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The 57th Montana Legislature:  
News Coverage of the 2001 Session

by

Ericka Schenck Smith

B.A. Montana State University-Bozeman, 1997

presented in partial fulfillment of the requirements

for the degree of

Master of Arts

The University of Montana

May 2001

Approved by:



Chair



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Smith, Ericka Schenck, May 2001

The 57th Montana Legislature: News Coverage of the 2001 Session

Chair: Dennis Swibold



The Montana Legislature meets for only 90 of every 730 days. During those 90 days, 150 citizen legislators must set the state's budget for the next two years, clean up law-writing errors made during past sessions and create policies that will ultimately affect all Montana citizens.

And during those 90 days, there is a second pack of citizens scrambling about the Capitol, recording the legislators' every move: the press corps, whose duty is to accurately and fairly inform readers, listeners and viewers about the daily business of their elected officials in Helena.

I joined the Capitol press corps as a Lee Newspapers State Bureau intern for the 2001 legislative session. My original assignment was to cover agriculture, fish and game, tourism, human services and local government. As the session wore on, I picked up new responsibilities, covering long-range planning issues and end-of-the session wrangling over energy taxation bills. What follows is a brief analysis of my successes and failures as a Capitol reporter, followed by 112 of the 150-plus stories I wrote during those four months.

# Contents

Introduction .....	1
Features .....	19
Farming, hunting and fishing .....	49
Public health and human services .....	98
Taxes .....	169
Long-range planning and environment .....	184
Local government and growth .....	204

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And thank you to Chuck Johnson for showing me how to do it.



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# Introduction

I slept through Mr. Doxtater's eighth-grade Montana history class.

Here is what I remember. He wore orange on St. Patrick's day and said it was because he was a Protestant, but we all knew he was color blind. He told us a story about a former student, who later went on to become the Whitefish High School basketball coach and something of a local celebrity, who argued that rivers could not run north because water won't go uphill. Our textbook was red, small and short on pictures, and I don't recall ever reading from it; I preferred my glossy science and math books and sappy biographies about brave boys and girls who died tragically young, generally of cancer. Mr. Doxtater wanted me to know where to locate every county, county seat, river and mountain range on a map of Montana, but I never could. I drooled on my notebook.

Like I said, I slept a lot. A growing, 13-year-old girl needs plenty of time to sleep, and 2 p.m. in Mr. Doxtater's class seemed like as good a time as any, as far as I was concerned. I adored Mr. Doxtater, but I hated history, especially Montana history. I had had enough of Montana, having lived in Whitefish since I was five months old.

So I never learned much of anything about the state I grew up in. I could tell you Helena is the capital, but I couldn't tell you where it is. I could tell you farm girls from the East Side have a peculiar fondness for spiral perms and boot-cut Wranglers, but I couldn't tell you what their families farm, or the difference between a farm and a ranch. I could tell you I loved the mountains, but I couldn't tell you which mountain ranges surrounded my home valley.

I never learned much about the inner workings of Montana government, either. I took one class in American politics, my senior year in high school. My teacher was an older man with a reputation for being a bit of a pervert; if you wore a short skirt to class, he'd ask you to write assignments on the board. The boy who sat behind me spent most

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of our class time proclaiming his innocence in a pending statutory rape case. He was convicted and is a registered sex offender, still living somewhere in Montana. Two of the girls in my class were pregnant. One, a good friend, managed to hide it for eight months. My impression of the American political process was tainted by the raw and uncomfortable sexuality in that classroom. I wanted nothing to do with it.

Besides, history and politics were for wonks, and I had no intention of becoming a wonk. In four years, I assumed, I would be a hip young math teacher with chalk all over my pants, preaching the virtues of algebra, trigonometry and calculus to bright, eager people such as myself, for whom nothing was more interesting than a good story problem. The state of the State of Montana would mean nothing to me because my little corner of the universe would revolve around the neat and orderly world of mathematics.

Then I graduated from college with a bachelor's degree in English that wasn't worth a tinker's damn to anyone but me. The reality of living in Montana hit me like a ton of hay, like a load of green logs, like spring runoff after a heavy snow year. I knew I was lucky to get a minimum-wage job working in a grocery store bakery, while I imagined my old friends from science camp were making their first millions in high-tech. And here's the thing: I was glad to be in Montana.

So, for the first time, I started paying attention to what was happening around me. I figured it would be worth my while to get a clue. I voted in local elections. I fumed and hollered about how the Montana Legislature was going to be the ruination of my life.

As an excuse to learn more about Montana life and politics, I went to journalism school. It was the best way I could think of to make a living out of educating myself.

Then I wound up smack-dab in the middle of the Montana political scene, working as a legislative reporting intern for the Lee Newspapers State Bureau in Helena. I spent the first four months of 2001 working 12-hour days covering the Legislature for

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Lee's daily and weekly papers statewide and getting a crash course in contemporary Montana history and politics.

### • 2001 battles

The Montana Legislature meets for 90 days every two years. An old joke, repeated far too often around the Capitol, is that the Legislature would better serve the state if it met every 90 years for two days. The joke always elicits a chuckle, but you would be hard pressed to find a legislator who thinks it's true. Montana's state senators and representatives have a hard enough time getting their work done in 90 days and living with the results for the next biennium.

And 2001 was an especially difficult year. The term limits Montana voters approved in 1992 kicked in for the first time, and 53 of the 150 legislators elected to serve for the 2001 session had never been in the Legislature before. Forty-eight of the freshmen were in the 100-member House.

Among my first notes of the session is this prediction from Senate Majority Leader Steve Doherty: "The folly of term limits will become all too evident as we watch, hopefully not too much, the organized pandemonium in the other house." Because of term limits, Doherty, a Great Falls Democrat, cannot run again in 2002.

And there was the problem of money. For several reasons, including tax cuts adopted by the past two decades' Legislatures, the 2001 Legislature was notably short on funds and long on expectations. Gov. Judy Martz cut the \$150 million increased spending plan of her predecessor, former Gov. Marc Racicot, by \$43 million before the session even began. Once the session got rolling, fiscally conservative Republicans, including the chairs of the House Appropriations and Senate Finance committees, vowed not to spend any more of the state's money than was included in Martz's budget. And, as the session went on, they vowed to spend even less when the governor said she wanted \$20 million more for the ending fund balance, which she had initially projected at \$30 mil-

lion.

And finally, there were the three Es: education, energy and the environment, all of which were tied into the money problem. Both public schools and the university system wanted - and said they desperately needed - far more money than the Legislature was willing to or could give them. Part of the reason, they said, was the escalating price of energy in the state, something the Legislature attempted, but for the most part failed, to deal with. Some bills provided tax breaks to new energy producers or to consumers and businesses that produce at least some of their own energy - but didn't do much to help the large industries that are going out of business or laying off workers because of the price of deregulated power. Battles over the environment were also tied to money, with the argument that the state's tough environmental laws prevent businesses, including electricity generators, from locating here.

#### • Learning the ropes

Being the new kid on the block, I did not cover the three Es. Nor, for the most part, did I cover the budget. My boss, Capitol press corps dean Charles Johnson, assigned me to cover agriculture, fish and game, local government, growth, tourism and health and human services. These are earthy, Montana topics. And, as I have already made abundantly clear, earthy, Montana topics have never been my forte. But he merely gave me the beats that wouldn't be terribly complicated - and that no one else wanted.

I dove right in, but it took me at least two weeks to write a decent story. I was too caught up in the formality of the Capitol culture.

My first day in the Senate, I didn't know whether to laugh or sit in silent reverence with my hands folded in my lap. The pomp and circumstance were unlike anything I had ever seen. There was prayer and a color guard presentation, and committees of three went marching down the halls to inform the governor, Supreme Court and House that the Senate was ready to do business. I am too young to remember ever having to

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raise my hand to speak or address anyone by a formal title, let alone use such awkwardly correct phrases as, "I would move that the committee, after having under consideration Senate Bill (insert number here), recommend that the same do pass, Mr. President." All of that went by the wayside before I entered the public school system, and I had never seen it in action, except for the few times I sat down with my dad to make fun of the British Parliament on C-SPAN. If the men and women of the Montana Legislature wore white powdered wigs, I wouldn't have been able to write a thing.

Fortunately, I finally discovered the humanity beneath the formality, something I should have seen that first day - but didn't. Looking back at my notes, I realize the Senators made some great jokes that first day. I just didn't get them.

I came to the Legislature with two flawed assumptions. First was that the men and women in both the House and Senate were all wealthy, retired, East Side rancher types with not-so-hidden agendas to, quite simply, ruin my life. Second was that party affiliation defines a person. I was wrong on both counts, and until I realized that, my reporting was, if not wrong, misguided. And boring.

During those first couple of weeks, Johnson, who has been reporting on the Legislature since the 1970s, told me repeatedly to get the controversy up high in my stories, not to get bogged down early in details. But without being able to see the real differences among the legislators - and which battles were partisan and which were personal - I wasn't sure what the controversy was. All I was sure of was that Bill A was intended to do x, y and z. I hadn't yet figured out how to recognize the nuances of the political process, how personality shapes policy.

Bob Anez, an Associated Press reporter who has covered the Legislature for almost 20 years, assured me I was not the first reporter to trip herself up with unimportant details and stereotypical assumptions about legislators.

"You've got to learn so much in four months," he said. "It's so tough to get into

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the rhythm.”

But having seen the Legislature in action, I feel foolish for ever thinking that all Republicans are uptight misers or all Democrats are profligate party animals. The Montana Legislature is truly a body of citizens - and those 150 citizens hold 150 individual ideologies that are often difficult to define and almost always surprising. There is no pigeonholing any of them. Once you do, they'll prove you wrong with a wild vote.

Rep. Verdell Jackson, a Kalispell Republican, is just such a legislator.

Since 1999, Jackson has been a source of ridicule among more liberal Montanans for his views on homosexuality. He has made it perfectly clear that he doesn't believe the Legislature should change the state's deviant sexual conduct laws to ensure consenting adults of the same gender cannot be prosecuted for having sex. He keeps a copy of "Heather Has Two Mommies" in his file cabinet in the Capitol, in the same drawer he keeps his travel-worn Bible. "Heather Has Two Mommies" is one of the reasons he continues to fight against legalizing homosexual sex, regardless of the Montana Supreme Court's ruling that the current law is unconstitutional. His religious beliefs, he says, dictate that such books do not belong in a school library.

So Jackson was at it again in 2001, proclaiming during one hearing that retaining the unconstitutional law will not only protect children from books like "Heather Has Two Mommies," but also prevent other men from hitting on him. The letters to the editor were not pretty. The Montana Christian Coalition came out in his support, but he was pretty well lambasted for his remarks. And the private mail, he told me, was even worse.

I wrote a profile of Jackson in mid-March because I worried he was becoming a caricature in the public eye. I had been hanging around the Capitol long enough to know there are no single-issue legislators.

My interview with Jackson was friendly. He came across as a gentle, soft-spoken man, eager to tell me about his work as a vocational curriculum developer in Alaska, the

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birth of his granddaughter (he was the first to hold her) and his concerns about water rights in the Clark Fork River Basin. We chatted about all of that for well over an hour before ever getting into the issue of homosexuality. Then he carefully explained his beliefs, showing me the books in his file drawer.

I also spoke with Montana Christian Coalition lobbyist Julie Millam and Karl Olson, executive director of the statewide gay, lesbian, bisexual and transgender organization PRIDE!. Millam only agreed to talk to me after I assured her I was not out to castigate Jackson but to give my readers a better idea of who he is.

I am proud of the story I wrote. It is not my best work: The writing is stiff; I could have organized it better; the conclusion is weak; and it begs for more sources. But I think I did something right. I got the bigger picture.

### • Blunders

I wrote approximately 150 stories over the course of the 2001 session. One hundred twelve found their way into this collection, organized by topic and date. On average, I wrote two stories a day. But quantity is nothing to brag about if the quality is poor. And I'm perfectly willing to acknowledge it wasn't always stellar.

I make mistakes.

I know it is my duty as a journalist to uphold those sacred Fourth Estate values of accuracy, truth and honesty - in that order - but I make mistakes. I make them with gusto, and I make them honestly; nevertheless, I was humbled to realize the abundance of my blunders.

A good number of my errors made it into the newspapers statewide, a fact that will forever make me cringe. For this collection, I took the liberty of correcting my stories, making simple revisions and fixing minor factual errors. I don't believe there is any reason to promulgate bad grammar or misinformation.

Most of my mistakes were minor. The standard rewriting blunder was most com-

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mon, including phrases like, “he couldn’t say whether what caused the increase,” which appeared in an end-of-the-session wrap-up on welfare. On Wednesday, March 14, I spent the entire day thinking it was Tuesday. In that day’s story about Senate Bill 213, a local-option tax proposal, I not only got the day wrong, but also the committee in which the bill would next be heard. When I realized too late what I had done, I apologized to every person I saw who was in any way related to the story. Oddly, they all told me my mistakes didn’t affect the gist of the story, which was that Sen. Bill Glaser, R-Huntley and the sponsor of the bill, threw a fit one day and got what he wanted the next. On March 23, I wrote that the total cost of the projects in House Bill 5, which included statewide agencies’ building and renovation plans, was \$71.6 million, not \$76.6 million. I knew perfectly well it was \$76.6 million, and I have yet to figure out where I came up with the other figure.

Many of these mistakes wouldn’t have made it into print if I had been working under more normal conditions. I arrived at work by 7:40 a.m., spent most days reporting and observing the goings-on at the Capitol until 6 p.m. or later, often changing my plans after some sort of mid-day blow up. Only when I returned to the office could I start writing. At that point, I was crunched for time, as was Johnson, who had been doing the same thing and had even more to write than I, with the added duty of editing my work. I tried to give my stories a good second read before I gave them to Johnson, and he read them well. We caught some doozies. But we were both tired and rushed, and things slipped through.

I had to write one correction.

During the last week of the session, the still-surviving energy bills went to two separate free conference committees for final, last-minute revisions. Johnson had been covering energy, and I had happily kept my hands out of it. But, although he may be amazing in many ways, Johnson cannot be in two places at once, and he enlisted my



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help covering the energy taxation bills. I had never seen these bills, and, because they were not part of my coverage, I had given them no more attention than any other reader of the newspaper: I read headlines and first paragraphs. I had never been involved in any in-depth discussion of them, in committee, on the floor or elsewhere.

So I wound up spending much of my last week at the Capitol covering energy. I read the bills. I read the fiscal notes. I went to the committees. But I failed to ask one very obvious question.

House Bill 600 exempted small-scale energy-generation equipment from the business equipment property tax. Before April 17, I had never heard of this bill, although it had been introduced two months earlier. During the free conference committee meeting on HB600 that day, the only energy generators anyone mentioned were locomotive engines. A Department of Revenue staffer who talked about the cost of the bill in terms of lost property taxes only talked about the price of used locomotive engines. After all that talk about locomotives, the bill's sponsor, Alberton Republican Rep. Sylvia Bookout-Reinicke, jumped in with a comment about how the bill would be a big help for grocery stores and lumber yards. I assumed she was still talking locomotives. I thought this was funny. I called my mom that night, and we had a long, hilarious discussion of the future of the grocery industry in Montana and all the possible benefits of having a locomotive engine in front of one's store. You could charge for rides, we decided. Definitely, we said, the thing would have to be cleaned up and painted with the store's logo. For whatever reason, this all made sense to me, and I didn't think to question it, even when the discussion of the bill extended for a second day.

It did not make sense to Bookout-Reinicke. She was terribly unhappy with me for writing, "Bookout-Reinicke said Tuesday that she expects smaller companies to benefit most from the tax credit, adding that some lumber mills and grocery stores could use older locomotive engines to create enough power at a low enough cost to stay in busi-

ness.” Like I said, I assumed that was what she meant. Wrong. She was talking about your standard-issue, everyday generator, although she never specifically said so. Had I been around for earlier discussions, I probably would have known this.

At first, she said I didn’t need to write a correction. And I probably didn’t. But she thought I had made her look stupid, and I didn’t want that, so I insisted. Our discussion ended with her telling me she was happy to see a young woman such as myself making my way in the male-dominated field of journalism.

#### • Fact-checking and fairness

Obviously, I didn’t mess up every story I wrote. I developed strategies for double-checking myself.

Live human beings are always my first choice for sources of information. I found good sources - legislators, lobbyists and citizens I knew I could trust.

Among the best were the lobbyists. Disingenuousness is an absolute no-no among lobbyists; their careers hinge on their ability to give out good information, and lots of it. They are paid to know the issues, and they are passionate about them. (Read: They give good quotes.) Lobbyists for the cities, counties and school boards across the state were my most reliable sources of information while I was working on House Bill 124 - the so-called “Big Bill” on local-government funding. They were intimately involved with the creation and evolution of that bill, and they knew it better than all but two or three legislators and a handful of staff. And, if I didn’t want to talk to them that day, they could lead me to other, unpaid sources for an outside opinion. They understood my need to be fair and would help me find people who disagreed with them.

I struck up professional friendships with several lobbyists and legislators, and I would often go to them for off-the-record help. They eventually understood that, if my notebook was out of sight, the conversation was private, and their names wouldn’t appear in the paper the next day unless I specifically asked if it was all right. In that way,

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Alec Hansen, executive director of the Montana League of Cities and Towns, was invaluable. I relied on him for his institutional memory and encyclopedic knowledge of Montana's local government laws. He took me under his wing, saving me seats in crowded committee meetings and explaining anything and everything that came up that he thought I might need help with. Hansen was not impartial, but he had all the answers to my questions about local government. I couldn't have done it without him.

But, like me, my sources slipped up sometimes.

What makes the Legislature particularly pleasant for a reporter is that most of the information one could ever need to double-check is public - and posted on the Internet. Frankly, I can't imagine life as a reporter before the World Wide Web. I use 411.com to check the spelling of names in the same way I use a dictionary to check the spelling of words - and for that, I go to dictionary.com. Legislative staff posted every bill on the Web and updated bill postings daily. I could always find out, within seconds, whether a piece of legislation had been amended recently, who had voted for or against it on a specific day or when the next committee hearing would be. The Legislative Fiscal Division posted its budget analyses on its Web site, with updates after every subcommittee, committee or house of the Legislature amended the budget. The State of Montana Web site, [www.state.mt.us](http://www.state.mt.us), included an up-to-date telephone directory for state agencies - something we didn't have in the office - as well as press releases from the governor's office and links to all of the state agencies' Web sites. Information about specific corporations, federal government regulations, census data and economic indicators are all simple to find with no more than a quick search.

But good sources and the Internet only make research easier. A body still has to read, and I read a lot.

At the beginning of the session, I sat down and read all 184 pages of the original version of the Big Bill. I didn't get it, but I could at least ask specific questions. In my

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first meeting with the bill's sponsor, Rep. Robert Story, R-Park City, he thanked me for doing my homework.

The Big Bill was the most important local government bill of the 2001 session, but I was the only reporter who regularly attended the hearings, committee meetings and debates. Unlike me, the rest of the Capitol press corps had the budget and the three Es to worry about. The Big Bill was my big story: I took it on early, allowed it to take up much of my time and covered it nigh unto death. It occurred to me on occasion that the average person reading a newspaper doesn't care where the local fire district gets its money - just that the money shows up and firefighters are on hand to put out a chimney fire. On the other hand, the Legislature spent 100 years creating an extremely complicated process that the fire district and the state have to go through to get that money where it's supposed to go, and the whole purpose behind the Big Bill was to make life easier for both of them. Regardless of whether HB124 was the right solution, any attempt to change that process is a very big deal for local governments, and I wanted to do my part to keep the state's mayors, city council members, county commissioners and treasurers informed.

