

**SENATE JOURNAL
63RD LEGISLATURE
TWENTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
February 7, 2013

Senate Chambers
State Capitol

Senate convened at 1:02 p.m. President Essmann presiding. Invocation by Father Jerry Lowney. Senator Keane introduced his niece, Jessica Robins Milanese, award-winning soprano, who sang the prayer, Ave Maria, and the Star Spangled Banner.

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

BILLS AND JOURNALS (Buttrey, Chair): 2/7/2013

Correctly printed: **SB 11, SB 105, SB 144, SB 174, SB 183, SB 213, SJR 11, SR 3, HB 55, HB 58, HB 73.**

Correctly engrossed: **SB 112, SB 120, SB 127.**

Correctly enrolled: **SB 29, SB 46, SB 64.**

Examined by the sponsor and found to be correct: **SB 29, SB 46, SB 64.**

Transmitted to the House: **SB 88, SB 142, HB 41, HB 53, HB 73.**

Signed by the Secretary of the Senate at 2:15 p.m., February 7, 2013: **SB 29, SB 46, SB 64.**

Signed by the President at 2:40 p.m., February 7, 2013: **SB 29, SB 46, SB 64.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Sonju, Chair): 2/7/2013
SB 171, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "LAW;"

Strike: "AND"

Following: "SUBCONTRACTORS"

Insert: "; AND AMENDING SECTION 18-2-123, MCA"

2. Page 1.

Following: line 25

Insert: "**Section 2.** Section 18-2-123, MCA, is amended to read:

~~"18-2-123. Payment of contractors and subcontractors. Notwithstanding any other provision of this title, Unless the provisions of [section 1] apply, payment of a construction contractor or subcontractor, as those terms are defined in 28-2-2101, for services performed by a construction contractor or subcontractor is governed by the provisions of Title 28, chapter 2, part 21."~~

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

EDUCATION AND CULTURAL RESOURCES (Peterson, Chair):
SB 14, introduced bill, be amended as follows:

2/6/2013

1. Title, page 1, line 6.

Following: "INCLUDE"

Insert: "A LIMITED NUMBER OF"

2. Title, page 1, line 7.

Strike: "OR OLDER"

Following: "TRUSTEES" on line 7

Insert: "FOR THE PURPOSE OF RECOVERING CREDITS TO MEET THE MINIMUM LOCAL REQUIREMENTS FOR A HIGH SCHOOL DIPLOMA"

3. Title, page 1, line 8.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "20-1-101"

Insert: "AND 20-9-311"

4. Page 3, line 11.

Following: "and"

Insert: "has not yet reached 20 years of age by September 10 of the year and"

Following: "20-5-101(3)"

Insert: "for the purpose of recovering credits to meet the minimum local requirements for a high school diploma during that school year"

5. Page 4, line 23.

Insert: "**Section 20-9-311**, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB) -- three-year averaging.

(1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) For the purpose of calculating ANB, enrollment in an education program:

(i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for districts offering full-time kindergarten.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The number of additional high school ANB in a district that results from the inclusion of pupils who have reached the age of 19 may not exceed 40 in any school fiscal year and must be further limited to the greater of 3 additional high school ANB or 103% of high school ANB that would exist without the inclusion of pupils who have reached the age of 19 rounded up to the nearest whole number.

~~(8)~~(9) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that the ANB is calculated as a separate budget unit when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

- (A) 75% of the basic entitlement for the fourth year;
- (B) 50% of the basic entitlement for the fifth year; and
- (C) 25% of the basic entitlement for the sixth year.

(b) a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

~~(9)~~(10) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

~~(10)~~(11) (a) Except as provided in subsections ~~(10)~~(b) (11)(b) and ~~(10)~~(c) (11)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection ~~(10)~~ (11) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

~~(11)~~(12) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district,

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending the Montana youth challenge program or a Montana job corps program under an interlocal agreement with the district under 20-9-707.

~~(12)~~(13) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge program participant as half-time enrollment.

~~(13)~~(14) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection ~~(13)(a)~~ (14)(a) and then combined.

~~(14)~~(15) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection ~~(14)(a)~~ (15)(a) by three."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 81, introduced bill, be amended as follows:

1. Title, page 1, line 17.

Following: "EFFECTIVE DATE"

Strike: "AND"

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Insert: ", "

Following: "APPLICABILITY DATE"

Insert: ", AND A TERMINATION DATE"

2. Page 6, line 30.

Following: "school."

