

**SENATE JOURNAL
66TH LEGISLATURE
SEVENTY-SECOND LEGISLATIVE DAY**

Helena, Montana
April 6, 2019

Senate Chambers
State Capitol

Senate convened at 9:00 a.m. President Sales presiding. Invocation by Senator Small. Pledge of Allegiance to the Flag.

Roll Call. Forty-eight members present, Senators Fielder and Gross, excused. Quorum present.

BILLS AND JOURNALS (Keenan, Chair): 4/6/2019
Correctly printed: **SR 51, SJ 25, HB 19, HB 21, HB 181, HB 224, HB 265, HB 286, HB 332, HB 356, HB 369, HB 393, HB 397, HB 440, HB 456, HB 473, HB 482, HB 524, HB 535, HB 543, HB 549, HB 550, HB 558, HB 561, HB 578, HB 583, HB 585, HB 591, HB 598, HB 612, HB 615, HB 658, HB 662, HB 688, HJ 10, HJ 17, HJ 20, HJ 23, HJ 26, HJ 28.**
Correctly engrossed: **HB 211.**
Examined by the sponsor and found to be correct: **SB 5, SB 41, SB 48, SB 81, SB 140, SB 151, SB 154, SB 191.**

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Osmundson, Chair): 4/5/2019
HB 433, be amended as follows:

1. Page 2, line 6.
Following: "(b)"
Insert: "(i)"

2. Page 2.
Following: line 6
Insert: "(ii) The provisions of subsection (4)(b)(i) do not apply if:
(A) the legislative fiscal analyst agrees in writing that the information can be retrieved by the legislative fiscal analyst with alternative access to the department's data systems; and
(B) the department and the legislative fiscal analyst enter into a memorandum of understanding to allow the legislative fiscal analyst to access the information that meets the known data needs for legislative analysis."

And, as amended, be concurred in.

HB 553, be amended as follows:

1. Page 3, line 21 through page 4, line 11.
Strike: section 4 in its entirety
Insert: "NEW SECTION. **Section 4. Capital development funding -- transfer as present law base.** (1) As part of the executive budget prepared pursuant to 17-7-123, the governor shall

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propose annual transfers from the general fund into the account established in [section 5]. Except as provided in subsection (2), the amount of the proposed annual transfers are considered present law and must be equal to 1% of the amount of the certified unaudited state general fund revenue, including transfers into the general fund, as determined by the state treasurer on or before August 15 of the year preceding a legislative session less the:

(a) general fund debt service anticipated by the office of budget and program planning for each year of the biennium for issued general obligation bonds paid from the general fund as set forth in the state budget pursuant to 17-5-802; and

(b) projected general fund debt service for each year of the biennium for general obligation bonds paid from the general fund proposed in the executive budget.

(2) The governor may propose to reduce or increase the amount of the annual transfers proposed pursuant to subsection (1). Any proposed increase or decrease to the amount required in subsection (1) must be included in the executive budget request as a new proposal.

(3) The legislature may appropriate funds in the general appropriations act for transfer into the account established in [section 5] from the general fund for capital development projects based on the state fiscal condition.

(4) The appropriated transfer to the account established in [section 5] to fund capital developments is part of the base budget for purposes of Title 17, chapter 7, part 1.

(5) The department of administration shall transfer the annual amount appropriated by the legislature from the general fund to the capital developments long-range building program account established in [section 5] by August 15 of each fiscal year except as provided in subsection (6).

(6) The department of administration may not make the annual transfer if the executive has authorized transfers from the budget stabilization reserve fund established in 17-7-130 in the immediately preceding 11 months or if the transfer would result in reductions pursuant to 17-7-140.

(7) This section does not limit the ability of the legislature to authorize general obligation bonds or the board of examiners to issue and sell bonds authorized by previous legislatures, and has no effect on the pledge or security for general obligation bonds."

2. Page 4, line 20.

Strike: line 20

Insert: "(4) The state treasurer may temporarily borrow from the fund to address cash balance deficiencies in the general fund. A loan made to the general fund does not bear interest and must be recorded in the state accounting records. The fund may not be so impaired by a loan that all legal obligations against the fund cannot be met."

3. Page 4, line 25.

Following: "expansion"

Strike: "or"

Insert: "and"

4. Page 4, line 27.

Strike: "the entirety of"

5. Page 4, line 30 through page 5, line 1.

Strike: "prorated" on page 4, line 30 through "occupancy" on page 5, line 1

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Insert: "the prorated amount from the beginning of the fiscal year to the date of the receipt of the certificate of occupancy"

6. Page 8, line 19 through page 9, line 27.

Strike: section 9 in its entirety

Insert: "**Section 9.** Section 17-5-802, MCA, is amended to read:

"17-5-802. Authority to authorize and issue general obligation bonds and notes. (1)

When authorized by and within the limits of a bond act and as provided in this part, the board may issue and sell bonds of the state in the manner that it considers necessary and proper to provide funds for the purpose set forth in the bond act.