Tom Lutey of the Bozeman Chronicle picked a fight with me over my coverage of HB124 one day on the Senate floor. We spent a good half hour cussing at each other - in a friendly way - over the true purpose of the Big Bill. He said it was all about money, nothing else; and he is probably right that the only thing most people care about is whether their community gets its money. But cities and counties were going to get their money anyway, and my feeling was and is that the importance of the bill is policy, not cash. We never came to an agreement, of course, and I admit I was offended, having devoted so much more of my time and effort to the story than he. I was feeling mean, so I teased him later about his line that HB124 was known as the Big Bill "because of its tedious details." He just didn't want to read it, I said.

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I may have gone too far in my affection for HB124. I wanted it to survive, not because I was devoted to the bill or its supporters, but because I had worked so hard writing about it.

I also became rather attached to Glaser's local-option tax bill. I dogged that thing for weeks, and when it died, I was definitely disappointed. With that bill, though, I concede my personal feelings entered the picture. I liked that bill. I thought it was a good idea.

But I don't think my feelings for those bills, or any other, affected my approach to covering them. I have my opinions, but it is not my job to write about them. My job is to present the arguments on all sides so my readers can come to their own conclusions.

Once during the session, my dad asked if I had truly written the stories he had been reading. I assured him I most certainly had, and he said, "But they're so fair. I know you better than that." It was the biggest compliment of my career so far.

#### •How coverage happens

Obviously, there is more to fairness than presenting both sides and keeping your opinions out of it. What gets covered is just as important.

For the first half of the session, I could have gone to six bill hearings a day, at least three of them at the same time. I had to pick and choose. The risk was that I would leave some group - farmers, hunters, disabled kids - out of the picture and that, by doing so, I would miss the best story of the session.

And there were important stories I missed. There was a bill allowing farmers to put up to 20 percent of their income into tax-free "risk management accounts." There were several local government bills, all related to the Big Bill, that I never wrote about. I only covered one tourism bill, a proposal to increase the bed tax and add a 9 percent tax on rental cars. There were great debates on fish and game bills that I chose not to get involved with.

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Almost always, however, there was back-up coverage. Anez, Susan Gallagher and Shannon Dininny of the Associated Press sat in both houses every day, and one of them always attended hearings on the more important legislation. Lutey of the Bozeman Chronicle, Mike Dennison and Sanjay Talwani of the Great Falls Tribune and Jason Mohr of the Community News Service were at the Capitol most days; and Montana Public Radio, Yellowstone Public Radio and the local television stations also had reporters stationed there.

“The great thing about covering the Legislature is there are so many reporters available for covering that there isn’t a whole lot that gets missed,” Anez told me. “I suppose it’s the epitome of the phrase ‘blanket coverage.’ No stone goes unturned.”

Often, we worked together. If one of us at Lee didn’t think we could make it to an important hearing, we would call the AP office to make sure one of them would be there. Every reporter at the Capitol was there for the same reason: We wanted to get the news out as best we could. Competition and secrecy generally weren’t issues: We could always tell who was covering what by who was talking to whom. We compared notes. We talked about what was happening, and we called each other, sometimes late at night, if we had questions about the stories we were writing.

“The more complex the issue, I think, the more imperative it is that reporters do talk among themselves,” Anez said. “We’re all in this together, and the bottom line is we’re trying to get information out to the public and be as accurate as possible.”

Not to say it was all business and no play. No way. Toward the end of a long day, everyone seemed to get a little giddy. I’d get up to chase someone out in the hall for an interview or go to the bathroom or get a drink of water and come back to a notebook full of little artistic masterpieces - often including Anez’s signature finger. There was always a great deal of note-passing, snide remarking, crude teasing and candy-eating at the press table. And breath mints. Everyone carried breath mints.

In the House, we could sit on benches in the back of the room, in chairs along the side walls or at a table in the front of the room. All of those seats were several feet removed from the legislators, and we were free to chat away. In the Senate, however, we were seated right next to Sen. Ken Miller, a Laurel Republican who would spend hours listening to debates with his chair leaned as far back as it would go and his face aimed skyward, serene as could be. But being so close to us, he had no choice but to join in our sideline debates once in a while. I always wondered if we annoyed him but waited until the end of the session to ask. To my great relief, he said no.

I also asked him about his opinions of the Capitol press corps and our coverage of the session. He said he had never had a problem with most of us, including me, but that editorial headlines often made a perfectly good, fair story look bad.

“I think it’s been pretty good,” he said. “If we’re dissatisfied, with something, we’ll let you know.”

Miller also said he respects reporters’ willingness to keep private conversations private. It was important to him to be able to talk informally without us taking advantage of the situation.

#### • Did we miss the real stories?

As I write, it has only been a week since the 2001 Legislature adjourned. It’s difficult to tell yet whether we missed anything.

Johnson said he’s sure we probably did: “Do we miss things? Sure we do. I mean, stuff slips through.”

All session, our goal at the Lee State Bureau was to, in Johnson’s words, “cover the heck out of the committees, follow the big stuff on the floor and really pay attention to things by topic,” but you can’t catch everything that way.

Even early in the session, I was assured I was missing out on some of the best, juiciest stories of the year. Rep. Paul Clark, a Trout Creek Democrat, would often come

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to the back of the House to chat with me on slow days. As the sponsor of several fish and game bills - including House Bill 492, a controversial prairie-dog bill that I covered pretty heavily - he had spent a lot of time sitting in the same room with me. During down time, we would talk about the press, the Legislature and where the twain shan't meet.

He said the Legislature's work wasn't done on the House or Senate floor, in committee or in caucus - all public meeting places where the press was always invited. Things were happening in private, he said, at parties and get-togethers that I could probably attend if it weren't for the problem of ethics. There, he said, I would see the real battles.

But I didn't see the real battles because I chose to stay home at night. Frankly, I would rather miss out on those stories than ruin my reputation by having too much fun at a bipartisan drinking caucus at the home of an old high school friend who is now a Republican bureaucrat. I didn't want to risk it.

Those drinking caucuses, sponsored by Secretary of State Bob Brown's deputy chief of staff Jason Thielman (my friend from high school) and Democratic staffer Matt McKenna, were heavily attended by reporters, lobbyists and legislators. And they were, by all accounts, bipartisan. Erin Billings, a Lee reporter and friend of both Thielman and McKenna, was at one of the parties when Women's Lobby lobbyist Rebecca Moog poured a beer over the head of Shane Hedges, Martz's chief policy advisor. The next Monday, Billings got a call from one of Martz's press people, who wanted her to write a story. She refused but passed the story on to Kathleen McLaughlin, who decided it was indeed newsworthy. It was terribly uncomfortable for Billings, and I was glad I hadn't gone - although the scene she described was fantastically funny.

But there was another kind of party going on. By the end of the session, the entire Capitol press corps was abuzz over energy. Important bills got hung up in confer-



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ence committee until the penultimate day of the session. Rumors of some sort of deal between PPL Montana and Montana Power began floating around. Something was going down, and we hadn't been invited to the planning sessions.

Finally, on that penultimate day, representatives from Montana Power and PPL Montana announced, in a short, hastily arranged press conference, that they had an "agreement in principle" for a five-year contract beginning in 2002. PPL would sell 500 megawatts of electricity to Montana Power for \$40 a megawatt-hour - leading to an almost 50 percent increase in Montanans' monthly power bill. And Montanans were going to be happy with the deal, they said; \$40 is 25 percent below the current market value. Montana Power president and chief operating officer Jack Haffey and PPL EnergyPlus president Larry De Simone skirted questions about a statement in their press release that said, "This agreement anticipates positive resolution of several issues under consideration of the Legislature."

The next day, the Legislature did what PPL and Montana Power wanted. A bill to enact a 90 percent tax on the price of electricity above \$45 a megawatt-hour died. Another that would ensure Montana Power's continued profits survived. It looked dirty, even if the legislators were doing what they had intended to do all along.

Both Johnson and Anez say that if we missed anything, it was the behind-the-scenes bargaining over energy.

"In my years of covering the session, I don't remember the Legislature kind of waiting for a deal between two private corporations that dictated, more or less, what they were supposed to do with two bills," Johnson said. "When it happened, it was quite unsettling, I thought."

#### • Lessons learned late

Much of what I saw in the Montana Legislature was unsettling, but not always in the way that makes a person's skin crawl. More often, it was unsettling in that I realized

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I had been wrong all along. I learned good things about the state I grew up in and the people in it.

I never fell asleep covering the Legislature.

Here is what I remember. The days were long, and I often ate my lunch at my desk before going home at 9 p.m. to a dinner of cheese crackers and a glass of cheap red wine before bed. Sen. John Bohlinger always wore a bow tie and always smiled when I walked by. The dapper Billings Republican said once, on a Yellowstone Public Radio show, that he wanted to see tax reform in Montana, and he meant that he wanted more taxes. Sen. John Cobb, R-Augusta and by far the most persistent man in the Montana Legislature, proposed amendment after amendment after amendment to the budget and finally got what he wanted - more money for Indian tribes and troubled families. When he showed up nearly every morning looking like he had just crawled out of bed, it was because he had been up all night working. Rep. Robert Story, R-Park City, taught me about mill levies. Alec Hansen, executive director of the Montana League of Cities and Towns, let me ask my first, ignorant questions about the Big Bill and never gave me that wow-she's-a-dumb-one look. He stood up the entire time, pacing. Later, he took to calling me his "little buddy" and "the hottest young reporter at the Capitol." Rep. Paul Clark, D-Trout Creek, told me about his time in the U.S. Navy, stationed in Italy back in the mid-1970s, probably the year I was born in the naval hospital just down the street.

I learned that good people work hard to serve this state. They make mistakes, but they are good people. They do what they think is right. And that is all anyone can ask, of them or of me.

# Features

## Senate swears in

HELENA - Just before Montana's newly elected senators were sworn in Wednesday, Senate President Tom Beck, R-Deer Lodge, reminded them of the work that lies ahead. More than 1,500 bills already await perusal by the Legislature.

Among those are bills to address the effects of electricity deregulation, how much health care providers receive for state-funded services, income taxes, environmental policy and education funding.

And, Beck pointed out, those bills will be considered by a relatively inexperienced Legislature, especially in the House, where there are 49 freshmen among the 100 representatives. There are only 4 new faces in the 50-member Senate.

Constitutionally mandated term limits approved by voters in 1992 limit senators and representatives to no more than 8 years in office in any 16-year period and are in large part responsible for the size of this session's freshman class. Thirteen senators and 33 representatives were barred from running for re-election after the 1999 session.

Beck admonished the members of the Senate, new and old, to maintain the "decorum and integrity" of their offices.

"Senators," he said, "let's have a positive session with a positive result."

House Minority Leader Steve Doherty, D-Great Falls, encouraged senators on both sides of the aisle to work together to do what is right. He, too, mentioned the challenges that term limits are only this year beginning to present to the Legislature.

"The folly of term limits will become all too evident as we watch, hopefully not too much, the organized pandemonium in the other house," Doherty said during a short speech to the Senate and a gallery of onlookers, most of whom were friends and family of the legislators.

At the conclusion of his speech, Doherty presented a gift to majority leader Fred Thomas, R-Stevensville, in honor of his commitment to working together: A figurine of

a flying pig.

“I really don’t have a comeback for this thing,” Thomas said after setting the pig on his desk.

Thomas had praise for the new members and leadership of the House of Representatives and said he was “very humbled” to be the Senate majority leader.

He said the key to maintaining a good quality of life in Montana will be a strong educational system and a commitment to creating and keeping higher-paying jobs in the state. He added that tax reform and reducing or stabilizing energy prices are also high priorities for him.

“We talk about it being the last best place, but we need to work to make it the best place,” Thomas said.

Gov. Judy Martz, inaugurated only a day earlier, told the assembled senators that she has heard from the people of Montana that “there’s a hope right now for what we have to do in this short period of time.”

She encouraged the senators to work together for the rights of the people of Montana - and not for their own thoughts or feelings.

## New faces, big ideas

HELENA - Rep. Joey Jayne and Sen. Corey Stapleton sit on opposite sides of the aisle in separate houses, but they will be challenged in similar ways in this 90-day legislative session.

They have a lot of work to do and very little time in which to do it. But Jayne, a 43-year-old freshman Democrat from Arlee, and Stapleton, a 33-year-old freshman Republican from Billings, say they're up for the challenge.

Jayne and Stapleton both ran for public office for the first time in 2000. Jayne beat out three-term incumbent Rick Jore, a former Republican who switched to the Constitution Party for the 2000 election. Stapleton won a seat vacated by Bruce Crippen, who was forced out of the Senate by term limits.

Both ran tight races, winning just under 51 percent of the votes in their respective districts.

Throughout this legislative session, we will check in on freshmen Jayne and Stapleton to see how they are doing and what they have learned. Here, we introduce them to you.

### •Joey Jayne, House District 73

Jayne is a lawyer with degrees in agricultural industry and watershed management. She opened her own environmental law practice in October but limited her work load because of the legislative session.

She has a vested interest in helping to shape Montana's laws this session.

"As an attorney, what we do is we take the law and we try to convince a judge that this is the way the Legislature intended it to be," she said.

"It's an opportunity to write the law so that it's clear and that people's rights are protected and that all of the laws promulgate the Constitution."

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Jayne, a Navajo Indian, moved to Montana in 1987 to study law at the University of Montana, and she has lived in the Arlee area for about nine years.

She represents the southern portion of Lake County from Charlo to Arlee, which encompasses most of the southern half of the Flathead Reservation. She is in the unusual position, however, of representing a reservation district in which only 20 percent of the people are Indian.

Jayne said it is important to her to represent all of her constituents, regardless of race or any other differences among them.

“I’m constantly thinking about my constituents out there,” she said. She plans to return home on weekends to visit her fiance and to check in with her community. She also has a personal toll-free number so her constituents can call her any time.

Jayne keeps track of her days in a planner, marking off the time she spends in meetings or in session - or doing whatever else she has to do in a day - in 15-minute increments. Part of her obsession with time is a lawyer thing: She is used to billing by the quarter-hour. Part of it is time management. And part of it is a feeling of responsibility to the people she represents.

“I want to be able to say, ‘In the first 10 days, I went to 10 hours of caucus meetings,’” she said.

On the sixth day of the session, Jayne was worried that she only had 84 days left. She said she wanted more time to learn about bills coming up for votes.

Jayne said she “always wanted to be smarter than everybody else,” when she was young, and that hasn’t changed. She is driven by pressure she puts upon herself to do everything well and thoroughly.

“I really feel compelled to know a lot,” she said. And as a woman, a Democrat, an Indian and a lawyer, she said she feels an extra burden to succeed.

“Because of the stereotypes that society puts on that group of individuals, there is

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that added pressure to perform at this level,” she explained.

Jayne sits on the House Appropriations Committee and the Joint Appropriations Subcommittee on Health and Human Services.

She is the sponsor of House Bill 271, which would extend the time that tribes have to file a state-tribal cooperative agreement from 10 to 45 days after it has been signed by the Montana attorney general. The bill would also clarify that failure to file the agreement does not render it invalid.

She has requested four other bills, which have not yet been introduced.

#### • Corey Stapleton, Senate District 10

Stapleton, a financial planner for Prudential and 11-year veteran of the U.S. Navy, is the first Generation X-er to win a seat in the Montana Senate. He said he knows several of his peers in the Senate through their kids.

Stapleton said he will have to battle against the notion that senators ought to be gray-haired, 64-year-old presidents of companies, but he doesn't see himself through the screen of a young, freshman senator.

“It's not enough to say, ‘I'm a young person, and I'm going to run.’ You've got to be better than everyone else,” he said.

“I should be judged on how I conduct myself as a senator.”

Stapleton said he sees serving in the Montana Senate as a return to public service.

“It's something that just burns inside you,” he said of his decision to run for office. “If you're the kind of person who needed to be convinced, then you would never do it.”

Stapleton serves on the Senate Finance, Energy and Communications, and Agriculture, Livestock and Irrigation committees. He also serves on the Joint



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Appropriations Subcommittee on General Government and Transportation.

As a financial planner, he said, he has a “healthy dose of skepticism” when it comes to spending money. But it’s not the spending that concerns him so much as whether someone has been accountable and responsible about the spending from the get-go. That someone is often the entire Legislature.

“In this role, we are the only ones who can do oversight objectively,” he said.

Stapleton said most difficult part of his first week in office was “the realization of how much energy it takes to change something, even if it’s a great idea.”

“The time to correct something is when you see it,” he said. “Not later. Not in a meeting. ... It’s on the spot.”

Stapleton has no qualms about taking charge when he feels he needs to. He was not shy about speaking up and voicing his opinions during his first two weeks in the Senate.

“People back there (in Billings) want to know that you’re independent and you’re willing to do what you think is right,” he said.

He said he chooses his battles by deciding whether it is “an opportunity to lead, or is it a situation where you should back down because you’re wrong.”

Stapleton said he didn’t come to the Senate with any expectations. But he does have plans.

He is carrying a bill that would provide incentives for recent Montana college graduates to stay in-state. The bill would also give tax credits to businesses that hired those graduates.

He also said he would like to see his campaign issues - increasing take-home pay for families, improving education and simplifying taxation - reach the forefront during the session.

“I would like to think that, with Gov. Martz’s leadership, that we look back on

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this session as a very positive one,” he said.

Stapleton came to Montana in 1967 and is a Great Falls graduate. His wife Terry and their three children - ages 6, 2 and 3 months - live in Billings. He plans to go home to see them every weekend.

## Shockley works to 'do it better'

HELENA - Colleagues on both sides of the aisle describe Republican Rep. Jim Shockley of Victor as fair.

On Thursday, the 66-year-old Shockley described himself as rushed.

Shockley, who is in his second term this session, serves on three committees, even though most committee chairmen only serve on two. And chairing the Judiciary Committee is a lot of work, he said.

He said he is trying to keep his committee as far ahead of the game as possible. By Friday, he expected to have had hearings on 20 bills, and he wanted to have at least six out of committee and onto the House floor.

Like many legislators, he said he doesn't have enough time to do all he wants to do during the session.

But when asked if he would support annual sessions, he responded with a resounding "No!"

"We're an amateur legislature, and we ought to stay that way," he said.

Professional bureaucrats and amateur legislators are the best thing for this state, he said. So long as the amateurs are in control of the money, that is.

Shockley said he is willing to spend the 90-day session feeling strapped for time if it means keeping that balance of amateurism and professionalism within the state's government.

"It's just the cost of doing business," he said.

When he's not doing business in the legislature, Shockley runs a private law practice in Victor, where he lives with his wife Marilee, three mules and a dog.

He said his clients - who come to him on real estate, probate and sometimes criminal issues - are understanding about his absence while he is in the Legislature.

And his time in the Legislature is important to him.

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“I always said I could do it better, and now I’m trying,” he said.

“They don’t have to do what I say, but they do have to listen to me.”

Last session, they did do what he said on two bills he was particularly interested in.

One increased the monetary limit for cases in justice court from \$5,000 to \$7,500. He said district courts are too busy to take cases with claims less than \$7,500.

The other bill temporarily closed the Bitterroot River basin to new applications for water use permits.

This session, he has requested or is sponsoring several bills, one of which would grant a additional district court judges to Ravalli and Cascade counties.

He said his constituents in Ravalli County are expecting him get them a new judge this session and to help solve their water problems.

Water issues in the Bitterroot Valley stem from an unwillingness by the Department of Natural Resources and Conservation to prosecute violations of water laws, Shockley said.

He is working on a bill that would put a special prosecutor in the attorney general’s office to prosecute those cases and any other violation of laws administered by the departments of Agriculture, Environmental Quality, Livestock, Natural Resources and Conservation and Fish, Wildlife and Parks.

“I just do what I get paid for,” he said.

Shockley received his undergraduate and law degrees from the University of Montana.

He enlisted in the U.S. Marines in 1963, at the age of 18. He served in West Germany, the Shetlands, Denmark, Okinawa, Korea, the Philippines and several areas of the United States.

