as follows:

Yeas: Barrett, B. Beck, Belcourt, B. Bennett, Blasdel, Boland, Brodehl, Court, Driscoll, Edmunds, Flynn, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, Lavin, Loney, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara,

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O'Neil, Pease-Lopez, Phillips, Price, Read, Regier, Reichner, Reinhart, Salomon, Sands, Schmidt, Sesso, Skees, Small, F. Smith, Squires, Swanson, Williams, Wilmer.  
Total 49

Nays: Ankney, Arntzen, Bangerter, G. Bennett, Berry, Blyton, Burnett, Clark, Connell, Cook, Cuffe, Ehli, Esp, Evans, Fitzpatrick, Gibson, Greef, Hale, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Klock, Knox, Knudsen, MacLaren, McGillvray, McNiven, McNutt, Osmundson, Peterson, Randall, Roberts, Rosendale, Skattum, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.  
Total 49

Excused: Hansen, Kerns.  
Total 2

Absent or not voting: None.  
Total 0

**HB 316** - Representative Cook moved **HB 316**, second reading copy, be amended as follows:

1. Page 6, line 18.  
**Strike:** "90% of"

2. Page 6, line 20 through line 21.  
**Strike:** ", AND 10% OF THE PROCEEDS MUST BE DEPOSITED IN THE GENERAL FUND"

3. Page 6, line 22.  
**Strike:** "90% of"

4. Page 6, line 23 through line 24.  
**Strike:** ", AND 10% OF THE PROCEEDS MUST BE DEPOSITED IN THE GENERAL FUND"

5. Page 6, line 25.  
**Strike:** "10% of"

6. Page 6, line 26.  
**Strike:** "MUST BE DEPOSITED IN THE GENERAL FUND AND 90%"

7. Page 20, line 18.  
**Strike:** "22.5%"  
**Insert:** "25%"

Amendment adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans,

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Fitzpatrick, Flynn, Gibson, Greef, Hands, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Klock, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Price, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Warburton, Washburn, Welborn, Williams, Yates, Mr. Speaker.

Total 83

Nays: B. Bennett, Boland, Court, Furey, Hale, Kennedy, Knox, More, O'Neil, Phillips, Reinhart, Sands, Wagner, Wilmer.

Total 14

Excused: Hansen, Kerns.

Total 2

Absent or not voting: Miller.

Total 1

**HB 316** - Representative Cook moved **HB 316**, as amended, do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Klock, Knudsen, Loney, MacLaren, McGillvray, McNiven, McNutt, O'Hara, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, C. Smith, Stahl, Taylor, Vance, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 56

Nays: Barrett, Belcourt, B. Bennett, Boland, Brodehl, Court, Driscoll, Furey, Hands, Hansen, Hill, Hiner, Hollenbaugh, Hunter, Kennedy, Kerns, Knox, Lavin, MacDonald, Malek, McChesney, McNally, Mehlhoff, Menahan, Miller, More, Noonan, O'Neil, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, Skees, Small, F. Smith, Squires, Swanson, Wagner, Williams, Wilmer.

Total 43

Excused: None.

Total 0

Absent or not voting: McClafferty.

Total 1

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**HB 357** - Representative MacLaren moved **HB 357** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Klock, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 67

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, Kerns, Knox, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 33

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 274** - Representative McGillvray moved consideration of **HB 274** be passed for the day. Motion carried.

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

Yeas: Arntzen, Bangerter, Barrett, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Harris, Hendrick, Hollandsworth, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Klock, Knox, Knudsen, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Mr. Speaker.

Total 68

Nays: Belcourt, B. Bennett, Boland, Court, Furey, Hill, Hiner, Hollenbaugh, Lavin, MacDonald, Malek, McChesney, McClafferty, McNally, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires.

Total 25

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Excused: Hansen, Kerns, Yates.

Total 3

Absent or not voting: Ankney, Hands, Mehlhoff, Swanson.