Insert: "The amount of the credit allowed is:

- (a) for an individual, equal to 40% of the donation; and
- (b) for a corporation, equal to 20% of the donation."

3. Page 7, line 4.

Strike: "75%"

Insert: "50%"

4. Page 7, line 8.

Strike: "\$5"

Insert: "\$2.5"

5. Page 7, line 10 through line 11.

Strike: "the percentage" on line 10 through "that tax year" on line 11

Insert: "if the value of the grants awarded in the prior tax year is greater than 80% of the amount of tax credits that were preapproved under subsection (5)(c). If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 30% for the current tax year. If the value of grants awarded is less than or equal to 80% of the amount of tax credits that were preapproved under subsection (5)(c), then the aggregate amount of tax credits allowed remains unchanged for the current tax year"

6. Page 7, line 12.

Following: "determination"

Insert: "under this subsection (5)(a)(ii)"

7. Page 7, line 13 through line 17.

Strike: "If" on line 13 through "year." on line 17

8. Page 8, line 17.

Following: "provider."

Insert: "The amount of the credit allowed is:

- (a) for an individual, equal to 40% of the donation; and
- (b) for a corporation, equal to 20% of the donation."

9. Page 8, line 21.

Strike: "75%"

Insert: "50%"

10. Page 8, line 25.

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Strike: "\$5"

Insert: "\$2.5"

11. Page 8, line 27 through line 29.

Strike: "the percentage" on line 27 through "year" on line 29

Insert: "if the value of the scholarships awarded in the prior tax year is greater than 80% of the amount of tax credits that were preapproved under subsection (5)(c). If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 30% for the current tax year. If the value of scholarships awarded is less than or equal to 80% of the amount of tax credits that were preapproved under subsection (5)(c), then the aggregate amount of tax credits allowed remains unchanged for the current tax year"

12. Page 8, line 30 through page 9, line 4.

Strike: "If" on page 8, line 30 through "year." on page 9, line 4

13. Page 10, line 5 through line 6.

Strike: "utilized" on line 5 through "companies" on line 6

Insert: "claimed under the individual income tax in chapter 30 and the corporate license tax in chapter 31"

14. Page 19.

Following: line 8

Insert: "NEW SECTION. **Section 24. Termination.** [This act] terminates December 31, 2017."

And, as amended, do pass. Report adopted.

SB 175, introduced bill, be amended as follows:

1. Title, page 1, line 14.

Strike: "AN"

Strike: "ADJUSTMENT"

Insert: "ADJUSTMENTS"

Strike: "THE PER-ANB ENTITLEMENT"

Insert: "ENTITLEMENTS"

2. Title, page 2, line 4, through page 2, line 6.

Strike: "PROVIDING" on line 4 through "DISTRIBUTION;" on line 6

3. Title, page 2, line 8.

Strike: "15-36-331,"

Following: "20-7-104,"

Insert: "20-9-141,"

Following: "20-9-323,"

Insert: "20-9-326,"

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

4. Title, page 2, line 9.

Following: "20-9-437,"

Insert: "20-9-438,"

5. Title, page 2, line 11.

Strike: "RETROACTIVE"

Insert: "AN"

Following: "APPLICABILITY"

Strike: "DATES"

Insert: "DATE"

6. Page 3, line 24 through page 6, line 1.

Strike: section 3 in its entirety

Renumber: subsequent sections

7. Page 9, line 17.

Following: line 16

Insert: "**Section 5.** Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid, the natural resource development K-12 funding payment, and the special education allowable cost payment for the district by totaling:

(i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in 20-9-303; and

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following:

(A) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(B) any other revenue received during the school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid;

(iii) anticipated oil and natural gas production taxes;

(iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and

(v) school district block grants distributed under 20-9-630.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

budget amount, to determine the general fund BASE budget levy requirement.

(d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

(e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as provided in 20-9-353 to determine any additional general fund levy requirements.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703."