(2) The full faith and credit and taxing powers of the state must be pledged for the payment of all bonds and notes issued pursuant to this part, with all interest on the bonds and notes and premiums payable upon the redemption of the bonds and notes. All principal, interest, and redemption premium, if any, becoming due during a fiscal year must be included in the state budget for that fiscal year, and sufficient revenue must be appropriated for the payment of principal, interest, and redemption premiums from the general fund and, if the general fund is not sufficient, from any other funds of the state legally available for the payment of principal, interest, and redemption premiums. Bonds may not be issued to cover deficits incurred because appropriations exceeded anticipated revenue. Money transferred for the payment of bonds and notes must be deposited in the debt service account.

(3) Except as provided in subsection (8), the legislature may not authorize general obligation bonds paid from the general fund if the issuance of those bonds would cause the total amount of the state debt to exceed 0.6% of the fair market value of all taxable property within the state.

(4) Except as provided in subsection (8), the legislature may not authorize new general obligation bonds paid from the general fund if the issuance of those bonds would create an obligation for fiscal year debt service on general obligation bonds paid from the general fund that have been issued that exceeds 1.5% of the amount of the certified unaudited state general fund revenue, including transfers into the general fund, as determined by the state treasurer on or before August 15 of the year preceding a legislative session.

(5) For purposes of subsections (3) and (4):

(a) "fair market value of all taxable property within the state" includes all real and personal property subject to ad valorem taxation within the state as enumerated in the department of revenue's biennial report issued pursuant to 15-1-205.

(b) "general obligation bonds paid from the general fund" means bonds issued as general obligation bonds of the state that are payable from only the general fund and that are not payable from or secured by funds or specific sources of revenue outside the general fund.

(c) "state debt" means:

(i) the outstanding principal of issued general obligation bonds paid from the general fund as of July 1 of the current fiscal year;

(ii) the principal amount of all authorized but unissued general obligation bonds paid from the general fund; and

(iii) the total amount of unfunded actuarial accrued liability of the public retirement systems established in Title 19 that does not amortize in 30 years as identified in those systems' most recent actuarial valuation of the assets and liabilities of their plans.

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(6) For purposes of calculating the total fiscal year debt service of proposed bonds to determine whether the limitations described in subsection (4) are satisfied, the debt service amounts set forth in the fiscal note for the proposed bond act regarding the bonds are used and are final and conclusive.

(7) The passage and approval of a bond act is final and conclusive authority for the issuance of the bonds authorized under that act. The board of examiners may rely on that authority without regard to condition or circumstance existing as of the date of the issuance of the bonds.

(8) The limits on legislative authority to authorize general obligation bonds paid from the general fund do not apply to bonds authorized during a state of emergency or a state of disaster as provided in Title 10, chapter 3.

""

7. Page 14, line 14.

Following: "include"

Strike: ":",

8. Page 14, line 15.

Strike: "(i)"

9. Page 14, line 16.

Strike: ":", or"

Insert: ":",

10. Page 14, line 17.

Strike: subsection (ii) in its entirety

And, as amended, be concurred in.

Without objection, committee reports were adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

4/5/2019

SB 90, introduced by N. McConnell

SB 192, introduced by M. Lang

SB 220, introduced by K. Regier

SB 231, introduced by B. Bennett

SB 285, introduced by D. Brown

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

4/5/2019

SB 35, introduced by F. Thomas

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SB 67, introduced by B. Gillespie
SB 92, introduced by D. Salomon
SB 93, introduced by T. Richmond
SB 139, introduced by M. Lang
SB 162, introduced by R. Webb
SB 205, introduced by S. Fitzpatrick
SB 232, introduced by B. Bennett
SB 244, introduced by M. Blasdel
SB 258, introduced by M. Cuffe
SB 262, introduced by J. Cohenour
SB 300, introduced by K. Bogner

Senate joint resolution not concurred in and returned to the Senate: 4/4/2019

SJ 10, introduced by K. Bogner

SB 158 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 158**:

4/5/2019

Representative Usher, Vice Chair
Representative Lynch
Representative Ricci

Senate amendments to House bill concurred in: 4/5/2019

HB 129, introduced by R. Fitzgerald

House joint resolution passed and transmitted to the Senate for concurrence: 4/5/2019

HJ 35, introduced by A. Redfield

FIRST READING AND COMMITMENT OF BILLS

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

HJ 35, introduced by A. Redfield, referred to Taxation.

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

Majority Leader Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. President Sales in the chair.

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

HB 316 - Senator Vance moved **HB 316** be concurred in. Motion carried as follows:

Yeas: Ankney, Barrett, Bennett, Blasdel, Bogner, Boland, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Gauthier, Gillespie, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McConnell, McNally, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Tempel, Thomas, Vance, Vuckovich, Webb, Webber, Welborn, Mr President.
Total 48

Nays: None.
Total 0

Paired: None.