“I said I’d come home when I got done,” he said. “I was 43.”

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He said his military experience has “a salutary effect” on him as a legislator.

“It gives you an insight into how bureaucracies work,” he said.

“He introduces the military to the Legislature, but he doesn’t always run a tight ship,” said Rep. Paul Clark. Clark, of Trout Creek, is the Democratic vice chairman of the House Judiciary Committee. He came to the Legislature with Shockley in 1999.

He said Shockley runs the ship well, though he tends to be a bit relaxed.

“He’s a really good combination of having strong opinions, yet being flexible enough to let other people have theirs,” Clark said.

Clark said Shockley is “one of the fairest” committee heads he has ever worked with.

House Majority Leader Paul Sliter, R-Somers, said Shockley is “one of our more thoughtful chairmen.”

“He isn’t one that will make a hasty decision on anything,” Sliter said. “He’ll think about things and put them into perspective before he makes a decision on them.”

Shockley said he enjoyed his time in the Legislature last session, which is why he chose to run again. He plans to run at least one more time.

“I actually think I can make a difference,” he said.

## Activist group gets meeting with Martz

HELENA - Montana People's Action has good ideas, but the state might not be able to afford them, Gov. Judy Martz told members of the grass-roots organization Wednesday.

"I can't sign something I don't have the money for," Martz said when asked by MPA member Julie Bunton if she would support expanding state-funded health insurance for the poor.

The organization's legislative agenda for this session includes proposals to eliminate the Medicaid assets test, expand Medicaid and the Children's Health Insurance Plan to cover more low-income children and pregnant women and use federal welfare money for affordable housing.

Martz said she agrees "100 percent" with the intent of some of the organization's ideas and definitely supports doing away with the Medicaid assets test. But, she cautioned, she can't endorse those ideas if the state can't back them up with money.

"We appreciate if you would kind of agonize with us," MPA member Dave Henry told her during a presentation of the organization's plans for health care.

"We may seem cold and heartless, but we sure aren't," Martz said, adding that she and her staff have been working to stretch the budget as far as it will go.

"We get stretch marks every day," she said.

Montana People's Action represents more than 5,000 low- to moderate-income Montana families. On Jan. 15, members of the group protested in front of Martz's office, saying she had been refusing to meet with them for more than a month. Martz said she hadn't had the time yet to fit them in.

On Wednesday, more than 30 members of Montana People's Action, Working for Equality and Economic Liberation, and the Montana Human Rights Network joined Martz and several members of her staff for the long-anticipated meeting. Martz urged

members of the organizations to write to her about issues of concern and promised to write back.

“If there’s another time we can meet, I’d be glad to meet with you,” she said at the end of the half-hour meeting. She also asked for their patience in trying to set a date.

## Rep. Norma Bixby doesn't back down

HELENA - She doesn't often rise to speak, but ask Democratic Rep. Norma Bixby of Lame Deer about education or the environment, and she'll give you an earful.

After her first four weeks in the House, the 59-year-old Bixby says she's getting frustrated. She doesn't see any increases for education on the horizon, and bills to relax the state's environmental laws are steadily gaining approval. On top of that, bills proposed by other Democratic Indian legislators are being shot down by party-line votes.

"I think what's so frustrating about this whole darned session is to be in the minority," she says. Bixby - a Democrat, a woman and a member of the Northern Cheyenne tribe - is in the minority of the minority of the minority.

But she says she won't give up just because she's frustrated.

"You just have to wear them down," she says.

Bixby has been a teacher, curriculum developer, principal and, finally, education director for the Northern Cheyenne Tribal Education Department. Each time she switched jobs, she says, she took on a little more authority and was able to make greater changes in the lives of children.

Bixby has an associate's degree in early childhood education and a bachelor's degree in elementary administration from MSU-Billings. She also has a master's in administration from New Mexico State University.

At first, she wanted to be a teacher because she enjoyed working with kids. But she says she couldn't do enough.

"I saw so many opportunities for change, and you couldn't make those changes except in your classroom," she says

As education director, she says she's had the freedom to do whatever she thought was best, not just for students, but for the entire tribe.

She has worked for the tribe since 1982. When she started, a student in the tribe's



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scholarship program had never graduated from college. Now, she says, there are 30 graduates a year, and more than 50 percent of the students have a B average or better.

She says elementary and high school education had to improve first, though. Adults couldn't graduate from college if they weren't prepared.

Bixby has also worked with the Montana Advisory Council for Indian Education for a number of years.

And it was while she was working with the advisory council that she met Nancy Keenan, then the state superintendent of public schools. On the final day to register to run for the 1999 Legislature, Keenan convinced Bixby to go for it.

"We've been friends for a long time," Keenan says. "You just see that natural talent that could be very beneficial in the Montana Legislature."

"I really didn't have any aspirations for being a legislator," Bixby says. She and Keenan were at a meeting, and she says Keenan dragged her out into the hallway to talk about running for office. Bixby says she didn't really want to do it at first.

"I was always campaigning for someone else," she says, "never myself."

She lost that first election to Lila Taylor, a Busby Republican running for her third term. In 2000, though, she says she was more savvy about what it takes to run a campaign. She put on feeds, put out signs, attended meetings. And she beat Taylor in a very tight race, winning with 51 percent of the vote.

She sits on four House committees: Education, Agriculture, State Administration and Legislative Administration. And she has introduced four bills - including one to eliminate the permit exemption for coal bed methane production and another to allow recipients of public assistance to go to school to fulfill their work requirements.

Republican Rep. Gay Ann Masolo, chairwoman of the House Education Committee, says Bixby has been diligent about her work.

"She's very dedicated to her tribal causes, and she always looks out for her

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Native American people,” Masolo said.

Being in the Legislature gives her the opportunity to create change, Bixby says. But being in the minority has been rough.

She has been particularly disheartened by the defeat of two bills.

Rep. Carol Juneau, D-Browning, had sponsored a bill to create a hiring preference for Indian teachers applying for jobs funded by the federal government under the Indian Self Determination and Education Assistance Act.

“It’s made not one bit of difference to see our Indian kids are getting a good education in this state,” she says.

“All they heard was ‘preference.’ And they don’t like that word.”

Another bill, sponsored by Rep. Bill Eggers, D-Crow Agency, would have required the state to collect traffic-stop data to determine whether Montana officers practice racial profiling.

“They don’t know what it’s like to be followed around in the store,” she says.

“They don’t know what it’s like to be picked up because you’re Indian.”

“Until they know that feeling ... I guess maybe that’s why they voted against it.”

As one of six Indian legislators this session - the most ever - Bixby says it is part of her job to educate the rest of the state about Indian issues. She says it is important to consider how each bill could affect Montana’s Indian tribes.

“I think they’re listening, and I think they’re learning,” she says. “I feel positive about that.”

The other part of her job is to stay informed and vote her conscience. She says it can be difficult to keep track of all the legislation that comes up, but it’s easy to do what she thinks is right. She says it’s a matter of looking to the future.

“We’re only on this earth for so long,” she says. “When you look at laws, you don’t look at the short term.”

## Freshmen feeling less like the new kids

HELENA - It's been a frustrating couple of months for freshman legislators Corey Stapleton and Joey Jayne.

Stapleton, a Republican senator from Billings, said he's irked by frequent attempts to create short-term solutions to long-term problems.

"You ought to have a five- or a 10-year plan and always keep that as a back-drop," Stapleton said. As a financial planner, he said, he knows it doesn't make sense to run a business with a new plan every two years, and it doesn't make sense to run a government that way, either.

"I'm more of a long-term planner, and I see two-year cycles or four-year cycles aren't as important to me as they seem to be here," he said.

He said the "madness that surrounds short-term fixes" is part of the reason Montana can't seem to climb from the bottom rung of the economic ladder. Farther-reaching plans to fund education and solve the energy crisis are more likely to solve both problems for good and permanently boost the economy, he said.

Although the bill has not reached the Senate - and may never make it out of the House because it requires a near-impossible three-fourths majority in each house to pass - he said he is torn over a proposal to give education \$40 million from the coal tax trust fund over the next two years. It's a temporary fix, he said, and it permanently affects a trust fund guaranteed by the Montana Constitution.

"I don't like that solution," Stapleton said. "That being said, it was a solution, and extraordinary circumstances require extraordinary actions, and this is an extraordinary year. ..."

"The result is, we may not get it done this year, and who loses?"

Jayne, a Democratic representative and lawyer from Arlee, said she worries legislators don't always have the information they need to make good decisions. Lacking

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that knowledge, they often vote solely on party lines, she said.

For the first half of the session, Jayne spent nearly every morning in meetings of the Joint Appropriations Subcommittee on Health and Human Services, of which she is a member. She said she's glad the grueling, four-hour meetings are over, but she questioned whether the subcommittee's decisions were always insightful enough.

"More time should be spent on the changes made in the numbers," she said. The subcommittee spent hours listening to testimony from department heads and others but didn't spend enough time looking at how changes to the department's budget would actually affect the people the department serves, she said.

For the past week, she has been working with the House Appropriations Committee to hammer out the kinks in House Bill 2, which contains the budgets for all state agencies and includes the work done in the joint appropriations subcommittees.

"I personally don't believe that we have the full information to make prudent and wise decisions, and we're voting 'Yes' or 'No' just to follow suit," she said.

When the Appropriations Committee voted last week to reduce the number of state employees by 1 percent - a cut of 108 state jobs and 40 university positions - she asked everyone to justify their votes.

"I know I'm going to make my own decision, and I'm not going to follow suit," she said later.

"I want to know why you're going to vote 'No' and why you're going to vote 'Yes.'"

Jayne and Stapleton both said they've made some votes, both in committee and on the floor, that went against party policy - and, in Stapleton's case, against the opinion of every other member of the Senate.

"I'm not afraid to lead the charge to table or kill bills," Stapleton said. But, out of courtesy for the bills' sponsors, he refused to say which bills.

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“There are days when there are tactical and strategic things that happen, and that’s just part of the game,” he said.

“There are times in a basketball game when you go out and get a technical for no other reason than to make a point.”

Jayne has been almost relentless in her efforts to amend the Health and Human Services budget, and she is frequently voted down. On Monday, she introduced three separate amendments to clarify and expand a proposal to allow welfare recipients to claim education as their primary work activity for two years, reducing their 30-hour-a-week work requirement to 10 hours. All three failed.

Jayne was also one of only five Democrats - and the only woman Democrat - in the House to vote for a bill that would criminalize intentional injury to a fetus, except in the case of legal abortions, medical treatment or acts of the mother.

“It’s a hard decision for me as an attorney, but it’s a very, very easy decision for me as a Navajo woman,” she explained during floor debate on the bill. She was raised with the traditional belief that a woman must do everything she can to protect life within her, she said, and she could not violate that belief.

Both also say they are beginning to feel the effects of the stress of the past two months in the Legislature.

On Monday, Stapleton sat down for a noon interview with a soda and a handful of Tootsie Rolls. He hadn’t eaten since 10 a.m. the day before because he hadn’t had the time.

“There’s no one beyond us to catch our mistakes,” he said. “You can’t rely on anyone else to look at a piece of legislation and say it’s good or bad.” He said he tries to read every bill that comes before him with a critical eye, and that takes time.

Stapleton said he’s also beginning to settle into the Legislature.

“I don’t feel new any more,” he said. “It’s politically good. Personally, I’m not

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sure. I think you lose your innocence personally sometimes.”

Since the session began, Jayne has been tracking her daily activities in her planner. Nearly every 15 minutes of every day is accounted for. There are few blank spaces for breaks.

She said the most valuable time is when she sits down to read her mail. She reads and saves every letter and e-mail. She tries to respond to every one, too, but it's not always possible

“There's a lot of pressure to fit that into a time schedule that's not there,” she said. “Sometimes, I don't get back quick enough, and sometimes I can't.”

## Montana kids get Capitol lesson

HELENA - More than 100 Montana children descended on the Capitol Friday, hauling treats in red wagons and visiting with state officials.

As part of the seventh annual "Children's Day at the Legislature" put on by the Montana Children's Alliance, the kids made the rounds of morning committee meetings, delivering cartons of orange juice, muffins and alphabet blocks to the legislators.

Although some of the children came from as far away as Miles City, 78 of them were Helena fifth-graders from Rossiter Elementary School. Social studies teacher Tammy Pilcher said the kids are learning about government and the Constitution in their social studies classes, and their visit to the Capitol "fits in perfectly."

In addition to delivering snacks to legislators, the students met with Lt. Gov. Karl Ohs, and the Rossiter fifth-graders met with Superintendent of Public Instruction Linda McCulloch and Secretary of State Bob Brown.

They had some interesting and difficult questions for the state leaders.

"What are you fighting for in education?" one fifth-grader asked McCulloch.

She responded: "To try to get a little more money into your school and all the schools in Helena and in Ekalaka and all across the state."

Another student asked, "Do you ever get hot?"

McCulloch said she does - and it turns out that she can't open the windows in her office because it causes the heat to kick on in all the offices near hers.

McCulloch, a former Bonner School librarian, also talked to the kids about the books they're reading.

When one boy said his class is reading "Bridge to Terabithia," she asked if he had reached the ending yet. He said he hadn't.

"Do not jump ahead. Do not tell anyone what happens," she admonished.

Brown, a former Whitefish High School government teacher, gave the students a

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short civics lesson before taking questions. It took a while for the students to come up with the national equivalent of the state Legislature.

When someone finally said, "The legislative branch," Brown jumped in the air, clapped his hands and said, "That's right! The legislative branch. Now what's it called?"

Brown explained that his main job is to oversee elections, but he is also the head state record keeper.

He was nearly stumped when a student asked, "What would happen to you if you lost one of the very important documents that you keep?"

Brown explained that the state keeps 44,000 crates of documents - enough papers to "easily circumnavigate the globe" if you laid them all out in a line. He said he thinks some of those documents should be scanned into a computer and saved electronically to prevent them from being lost forever if they are damaged or stolen or misplaced.

Brown was also asked if he has to wear suits.

"I guess I probably wouldn't have to wear a suit, but I do," he said.

The students were particularly intrigued by a "secret door" connecting the Governor's Conference Room with the governor's office. Brown became the hero of the day when he asked the governor's staff if it would be OK to open the door and give the students a peak inside.

Later, 20-year-old Rep. Jesse Laslovich, D-Anaconda, introduced the fifth-graders to the House. Laslovich is staying with Pilcher and her husband for the session.



## Kalispell legislator speaks his mind

HELENA - Verdell Jackson gets a lot of bad press for his opinions on homosexuality, but the conservative Kalispell representative says there is more to his agenda.

His top priority this session is Clark Fork River basin water rights. House Bill 397, the only bill he's sponsoring, would create a task force to develop a water use plan for the basin, which includes a handful of hydroelectric dams and several thousand irrigators.

In 1999, the Legislature temporarily closed the basin to most new water use permits to allow water-rights negotiations with Avista Corp., which owns the Cabinet Gorge and Noxon Rapids dams near the Idaho border, to continue.

Jackson said a task force representing groups as diverse as Trout Unlimited, farmers and ranchers and Avista would be better approach.

"The highest and best use of the water will result only when there are mutual compromises among all users," he said.

Jackson first worked on conservation issues shortly after the 1973 oil embargo, when he was chosen for the Juneau, Alaska, energy advisory committee, a position he held until 1991.

"I'm a conservationist, but I'm not an environmentalist," Jackson said. "I hate waste, but I do believe that we can log our forests and do it in a manner that won't destroy the resource."

Jackson, 59, moved to Kalispell in 1991 after taking early retirement from his job as Alaska's vocational education curriculum director. His last project in Alaska was creating competency-based vocational education programs in 20 fields, including international trade and commercial fishing.

When he retired, he said, Kalispell seemed like the perfect place to go for a skier, fisherman and avid photographer. He lives near Big Mountain, the Flathead River,

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Flathead Lake, Glacier National Park and the National Bison Range.

He had no intention of returning to work in Montana, but he took a half-year job as superintendent of Flathead Christian School - and stayed four and a half years.

Later, after seeing his property taxes rise nearly 66 percent in three years, he started getting involved in Montana politics. In 1998, when he ran for his first term, he was motivated largely by taxes.

“I was concerned that the taxpayers weren’t being adequately represented, and government was too rapidly expanding,” he said. He won that election with 68 percent of the vote and ran unopposed in 2000.

Jackson isn’t shy about being one of the state’s most conservative legislators - fiscally and socially. He is deeply religious and keeps a travel-worn Bible in his Capitol file. He has written notes in tiny, careful print on nearly every page.

He said he always votes on principle, and his vote is usually decided before a bill is even debated.

“Verdell is a man of integrity, and he truly believes in what he’s doing,” said Julie Millam, a lobbyist for the Montana Christian Coalition. “He isn’t one who will back down on his convictions.”

Jackson campaigns door-to-door, telling people what he believes and asking for their votes if they agree. He said being forthright about his opinions means not having to take the middle of the road.

“People know I have moral convictions, and if they know me, they don’t ask me to vote contrary to my convictions,” he said.

Jackson has been the subject of some nasty back-and-forth in editorial pages statewide because of his testimony against a bill to legalize consensual sex between people of the same sex. The bill missed the transmittal deadline and died.

“I got a lot of really terrible articles,” he said. “It’s hard to get up and take all of

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the hate mail, but, for the kids, it's worth it."

"It's a hard thing to stand up for what you believe in, especially when it's not a popular thing," said Millam, who also testified against the bill.

The Montana Supreme Court in 1997 declared the state's sexual deviance law unconstitutional, ruling that "Montana's constitutional right of privacy ... includes the right of consenting adults, regardless of gender, to engage in non-commercial, private, sexual relations free of governmental interference, intrusion and condemnation."

Jackson stressed the word "private" and said attempts to fix the law have gone beyond legalizing private sexual relations.

"My major objection to doing that is that there's a move to try to put curriculum in schools that would present that as an alternative that kids should consider," he said.

"I think Verdell Jackson is sincere but misguided," said Karl Olson, executive director of the gay, lesbian, bisexual and transgender organization PRIDE!

"When he testified about his inborn aversion to homosexuals, I was very compelled to shake his hand," Olson said. "I wonder if he needs to get to know gay and lesbian people better, especially his gay and lesbian constituents."

Jackson said he "wouldn't bother with" a bill that merely addressed private conduct.

"We're going beyond sex in the bedroom," Olson said. "We're talking about relationships and families, and those are not things you hide or should have to hide."

But Jackson will stand by his convictions.

With the law on the books, he said, "people that don't think that lifestyle should be taught to their kids have a way to keep it out."

## Senator has lived a life of leadership

HELENA - As a kid, it never would have occurred to Dale Berry that he might serve in the Montana Senate someday.

“Back growing up, I was just this kid out there on my own,” the 62-year-old Republican senator from Hamilton says. “If anybody had brought it up, I would have laughed with everybody else in town.”

His dad died when Berry was only 11. His mom was a cook for the railroad and wasn't always home. It wasn't easy.

But he was an athlete, a talented kid with a good coach who helped him get to college.

“That's what got me out of Fairview,” Berry says. “That was what created the opportunity was the God-given physical talent.”

He went to the University of Montana on a football scholarship. He majored in physical education, with minors in economics and sociology, and met his wife, Dorothy, a fellow student from Moccasin.

After Berry graduated in 1963, he and Dorothy moved to Denton, where he coached basketball, football and track and she taught music. Four years later, they moved to Roundup, where he coached, and their first son, Brian, was born.

Football had gotten him where he was, but he loved coaching basketball. A year later, he took a job as basketball coach for the Hamilton Broncs, a job he kept for 20 years.

“It's just the greatest checker game in the world,” he says. “In basketball, last place gets first place. Not often, but there's just so much more you can do during the game.”

Berry says his teams were usually small - he calls them “little kids” - but could learn to play against anyone. He stressed defense and played zone presses early on,

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before most other teams caught on to the aggressive defensive style.