Renumber: subsequent sections

8. Page 9, line 26.

Following: "entitlements"

Insert: "above the direct state aid"

9. Page 9, lines 26 and 27.

Strike: "based" on line 26 through "20-9-622(4)" on line 27

Insert: "which must be an amount equivalent to the greater of 50% of the fiscal year 2012 oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) or 50% of the oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal years prior to the school fiscal year in which the payment is provided plus any excess interest and income revenue appropriated by the legislature pursuant to 20-9-622(3)(a)"

10. Page 12, line 8.

Following: "entitlements"

Insert: "above the direct state aid"

11. Page 12, lines 8 and 9.

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Strike: "funded" on line 8 through "20-9-622(3)" on line 9

Insert: ", which must be an amount equivalent to the greater of 50% of the fiscal year 2012 oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) or 50% of the oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal years prior to the school fiscal year in which the payment is provided plus any excess interest and income revenue appropriated by the legislature pursuant to 20-9-622(3)(a)"

12. Page 14, line 29.

Strike: "30"

Insert: "32"

13. Page 16, line 1.

Following: "3 years"

Insert: "according to the department of natural resources and conservation"

14. Page 24, line 28.

Strike: "20-9-622(4)"

Insert: "20-9-622(3)"

15. Page 25, line 5.

Insert: "**Section 12.** Section 20-9-326, MCA, is amended to read:

"20-9-326. Annual inflation-related adjustments to basic entitlements and per-ANB entitlements. (1) In preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112, the superintendent of public instruction shall determine the inflation factor for the basic and per-ANB entitlements, the data-for-achievement payment, and the general fund payments in 20-9-327 through 20-9-330 in each fiscal year of the ensuing biennium. The inflation factor is calculated as follows:

(a) for the first year of the biennium, divide the consumer price index for July 1 of the prior calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the prior calendar year and raise the resulting ratio to the power of one-third; and

(b) for the second year of the biennium, divide the consumer price index for July 1 of the current calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the current calendar year and raise the resulting ratio to the power of one-third.

(2) The present law base for the ~~basic and per-ANB~~ entitlements referenced in subsection (1), calculated under Title 17, chapter 7, part 1, must consist of any enrollment increases or decreases plus the inflation factor calculated pursuant to this section, not to exceed 3% in each year, applied to both years of the biennium.

(3) For the purposes of this section, "consumer price index" means the consumer price index, U.S. city average, all urban consumers, for all items, using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor.""

Renumber: subsequent sections

16. Page 25, line 13.

Following: "account"

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Insert: "in each fiscal year"

Strike: "20-9-622(4)"

Insert: "20-9-622(3)"

17. Page 25, line 14.

Strike: "transferred"

Insert: "distributed"

18. Page 25, line 15.

Following: "subsection (2)."

Insert: "Excess interest and income revenue of \$1 million or less must be carried forward and added to the excess interest and income revenue in the next ensuing school fiscal year and distributed in accordance with 20-9-622(3)."

19. Page 25, line 16.

Following: "an"

Insert: "annual"

20. Page 25, lines 17 through 18.

Strike: "the average" on line 17 through "20-9-622" on line 18

Insert: "\$56 million"

21. Page 30, line 23.

Following: "20-9-310."

Insert: "Oil and natural gas revenue bonds to which a tax deficiency is pledged are not considered general obligation bonds that are eligible to receive guaranteed tax base aid pursuant to 20-9-367 but are to be considered in determining the debt limit of a school district for the purposes of 20-9-406."

22. Page 31, line 5.

Following: "bonds"

Insert: "and, if oil and natural gas revenue bonds, whether a tax deficiency is pledged to the repayment of the bonds"

23. Page 31, line 26.

Following: "bonds"

Insert: "and, if oil and natural gas revenue bonds, whether a tax deficiency is pledged to the repayment of the bonds"

24. Page 32, line 22.

Following: "gas revenue,"

Insert: "oil and natural gas revenue for which a tax deficiency is pledged,"

25. Page 33, line 8.

Following: "gas revenue,"

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Insert: "oil and natural gas revenue for which a tax deficiency is pledged,"

26. Page 35, line 2 through line 4.

Following: "20-9-514" on line 2

Strike: "or" on line 2 through "15-36-331(3)" on line 4

27. Page 36, line 1.

Following: "payment"

Insert: "or reimbursement of the payment"

28. Page 36, line 2.

Following: "debt"

Insert: "in the current or ensuing fiscal year, or both"

29. Page 36, line 3.

Following: "until"

Strike: "all other expenses or claims are"

Insert: "the bonded debt is"

30. Page 36, line 4 and line 5.

Following: "for" on line 4

Strike: "the" on line 4 through "including" on line 5

31. Page 36, line 10.

Following: line 9

Insert: "**Section 24.** Section 20-9-438, MCA, is amended to read:

"20-9-438. Preparation of general obligation debt service fund budget -- operating reserve. (1) The trustees of each school district having outstanding general obligation bonds shall include in the debt service fund of the final budget adopted in accordance with 20-9-133 an amount of money that is necessary to pay the interest and the principal amount becoming due during the ensuing school fiscal year for each series or installment of bonds, according to the terms and conditions of the bonds and the redemption plans of the trustees.