Excused: Fielder, Gross.
Total 2

Absent or not voting: None.
Total 0

HB 590 - Senator MacDonald moved **HB 590** be concurred in. Motion carried as follows:

Yeas: Ankney, Barrett, Bennett, Blasdel, Bogner, Boland, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Gauthier, Gillespie, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McConnell, McNally, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Tempel, Thomas, Vance, Vuckovich, Webb, Webber, Welborn, Mr President.
Total 48

Nays: None.
Total 0

Paired: None.

Excused: Fielder, Gross.
Total 2

Absent or not voting: None.
Total 0

HB 579 - Senator Small moved **HB 579** be concurred in. Motion carried as follows:

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Yeas: Ankney, Barrett, Bennett, Blasdel, Bogner, Cuffe, Ellsworth, Fitzpatrick, Flowers, Gauthier, Gillespie, Hoven, Jacobson, Kary, Lang, McConnell, McNally, Olszewski, Phillips, Pomnichowski, Regier, Richmond, Salomon, Small, Smith F, Thomas, Vuckovich, Webb, Welborn, Mr President.

Total 30

Nays: Boland, Brown, Cohenour, Ellis, Esp, Hinebauch, Howard, Keenan, MacDonald, Malek, McClafferty, Osmundson, Sands, Sesso, Smith C, Tempel, Vance, Webber.

Total 18

Paired: None.

Excused: Fielder, Gross.

Total 2

Absent or not voting: None.

Total 0

HB 550 - Senator Esp moved do **not** concur on **HB 550**.

HB 550 - Senator Esp made a **substitute motion** that **HB 550** be **indefinitely postponed**.
Motion carried as follows:

Yeas: Ankney, Barrett, Bennett, Blasdel, Bogner, Boland, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Gauthier, Gillespie, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McConnell, McNally, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Tempel, Thomas, Vuckovich, Webb, Webber, Welborn, Mr President.

Total 45

Nays: Brown, Olszewski, Vance.

Total 3

Paired: None.

Excused: Fielder, Gross.

Total 2

Absent or not voting: None.

Total 0

HB 612 - Senator Lang moved **HB 612** be concurred in. Motion carried as follows:

Yeas: Ankney, Barrett, Bennett, Blasdel, Bogner, Boland, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Gauthier, Gillespie, Hinebauch, Hoven, Howard, Kary,

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Lang, MacDonald, Malek, McClafferty, McConnell, McNally, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Tempel, Thomas, Vance, Vuckovich, Webb, Webber, Welborn, Mr President.

Total 46

Nays: Jacobson, Keenan.

Total 2

Paired: None.

Excused: Fielder, Gross.

Total 2

Absent or not voting: None.

Total 0

HB 561 - Senator K. Regier moved **HB 561** be concurred in. Motion **failed** as follows:

Yeas: Ankney, Blasdel, Bogner, Cuffe, Ellsworth, Esp, Fitzpatrick, Gauthier, Gillespie, Hinebauch, Hoven, Kary, Keenan, Lang, Olszewski, Osmundson, Regier, Smith C, Tempel, Thomas, Vance, Webb, Mr President.

Total 23

Nays: Barrett, Bennett, Boland, Brown, Cohenour, Ellis, Flowers, Howard, Jacobson, MacDonald, Malek, McClafferty, McConnell, McNally, Phillips, Pomnichowski, Richmond, Salomon, Sands, Sesso, Small, Smith F, Vuckovich, Webber, Welborn.

Total 25

Paired: None.

Excused: Fielder, Gross.

Total 2

Absent or not voting: None.

Total 0

HB 561 - Majority Leader Thomas moved **HB 561** be **indefinitely postponed**. Motion carried as follows:

Yeas: Ankney, Barrett, Bennett, Blasdel, Bogner, Boland, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Gauthier, Gillespie, Hinebauch, Howard, Jacobson, Keenan, Lang, MacDonald, Malek, McClafferty, McConnell, McNally, Olszewski, Osmundson, Phillips, Pomnichowski, Richmond, Salomon, Sands, Sesso, Small, Smith F, Tempel, Thomas, Vance, Vuckovich, Webb, Webber, Welborn, Mr President.

Total 44

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Nays: Hoven, Kary, Regier, Smith C.

Total 4

Paired: None.

Excused: Fielder, Gross.

Total 2

Absent or not voting: None.

Total 0

Majority Leader Thomas moved the committee **rise and report**. Motion carried. Committee arose. Senate resumed. President Sales presiding.

Majority Leader Thomas moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Ankney, Barrett, Bennett, Blasdel, Bogner, Boland, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Gauthier, Gillespie, Hinebauch, Hoven, Jacobson, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McConnell, McNally, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Tempel, Thomas, Vance, Vuckovich, Webb, Webber, Welborn, Mr President.

Total 47

Nays: Howard.

Total 1

Paired: None.

Excused: Fielder, Gross.

Total 2

Absent or not voting: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Fitzpatrick thanked the Pages for their service this week.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Thomas moved the Senate adjourn until 1:00 p.m., Monday, April 8, 2019, the

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seventy-third legislative day. Motion carried.

Senate adjourned at 9:31 a.m.

MARILYN MILLER
Secretary of the Senate

SCOTT SALES
President of the Senate