Total 4

**REPORTS OF STANDING COMMITTEES**

**TAXATION** (Blasdel, Chairman):

3/25/2011

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

1. Title, page 1, line 4.

**Strike:** "EDUCATION"

2. Title, page 1, line 5.

**Strike:** "EXPENSES"

**Insert:** "TUITION"

**Following:** "CREDIT;"

**Insert:** "PROVIDING A PHASEOUT OF THE CREDIT BASED ON INCOME; PROVIDING THAT THE INCOME AMOUNTS ARE ADJUSTED FOR INFLATION;"

3. Title, page 1, line 6.

**Strike:** "DEFINING "EDUCATION EXPENSES""

**Insert:** "REQUIRING AN INFORMATION RETURN FROM A QUALIFIED SCHOOL OR PROGRAM"

4. Page 1, line 12.

**Following:** "education"

**Insert:** "-- definitions"

5. Page 1, line 13.

**Following:** "education"

**Strike:** "expenses"

**Insert:** "tuition"

**Following:** "for"

**Strike:** "a dependent child"

**Insert:** "an eligible student"

6. Page 1, line 14.

**Following:** "form"

**Insert:** "for each eligible student"

7. Page 1, line 15.

**Strike:** "2"

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**Insert:** "3"

**Following:** "[section 2]."

**Insert:** "Only one credit for each eligible student may be claimed in a tax year under this section."

8. Page 1, line 16.

**Following:** "(2)"

**Strike:** "Education expenses that qualify"

**Insert:** "Tuition that qualifies"

**Following:** "section"

**Strike:** "are amounts"

**Insert:** "is an amount"

9. Page 1, line 17.

**Strike:** "a dependent"

**Insert:** "an eligible student"

10. Page 1, line 18.

**Following:** "qualifying"

**Strike:** "education expenses"

**Insert:** "tuition"

11. Page 1, line 19.

**Following:** the first "\$750"

**Insert:** "for each eligible student"

**Following:** "qualifying"

**Strike:** "education expenses"

**Insert:** "tuition"

12. Page 1, line 20.

**Following:** "which"

**Strike:** "those expenses have"

**Insert:** "the tuition has"

13. Page 1, line 22.

**Following:** "\$1,400"

**Insert:** "for each eligible student"

14. Page 1, line 23.

**Following:** "\$2,000"

**Insert:** "for each eligible student"

15. Page 1, line 24.

**Following:** "\$2,300"

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**Insert:** "for each eligible student"

16. Page 1, line 25.

**Following:** "\$2,600"

**Insert:** "for each eligible student"

17. Page 1, following line 25.

**Insert:** "(4) The credit may not be claimed for a child who is home-schooled."

**Renumber:** subsequent subsections

18. Page 1, line 27.

**Following:** "Of the"

**Insert:** "total"

19. Page 2, lines 1 through 22.

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

**Insert:** (7) (a) For an individual whose household income is \$75,000 or more but less than \$97,000, the amount of the credit is equal to the credit calculated under this section multiplied by the decimal equivalent of a percentage figure according to the following table:

Household Income	Percentage of Credit Allowed
\$75,000 - \$86,000	50%
\$86,001 - \$96,999	25%
\$97,000 or more	0%

(b) For tax years beginning after December 31, 2011, the department shall, by November 1 of each year, multiply the household income amounts contained in subsection (7)(a) by the inflation factor for that tax year and round the product to the nearest \$100. The resulting adjusted household income amounts are effective for that tax year and must be used in calculating the tax credit allowed under this section.

(8) As used in [sections 1 and 2], the following definitions apply:

(a) "Eligible student" means a student who is a Montana resident and is eligible to enroll in an elementary, middle school, or secondary school program in Montana and who:

(i) is attending a nonpublic school or entering a nonpublic school or transferring to a nonpublic school from a public school; or

(ii) is currently placed or during the previous fiscal year was placed in foster care under the supervision of the state and is eligible to attend a nonpublic school.

(b) "Income" means income as defined in 15-30-2337(9)(a). Income includes all income received by all individuals of the household while they are members of the household.

(c) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the tax year by the consumer price index for June 2011.

(d) "Qualified school or program" means a school or program that:

(i) is a nonpublic elementary school or secondary school that is located in this state or is a public or private school located in the United States that provides distance learning instruction;

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(ii) is accredited or has applied for accreditation or is provisionally accredited by the board of public education, northwest accreditation association, or other nationally recognized accreditation association;

(iii) is not a home school as provided in 20-5-109;

(iv) administers a nationally recognized normative assessment test and makes the results available to parents; and

(v) satisfies the health and safety requirements prescribed by law for private schools in this state."

20. Page 2.

**Following:** line 22

**Insert:** "NEW SECTION. Section 2. Education tax credit -- information return. (1)

Each qualified school or program, as defined in [section 1], shall make an information return to the department concerning the credit allowed under [section 1]. The return must show the amount of the tuition paid by an individual for each eligible student and must include the individual's name, address, and social security number or taxpayer identification number. The qualified school or program shall provide the return to the individual making the tuition payment.