(2) The trustees shall also include in the debt service fund of the final budget:

(a) the amount of money necessary to pay the special improvement district assessments levied against the school district that become due during the ensuing school fiscal year; ~~and~~

(b) a limited operating reserve for the school fiscal year following the ensuing school fiscal year as provided in subsection ~~(3)~~ (4); and

(c) an amount to satisfy the reserve requirement for oil and natural gas revenue bonds.

(3) The trustees of a school district having outstanding oil and natural gas bonds shall include in the debt service reserve account of the final budget adopted in accordance with 20-9-133 oil and natural gas production taxes received by a school district or other legally available funds sufficient to satisfy the reserve requirement. Funds remaining in the debt service reserve account may not be reappropriated or reverted and must be used for the purposes set forth in [section 27].

~~(3)~~(4) At the end of each school fiscal year, the trustees of a school district may designate a portion of the end-of-the-year fund balance of the debt service fund to be earmarked as a limited

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

operating reserve for the purpose of paying, whenever a cash flow shortage occurs, debt service fund warrants and bond obligations that must be paid from July 1 through November 30 of the school fiscal year following the ensuing school fiscal year. Any portion of the debt service fund end-of-the-year fund balance not earmarked for limited operating reserve purposes must be reappropriated to be used for property tax reduction as provided in 20-9-439.

~~(4)~~(5) The county superintendent shall compare the final budgeted amount for the debt service fund with the bond retirement and interest requirement and the special improvement district assessments for the school fiscal year just beginning as reported by the county treasurer in the statement supplied under the provisions of 20-9-121. If the county superintendent finds that the requirement stated by the county treasurer is more than the final budget amount, the county superintendent shall increase the budgeted amount for interest or principal in the debt service fund of the final budget. The amount confirmed or revised by the county superintendent is the final budget expenditure amount for the debt service fund of the school district."

Renumber: subsequent sections

32. Page 37, line 16 through line 17.

Following: "account" on line 16

Strike: ". All" on line 16 through "account" on line 17

33. Page 40, line 28 through page 41, line 5.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

34. Page 41, line 8.

Strike: "distributed"

Insert: "reserved for an appropriation in the next regular session of the legislature"

35. Page 41, line 9.

Strike: "as provided in subsection (3)"

Insert: "referred to in 20-9-306"

36. Page 41, line 12.

Strike: "~~(4)(b)~~"

Insert: "(3)(b)"

37. Page 41, line 20.

Strike: "~~(4)(b)(i)~~"

Insert: "(3)(b)(i)"

38. Page 42, line 9.

Strike: "20-9-310(4)(a) through (4)(e)"

Insert: "20-9-310(4)(a)(i) through (4)(a)(iv) have occurred"

39. Page 42, line 10.

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Strike: "20-9-310(4)(f)"

Insert: "20-9-310(4)(b)"

40. Page 42, line 15 through 18.

Strike: section 32 in its entirety

Renumber: subsequent sections

41. Page 42, line 26.

Strike: "25, and 29"

Insert: "27, and 31"

42. Page 42, line 27.

Strike: "25, and 29"

Insert: "27, and 31"

43. Page 42, line 28.

Strike: "24"

Insert: "26"

44. Page 42, line 29.

Strike: "24"

Insert: "26"

45. Page 43, line 1.

Strike: "retroactive"

46. Page 43, line 2.

Strike: "subsections (2) and (3)"

Insert: "subsection (2)"

47. Page 43, lines 4 and 5.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

48. Page 43, line 6.

Strike: "26 and 27"

Insert: "28 and 29"

And, as amended, do pass. Report adopted.

SJR 10, do pass. Report adopted.

JUDICIARY (Murphy, Chair):

SB 196, introduced bill, be amended as follows:

2/7/2013

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

1. Page 1, line 23.

Strike: "subsections"

Insert: "subsection"

Strike: "and (4)"

Following: "a"

Strike: remainder of line 23 through "enforcement" on line 24

Insert: "government"

2. Page 1, line 25.

Following: "used"

Insert: "."