“We just had these little kids back in Denton who could just press big teams out of the gym,” he says.

He says his teams were always competitive, even in the down years.

Now, more than a dozen years after he took early retirement, Berry says his greatest success wasn't on the court. It wasn't being named to the Montana Coaches Hall of Fame. It was helping kids learn to live good lives.

“I had great expectations of kids, and not just to play hard and compete,” he says. He sees those kids now, grown up, holding down jobs, taking care of their families.

“That's the really good success story,” he says.

Berry's 25 years as a coach make him a good fit for his position as majority whip in the Senate. It's his job to supervise the team on his side of the aisle, help keep people in line and in the know.

And he learned some things as a coach that have served him well during his two sessions in the Senate.

“When I coached, no matter how mad I was at a referee, I would make a point of not seeing him after the game,” Berry says. “You don't want to go get in a conflict with somebody when you're at an emotional peak.”

During a session notable for its political rhetoric, bickering and budgetary conflict, Berry has remained calm.

“He weighs in heavily and strongly when it counts, and he makes it count,” says friend and seat mate, Senate Majority Leader Fred Thomas, R-Stevensville.

Thomas urged Berry to run for the 1999 Legislature when former Rep. Cliff Trexler, a Hamilton Republican, decided not to seek another term. Berry won Trexler's House seat, but he was appointed to the Senate after former Sen. Steve Benedict, R-Hamilton, resigned. Trexler was appointed to serve another term.

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“I really felt that he would be a great legislator and do a super job for the Bitterroot Valley,” Thomas says. “And I think I was right.”

Thomas knew Berry as a businessman, and they later became friends while serving together on the board of directors for the Bitterroot Valley Chamber of Commerce. Since he retired from coaching, Berry has kept himself active in the community and taken up a new profession. Now a real estate broker, he runs the Greater Montana Land Co. in Hamilton.

Senate Minority Leader Steve Doherty, D-Great Falls says he and Berry don't always agree. Berry's politics are conservative, and he is supported by one of Montana's most conservative districts.

“But it's never been disagreeable,” Doherty says.

Doherty has also seen Berry in action on the court, playing under his leadership on the Senate basketball team.

“He's a great coach, and anybody that can deal with the inflated - and sometimes deflated - athletic egos of politicians is a great man,” Doherty says.

It has not been an easy session for Berry. He has a benign but difficult-to-treat tumor in his facial cartilage, and his medications make him ill. And last week, he took a fall and tore his Achilles tendon. He has been hobbling about the Capitol with his foot in a boot, waiting until the session's over to go in for surgery.

But none of that has kept him out of the game. He carried 20 bills this session, four of which have been sent to the governor for final approval.

“A lot of people would say, ‘I've got a little health concern, and I'm going to back off,’” Thomas says. “He never once gave any sign of poor me.”

When Berry came to the Senate floor on crutches last week, he told Thomas, “I want you to know I'm not limping.”

## Freshman legislators head home

HELENA - Rep. Joey Jayne, D-Arlee, was packed and ready to go home Saturday morning. Dressed down in jeans and a zebra-striped vest for the final, hectic votes of the 2001 legislative session, her only remaining task at the end of the day was to copy her e-mail onto a floppy disk and hit the road.

In the other house, Sen. Corey Stapleton, a Billings Republican, wore his usual suit and tie but shared Jayne's last-day, carefree attitude. He said he wanted to go home and play with his kids.

Both said they were leaving this session with an idea of how to do it better next session.

Stapleton's name comes up often around the Capitol as one of the up-and-coming younger Republicans, and he said he was encouraged to take the lead early on.

"I probably got to do more than I had thought or hoped for," he said.

Stapleton said he has learned that carrying bills and getting them passed isn't as important as getting into the thick of the entire legislative process.

"My role I see in the future will be to control the issues that surround the passage of a bill," said Stapleton, who as a senator has a four-year term and will be back in 2003.

Jayne, whose term is only two years, has every intention of running again and hopes to serve in 2003.

"I know better how to be effective in the time frame we have," she said. "I'm looking forward to presenting good bills, better bills."

She is leaving Helena with eight large boxes of accumulated paperwork, information and messages, and she said she plans to study them over the interim.

In the next session, she would like to spend more time working with health and human services issues. She spent every morning of the first half of this session in the Joint Appropriations Subcommittee on Health and Human Services, where she frequent-

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ly called for more money for disability services.

“That was the most personally rewarding thing I have done,” she said.

Stapleton said his priorities have not changed since he began his campaign last year. He still wants to help the Legislature come up with long-term solutions to the problems of education funding and complicated tax structures.

He carried a bill this session that would have given tax breaks to Montana employers who hire Montana college graduates and cash payments to graduates who stay in-state to work. The bill passed the Senate but died in a House committee.

Early in March, Stapleton was passionate in explaining the bill, saying it would increase the opportunities for bright, young people who want to stay in Montana.

But on Saturday, he said it was “all right” that the bill hadn’t made it.

“I’m learning to not take personally the process,” he said. “A lot of good bills died, and some bad bills got through.”

Jayne said she is still frustrated by the process, however. She said there simply isn’t enough time and discussion for legislators to truly understand bills before they vote.

On Saturday afternoon, she didn’t get her final question answered about one of the most important energy bills this session because another representative called for an end to the discussion.

“In order to enact a law, we have to have all of the facts before us,” she said. “I was so disappointed.”



**Farming, hunting and fishing**

## Senator wants weed to be a legal crop

HELENA - Sen. B.F. "Chris" Christiaens, D-Great Falls, stood alone Wednesday in support of his bill to allow Montana agriculture producers to grow a noxious weed as a crop.

The Senate Agriculture, Livestock and Irrigation Committee heard testimony Wednesday afternoon on Senate Bill 9, which would allow farmers and ranchers to grow St. John's Wort, a plant listed in the state as a Class I noxious weed.

St. John's Wort is used worldwide as, among other things, an herbal anti-depressant. In Germany, Christiaens said, the herb is prescribed 25 times more often than Prozac.

He said the plant, grown as an alternative crop, could help some farmers and ranchers stay in business.

The bill requires people who want to grow St. John's Wort to register with the state and pay a bond to control and eradicate the plant if necessary.

Christiaens said he will amend the bill to put counties in charge of setting the bond. The amendment will give county weed districts more authority over the growth of the plant, he said.

But opponents of Christiaens' bill - several of whom serve on their counties' weed boards - said the plant is a hard-to-control noxious weed that would create more trouble than it is worth.

"In this state, we ask that just 23 plants not be grown," Liberty County weed control agent Jim Ghekiere said.

"There are many good options for alternative crops right now, and I feel that St. John's Wort is not one of them."

Bob Brastrup, who farms in Carbon and Stillwater counties, said he is worried about the potential for the plant to spread onto his farm, where he already has to deal

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with leafy spurge.

“If St. John’s Wort is allowed to grow, and it’s down in my country, I can assure you that the birds and wildlife will bring it onto my place,” he said.

“I don’t think there’s any way we can safely grow this plant in Montana.”

Janet Ellis of Montana Audubon said her organization thought “long and hard” about the bill. They wanted to support it because it would give farmers and ranchers an alternative crop option. But, she said, the organization was worried about the plant spreading onto neighbors’ property.

Christiaens said he believes there are ways to control the spread of the plant if it is necessary to do so. And, he said, much of the production is likely to occur on very small plots of land and in greenhouses, where it would be fairly easy to control.

He conceded that St. John’s Wort is not worth as much as it was in 1999, when he began work on the bill. At that time, the herb was selling for \$3,500 an acre, and the price has fallen dramatically since. But he stuck to his assertion that the bill could become a lucrative crop for those who were willing to go to the effort and expense of growing it.

“Down the road, this may be one of those crops that keeps farmers and ranchers in business in this state,” he said.

“Agriculture needs every opportunity to stay in business.”

## Senator: Use inmates to fight weeds

HELENA - By a unanimous voice vote, the Senate approved a bill Tuesday that would allow counties to use jail inmates as soldiers in the battle against noxious weeds.

Senate Bill 199 would allow a county weed board to contract for inmate labor through the county jail work program.

Through work programs, some nonviolent offenders are allowed to labor for the county in exchange for actual jail time. Each day of work counts as one day of incarceration. County sheriffs decide which inmates can participate in the program.

"I think this is a way to get some of these people off their duffs and get some service out of them," said the bill's sponsor, Sen. Mike Taylor, R-Proctor.

"There is a problem with noxious weeds, and this is just a part of solving that problem."

But Sen. Greg Jergeson, D-Chinook, said the bill would open up liability problems for counties. He asked if a weed board could be held liable for an inmate's exposure to chemical herbicides - or for an inmate's inadvertently spreading weeds while working.

Sen. Steve Doherty, D-Great Falls, asked if the inmates would be taking away jobs from people who would otherwise be doing the weed work.

Sen. Dale Mahlum of Missoula responded that labor organizations had not objected to the bill during a hearing in the Senate Local Government Committee last week. Mahlum is chairman of that committee, which passed the bill Friday on a 6-1 vote.

State law does prohibit using inmates in jail work programs to replace county employees, fill job vacancies in the county or reduce the county's workforce.

Sen. Bob DePratu, R-Whitefish, said the bill would benefit everyone.

"Sometimes, if (inmates) can do something productive, it can be good for them,

and it can be good for us,” he said.

“There are a lot of areas of this great state that have weeds that need to be pulled.”

Before the bill is sent on to the House, it must pass a final vote in the Senate on Wednesday. To become law, it needs the approval of both houses of the Legislature and the governor.

## Panel hears debate against Social Security numbers on recreation licenses

HELENA - Under Senate Bill 262, hunters and anglers would no longer have to give out their Social Security numbers to get recreation licenses - but only if the federal government agreed not to punish the state for lifting the requirement.

The Senate Fish and Game Committee heard testimony on the bill Tuesday but did not take any action.

The state has required hunters and anglers to list their Social Security numbers on applications for recreational licenses since Jan. 1, 2000. The change was a federal mandate, part of a nationwide effort to track down parents who do not pay court-ordered child support.

People who are worried that the numbers could be obtained and used for identity theft have been strongly opposed to the requirement, as have hunters who worry that it could be used to track gun ownership.

But the federal government has threatened to withhold millions of dollars in welfare aid - including money for child support enforcement - from states who refuse to comply. Noncompliance could cost Montana as much as \$56.5 million a year.

Sen. Jack Wells, R-Bozeman and the sponsor of SB262, said he wants to avoid losing that money but still attempt to eliminate the Social Security number requirement. His bill is contingent on the federal government either repealing the law or agreeing to exempt Montana from all or part of it.

The state already has made three requests for exemption. The first would eliminate the requirement for people younger than 16. The second would allow Montana residents to provide another identifying number, such as a driver's license number, that could be traced back to their Social Security number. The third would allow anyone to

use an identifying number other than their Social Security number, so long as that number could also be traced to a Social Security number.

Gov. Judy Martz, who testified in favor of the bill, said it is “the perfect solution for Montana.”

She said the state has learned, unofficially, that the federal government is willing to consider exempting people younger than 16 but will likely deny the other two requests. But, she said, the bill would automatically eliminate part of the Social Security requirement if any of the requests were granted - and all of the requirement if the federal law were repealed.

“A loss of federal funding would have a major impact on Montana’s welfare system and our reform program as well as our ability to assist parents in collecting child support payments,” Martz said. “SB262 ensures continual federal funding of our child support and (public assistance) programs for the Montana citizens who depend on them.”

But not everyone is pleased with SB262.

Dan Hawkins, who represents the Montana Shooting Sports Association and the Western Montana Fish and Game Association, “reluctantly” opposed the bill.

“We think (getting a full exemption) is very unlikely, so that the bill, at most, is cosmetic,” Hawkins said.

Wells conceded that the bill will not appease everyone. Using a traceable identification number bothers those who don’t want their Social Security number connected to anything but Social Security.

But, he said: “I don’t see a better way of approaching this right now.”

Ironically, the state’s Child Support Enforcement Division can’t even use the information that has been collected so far, according to division administrator Mary Ann Wellbank. The Department of Fish, Wildlife and Parks does not yet have an automated system that would match its records to those of the division.

When that automated system is up and running, though, any information collected on hunting or fishing license applications will remain with Fish, Wildlife and Parks unless it matches information needed to enforce child support, Wellbank said. Her division would send out a list, and FWP would reply with any information it had.

Another bill, HB282, would completely eliminate the Social Security number requirement. Wells said he would support that bill but doesn't have much faith it can pass because of the threat of lost federal funding.



## House debates open-range bill

HELENA - A bill to limit livestock owners' liability in car crashes involving their wandering animals passed a second reading in the House Monday on a vote of 92-8.

During debate on House Bill 246, several representatives praised it as a compromise. The bill originally granted complete immunity to livestock owners whose animals wandered onto the road but was criticized for letting irresponsible people off the hook.

Rep. Dave Gallik, D-Helena, said he initially thought HB246 was "a terrible bill." Gallik sits on the House Agriculture Committee, which reworked the bill to make livestock owners liable for accidents caused by their gross negligence or intentional misconduct.

It was necessary to find common ground, Gallik said shortly before voting to approve the bill Monday.

HB246 is a response to a December Montana Supreme Court decision, in which the court said livestock owners must control their animals to protect motorists "against unreasonable risks of harm under the circumstances." Many farmers and ranchers - including bill sponsor Keith Bales, R-Otter - saw the court's decision as a direct affront against more than 100 years of rulings under "open range" doctrine.

Under that doctrine, livestock owners are not liable if their wandering animals damage another person's property in an open range area - any area not enclosed by a fence with at least two good wires, including secondary highways. Since a 1967 ruling, which was overturned by the court's December decision, that principle has also applied to damages and injuries stemming from livestock vs. motor vehicle accidents.

Bales said his bill would merely put on the books a protection that had been taken for granted for 33 years, although it does not go quite as far as he and some of his constituents would have liked.

“I think this bill is a good compromise,” Bales said. “I think it is necessary to take away the uncertainty that the Supreme Court brought about.”

The bill would not apply to the Interstate or primary state highways; livestock vs. vehicle accidents on those roads are covered under another law.

Farmers and ranchers strongly supported HB246 at a packed hearing in front of the House Agriculture Committee on Jan. 16. They said they try to keep their animals in but cannot stop a drunk from running through a fence or a hunter from leaving a gate open. Some protection from lawsuits is necessary, they said.

The House will give the bill a final vote Tuesday before sending it to the Senate.

## Bill requires public notice for feedlots

HELENA - During a hearing before the House Agriculture Committee on Tuesday, the sponsor of a bill to require public notice of proposed large feedlots said she wants people to know what others are planning for their neighborhoods.

“I believe that if people had the ability to comment ahead of time, they might have the ability to work out problems ahead of time,” said Rep. Gail Gutsche, D-Missoula and sponsor of House Bill 335. The committee did not take immediate action on the bill.

The bill is only 24 lines long and does only two things. It requires the Department of Environmental Quality to give public notice of newly proposed concentrated animal feeding operations, and it requires the department to allow for a hearing or public comment period at the request of someone who reads the notice.

Federal regulations generally define concentrated animal feeding operations as feedlots with 1,000 animals or more, depending on the species. Some smaller operations are considered concentrated operations if their waste is emptied into local surface water.

John Youngberg of the Montana Farm Bureau Federation argued the bill is unnecessary.

“Folks don’t build those (feedlots) underneath their hat,” Youngberg said.

Youngberg was joined by representatives of Women Involved in Farm Economics and the Montana Stockgrowers Association in arguing the bill would complicate the permitting process for large feedlots and could hurt small operations.

But Gutsche said the bill has nothing to do with permitting and cannot change the federal rules that determine which feedlots are “concentrated.” It would only let people know when new concentrated feedlots had been proposed, she said.

Supporters of the bill said it would give community members a chance to voice their opposition to a business that could affect their water and air quality and the value

of their homes.

Ed Mott, a Simms rancher and member of the Northern Plains Resource Council, said HB335 would “allow local citizens to participate in a government decision that would directly affect their local economy.”

The bill’s fiscal note estimates that a maximum of 48 new permits would be processed in the next two years. If someone requested a hearing for every one of those new permits, Gutsche’s bill would cost the state an estimated \$8,645 a year.

## Bill requires country-of-origin labels

HELENA - A bill to require labels on out-of-country meat and produce is “a marketing tool” for Montana producers, Sen. Jon Tester told the Senate Agriculture, Livestock and Irrigation Committee during a hearing Wednesday.

Senate Bill 196, the Country of Origin Labeling Act, “would give people in Montana an advantage when they go to the grocery store to buy products from right here in Montana,” Tester said.

“This bill is not a cost to anyone, but it’s an investment in the future,” Nye rancher Noel Keogh said.

Keogh showed the committee a souvenir toothpick holder from Alaska with a “Made in Taiwan” sticker on the bottom.

“If it’s important to know where our toothpick holders and 10-cent toys come from, then it’s important to know where our beefsteak comes from,” he said.

SB196 would require labels on all fresh fruits and vegetables, grains, honey, beef, poultry, pork and lamb produced outside of the United States. Retailers who did not know the origin of a product, or didn’t want to take the time to find out, could label it “country of origin unknown.”

In-state producers would be allowed, but not required, to label their products as originating from Montana.

Refusal to label out-of-country products or removing labels would be considered misdemeanors.

Dan Teigen, a central Montana farmer and rancher and member of the Northern Plains Resource Council, said people want to know more about what they’re paying for. If they don’t care where their steaks came from, they can ignore the label, he said.

Teigen also said people in Montana prefer to buy local products, and Tester’s bill would not only help them do that, but also give Montana producers a competitive edge.

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“It’s mind-boggling how we’re not taking advantage of this situation,” he said.

But Bill Stevens of the Montana Food Distributors Association and Charles Brooks of the Billings Area Chamber of Commerce said the bill would put too much pressure on grocery stores.

Stevens said it would be impossible, for example, to label every single piece of produce, which he said the bill could require. He passed around a panoramic photograph of a grocery store produce section and asked who would have to pay someone to label all those fruits and vegetables.

Brooks said he, too, questioned whether it would be wise to require labeling produce. But he said the Billings Area Chamber of Commerce could support meat labeling.

Tester agreed that, perhaps, produce could be labeled differently - maybe with a sign in front of the case.

But he argued the bill shouldn’t cost anything to those who don’t want to pay. Montana producers would use labels only if they wanted to. Wholesalers and retailers could use the “country of origin unknown” label to save time and cost.

Tester said Montana needs to take the lead in requiring country-of-origin labels, sending a message to the federal government that agricultural product labeling should be a nationwide effort.

John Bloomquist of the Montana Stockgrowers Association said his organization supports Tester’s bill but would prefer federal legislation.

“For full implementation, this really is a federal issue,” Bloomquist said.

“This is not the silver bullet for product identity, but it certainly adds to the mix.”

## Industrial hemp takes the stage

HELENA - Bob Stephens of the Montana Grain Growers Association summed up the arguments for legalizing industrial hemp with a simple statement Friday: "Hemp is not pot."

Stephens was one of five people to speak in support of Senate Bill 261, which would legalize industrial hemp as an agricultural crop in Montana, in front of the Senate Agriculture, Livestock and Irrigation Committee. The committee did not make any decisions about the bill, which is sponsored by Sen. B.F. "Chris" Christiaens, D-Great Falls.

Industrial hemp and marijuana are different varieties of the same plant. The major difference is that industrial hemp contains much less tetrahydrocannabinol, or THC, which is the intoxicating substance in marijuana.

"You may as well smoke a corn leaf," plant biologist Daniel Bergey said of industrial hemp's psychoactive properties. "You'll get sick as a dog."

The bill would allow Montana farmers to grow hemp containing no more than 0.3 percent TCH, while marijuana sold on the street contains 6 percent to 16 percent THC, Christiaens said. He said North Dakota and Hawaii have passed similar bills.