(2) The return must be made under rules adopted by the department and in the form and manner prescribed by the department."

**Renumber:** subsequent sections

21. Page 2, line 26.

**Following:** "[section 1]"

**Insert:** ", "

**Strike:** "and"

22. Page 2, lines 27 and 28.

**Following:** "enroll"

**Strike:** the first "a" through "school" on line 28

**Insert:** "an eligible student in a qualified school or program, and must be available in electronic format on the superintendent of public instruction's website"

23. Page 3, lines 1 and 2.

**Strike:** "clerk of the" through "who" on line 2

**Insert:** "county superintendent by May 10. The county superintendent"

24. Page 3, line 3.

**Strike:** "dependent children"

**Insert:** "students"

25. Page 3, line 5.

**Following:** "and"

**Strike:** "may not be included in the"

**Insert:** ", if"

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26. Page 3, lines 5 and 6.

**Following:** "averaging"

**Strike:** "pursuant to 20-9-311" on lines 5 and 6

**Insert:** "is used, must also be subtracted from the previous 2 years' counts"

27. Page 3, line 7.

**Following:** "to"

**Insert:** "  
(a)"

28. Page 3, line 8.

**Following:** "[section 1]"

**Insert:** "; and"

(b) the named qualified school or program for the purpose of the information return required by [section 2]"

29. Page 3, line 18.

**Following:** "of"

**Insert:** "eligible"

30. Page 3, line 19.

**Strike:** "2"

**Insert:** "3"

31. Page 7, line 21.

**Insert:** "(15) (a) Except as provided in subsection (15)(b), for the purpose of determining ANB under subsection (1) or (13), eligible students who are enrolled in a qualified school or program, for whom tax credits are being received under [sections 1 and 2], and who were previously enrolled in a public school must be subtracted from the current year count, and if 3-year averaging is used, they must also be subtracted from the previous 2 years' counts.

(b) Eligible students referred to in subsection (15)(a) who reside in the public school district in which they were previously enrolled may not be subtracted from ANB counts in any school year during which they reside in the district if the subtraction decreases the ANB count to less than:

- (i) 20 students in kindergarten or grade 1 or 2;
- (ii) 28 students in grade 3 or 4;
- (iii) 30 students in each of the grades 5 through 8; or
- (iv) 50 students in each of the grades 9 through 12."

32. Page 7.

**Following:** line 24

**Insert:** "(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 30, part 26, and the provisions of Title 15, chapter 30, part 26, apply to [section 2]."

**Renumber:** subsequent subsection

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33. Page 7, line 25.

**Strike:** "2"

**Insert:** "3"

34. Page 7, line 26.

**Strike:** "2"

**Insert:** "3"

And, as amended, do pass. Report adopted.

**HB 595**, introduced bill, be amended as follows:

1. Title, page 1, line 11.

**Strike:** "PROVIDING" through "YEAR;"

2. Title, page 1, line 12.

**Strike:** "AGRICULTURAL" through "THE"

3. Title, page 1, line 18.

**Strike:** "PROVIDING AN APPROPRIATION;"

4. Title, page 1, line 19.

**Strike:** "15-7-201,"

5. Page 5, line 13.

**Following:** "(b)"

**Insert:** "(i)"

6. Page 5.

**Following:** line 17

**Insert:** "(ii) After the first year of reappraisal of class three and class ten property, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the phasing in of a reappraisal under 15-7-111."

7. Page 8, line 29.

**Following:** "16.66%."

**Insert:** "For class three and class ten property, the resulting valuation changes must be phased in for each year until the next reappraisal. If a percentage of change for each year is not established, then the percentage of phasein for each year is 16.66%."

8. Page 9, line 24.

**Strike:** the first "2016"

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**Insert:** "2021"

**Strike:** the second "2016"

**Insert:** "2021"

**Strike:** "by January 1 of"

9. Page 9, line 25.

**Strike:** "year effective for that year"

**Insert:** "6 years. The resulting valuation changes must be phased in for each year until the next reappraisal. If a percentage of change for each year is not established, then the percentage of phasein for each year is 16.66%"

10. Page 10, line 18 through page 13, line 2.

**Strike:** section 8 in its entirety

**Renumber:** subsequent sections

11. Page 13, line 10.

**Strike:** "Notwithstanding the provisions of 15-7-201, the"

**Insert:** "The"

12. Page 17, line 18.

**Strike:** "annual"

13. Page 17, line 18 through page 19.

**Strike:** "to take" on line 18 through "15-7-111" on line 19

14. Page 18, line 23.

**Following:** "8%."

**Insert:** "However, the capitalization rate for each year of the base period for tax years 2009 through 2014 may not be less than 8%."