Strike: "only"

Insert: "(a)"

3. Page 1, line 26.

Strike: "(a)"

Insert: "(i)"

4. Page 1, line 27.

Strike: "(b)"

Insert: "(ii)"

Following: "requirement"

Insert: ";(b) to monitor public lands or international borders; or

(c) to monitor private lands with the consent of the landowner"

5. Page 1, line 28.

Strike: "unlawful"

6. Page 1, line 30.

Following: "warrant"

Insert: "unless the information was obtained under the circumstances described in subsection (2)(a) or (2)(c)"

7. Page 2, line 1.

Strike: subsection (4) in its entirety

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Priest, Chair):

2/6/2013

SB 149, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "7"

Insert: "12"

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

2. Page 1, line 17.

Strike: "7"

Insert: "18"

3. Page 6, line 9.

Strike: "A"

Insert: "An immunization-certified"

4. Page 6, line 12.

Following: "influenza"

Strike: ", pneumonia, or tetanus, diphtheria, and pertussis"

Strike: "7"

Insert: "12"

5. Page 6, line 14 through line 15.

Strike: "immunizations" on line 14 through "schedule" on line 15

Insert: "pneumococcal polysaccharide vaccine and tetanus and diphtheria"

6. Page 6, line 16 through line 17.

Strike: "any" on line 16 through "older" on line 17

Insert: "herpes zoster to those individuals identified in the guidelines published by the United States centers for disease control and prevention's advisory committee on immunization practices"

7. Page 6, line 18.

Strike: "7"

Insert: "12"

8. Page 6, line 26.

Following: "immunized"

Insert: "and to the individual who is immunized"

9. Page 7, line 1.

Strike: "term "vaccine"

Insert: "following definitions apply: (a) "Immunization-certified pharmacist" means a pharmacist who has successfully completed a course of training approved by the United States centers for disease control and prevention, by a provider accredited by the accreditation counsel for pharmacy education, or by an authority approved by the board and who holds a current basic cardiopulmonary resuscitation certification issued by the American heart association, the American red cross, or other recognized provider. (b) "Vaccine"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Arthun, Chair):

2/6/2013

HB 60, be concurred in. Report adopted.

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

HJR 1, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/6/2013

HB 157, introduced by Connell
HB 187, introduced by Flynn
HB 206, introduced by Flynn
HB 210, introduced by McClafferty

MOTIONS

HB 107 - Senator Sesso moved consideration of **HB 107** be passed for the day. Without objection, so ordered.

FIRST READING AND COMMITMENT OF BILLS

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

SB 255, introduced by Stewart-Peregoy, Augare, Brockie, Calf Boss Ribs, Pease-Lopez, B. Smith, Whitford, Windy Boy, referred to Business, Labor, and Economic Affairs.
SB 256, introduced by F. Moore, Arthun, Debby Barrett, Boulanger, Brenden, T. Brown, Flynn, Harris, Redfield, Ripley, Rosendale, Salomon, Taylor, Thomas, Vincent, Walker, referred to Fish and Game.

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

SJR 12, introduced by Phillips, Reichner, referred to State Administration.

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

HB 18, introduced by Hollenbaugh (by request of the Legislative Finance Committee), referred to Finance and Claims.
HB 28, introduced by Bangerter (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.
HB 30, introduced by Washburn, referred to State Administration.
HB 38, introduced by Ingraham (by request of the Department of Administration and the State Library Commission), referred to State Administration.
HB 68, introduced by MacDonald (by request of the Law and Justice Interim Committee), referred to Judiciary.
HB 81, introduced by Ankney (by request of the State Auditor), referred to Finance and Claims.
HB 91, introduced by Lynch (by request of the Public Employees' Retirement Board), referred to State Administration.
HB 122, introduced by B. Bennett (by request of the Public Employees' Retirement Board), referred

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

to State Administration.

HB 123, introduced by Regier, referred to Public Health, Welfare and Safety.

HB 127, introduced by Berry (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 140, introduced by Berry (by request of the Department of Justice), referred to Judiciary.

HB 152, introduced by Fitzpatrick, referred to Taxation.

HB 154, introduced by D. Moore, referred to Local Government.

HB 162, introduced by Flynn, Fitzpatrick, Hansen, referred to Public Health, Welfare and Safety.