"We want to be on the cutting edge in allowing our agricultural community to be producing this," Christiaens said.

Star Streets of Moon River Goods in Helena brought in a cloth bag full of hemp items she sells at her store, including a hat, a sweater, a crocheted coat, stationery and a journal. She also wore a hemp scarf, shirt and T-shirt.

Streets said the products are "very much in demand," but she imports them from Nepal.

"The products are here in Montana, and they are available," Christiaens said.

"And they are not cheap products."

Christiaens rattled off a litany of things that can be made with hemp - from vita-

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min-B-rich hemp seed oil to plastics to diesel fuel - and urged the committee to move forward in allowing the state to become an exporter, not an importer, of hemp.

No one spoke against the bill during the hearing, but some committee members voiced concern.

“How do 15-year-olds take this and do something that we don’t know about?” Sen. Corey Stapleton, R-Billings, asked. “We’ve got people in Billings who, in bathtubs, make drugs we couldn’t even imagine.”

Bergey said a good enough chemist might find a way to distill industrial hemp, but it would take some doing - and a lot of hemp.

Christiaens said: “You’d have to have a ton of hemp hauled to your house if you’re going to make it in your bathtub, and I think your neighbors are going to be pretty aware.”

Sen. Ric Holden, R-Glendive, wanted to know if there really would be a market for hemp grown in Montana.

Christiaens said there are more than 300 companies in the United States that sell profitable hemp products, including Adidas, Calvin Klein and Disney.

Sen. Jon Tester, D-Big Sandy added, “This is one of those deals where, if you grow it, they will come.”

But there is a fly in the hemp seed oil: Even if the bill passes, it may still be against federal law to grow industrial hemp. To avoid problems with the feds, Christiaens has included in his bill a mandate for the state Department of Agriculture to ask for a waiver from the federal law.

Agriculture Director Ralph Peck said he will follow through with that request to the best of his ability if the bill passes.



## Hunting and fishing bills roundup

HELENA - Stan Rauch says this legislative session has been a little easier on him.

As the communications director for the Montana Bowhunters Association, Rauch keeps close tabs on bills that affect the quality of hunting in Montana. In the past few years, that has meant giving his time-consuming support to Initiative 143, which passed last fall and will effectively phase out game farming in Montana.

Rauch said he has only seen one game farm bill so far this session. House Bill 305, which Montana Bowhunters supports, would require bonding for game farms.

Jean Johnson, executive director of the Montana Outfitters and Guides Association, also said she's breathing a little easier this session. Although there are several bills out there to limit nonresident hunting and fishing - something outfitters, as a general rule, do not support - she said she isn't seeing as many bills that directly attack her industry.

But that's not to say this session is lacking in contentious debates over hunting and fishing bills. One hundred fish and game bills have been requested so far, and several have caught the attention of the state's hunters and anglers.

Here are a few of the more noteworthy:

HB264, sponsored by Rep. Dave Lewis, R-Helena, is a constitutional amendment expressing both the right of the public to hunt and fish and the duty of the state to manage fish and game with that right in mind. The House Fish, Wildlife and Parks Committee tabled the bill last week, but supporters say it still has a fighting chance. The Legislature would have to pass the bill with a two-thirds majority before sending it to the public for a vote.

"I think we're going to be able to get it sprung," said Gary Marbut, president of the Montana Shooting Sports Association. North Dakota and Virginia recently passed

similar legislation, he said.

Rauch said, "My impression is they like the concept a lot, but when it comes to constitutional amendments, the wording has to be just right."

Three bills attempt to do away with the part of a hunting or fishing license application that asks for a Social Security number. Hunters and anglers have opposed giving out their Social Security numbers for privacy reasons, and some see it as a subtle way for government gun-control advocates to track gun owners.

The federal government requires states to collect Social Security numbers on recreation licenses as part of the effort to track down parents who fail to pay child support. States that don't collect the numbers could lose their federal welfare money, and Montana stands to lose more than \$113 million.

SB262 and HB388 would make the change only if the federal government agreed not to punish the state for doing so. Gov. Judy Martz has spoken in favor of SB262 because it protects the state's welfare programs, but Marbut calls both bills "fake."

HB282 would completely eliminate the Social Security number requirement, regardless of the consequences. Marbut said his organization supports this bill because it more thoroughly protects the right to privacy granted in the Montana Constitution.

"The state has sold a portion of that right to privacy for federal money," he said. "We've traded our rights for security."

One of many bills to limit permits and licenses for nonresidents, HB228 would create special "trophy trout" permits for nonresident anglers on rivers, streams or lakes where there are problems with overcrowding, conflicts between water users or damage to the fishery caused by anglers. The state would issue a limited number of the permits by drawing, and permits could not be reserved for outfitters' clients.

"That was not a good bill," Johnson said. Although the bill has not been officially tabled, the House Fish, Wildlife and Parks Committee has not taken action on it since

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a hearing Jan. 16.

Several bills would give landowners incentives to allow hunting on their property. Among those are HB454 and SB353.

HB454 would grant either-sex elk permits to certain landowners who allow free elk hunting on their property. Landowners could not sell or give away their permits, and they would have to use the permits on their own land.

SB353 would allow qualified landowners to buy certain hunting licenses at one-quarter the regular cost and give them to nonresidents. The nonresidents would only be able to use the licenses on the landowners' property, and the landowner would also be required to allow free access to resident hunters.

Johnson called SB353 "pretty revolutionary."

Craig Sharpe, executive director of the Montana Wildlife Federation, said he supported the intent behind both bills - but not the application. He said SB353 inappropriately turns landowners into license brokers, and HB454 would create an unnecessary new class of permits.

Sharpe and Johnson do agree on SB285, which would enhance the block management program through a \$2 fee for both residents and nonresidents. The fee would be collected the first time a person with a conservation license purchased a hunting license.

"We want to enhance the block management program," Sharpe said.

"This program is in its sixth year, and the residents have yet to spend one dime supporting it," Johnson said. "And, yet, the program is for them."

Block management is a cooperative program between landowners and Fish, Wildlife and Parks. Landowners voluntarily agree to join the program, which gives the public free access to hunt on their land.

## Genetically modified wheat draws crowd

HELENA - A bill that would stop Montana farmers from planting genetically modified wheat for the next two years drew contentious debate during a hearing in the House Agriculture Committee Tuesday evening.

At issue, according to both supporters and opponents of House Bill 211, is the future of Montana farms and the safety of the state's food supply.

"I think we owe it to our Montana wheat farmers to make sure we make the right decision before we make any mistakes," said the bill's sponsor, Rep. Butch Waddill, R-Florence.

HB211 would put a two-year moratorium on genetically modified wheat. House Joint Resolution 6, also sponsored by Waddill, requests a study of how genetically modified wheat could effect the economy and ecology of Montana farms. Several experts testified that there is no genetically modified wheat now growing in Montana, and there probably won't be until 2004.

But Canadian farmer Percy Schmelser said he knows exactly what can go wrong with genetically modified crops. For 50 years, he said, he used his own seeds to grow wheat and canola. Then, in 1998, a herbicide-resistant variant of canola developed by the Monsanto Co. began appearing in his fields and in ditches surrounding his property, and he couldn't get rid of it.

"I never had anything to do with Monsanto," he said. But Monsanto sued him for using its genetically modified Roundup Ready canola without permission. He sued back, claiming the company's product ruined 50 years of work.

"They put out into the environment a substance they knew they couldn't control, (that) they had no intention of controlling," Schmelser alleged.

How the Monsanto canola wound up in Schmelser's fields is still under litigation, and both sides blame the other. But Schmelser's allegations epitomize much of the fear

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that other farmers and consumers expressed during the hearing.

“We actually know very little scientifically about the impacts of these crops,” said environmental scientist Neva Hassanein.

But those who work to develop genetically modified crops, including wheat, said they need the freedom to continue their work. Their products, they said, are likely to lead to a better future for Montana farmers. Putting a moratorium on those products will only put Montana behind, they said.

“A moratorium sends the message to the research community of America that we’re closed for business,” said Ron Ueland, vice president of marketing and business development for Western Plant Breeders of Bozeman. Ueland’s company develops cereal grains.

Ueland assured the committee that his company and any other that deals with genetically modified crops will “study the heck out of this.” A state-funded study like the one proposed in HJ6 would be redundant, he said.

Arleen Rice, who works for United Agri Products, said genetic modification has led to some amazing innovations, including bananas and tomatoes that carry a vaccine for Hepatitis B. She said she is confident genetically modified food crops are well-studied and proven safe before they reach the market.

“I don’t hesitate for a minute feeding my daughter, my stepson or my husband foods from the grocery store that I know are safe,” Rice said.

But not everyone agrees genetically modified is good. Several supporters of HB211 and HJ6 pointed to the European and Asian markets, which are becoming increasingly unfriendly toward genetically modified foods - including livestock that have been given genetically modified feed.

Keeping genetically modified wheat out of Montana might actually improve farmers’ chances on the international market, said Randi Erickson of the Good Food

Store in Missoula. She said the market for food that has not been genetically modified could follow the steadily rising market for organic foods.

Laughing Water, owner and general manager of the Real Food Store in Helena, said many of his customers simply don't trust biotechnology.

"The reason we exist is that our customers don't have faith in government standards and the enforcement of those standards," he said.

## Bill lets kids take time out for hunting

HELENA - The House Fish, Wildlife and Parks Committee heard testimony Tuesday on a bill to allow students to miss up to three days of school for hunting or hunter-safety classes - and allow schools to keep their funding for those days.

The committee did not take immediate action on House Bill 520, sponsored by Rep. Paul Clark, D-Trout Creek.

Twelve-year-old Ty Marbut, a Butte sixth-grader and son of Missoula gun advocate Gary Marbut, praised the bill. He said he has learned a lot through hunting that he wouldn't have learned in school. He knows about habitat and ecology, outdoor survival and firearm safety.

"When kids get educational opportunities when they usually would be in school, it may be more interesting," Marbut said.

But Joe Lamson, communications director for the Office of Public Instruction, said the bill would open the door to any number of interest groups who want to pull students out of school for special activities.

Inga Nelson of MEA-MFT, the state's largest teachers' union, said the Legislature needs to put a halt to bills allowing release time from school.

"The less time that teachers have with students, the less time they have to teach," she said.

Clark said he has been a teacher in the public school system and respects schools' concerns about the bill. But, he said, family is the No. 1 priority in his house, and the most important family time he spends with his son is when they go hunting together.

"We as parents are our kids primary teachers," he said.

"Education includes parents. It also includes alternatives that are not in our schools today."

## Bill would protect prairie dogs

HELENA - Under a bill presented to a House committee Tuesday, prairie dogs would get protection from Fish, Wildlife and Parks but still be considered "vertebrate pests" by the Department of Agriculture.

It was a compromise that suited everyone who testified at a hearing in front of the House Fish, Wildlife and Parks Committee except Gary Marbut, president of the Montana Shooting Sports Association, and Rep. Debby Barrett, R-Dillon.

"We're concerned that this is just another example of the federal blackmail that the Legislature sees," Marbut said.

The committee did not take immediate action on House Bill 492, sponsored by Rep. Paul Clark, D-Trout Creek.

The U.S. Fish and Wildlife Service has said the black-tailed prairie dog can be listed as a threatened species under the Endangered Species Act. It hasn't been listed yet because it is in line behind other, higher-priority animals.

HB492 could prevent that listing, according to many of the bill's supporters. But Clark said he doesn't want the bill to become symbolic of some Montanans' efforts to keep the feds out.

"I feel that we have an obligation to protect all the wildlife species in Montana, and I don't think we have to be reactive to the federal government to do that," he said.

Under the bill, the Department of Agriculture could continue to suppress prairie dog populations in places where they cause problems for landowners. It would not limit prairie dog hunts on private land, and it would not reduce landowners' options for controlling the animals.

FWP Chief of Staff Chris Smith said his department would probably consider some seasonal hunting restrictions if the bill passed - but only on federal lands.

Smith said the bill cannot be used to stop the federal government from listing



prairie dogs. But Ken Blunt of Malta said good management could prevent the need for listing. Blunt is a member of the Montana Prairie Dog Working Group, which has developed a strategic management plan for the animals.

Zortman resident Rod Boland said prairie dog shooting as a recreational sport is essential to the survival of his town. He said people will spend more than a week in town, just to shoot prairie dogs, and they spend a lot of money while they're there.

He said he supports HB492 because he sees it as the best way to keep some balance in management of the animals.

## Nonresidents targeted for higher fees

HELENA - In the next six years, the balance in the general license account for Fish, Wildlife and Parks is expected to flip-flop from just over \$16 million in the black to just under \$16 million in the red, agency officials said Thursday.

To combat that steadily shrinking balance, the department is supporting a bill to increase nonresident license fees for hunting and fishing, FWP Director Jeff Hagener told members of the House, Fish, Wildlife and Parks Committee. The committee heard public testimony on House Bill 554, sponsored by Rep. Paul Sliter, R-Somers, but did not take immediate action.

The proposed increases are targeted at nonresidents because, Sliter said, "we as state legislators have our constituents to think about."

"The folks whose ox I'd like to gore today are the folks who aren't here today," he said.

The increases would boost the balance in the general license account by about \$4 million a year, enough to keep the account in the black beyond 2007, Hagener said.

He also said the proposed fees are comparable to, and generally lower than, fees charged in other Western states.

Nonresident moose, goat and sheep licenses would go up by about 210 percent, from \$475 to \$1,000, but would still cost less than the market average, he said. No Western state charges less than \$1,000 for those licenses, according to a department survey. Only the nonresident season fishing license would be above the Western average: \$60 compared to \$57. The fee to hunt wild turkeys would actually drop, from \$123 to \$115.

John Wilson of Montana Trout Unlimited said Montana doesn't charge much but has "the best trout fishing around." Current fees are a bargain, he said, and the department is past due in requesting an increase.

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Jean Johnson, executive director of the Montana Outfitters and Guides Association, said her organization supports the bill but would prefer to drop the price of the \$1,000 licenses to \$775.

“MOGA supports the department, and we support its work,” she said, adding that a limited budget could put the department in the position of having to relax enforcement.

But, she said, she does not agree with the department’s budgeting process. FWP has always made fee increase requests larger than what it actually needs for the next year. This ensures a positive balance in the account and allows the department to wait six years or so before it has to approach the Legislature for another increase.

Johnson said she would prefer the department come up with a budget first and a request later.

Johnson and some members of the committee also said they worried the bill would put too much of a spread between nonresident and resident fees.

“When you’re out in the field, I mean really, what kind of rigs do people drive?” Johnson asked.

“People have money to hunt. They can afford to pay more than \$13 or \$17.”

Dave Mott, who heads up the FWP Administration and Finance Division, said the increased fees would bump the percentage of nonresident money in the fee account from about 65 percent to about 70 percent.

But Hagener said he would be back, sometime in the future, to ask for resident fee increases.

The bill, Sliter said, would simply postpone Hagener’s future request.

## Free hunting for landowners?

HELENA - Some farmers and ranchers could use a free license to hunt on their own land under a bill approved by a Senate committee Friday.

“There is a serious problem out there” with game damage, Sen. Mack Cole, R-Hysham, told the Senate Agriculture, Livestock and Irrigation Committee during a hearing on Senate Bill 437. “I realize that this bill isn’t going to solve every game damage problem. ... This is a start, anyway.”

SB437 437 would grant free deer, antelope and elk licenses to landowners and lessees who met certain acreage and agricultural income requirements and agreed to sign a contract with Fish, Wildlife and Parks to allow some public hunting on their land. Landowners could get two deer and two antelope licenses and one elk license to use on their own property.

The bill would also allow “supplemental game damage licenses” that could be used on private property where game have caused serious losses to crops, hay or pasture. Landowners could hand-pick 75 percent of the license recipients, and the department would choose the rest. There would be a fee for the licenses.

The supplemental licenses would be issued instead of so-called “kill permits.” Landowners who receive kill permits have to kill and dress the animals themselves, then call FWP to pick them up. Under SB437, anyone who shot an animal with a supplemental license could keep the meat.

“They kill the animal; they dress it out; it is their animal,” FWP Director Jeff Hagener said.

Landowner, sportsman, farmer and rancher Paul Johnson said, “This bill would really help landowners feel that they have some say in what’s going on out there.”

But a spokesman for the Montana Wildlife Federation said he didn’t like it that the bill would make major changes to the way licenses are set aside for landowners.

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“This is completely open-ended,” Jeff Barber said. He wanted to know whether there would be a limit on the number of special licenses issued each year - and what pool the licenses would be taken from.

After the hearing, Hagner said his department did want to restrict the number of free licenses it would have to issue. He said requirements that someone farm more than a certain number of acres and bring in more than \$10,000 each year in gross agricultural receipts would do that job.

## House panel tables prairie-dog bill

HELENA - A bill to allow the state to manage the prairie dog as both a species in need of management and a vertebrate pest had broad support in a hearing Wednesday but was tabled in committee the next day on a vote of 11-9.

“We were disappointed that they chose to table it, and we are still looking to see if there may be new life,” Steven Pilcher, executive vice president of the Montana Stockgrowers Association, said Friday.

Pilcher was joined Wednesday by broad group of landowners, conservationists and recreational shooters who spoke in support of House Bill 492 in front of the House Fish, Wildlife and Parks Committee.

HB492, sponsored by Rep. Paul Clark, D-Trout Creek, would have allowed the Department of Fish, Wildlife and Parks to manage prairie dogs on public land - including limiting the times during which they could be shot for sport. But it also would have allowed the Department of Agriculture to continue helping farmers and ranchers control populations of the animals on private land, where they can become a nuisance.

Pilcher said it was difficult for his organization to sponsor the bill because so many members have been battling prairie dogs for decades. But, he said, “We have this black cloud hanging over us.”

That black cloud is the possibility that the federal government could list the black-footed prairie dog as a threatened species under the Endangered Species Act. Part of the bill’s purpose is to help the state avoid strict federal mandates for managing prairie dog populations.

The black-footed prairie dog is warranted for listing as a threatened species in 11 Western states. It has not been listed yet because it is in line behind other, higher-priority species.

Rep. George Golie, D-Great Falls and vice chairman of the committee, said the

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landowners and stockgrowers on the committee did not support the bill, regardless of Pilcher's endorsement.

"It's funny how it came out," Golie said. Supporters said the bill could increase Montana prairie dog populations enough to prevent the animal being listed as threatened, thus preventing federal involvement, but some committee members still saw the bill as federally dictated policy, he said.

All seven Democrats and two Republicans on the committee voted against tabling the bill.

Pilcher said he would be working with the remaining 11 committee members to give them "a better understanding of the importance" of the measure.

## House approves elimination of Social Security numbers on recreation licenses

HELENA - The House voted 94-6 Monday to support the most sweeping of three bills to eliminate the requirement that hunters and anglers divulge their Social Security numbers when applying for licenses.

The sponsor of House Bill 282 said hunters and anglers are forced to put themselves at risk for identity theft when they write their Social Security numbers, birth dates and names on applications for hunting and fishing licenses. Those three pieces of information are all a criminal needs to fraudulently apply for a credit card, said Jeff Laszloffy, R- Laurel.

Laszloffy called the applications “one-stop shopping” for identity thieves.

The federal government compels states to collect Social Security numbers on recreational licenses as part of a nationwide effort to locate parents who don't pay child support. States that refuse to follow the mandate risk losing federal grants for welfare and child support enforcement.

Montana stands to lose nearly \$57 million a year, but Laszloffy said he doesn't think that would happen.

“There are many, many, many states not in compliance with this law, and none of them have had their funding withheld,” he said.

“There have been no funds cut as a result of this in any state or territory.”

Besides, Laszloffy said, the system isn't even working yet. In the year since the law went into effect, no one has been caught because Fish, Wildlife and Parks and the Child Support Enforcement Division don't have an automated system to match missing parents to license applicants.