15. Page 19, line 18.

**Strike:** "December 31, 2012"

**Insert:** "July 1, 2011"

16. Page 20, line 15 through line 17.

**Strike:** section 16 in its entirety

**Renumber:** subsequent section

17. Page 20, line 19.

**Strike:** "16"

**Insert:** "12"

18. Page 20, line 21.

**Following:** "4"

**Insert:** ", 8,"

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**Strike:** "10"

**Insert:** "9"

19. Page 20, line 22.

**Strike:** "8" through "15"

**Insert:** "10, 11, 13, and 14"

And, as amended, do pass. Report adopted.

**HB 614**, do pass. Report adopted.

**HB 616**, introduced bill, be amended as follows:

1. Page 3, line 7.

**Following:** "15-6-133"

**Insert:** "(1)(a)"

2. Page 3, line 16.

**Following:** "land"

**Insert:** "described in 15-6-133(1)(a)"

3. Page 3, line 25.

**Following:** "year."

**Insert:** "If the 2008 base year productive capacity value is less than the 2002 base year productive capacity value, the 2008 productive capacity value is not phased in for tax years 2009 through 2014."

4. Page 4, line 2.

**Following:** "year."

**Insert:** "If the 2008 base year productive capacity value is less than the 2002 base year productive capacity value, the 2008 productive capacity value is not phased in for tax years 2009 through 2014."

5. Page 4, line 10.

**Following:** ";

**Strike:** "or"

6. Page 4, line 11.

**Following:** "15-6-133"

**Insert:** "(1)(a); or

(c) nonqualified agricultural land described in 15-6-133(1)(c)"

7. Page 4, line 13.

**Strike:** "(a)"

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8. Page 4, line 21 through line 30.

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

And, as amended, do pass. Report adopted.

**HB 618**, introduced bill, be amended as follows:

1. Page 1, line 25 through line 26.

**Strike:** "(A)" on lines 25 and 26

2. Page 1, line 29 through line 30.

**Strike:** line 29 through line 30 in their entirety

3. Page 2, line 8.

**Following:** "land,"

**Insert:** "not to exceed 15 acres,"

4. Page 2, line 9 through line 10.

**Strike:** "or cultural" on lines 9 and 10

5. Page 4, line 6.

**Following:** "the"

**Insert:** "general"

And, as amended, do pass. Report adopted.

### MOTIONS

Representative McGillvray moved **HB 240** be moved from the Committee of the Whole to the Appropriations committee.

Representative Hill moved that **SB 284** be taken from Human Services and brought before the Committee of the Whole.

Motion **failed** as follows:

Yeas: Barrett, Belcourt, B. Bennett, Berry, Boland, Cook, Court, Driscoll, Fitzpatrick, Furey, Gibson, Hands, Hill, Hiner, Hollenbaugh, Hunter, Knudsen, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Miller, Noonan, Pease-Lopez, Phillips, Price, Randall, Reinhart, Schmidt, Sesso, F. Smith, Squires, Stahl, Williams.

Total 38

Nays: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Edmunds, Ehli, Esp, Flynn, Greef, Hale, Harris, Hendrick, Hollandsworth, Hoven, Ingraham, Kary, Kennedy, Klock, Knox, Lavin, Loney, McGillvray, McNiven, McNutt,

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More, O'Hara, O'Neil, Osmundson, Peterson, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Wilmer, Mr. Speaker.

Total 54

Excused: Hansen, Kerns, Yates.

Total 3

Absent or not voting: Cuffe, Evans, Howard, Sands, Swanson.

Total 5

Representative McGillvray moved **HB 157** be moved from the Committee of the Whole after Second Reading to the Appropriations committee.

**SPECIAL ORDERS OF THE DAY**

Mr. Speaker, I move that the following undersigned name be **ADDED** as sponsor to **HB 641**  
Motion carried.

**HB 641** (Hands Chief Sponsor)  
Representative Stahl.

Representative G. Bennett thanked the pages.

Representative Hendrick rose on a point of personal privilege to state that as a volunteer he has no medical insurance other than what he receives as a legislator.

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Representative McGillvray moved that the House adjourn until 8:00 a.m., Saturday, March 26, 2011. Motion carried.

House adjourned at 3:26 p.m.

BETH CARGO  
Chief Clerk of the House

MIKE MILBURN  
Speaker of the House