HB 182, introduced by Ballance, Greef, Lewis, Thomas, referred to Education and Cultural Resources.

HB 188, introduced by Regier, Cuffe, Hagan, Keane, Knudsen, McChesney, Noonan, O'Hara, Schreiner, Sesso, referred to Energy and Telecommunications.

HB 192, introduced by Hagan, referred to Taxation.

HB 194, introduced by Ingraham, referred to Local Government.

HB 199, introduced by Noonan, Curtis, Keane, Lynch, McClafferty, Pierson, Sesso, Swanson, Vuckovich, referred to Business, Labor, and Economic Affairs.

HB 226, introduced by D. Jones, Kary, C. Smith, referred to Energy and Telecommunications.

HB 250, introduced by Bangerter, Berry, Blasdel, C. Smith, Sonju, referred to Business, Labor, and Economic Affairs.

HB 261, introduced by Berry, referred to Business, Labor, and Economic Affairs.

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

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

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

HB 73 - Senator Brenden moved **HB 73** be concurred in. Motion carried as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Keane, Larsen, Lewis, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Wittich, Mr. President.

Total 44

Nays: Barrett Dick, Kaufmann, Malek, Stewart-Peregoy, Windy Boy.

Total 5

Absent or not voting: None.

Total 0

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Excused: Augare.

Total 1

SB 23 - Senator Rosendale moved **SB 23** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Fielder, Jackson, Jones, Lewis, Moore, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Wittich, Mr. President.

Total 28

Nays: Augare, Barrett Dick, Blewett, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Kaufmann, Keane, Larsen, Malek, Murphy, Phillips, Sesso, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Windy Boy.

Total 22

Paired: Moore, Aye; Augare, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 8 - Senator Larsen moved **SJR 8** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Augare.

Total 1

HB 17 - Senator Murphy moved **HB 17** be concurred in. Motion carried as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones,

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Augare.
Total 1

HB 137 - Senator Jent moved **HB 137** be concurred in. Motion carried as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Augare.
Total 1

Senator Wittich moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Essmann presiding. Chair Wanzenried moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 46

Nays: Kaufmann, Phillips, Sesso.
Total 3

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Absent or not voting: None.

Total 0

Excused: Augare.

Total 1

MOTIONS

HB 73 - Senator Van Dyk moved the Senate suspend the rules and place **HB 73** on third reading this date. The motion passed as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Wittich, Mr. President.

Total 46

Nays: D. Brown, Stewart-Peregoy, Windy Boy.

Total 3

Absent or not voting: None.

Total 0

Excused: Augare.

Total 1

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 105 passed as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Fielder, Jackson, Jones, Lewis, Moore, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Mr. President.

Total 27

Nays: Augare, Barrett Dick, Blewett, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Kaufmann, Keane, Larsen, Malek, Murphy, Phillips, Sesso, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Windy Boy, Wittich.

Total 23

Paired: Moore, Aye; Augare, No.

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 144 passed as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 47

Nays: Kaufmann, Phillips.

Total 2

Absent or not voting: None.

Total 0

Excused: Augare.

Total 1

SB 11 passed as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 47

Nays: D. Brown, Sales.

Total 2

Absent or not voting: None.

Total 0

Excused: Augare.

Total 1

SR 3 adopted as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey,

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Fielder, Jackson, Jones, Lewis, Moore, Murphy, Olson, Peterson, Priest, Rosendale, Sales, Sonju, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Wittich, Mr. President.
Total 28

Nays: Augare, Barrett Dick, Blewett, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Kaufmann, Keane, Larsen, Malek, Phillips, Ripley, Sesso, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Windy Boy.
Total 22

Paired: Moore, Aye; Augare, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 73 concurred in as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Wittich, Mr. President.
Total 45

Nays: Barrett Dick, Kaufmann, Stewart-Peregoy, Windy Boy.
Total 4

Absent or not voting: None.
Total 0

Excused: Augare.
Total 1

MOTIONS

Senator Malek moved to change her vote on **SB 105** from Yes to No. Without objection, so ordered.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Wittich moved that the Senate adjourn until 1:00 p.m., Friday, February 8, 2013, the twenty-eighth legislative day. Motion carried.

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 7, 2013

Senate adjourned at 1:57 p.m.

MARILYN MILLER
Secretary of the Senate

JEFF ESSMANN
President of the Senate