Laszloffy's bill was amended Monday to go into effect March 1.



Two other bills, SB262 and HB388 would also eliminate the Social Security number requirement - but only if the federal government agreed not to punish the state for doing so. SB262 passed the Senate 47-1 and has been referred to the House Fish, Wildlife and Parks Committee. That same committee tabled HB388 last Thursday.

Gov. Judy Martz has put her support behind SB262.

## Free-hunting proposal passes House

HELENA - The House voted unanimously Tuesday to grant free elk-hunting permits to some landowners who contract with the Department of Fish, Wildlife and Parks to allow public hunting on their private property.

"Landowners want to know why they should allow public hunting if they can't get a permit themselves," said House Bill 454 sponsor Rep. Paul Clark, D-Trout Creek.

Clark said the bill would give landowners incentive to allow public hunting on their land and help resolve some of the differences between landowners and sportsmen.

Twenty percent of the permits would go directly to landowners, their families or their employees; and Fish, Wildlife and Parks would issue the rest to the public to use on the landowners' property.

The department would issue the free permits in addition to any others, rather than taking them from an existing pool; and the permits would only be valid on the property of the landowner for whom they were issued.

Under the bill, the department would have to determine that a landowner's property includes occupied elk habitat and is large enough to safely accommodate public hunting before issuing the special permits. In addition, landowners could not be already be involved in block management, state hunter management or hunting access enhancement programs. Those who received landowner-preference permits in the previous year would also be ineligible.

Under current law, FWP issues antlerless elk permits by drawing in areas where more hunting is needed to control elk populations. It costs \$3 to apply for the permit and \$3 to get the permit once your name is drawn. Each year, 15 percent of the permits are issued to landowners.

In an interview Tuesday afternoon, FWP Chief of Staff Chris Smith said Clark's bill would give the department an additional tool to negotiate public hunting on private

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land. Smith said increasing access to private land for both hunters and anglers is among the department's top three priorities.

Another bill, sponsored by Sen. Mack Cole, R-Hysham, would create a system similar to that in Clark's bill. Under Senate Bill 437, farmers and ranchers who allowed some public hunting and met acreage and income requirements would be entitled to two elk and two deer licenses and one antlerless or either-sex elk permit. The bill passed the Senate Agriculture, Livestock and Irrigation Committee Monday on a unanimous vote.

"I think, at some point, we would have to end up reconciling the two bills," Smith said. The department will be working with committees in both houses to ensure the bills don't conflict, he added.

## House to reconsider prairie-dog bill

HELENA - On Wednesday, the House first rejected a bill to protect prairie dogs while still allowing landowners to control them as “vertebrate pests,” then voted to debate the bill again on Thursday.

After an initial 53-46 vote against House Bill 492, lobbyists and representatives began a concerted effort to change minds.

By early evening, bill sponsor Rep Paul Clark, D-Trout Creek, had made a motion to segregate the vote from the day’s report and try again Thursday. The motion passed 56-42, with the support of 18 representatives who initially voted against the bill and the opposition of six who voted for it.

Clark could be seen chatting with “no” voters throughout the afternoon. And Steve Pilcher, executive vice president of the Montana Stockgrowers Association, said he, too, had been working to sway opinions.

“If there’s that much opposition to it, I guess you have to abide by that,” Pilcher said before the second vote. He was optimistic, though, that he had been able to better explain the finer points of the bill to some representatives.

Although the bill has gathered broad support outside the Legislature - from stockgrowers, conservation groups, and the departments of Agriculture, Natural Resources and Conservation and Fish, Wildlife and Parks - it has met skepticism inside the Legislature.

During debate Wednesday, representatives questioned both the motive and the need for the bill, which Clark has referred to as a preemptive strike against federal listing of the black-tailed prairie dog as a threatened species under the Endangered Species Act. The U.S. Fish and Wildlife Services has not yet listed the prairie dog because there are other, higher-priority species to consider first.

“The problem is, we don’t need to do it,” Rep. Dan Fuchs, R-Billings, said. “The

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way things are in Washington (D.C.) right now, I don't think it's necessary."

Fuchs said he doesn't think President George W. Bush's administration will be willing to list the prairie dog, when there are more than 10 million of the animals living between Montana and Texas.

But Rep. Keith Bales, R-Otter and a supporter of the measure, said the bill gives the state the power to both prevent listing and control the animals where they cause the most damage to crops and livestock.

"We can go on ahead and take care of the problem ourselves without the federal government coming in with a heavy hand," Bales said.

"I don't see significant changes to the Endangered Species Act in the near future, regardless of the new administration."

Under the bill, Fish, Wildlife and Parks would manage the prairie dog as a "species in need of management." That means the department could choose to limit recreational shooting of the animals on federal lands during certain times of the year, thus increasing populations in some areas.

The Department of Agriculture would continue to assist landowners in managing the animals as pests, and landowners could continue to practice whatever controls they have been using over the years to keep the animals from ruining their crops or creating hazards for their livestock.

And the Department of Natural Resources and Conservation would manage the animals on state trust lands.

The three departments would work together to ensure all three goals are met.

HB492 is expected to come up for a second debate on the House floor on Thursday.

## House votes to protect prairie dogs

HELENA - A bill to protect prairie dogs on public land while allowing private landowners to continue managing the animals as pests passed second reading in the House Thursday.

House Bill 492, sponsored by Rep. Paul Clark, D-Trout Creek, has nearly failed twice. It was tabled in committee, then amended and resurrected. Then it was voted down on second reading Wednesday before being segregated from the record for reconsideration Thursday. To stay alive, the bill still must pass a third reading in the House Friday before being sent to the Senate.

“This bill is kind of like the prairie dog,” Clark said. “You never know where it’s going to pop up.”

The bill would allow three different state agencies to manage prairie dog populations. The Department of Agriculture would continue to help landowners control the animals on private property, where they are considered “vertebrate pests” and can damage crops and create a hazard to livestock. The Department of Natural Resources and Conservation would manage populations on state trust lands. And Fish, Wildlife and Parks would protect the animal as a “species in need of management” on other public lands.

During a hearing on the bill Feb. 13, FWP Chief of Staff Chris Smith said his department’s management plan would probably include some limitations on recreational shooting of prairie dogs on federal lands.

Under an amendment approved by the House Thursday, prairie dogs would no longer be considered a species in need of management once they reached populations acceptable under that plan.

Rep. Matt McCann, D-Harlem, proposed the amendment because, he said, “it allows me to hold my nose and vote for this bill.” He ultimately joined the “no” voters,

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however, in the 72-28 vote in favor of the bill.

Supporters of the bill have said joint management by the various state agencies would protect both prairie dogs and people. Without state protections for the animals, they argue, the federal government will list the black-tailed prairie dog as a threatened species under the Endangered Species Act. The U.S. Fish and Wildlife Service announced a year ago that the animals were warranted for listing but would have to wait in line behind other, higher-priority species.

Opponents of the bill, including McCann, say the state shouldn't step in to save a pest. Some also argue there is no absolute certainty that the black-tailed prairie dog will be listed as threatened, and the state shouldn't create legislation based on a mere threat.

Another bill intended to decrease federal control over species management in Montana passed the Senate Thursday on a 47-3 vote. Among other things, Senate Bill 163, sponsored by Sen. Lorents Grosfield, R-Big Timber, would allow Fish, Wildlife and Parks to declare a species in need of management without legislative approval.

The bill would also provide for management of the gray wolf by the Department of Livestock once the animal is removed from federal and state lists of threatened and endangered species. In addition, it would allow livestock owners to kill a grizzly bear that is in the act of killing livestock and to kill a wolf or mountain lion that is in the act of killing a domestic dog.

## Governor signs open-range bill

HELENA - Under a bill signed into law Friday by Gov. Judy Martz, farmers and ranchers cannot be held responsible for most livestock vs. vehicle accidents on secondary roads.

House Bill 246, sponsored by Rep. Keith Bales, R-Otter, came in response to a December 2000 Montana Supreme Court decision. The court ruled that livestock owners have a duty to control their animals to protect motorists "against unreasonable risks of harm under the circumstances."

Many farmers and ranchers said the 5-2 ruling overturned more than 100 years of "open range" doctrine, under which they had no duty to prevent their animals from causing property damage in open range areas - including all roads except the Interstate and primary state highways.

Bale's bill puts the open range assumption firmly back in place but includes provisions to make livestock owners liable for accidents caused by their own gross negligence or intentional misconduct.

"I really think we needed those in there," Montana Stockgrowers Association President Bill Garrison said of the provisions.

Without the new law, Garrison said, farmers and ranchers were faced with a host of problems associated with the court's ruling. Many Montana ranches, including Garrison's, are crisscrossed by secondary roads, and ranchers worried they would have to fence or close those roads because the court's decision put them in the position of being responsible for any accident.

"Every time a car hit one of our cows, we'd have wound up in court," Garrison said.

Martz said the bill outlines farmers' and ranchers' responsibilities but doesn't make them responsible for accidents caused by circumstances beyond their control. Before it reached Martz's desk, HB246 passed the House and Senate with votes of 94-6 and 43-6.



## Bill expands block management

HELENA - A bill approved by the House Tuesday could add 2 million acres of private land to Montana's public hunting grounds, but hunters would have to pay for the privilege.

Senate Bill 285, sponsored by Sen. Walter McNutt, R-Sidney, aims to enhance the block management program by increasing nonresident fees, adding a resident fee and increasing payments to landowners participating in the program. Block management allows Fish, Wildlife and Parks to contract with landowners to increase free, public access to private hunting grounds.

Nonresident hunters have paid for the entire program since 1995. Under SB285, most nonresidents would pay another \$10 each year, and resident hunters would pay \$2.

"I think that it's only fair and equitable that the residents do pay a small portion of it," said Rep. Keith Bales, R-Otter. Bales was one of 75 representatives who voted for the bill.

Among the 25 voting against the bill was Rep. Joe Balyeat, R-Bozeman, who said he would prefer charging a \$10 fee only to hunters who use block management.

"I don't think we should impose mandatory fee increases on people without giving them an option," Balyeat said.

But Rep. Paul Clark, D-Trout Creek and the bill's House sponsor, said it opens up more land for hunting, which means more options and less crowding. SB285 also increases maximum payments to landowners in the program from \$8,000 to \$12,000, and the increased and added fees will mean the wildlife agency can afford to allow more landowners to join.

Rep. Debby Barrett, R-Dillon, said block management has already opened up 7 million acres of private land, and SB285 could add another 2 million acres.

"That's 9 million acres for two bucks," she said. "And that's not bad."

## Senate votes to protect prairie dogs

HELENA - A bill to allow the state to simultaneously manage the prairie dog as a pest and a species in need of management secured initial approval in the Senate Monday.

“We find that hard to believe in the state of Montana that some folks would find the prairie dog to be an endangered species,” said Sen. Greg Jergeson, D-Chinook and House Bill 492’s Senate sponsor. But without state intervention, he said, the federal government could list the prairie dog as a threatened species under the Endangered Species Act.

HB492, which secured a debate-stage vote of 32-10, would allow Fish, Wildlife and Parks to manage the prairie dogs as a species in need of management, meaning the department could limit recreational shooting of the animals on federal lands. And the Department of Natural Resources and Conservation would manage the animals on state trust lands.

The Department of Agriculture would continue helping landowners manage the animals as pests. People could still kill prairie dogs on their own land, whether for sport or protection against damage to crops and livestock.

The bill has broad support from stockgrowers, conservationists and the three state departments that would work together to manage the animals. But many legislators still find it hard to swallow the notion of protecting prairie dogs, which can wreak havoc on crops and dig holes that horses and cattle can fall into.

“It’s either shoot the prairie dogs or shoot the horses because you always get a broken leg out there,” said Sen. Arnie Mohl, R-Kalispell and an opponent of the bill.

But Sen. Emily Stonington, D-Bozeman, said, “If you don’t pass this bill and the feds list the species, you lose all control.”

HB492 passed the House last month after nearly being killed several times.

## Game-damage bill passes House

HELENA - Landowners would have another weapon in the fight against game damage under a bill approved by the House Friday.

Senate Bill 437, sponsored by Sen. Mack Cole, R-Hysham, would allow the Department of Fish, Wildlife and Parks to issue special hunting licenses for use on private property that has been heavily damaged by wild game. Unlike the "kill permits" the department now issues, the licenses would be available to sportsmen, who would be allowed to keep the animals.

"It's about when there is damage, you have a remedy," said Rep. John Brueggeman, R-Polson, who is carrying the bill in the House.

Under the bill, landowners would be able to designate 75 percent of the licenses issued for their land, and the department would issue the rest.

The bill would prohibit landowners from charging the chosen hunters to use the licenses. FWP would, however, require hunters to pay for the licenses at either the regular rate or a reduced rate set by the department.

"We don't ask for all of these animals," said Rep. Debby Barrett, R-Dillon. Barrett said landowners need another option for controlling game damage.

"The block management works, and I support it, but there are times when there are just too many animals," she said. Block management is a cooperative program in which private landowners contract with the state to allow free public hunting on their land. It helps some landowners to reduce the number of game animals on their property, and it opens up more land for hunting.

The special game damage licenses would be for antlerless animals only, further helping to control the population.

## House approves hemp bill

HELENA - It's been hard for legislators to refrain from joking about a bill to make industrial hemp a legal crop, but they haven't had much trouble voting for it.

Senate Bill 261, sponsored by Sen. B.F. "Chris" Christiaens, D-Great Falls, passed the House Wednesday on an 82-17 debate-stage vote. It passed the Senate 45-5 in February.

The bill's House sponsor, Rep. Christopher Harris, D-Bozeman, on Wednesday repeated what has become a mantra for supporters of the measure: "You could try to smoke a bale of hemp, and you still couldn't get high."

"I have tried this and it is true," he added, stirring titters throughout the House chambers. "But I didn't inhale."

Industrial hemp and marijuana are different varieties of the same plant. The major difference is that industrial hemp contains 20 to 53 times less tetrahydrocannabinol, or THC, which is the intoxicating substance in marijuana.

Harris reminded his fellow representatives of the plant's usefulness - both as a low-maintenance, high-yield crop and as the source of a number of products ranging from clothing to plastics.

He also reminded the House that farmers won't be able to grow industrial hemp until they get federal approval. Without the feds' go-ahead, the crop would be legal in Montana but illegal under federal law. The bill instructs the Montana Department of Agriculture to request either a change in federal law or a special waiver for Montanans.

SB261 also includes several provisions to prevent would-be marijuana growers from claiming they were growing industrial hemp. It would require all prospective hemp farmers to apply for a license, submit to federal and state background checks and certify that their seeds are guaranteed not to produce plants with more than 0.3 percent THC. It would also require the Department of Agriculture to test hemp plants during growth and

supervise harvests.

Assuming the federal government agreed to let Montana farmers begin growing industrial hemp, as many as 20 would submit licensing applications each year, according to the bill's fiscal note.

## Legislature focused on access

HELENA - You can always count on a fish and game bill to start a long, angry debate in the Montana Legislature.

This year was no different.

Prairie dogs stole the show for much of the session. During House debates on House Bill 492, which allows the state to manage the animal as both a pest and a protected species, representatives would spontaneously begin barking or singing, "Who let the dogs out?"

The bill eventually passed both houses, but not before suffering two near-death experiences the House.

Fish, Wildlife and Parks Director Jeff Hagener said HB492 and another bill allowing the state to assume management of grizzlies, wolves and lynx if those animals are taken off the endangered species list are critical to responsible management.

Both bills ultimately passed by fairly large margins, which Hagener attributed to "the consensus of the people who were working on them," including the state and agriculture and conservation groups.

Here's a look at other fish and game bills that passed both houses of the Legislature:

Rep. Paul Clark, D-Trout Creek and the sponsor of prairie dog bill, also introduced HB454.

HB454 is an attempt to increase public hunting on private land by granting free elk permits to landowners who contract with the state to provide free, public access to their property. For each landowner permit, the state will issue three permits, at regular cost, for hunters to use on the landowner's property. The permits will belong to a separate class.

"I think that a lot of people think that it is a concept that will work," Hagener

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said. Some landowners, he said, refuse to allow public hunting on their land because they can't get a permit for themselves.

Stan Rauch, public relations director for the Montana Bowhunters Association, said access to a place to hunt may be the most important issue for Montana hunters, and much of the land hunters would like to access is private. His organization did not, however, take a position on HB454.

Alan Charles, FWP landowner-sportsman relations specialist, said HB454 could improve access but will likely be limited to areas in which the department restricts the permits it issues because of a lack of available hunting land.

"We have plenty of elk, but why give somebody a permit if they don't have a place to hunt?" Charles asked.

The executive director of the Montana Wildlife Federation, Craig Sharpe, said he appreciates the sentiment but doesn't think a new class of permits is necessary. He said the department should simply expand its current landowner-preference program.

Another bill aimed at helping landowners is SB437, sponsored by Sen. Mack Cole, R-Hysham. Cole's bill originally would have granted free deer, antelope and elk permits to farmers and ranchers who allowed public hunting on their land, but the Legislature struck those provisions.

The part of the bill that remains allows Fish, Wildlife and Parks to issue supplemental game damage licenses. Farmers and ranchers can hand-pick up three-quarters of the people who receive the licenses, which the department will sell at regular cost.

The department now issues kill permits to help control game damage, but farmers and ranchers cannot keep the meat, and many prefer not to kill and dress the animals themselves.

"This allows us, if we have a damage situation, to issue licenses to the hunters, and the hunters are killing them instead of one landowner," Charles said. "You can get

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local hunters that the landowner knows and that know the property.”

But some sportsmen say allowing landowners to pick and choose who gets to hunt sets a bad precedent. During debate on the House floor, Clark said, “Folks, this is a step back to the king’s deer. ... This is a step toward privatization.”

Sharpe said he “had a little heartache” over the number of licenses the bill allows landowners to grant to whomever they choose. He said a 50-50 split would have been more fair.

But, he added, “We will live with that bill and hopefully try to work with landowners to try to keep the public happy there, too.”

The 2001 Legislature also chose to increase some hunting and fishing fees, mostly for nonresidents.

Under SB285, residents will pay an extra \$2 a year, and nonresidents will pay an extra \$10, to help expand - you guessed it - public access to private land, through both new and existing programs.

“We were real pleased that this bill came forward,” Montana Outfitters and Guides Association executive director Jean Johnson said. She said residents have never had to pitch in for programs like block management, even though they say they want to.

The outfitters and guides also supported HB554, which increases many nonresident hunting and fishing fees. Johnson said it will provide much-needed money for Fish, Wildlife and Parks to continue managing wildlife in the state.

“It provides for nonresident fees to be now more in line with the other Western states,” she said.

Nonresidents could also see some restrictions in their access to mountain lion hunting in the northwest part of the state, the department’s Region 1, following the passage of HB142.

“We were having a flood of nonresidents coming to Montana,” Hagener said. “It



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didn't allow for much of a trophy hunting opportunity at all, and it really wasn't a good harvest."

Hagener said he wished the bill had included authority to further regulate nonresident mountain lion hunting statewide, however. He said the regulation in Region 1 might just move hunters to another region, creating a new problem there.

Although debates over these bills were often long and tended to get snippy, Hagener, Rauch, Johnson and Charles said they are generally pleased with the outcome.

"Overall, in the large perspective, I would say that the session went pretty well for both sportsmen and landowners," Charles said. "I don't see anything that should cause any major problems."

Public health and human services

## Legislature presented with changes to state's welfare programs

HELENA - For the most part, Montana's 4-year-old welfare overhaul has been successful in helping low-income people get jobs and get off welfare. The problem, said one state health and welfare official, is that many of those working people remain poor.

"It was less successful in getting people out of poverty," said Hank Hudson, administrator of the Human and Community Services Division of the Department of Public Health and Human Services.

The number of people receiving public assistance in Montana has dropped from an average of more than 11,000 a month to fewer than 5,000 a month, and at least 60 percent of the people who no longer receive public assistance are working.

"It's not enough just to have a job," Hudson said. "You need a job to raise the income above poverty level."

To help the working poor and to address other lingering problems with the state's public assistance system - known as Families Achieving Independence in Montana, or FAIM - the Department of Public Health and Human Services has proposed a second wave of welfare revisions called FAIM Phase II.

FAIM Phase II contains several proposals to help people who are working but not quite making it. Low-income working families could receive training to ensure they can continue working. People who would normally lose their cash assistance after finding a job could receive an extra month's payment to get them by until their first paycheck. Working families at or below 150 percent of the federal poverty level - about \$21,225 for a family of three - could get financial assistance during crisis situations.

Also under FAIM Phase II, people just entering public assistance would get more intensive, individual help with personal problems that prevent them from finding or

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keeping a job.

And those who could not keep or find a job because they didn't have transportation would have the opportunity to purchase surplus state vehicles. The Department of Public Health and Human Services would actually buy the cars - about 25 each year - and re-sell them to public assistance recipients through local nonprofit organizations.

Perhaps the most controversial of the proposals is to allow convicted drug felons to receive benefits. They would be required to follow certain conditions such as court-ordered drug treatment, Hudson said. According to federal law, convicted drug felons cannot receive public assistance unless states choose to allow it; all other felons can get benefits.

In an informational meeting with legislators on Thursday, Hudson said assistance for drug felons would be tightly controlled, and the Legislature has the power to decide how tight. He said he would not rule out testing as one of the requirements.

In a recent poll commissioned by Lee Newspapers, only 23 percent of the voters questioned said they would support extending welfare benefits to convicted drug felons.

A survey of people who had applied for public assistance in Montana last year found that as many as 266 people had been denied because of a drug felony.

"I think there will be some serious debate about some changes to (FAIM)," Sen. Mignon Waterman, D-Helena, said. Waterman served on a FAIM II advisory committee, and she also serves on the appropriations subcommittee that will hear changes to the budget for public assistance. She said, however, that she believes people will be supportive of the changes if they fully understand them.

Wendy Young, a lobbyist for Working for Equality and Economic Liberation (WEEL), said FAIM II should be more extensive.

"There's a lot of innovative ideas out there," Young said. "Some of them are in FAIM Phase II; some of them are at the grass-roots level." The new package will not

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work because it does not address all of those ideas, she said.

Young said she would like to see assistance for those who would like to go to college. And, she said, there needs to be some kind of child support assurance written into the package.

Briana Kerstein, a lobbyist for Montana People's Action, also said there needs to be a "real focus" on helping people get post-secondary training. She also called for help in obtaining affordable housing and for a state-level earned income tax credit for Montanans on public assistance.

Crystal Palmer agrees with both Young and Kerstein. As a young mother in living in Missoula, Palmer was in the FAIM program for several months in 1998. She said she didn't get enough individual attention from her case workers and felt forced into certain classes and programs that didn't help her in her situation.

Palmer eventually asked to have her case closed. Since then, she has been working odd jobs to support herself and her 3-year-old son.

"I went to get some help and some sort of job training," Palmer said, adding that she wanted help with college, but trying to get that help was cumbersome.

"I was looking for something, you know, like computer skills. ... My whole experience with the welfare system didn't do me any good at all. It just put a bad taste in my mouth."

Hudson said FAIM Phase II aims to give people more of the individual attention Palmer said she didn't get. He said there will be a push to improve customer service at local offices of public assistance - and to make that service more closely tailored to individual needs.

But before any of these new proposals become part of Montana's welfare system, two things have to happen in the Legislature.

First, the Legislature has to pass bills to change the state's welfare laws and make

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all of the proposals legal. Second, the Legislature has to approve changes to the program's budget.

Hudson said the state's general fund - Montana's checkbook - would not lose any money to these proposed changes in public assistance.

Going into fiscal year 2001, the state had a surplus of nearly \$27 million in federal welfare money. The department plans to spend that money by 2005, Hudson said, but needs legislative approval to do it.

Three-quarters of the money for FAIM comes from the federal government in the form of a yearly block grant. The state is required to pitch in about \$15 million each year for "maintenance of effort." Although the federal government makes some restrictions on how the money is spent, Hudson said the requirements are generally flexible.

After the surplus was spent, the incoming block grant would be used to continue paying for programs, Hudson said. The new programs are not expected to use up more money than the state can bring in with the grant.

"We didn't want to build up a program so huge while we had the money and then just end it," he said.

But there are other bills and ideas competing for those unspent federal dollars. In the information session Thursday, Hudson said he knew of about \$20 million in proposals for that money - although not all of those proposals have been drafted into bill form yet.

## Bill would create safe havens for babies

HELENA - Members of the Senate Judiciary Committee heard testimony Wednesday on a bill to allow people to leave infants 30 days old or younger at a medical facility or law enforcement center without being prosecuted for abandonment.

Senate Bill 132 is sponsored by Sen. Mike Halligan, D-Missoula. At least 13 other states have enacted similar laws, and 12 states are considering such laws. The committee did not take immediate action on the bill.

In introducing the bill to the committee, Halligan mentioned the case of a newborn girl left in a Dumpster outside a Missoula bowling alley in March of 1999. She was found, wrapped in a blanket, inside a plastic bag. She survived, but that isn't always the case.

Halligan said his legislation would give a "traumatized mom or dad" the option to leave a baby in a safe place. Under the bill as it is now written, the person dropping off the baby could remain anonymous if he or she chose.

Because leaving the baby with the police or a doctor would be considered abandonment - even if it were not prosecuted - parents who did so would lose their parental rights. If a mother dropped off her baby without the father's consent, the father would have 30 days to file for custody. But the Department of Public Health and Human Services, which would be responsible for placing the baby in an adoptive home, would not be obligated to find the baby's birth parents or relatives if the person who dropped off the baby didn't identify them.

Although no opponents to the bill came forward during the committee hearing Wednesday, several supporters, including Halligan, expressed concern about parts of the bill.

"This bill is not done now," Halligan said. "It will need amendment. It will need work."

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Halligan said he wasn't sure terminating the parental rights of the person dropping off the baby was entirely constitutional.

Others said the bill should require greater effort to find the other parent.

"I fear that the rights of the nonrelinquishing parent could be abused under this legislation because there is no requirement that the birth father be notified," said Rosemary Miller of Catholic Social Services.

Kimberly Kradolfer said both parents should have a chance to reclaim the child. Kradolfer, an assistant attorney general, served on an adoption task force that helped rewrite the state's adoption laws in 1997. She spoke on her own behalf.

"I truly believe that, in such circumstances, there should be a window of opportunity for that birth parent," Kradolfer said.

"You need to have an opportunity for them to come back within a reasonable amount of time," she said after the hearing.

Kradolfer and several others who spoke in support of the bill said the person dropping off the baby - generally presumed to be the mother - should be given counseling.

"We need to provide services for mothers if they go through this process," said Colleen Murphy, executive director of the Montana Chapter of the National Association of Social Workers.

Murphy said research has shown that women who abandon their babies are typically young, healthy, unmarried first-time mothers who are not addicted to any substances and who are in massive denial of their situation. They do not get prenatal care, and they make no plans for caring for their baby after it is born. They need help making decisions.

But Murphy cautioned: "Just by passing this legislation doesn't mean these women will break through their denial and put their babies in a safe place."



Halligan agreed that counseling should be offered. He said the committee would have to decide on the time frame - whether the counseling would be given before, when or after the baby was dropped off - and how much counseling could be given.

Halligan said the bill is not intended to be a “panacea” and cannot solve all of the problems associated with abandoned babies and the people who abandon them.

“We’re trying to provide a safe haven in extreme cases where young people are traumatized,” Halligan said.

## Child Support Enforcement Division faces funding cuts

HELENA - When a joint appropriations subcommittee finished making recommendations for the Child Support Enforcement Division's budget Tuesday, division administrator Mary Ann Wellbank said hopefully, "It's not over until it's over."

In an effort to save costs over the next biennium, the Joint Subcommittee on Health and Human Services voted to close one of the division's five regional offices and cut by nearly half a \$1 million request to upgrade the division's computer system. The total savings would be about \$1.5 million.

Subcommittee chair Rep. Dave Lewis, R-Helena, said he hoped some of the money saved would curb cuts to the state's mental health program.

"I thought, well, we better set some priorities," he said.

But Wellbank said the cuts to her division's proposed budget "would be a downward spiral." Cutting staff and computer upgrades would limit the division's ability to do good work efficiently, she said. The division relies on good, efficient work for federal incentives - money that it requires to operate.

"We'll continue to be backlogged with things we could do to improve our efficiency," Wellbank said.

About a third of the division's money comes from state special revenue - including federal incentives - and the rest comes in the form of federal matching funds. None of the division's budget comes from the state general fund, which is like the state's checkbook.

For every dollar in incentive money that the division loses, it loses \$2 in federal matching funds, Wellbank said.

The Child Support Enforcement Division provides services ranging from child

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support collection to establishing paternity. The services are mandated by the federal government.

The subcommittee did approve three new budget proposals for the division.

One would pay for two new employees, a paralegal and a person who would act as a liaison between the division and those who are required to pay child support. The new hires would cost the department \$80,374 a year for the next two years.

Another \$300,000 would go toward paying fees to financial institutions in the state. Under federal law, the state must check its records against bank records to find parents who are behind in child support payments - and to freeze or seize their accounts. The state has to pay financial institutions for the work they do in matching records.

And \$122,414 would pay for a study to determine the cost of raising a child in Montana. Wellbank said one of the factors her division is required to consider is the cost of raising a child, but no one has ever done a study specific to Montana.

Before any of the subcommittee's recommendations become law, they have to be approved by House and Senate committees on appropriations and finance and, finally, by both full houses of the Legislature and Gov. Judy Martz.

## Bill revises abuse and neglect laws

HELENA - A bill sponsored by Sen. Emily Stonington, D-Bozeman, would both enhance and reduce the role of the Department of Public Health and Human Services in child abuse and neglect cases.

Senate Bill 116 was first requested by the department, and it was heard Wednesday in the Senate Public Health, Welfare and Safety Committee. The committee did not take immediate action on the bill.

SB116 would give the department, not courts, the authority to decide where children should live after a determination of abuse or neglect. But it would take away from the department the responsibility to investigate possible cases of abuse and neglect by day-care providers. In addition, the department would no longer have to be involved in pre- and post-placement evaluations of parents in direct-placement adoptions.

And it would provide new ways to address abuse and neglect, including a provision that would allow the department to request the removal of the abuser - not the child - from a home.

Under SB116, an abusive parent could also be required to provide the department with the names and addresses of noncustodial parents and other extended family members. Having that information on hand would make it easier to place a child with a family member, rather than in a foster home.

The bill would also make some changes to bring the state into compliance with federal law, including requiring background checks for potential foster parents.

An amendment would allow the department to determine the urgency of reports of abuse and neglect and whether an investigation is required. Current law says all reports must be investigated.

Chuck Hunter, the administrator of the Child and Family Services Division of the department, said the proposed "triage" would allow case workers to hold off on investi-

gating reports they knew were false. It would also make it easier to get more work done within the confines a limited budget that does not allow for hiring new social workers.

SB116 is similar to SB170, heard by the Senate Judiciary Committee last week. SB170, for example, includes a provision for removing a perpetrator of abuse from a home. But SB170 would also drastically reorganize the current law, which SB116 does not do. The bills are not mutually exclusive, and Hunter has put his support behind both bills.

No one spoke against SB116 during Wednesday's hearing, but all in favor had recommendations for improvements.

Several people, including Montana Child Care Association president Ann Lynch, said the department should continue to investigate reports of abuse and neglect by day-care providers. Lynch said workers with the state's day-care licensing agency, which would be in charge of those investigations, are not trained for that kind of work.

"Licensing does a wonderful job, but they don't go in," said Rep. Jeff Mangan, D-Great Falls. "You don't call licensing to report child abuse and neglect."

Missoula District Court Judge John Larson urged the committee not to take away courts' authority to make placement decisions. He said courts nationwide were given that authority 20 years ago to speed up the system and get kids out of foster care sooner.

Stonington said some of the changes the bill makes are in response to the department's tight funding. She said the department needs greater authority to make decisions about cases, but it also needs to be released from some responsibilities.

"These are some tough lines to draw, and we will have to address them," she said.

## Lee: Child support assurance needed

HELENA - A bill to make sure single moms and dads get their child-support payments - even when noncustodial parents don't pay up - drew emotional arguments from supporters and opposition from the state health department during a hearing Monday.

House Bill 122, heard by the House Appropriations Committee, would create a pilot program involving 5,000 low-income families in five Montana counties. The committee did not take immediate action on the bill.

With \$6.2 million for the next two years, the program would pay those families' child-support payments, while also making attempts to collect that money from the people who are supposed to be paying in the first place.

The money would also pay for a study to determine whether the program would be a worthwhile investment for the entire state.

The idea is to make sure those families get their child-support payments so they can stay off public assistance, said bill sponsor Rep. Michelle Lee, D-Livingston. Last session, Lee, who had not yet been elected, spoke at several hearings on a similar bill that did not pass. She is both a custodial and a noncustodial parent, and she said the issue is extremely important to her.

Lee said the \$6.2 million for the program would not come from the state general fund, the state's checkbook. Instead, it would come out of approximately \$15 million in "maintenance of effort" money the state has to pay each year toward programs to help the poor. The state is required to put forth that money in exchange for about \$44 million in federal funds for public assistance.

The principle behind the pilot program is that child support should be the primary source of financial support for poor, single-parent families, and public assistance should only be used for back-up, Lee said. Ensuring child-support payments for low-

income families is less costly to the state and gives the money directly to the families, she added.

But the state Department of Public Health and Human Services doesn't agree.

Karlene Grossberg, chief of the department's Public Assistance Bureau, described Lee's proposal as a "long-term entitlement."

Grossberg also said the \$6.2 million Lee wants to take out of the maintenance of effort funds is already being spent on other programs. And, she added, the department has proposed a much more limited child-support assurance system in a package of programs for the second phase of the state's welfare overhaul.

"We cannot afford this child-support assurance program," Grossberg said of Lee's proposal.

But several women testified that the state can't afford not to have the program. And, they said, getting child-support payments could keep them off public assistance.

Lisa Ellis said her daughter's father pays child support "at his convenience." She has put herself through college and has a career, but she said there have been times when she really needed that money.

"It allows us to take control of paying our bills on time," she said.

And Sherrie Reed said she had been on public assistance a few times over the years, when her three jobs weren't enough to pay the bills for her and her children. Her child-support payments have been sporadic, she said, and could have made the difference.

Reed said women are punished by the current system. They have to accept public assistance when all they need are the payments they're entitled to.

"People are judged for many things they cannot change, and they need a hand up," she said.

Mary Ann Wellbank, administrator of the department's Child Support

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Enforcement Division, said efforts are already being made to collect child support.

Wellbank did not take sides in the debate; she only provided information.

She said her division is about 57 percent successful, based on payments that were supposed to be made in a year and payments actually collected. And the division has several tools to get parents to comply. Among other things, it can suspend professional licenses or drivers' licenses, withhold income, offset tax refunds and seize bank accounts.

But Lee said she sees her bill as a way to both enforce child-support and help low-income families.

"I see it as a form of law enforcement," she said. "The law is not being enforced when child support is not collected."



## Legislator calls for CHIP expansion

HELENA - The House Human Services Committee heard testimony Wednesday on a bill to extend the Children's Health Insurance Program to more children and allow some parents into the program.

The committee did not take action on House Bill 222, sponsored by Democratic Rep. Michelle Lee of Livingston.

The Children's Health Insurance Program, or CHIP, provides low-cost or free health insurance to children whose families cannot afford insurance but don't qualify for Medicaid. In Montana, the program is limited to families whose yearly income is 150 percent or less of the federal poverty level - \$25,575 for a family of four.

Federal regulations allow states to raise the income limit to 200 percent of the poverty level. HB222 would do that.

The bill would also allow parents of children who qualify for CHIP or Medicaid to get health-care coverage under CHIP.

Lee said she would amend her proposal to make more children eligible for Medicaid. That change would move some children out of CHIP and onto Medicaid, making more CHIP money available for the expansion.

Several at the hearing applauded any effort to insure low- to moderate-income parents.

"Parents cannot be parents when they're sick," said Briana Kerstein, a lobbyist for Montana People's Action.

Kerstein said it is very easy for uninsured parents to find themselves in debt because of unexpected medical bills. And, she said, a lot of working parents don't qualify for Medicaid and can't get insurance through their jobs.

Colleen Murphy, executive director of the Montana Chapter of the National Association of Social Workers, said families are falling through the cracks of the current

system.

“People are facing desperate situations,” she said. “They don’t qualify for Medicaid. They don’t have insurance. ... We’re going to pay for this one way or the other.”

“This is important for families, particularly with what we’re facing economically in this state,” Lee said.

Although no one at the hearing spoke against Lee’s bill, a state official said there are hurdles to implementing the bill’s proposals, even if it does pass.

If CHIP were expanded to include more children - and their parents - the program would still be limited to a set amount of money, said Mary Dalton, chief of the Medicaid Services Bureau. Eighty percent of that money comes from a federal grant that does not change based on the number of people eligible for the program.

If the state had to limit the number of people in the program because of insufficient funding, the bill would give priority to children and cover the most needy children first. Parents would only be covered after all of the children were covered, and the most needy parents would get priority.

Dalton said there is leftover CHIP money that could offset the cost of increasing the income limit to 200 percent of the federal poverty level. But there are other programs, including mental health services, that are hoping to use it.

And there is a chance the federal government wouldn’t even allow the state to cover parents.

The state would have to get a “research and demonstration” waiver from the federal government before parents could participate in the program, Dalton said. Under the waiver, the state would have to prove it could serve all of the children it now serves - plus eligible parents - without increasing the cost of the program. The state would also have to continuously study the effectiveness of the expanded program.

To avoid increasing costs, the state would have to talk an insurance company into accepting the same amount of money to cover a parent and three kids as it now takes in for just the kids, Dalton said.

There are at least two other bills this session that would increase the CHIP income limit from 150 percent to 200 percent of the federal poverty level. Gov. Judy Martz has proposed raising the limit to 160 percent of the poverty level.

## Crowd calls for better caretaker wages

HELENA - "Wage parity" were the words of the day Thursday, when more than 150 people packed the old Supreme Court chambers in the Capitol for public testimony on services for the developmentally disabled.

The Joint Appropriations Subcommittee on Health and Human Services listened for more than three hours as people with developmental disabilities and their families, friends and caregivers told their stories. People came from all over the state to attend the hearing.

Most who testified said caregivers who work in community group homes deserve higher wages.

And many wore yellow T-shirts bearing the logo, "Why is 62 percent a failing grade?"

The reason, they said, is that community-based caregivers make only 62 percent as much as caregivers at the state's two institutions for the developmentally disabled.

The state funds caregivers' wages at 52 private, nonprofit corporations that serve people with developmental disabilities. Those workers make 23 percent to 38 percent less than people who do the same work at the state institutions, said Joe Mathews, administrator of the Disability Services Division of the Department of Public Health and Human Services.

Tamara Kittleson-Aldred of Missoula asked the subcommittee to "please support us parents by providing better support for the people from whom we need help."

Kittleson-Aldred's 11-year-old daughter has multiple disabilities and receives state-funded services. But, she said, more services should be available for both children and adults - and that won't happen until caregivers are paid more for providing them.

Robert Kinn, like many community-based caregivers who spoke at the hearing, said he can't afford to keep his job. He is a graduate student at the University of

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Montana and works for Opportunity Resources in Missoula.

“It’s the most fantastic job I’ve ever had,” he said. “I love it. Opportunity Resources is such a special place.”

“I want to do this, but I can’t. I don’t get paid enough.”

Former Gov. Marc Racicot had asked for wage increases for caregivers at a rate of 5 percent next year and 10 percent in 2003. Gov. Judy Martz’s budget reduced the increases to about 4.6 percent and 9.3 percent, for a savings of about \$468,000.

Neither increase would raise community caregivers’ wages to equal those of the institutional caregivers. But it’s a start, Mathews said.

Fran Sadowski, executive director of the Missoula Developmental Service Corporation, said low wages lead to a nearly 60 percent turnover among the caregivers at her organization. MDSC serves people who need 24-hour care - and for whom consistency is extremely important.

Sadowski said the hardest thing about losing staff is seeing her clients cry when they go.

Judy Stewart, executive director of Ravalli Services in Hamilton said losing staff is “getting to be almost a crisis.” Stewart said her caregivers can make more money with a lot less stress at K-Mart.

But she said her clients need consistent care. For many of them, the staff at their group home is their only family.

“They get real attached to them, and then when they have to leave because of wages, they suffer,” Stewart said.

Othelia Schulz of Anaconda said she worries about her son, who is moving from the Montana Developmental Center in Boulder to a Helena group home. She wanted assurance that there would be a consistent group of people to care for him in his new home.

“I’m wondering how he can be cared for in the way that he should be in his condition,” Schulz said. She would bring him home if he could, she said, but she is getting older and is unable to do so.

And April Jenkinson of Kalispell said she has very personal reasons for wanting her caregivers to stay on the job.

“I don’t like it when new people come in to help me with bathing,” she said. “It is hard to tell new people what to do all the time.”

Jenkinson said she doesn’t like having to change her bath time whenever she gets a new helper, and she doesn’t like having to undress for so many different people.

The subcommittee will vote on the Disability Services Division budget Friday. Martz’s proposed budget also contains a proposal to increase wages for people who provide vocational rehabilitation services for people with disabilities.

## Panel approves caretaker wage increases

HELENA - People who provide community-based services for the disabled are almost guaranteed bigger paychecks in coming years, but they may not know how much bigger until the end of this legislative session.

“If we can churn through this and find the money, this is one of our top priorities for the budget,” Sen. Bob Keenan, R-Bigfork, told the Joint Appropriations Subcommittee on Health and Human Services on Friday. Keenan sits on the subcommittee and also heads the Senate Finance Committee.

In an often emotional two-hour discussion of the budget for the state’s Disability Services Division, the subcommittee did vote in wage increases for community-based caregivers for the developmentally disabled and for vocational rehabilitation workers. Those increases were suggested in Gov. Judy Martz’s budget, which reduced proposals by former Gov. Marc Racicot.

Wally Melcher, a lobbyist for people with disabilities, said it would take \$24 million to match the wages of community-based and institutional caregivers for the developmentally disabled.

The increases the subcommittee approved were not as high Melcher and some others would have liked. They added up to approximately \$6.1 million of state and federal money for community caregivers and \$476,000 for vocational rehabilitation workers.

“We got a good start,” Melcher said. “We’re not there, but it’s a start.”

“Keenan went on record ... that this is one of the top three or four priorities in the Legislature.”

A study by the division showed that community-based caregivers for people with developmental disabilities make only 68 percent to 77 percent as much as those who do the same work in the state’s two institutions for the developmentally disabled. The state contracts for community services through 52 private, nonprofit organizations. Those who

work at the institutions are state employees.

On Thursday, more than 150 people showed up for public testimony in front of the subcommittee, and most of those testifying asked for increased wages for people who serve the disabled. People with disabilities - joined by their families, friends and caregivers - packed the old Supreme Court chambers in the Capitol for the four-hour hearing.

On Friday, Rep. Joey Jayne, D-Arlee, did propose the full \$24 million Melcher said is needed to balance caregivers' wages. She was voted down 4-2.

"I understand what Rep. Jayne wants to do, and I appreciate what Rep. Jayne wants to do," Keenan said. "But where is this money going to come from?"

Jayne - along with Sens. John Cobb, R-Augusta, and Mignon Waterman, D-Helena - also voted for Gov. Racicot's slightly higher wage increases. The motions were killed by a tie vote. Cobb said he plans to make a proposal to further increase caregivers' pay if he can find the money in the budget.

The subcommittee also voted to request the division and legislative staff to come up with a proposal to address the waiting list for disability services. Although children are guaranteed services, adults are not. Many who receive services as children end up on years-long waiting lists for those same services once they reach adulthood.

"I recognize the financial problems, but it makes no sense to me that we spend 15, 16 years helping a family ... and then, when they magically turn 18 years of age, they spend three years as a couch potato waiting for services," Waterman said.

The subcommittee also asked the division to move 32 people out of the state's two institutions and into community group homes. The decision came in response to a recent U.S. Supreme Court ruling that people must be cared for in the least restrictive setting.

"I don't like the public perception that the court is going to order us kicking and screaming to place people into communities," Waterman said. "I think it's the right thing to do."



## Lawmakers pursue CHIP expansion

HELENA - Several legislators' plans to make more needy children eligible for government-funded health insurance are a good idea but won't guarantee that more kids actually get insurance, an official said Tuesday.

"We'll cover however many kids we have dollars for," said Mary Dalton, chief of the state bureau that governs Medicaid and the Children's Health Insurance Plan, or CHIP. As of Jan. 1, the plan covered 9,503 children at a cost of \$117.70 per child per month.

Since the fall of 1999, CHIP has provided free or low-cost health insurance for kids who are ineligible for Medicaid but whose parents make no more than 150 percent of the federal poverty level - \$25,575 a year for a family of four.

At least three bills this session would raise the income limit to 200 percent of the poverty level - \$34,100 for a family of four - the highest allowed by federal law.

But CHIP is not an entitlement program, meaning eligible children aren't guaranteed enrollment, Dalton said.

The program is limited by the amount of money available, she said. Just over four-fifths of the money for CHIP comes from the federal government, with Montana's share capped at about \$13.17 million for each of the next two years.

An increase in insurance rates or a decrease in federal funding might affect the number of children CHIP can cover, Dalton said.

HB222, sponsored by Democratic Rep. Michelle Lee of Livingston, and HB337, sponsored by Democratic Rep. Gary Forrester of Billings, would not only increase the CHIP income limit to 200 percent of the poverty level, but also expand Medicaid eligibility.

Putting some CHIP kids on Medicaid would free up CHIP money, Lee said during a hearing on her bill last week.

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Lee's bill would also allow some parents into the CHIP program.

The third proposal, SB338, was requested by the Department of Public Health and Human Services. In addition to raising the CHIP income limit, the bill, sponsored by Sen. Dale Berry, R-Hamilton, would allow the department to reduce services rather than drop kids from the program if money were tight.

Although none of the three bills would guarantee coverage for every kid who fell under the income limit, they would give the department more flexibility in deciding whom to cover and how, Dalton said.

Even if the Legislature turns down all three bills, it is likely to pass at least a small increase in eligibility.

In her executive budget, Gov. Judy Martz proposed raising the CHIP income limit to 160 percent of the poverty level.

But in a meeting Monday with the subcommittee that makes initial budget decisions for the department, Dalton said the state should have enough money to cover kids up to at least 163 percent of the poverty level. A higher cap would give the department authority to cover as many kids as it possibly can, she said.

The Joint Appropriations Subcommittee on Health and Human Services will vote on the CHIP budget Wednesday.

The House Human Services Committee heard testimony on Lee's HB222 Jan. 24. Lee said she expects the committee to take action on the bill this week. The committee is scheduled to hear Forrester's HB337 at 3 p.m. Feb. 7.

Berry's SB338 was referred Monday to the Senate Public Health, Welfare and Safety Committee but has not yet been scheduled for a hearing.

## Senate approves welfare-overhaul bill

HELENA - The Senate gave unanimous voice-vote approval Wednesday to a bill that would allow the state to begin a second wave of changes to Montana's public assistance programs.

Senate Bill 77, requested by the Department of Public Health and Human Services, makes changes in the law that are needed for the department to continue its plans to better serve the state's working poor.

The bill will enable "the evolution of welfare reform in the state of Montana," said sponsor Don Hargrove, R-Belgrade.

The first phase of changes to the public assistance programs focused on getting people into jobs and off welfare. In four years, the department's caseload dropped from more than 11,000 people per month to fewer than 5,000 per month.

But not all of those who dropped off the rolls are out of poverty, according to Hank Hudson, who heads the department's Human and Community Services Division.

Hargrove said the most important part of SB77 is the creation of "nonfinancial assistance" for people who have jobs but can't quite make it on their own. Those people would not get direct cash payments, but they could get help with job services, training or transportation.

Another major change would allow convicted drug felons to receive public assistance. To qualify, they would have to follow the provisions of their parole and any other drug treatment the department might request. People convicted of drug-related offenses are the only felons who cannot already get public assistance.

The bill would also require all families to enter into - and follow - agreements with the department. The agreements would outline the responsibilities of both the family and the department while the family is on public assistance.

Some other changes are "minor and technical" but important, Hargrove said.

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They include allowing people to apply for assistance in whatever county they happen to be in at the time, not just the one in which they live.

The bill would also allow tribal governments that operate their own public assistance programs to make their own rules.

Gov. Martz's budget includes money to pay for the new programs SB77 would allow, nearly all of which would come from left-over federal block grants. The state gets a block grant of about \$44 million each year to pay for public assistance but has never spent the entire amount. Earlier this month, Hudson said the department planned to spend most of the left-over money, which adds up to nearly \$27 million, by 2005.

The department does have competition for that money, however. Legislators have made several other proposals this session to use the left-over grants for everything from transportation to child support assurance.

## Panel gets creative with program funding

HELENA - After a little creative shifting of funds Thursday, members of the Joint Appropriations Subcommittee on Health and Human Services said they were optimistic they had found the money to pay for four doomed budget proposals.

All of the changes are temporary, however. The subcommittee asked the legislative staff to make sure the money would actually be available and that their plans would really work.

Rep. Dave Lewis, R-Helena asked for \$150,000 from the Disability Services Division to pay for a statewide system to improve medical care for trauma victims. The Disability Services Division is expected to have \$273,000 left over at the end of the next two years.

Currently, funding for the trauma system is dependent on a bill that was tabled by the House Appropriations Committee last week. The bill would set up an account to pay for the system but would require an increase in motor vehicle fees to fill it.

Lewis said he planned to ask the committee to remove the fee increase and pass the bill.

Sens. John Cobb, R-Augusta, and Mignon Waterman, D-Helena, also relied on the extra money in the Disability Services Division.

Cobb's plan would give \$50,000 over the next two years to a donated dental care program. After the subcommittee voted to approve the plan, he said: "We still have \$225,000 (left over). I won't touch it again."

Cobb also twice tried and failed to get the subcommittee to vote to bust the tobacco trust. He would have used money from the trust to pay for tobacco prevention and increased pay for Medicaid providers.

Waterman proposed to use Disability Services money and funds set aside for expanding the Children's Health Insurance Plan to eliminate the Medicaid assets test. A

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family is ineligible for Medicaid if it has more than \$3,000 in assets, not including one car and one home.

Waterman said getting rid of the test would make as many as 1,500 low-income children who are now on CHIP eligible for Medicaid, freeing up CHIP money to cover more children. It would also result in less paperwork and less stress for both applicants and department employees, she said.

Finally, the subcommittee voted to take \$23,000 a year out of the senior and long-term care budget to avoid eliminating what is known as the “certificate of need” program.

If someone wishes to build a new nursing home in an area, that person must first get the certificate, which proves that the area does have a need for more nursing home beds. The program is supposed to prevent unnecessary construction that would put a strain on existing nursing homes.

## Parents, social workers call for more money for child protective services

HELENA - The state has the power to make bad homes better for kids, but it has to be willing to spend a little money to do it, a group of parents, social workers and concerned adults told a legislative panel Friday.

"Kids don't come with manuals," Missoula mom Nancy Greer said. Because she made some bad choices, Greer said, her children were taken away from her. But a state-funded program helped her get back on her feet, learn to be a better mom and finally bring her kids home.

Greer fought back tears as she spoke to the legislators on the Joint Appropriations Subcommittee on Health and Human Services and asked them not to cut funding for programs like the one that helped her family. The subcommittee will begin work on the budget for the Child and Family Services Division, which works with abused and neglected children and their parents, on Monday.

The help Greer needed came from Friends to Youth, a Missoula-based organization that has a contract with the state to work with families in which children are returning home from foster care or are likely to be removed.

Bob Deaton, a family-based therapist with the organization, said it costs about \$230,000 a year to work with those families in Lake, Ravalli and Missoula counties, and the money is worth it - to the families and the state. To put all of those children in foster care would cost more than \$1.1 million, he said.

Andree Deligdisch of Great Falls told the panel she has seen great improvements in the 45 years since she began working as a social worker in Montana. But, she said, more could be done.

She said the state needs to spend more money to work with parents and children

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in their own homes - before a situation gets so bad that children have to be taken away.

And, she said, the six new social workers in Gov. Judy Martz's budget aren't enough.

"I don't know where you get the money, but it isn't enough," Deligdisch said.

Chuck Hunter, administrator of the Child and Family Services Division, said a recent study indicated his division needs a total of 70 new social workers to keep case-loads at a reasonable level and ensure families get the attention they need.

He said he is realistic enough not to expect 70 new people. Instead, the division requested a smaller package of what it thought were reasonable increases in funding that would help give families more up-front attention and balance workload and staff size.

But Colleen Murphy, executive director of the Montana Chapter of the National Association of Social Workers, asked the subcommittee to spend what it can to recruit and retain more qualified, experienced case workers.

"Make gold out of sawdust," she said.

"You have to have those people; there's no two ways about it," said Sarah Biggins, a mom who has been through the system several times.

She said she lost custody of four of her children because she was having problems with alcohol and drugs. She has been clean for two years now and is raising her two youngest children, twins, on her own. But she has remained very involved with the division because she still needs help sometimes.

"I just cannot stress the support that these parents need," she said. Alcohol and drugs are "just the devil, and he pops up everywhere you go."

Ann Gilkey of the Montana Supreme Court Assessment Program said funding the division is "a matter of life and death" for Montana's children and families.

"We need to make the children in our state a priority," Gilkey said.

"This money is supporting the most vulnerable kids and families in Montana."



## Bills would repeal certificate of need law

HELENA - Building more beds than there are patients available to fill them might lead to better care, supporters of two bills to remove the state's control over construction of certain medical facilities told a Senate committee Monday.

"The policies of our past, especially as they control innovation and new development, have failed us," Kent Burgess of St. John's Lutheran Ministries in Billings said.

The Public Health, Welfare and Safety Committee did not take action on Senate Bill 178, sponsored by Sen. Bill Tash, R-Dillon, and SB221, sponsored by Sen. Royal Johnson, R-Billings.

The bills would affect nursing homes, inpatient chemical dependency and rehabilitation facilities and some outpatient surgical centers. Under current law, it is illegal to build or substantially expand those buildings without a "certificate of need" from the state. To get the certificate, a business must prove the community truly needs what it can offer.

Opponents of the bills say the current plan prevents unnecessary duplication of services and has little effect on competition.

"Everything about health care is regulated," said Mona Jamison, a lobbyist for the Great Falls Clinic. "This will not give you a free market in health-care delivery."

Jamison said the bills could actually hinder competition by allowing large hospitals to essentially take over in a community by expanding into nursing home care and other services - services the program has so far prevented them from providing.

The two bills are identical except that Tash's bill, requested by the Department of Public Health and Human Services, would only eliminate the program if the Legislature decided not to pay for it. The Department does not support eliminating the program but had to provide the bill in case funding was not available, said Mike Hanshew, administrator of the Senior and Long Term Care Division.

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The certificate of need program costs the state about \$48,000 every two years. Former Gov. Marc Racicot had included that amount in his budget, but Gov. Judy Martz cut it.

Last Thursday, the Joint Appropriations Subcommittee on Health and Human Services voted 5-1 to reinstate the funding, but the subcommittee's decisions are merely the first in a long line of budget adjustments the Legislature will make.

The lone vote against the funding came from Sen. Mignon Waterman, D-Helena, a longtime supporter of the program who said she has recently changed her thinking.

"We're preserving facilities that, in all honesty, I don't think deserve to be preserved," Waterman said Thursday. She said the program allows "antiquated, outdated, inefficient" facilities to continue business at the expense of newer and potentially better ones.

But Verner Bertelsen, a lobbyist for the Montana Senior Citizens Association, said eliminating the certificate of need program would increase costs and lead to the closure of places many senior citizens have come to call home.

## Waterman: Get rid of assets test

HELENA - Making two-parent families ineligible for Medicaid simply because they have a second car or a little money in savings is both unfair and inefficient, Sen. Mignon Waterman, D-Helena, told the Senate Finance Committee during a hearing Monday.

“By and large, we’re screening people out because they have an old, broken-down car that the spouse, or the husband, is driving to work,” Waterman said. She said eliminating a \$3,000 assets limit for Medicaid recipients would also reduce paperwork and streamline applications.

The committee did not take immediate action on Waterman’s Senate Bill 332, which would do away with the \$3,000 assets limit for some Medicaid applicants. Waterman asked the committee to hold its vote until she amends the proposal to include all applicants.

Under current law, a Medicaid applicant can own one vehicle and one home. Any other assets, including a second car needed for work, count toward the \$3,000 limit.

“The assets test is not a way to prevent fraud; it’s a way to prevent families from getting care,” Montana People’s Action lobbyist Briana Kerstein said.

Waterman said no one is quite sure yet what it will cost the state to eliminate the test, since it will make hundreds, and possibly thousands, more people eligible for Medicaid. But the Joint Appropriations Subcommittee on Health and Human Services, of which she is a member, voted unanimously last week to find the money to pay for it.

No one spoke against Waterman’s proposal.

## Education touted as way out of welfare

HELENA - The surest way to move people off welfare and out of poverty is education, Rep. Gay Ann Masolo, R-Townsend, told a legislative committee Wednesday.

Masolo's House Bill 425 would let people on public assistance go to school instead of work and continue receiving benefits and child care. The "Parents as Scholars" bill would not pay anyone's tuition; and it would require 180 hours of work a year, the equivalent of a 15-hour-a-week summer job. The House Appropriations Committee heard testimony on the bill Wednesday but did not take immediate action.

"Education is a solution of permanence for more families," lobbyist Wendy Young told the committee. Young, a representative of Working for Equality and Economic Liberation, said the low-income members of her organization made access to education their primary concern this legislative session.

"Wouldn't it be better if, when a family moved off assistance, they moved off forever?" Young asked. "Education is a way to do that."

Erik Burke of the MEA-MFT, the largest teachers' union in the state, said education is proven to increase income.

High school graduates make almost twice as much as drop-outs, and people who get two-year college degrees make one-third more than high-school graduates, he said. The Parents as Scholars program would allow people on public assistance to work toward a high school, two-year or four-year degree.

"Those people who do receive an education can become more successful in our economy today - immediately," Burke said.

Hank Hudson, who heads Montana's welfare programs, said he thinks the state has already reached an appropriate balance between education and work. The state's public assistance program includes a 30-hour-a-week work requirement, but some people are allowed to go to school and work only 15 hours a week - and still receive child care.

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Rebecca Moog of the Montana Women's Lobby said 15 hours of work a week was too much for her when she tried to go to college as a single mom with a 5-year-old and an infant. She said she had to drop out with only one year left to go.

"It's not just about economics for me," Moog said. "I would like to show my children it's a good thing to do."

But Masolo's bill drops the work requirements so low that the people in the Parents as Scholars program wouldn't technically qualify for federally-funded child care or public assistance, Hudson said. The several million dollars necessary for the proposal would have to come out of the state's already-allocated \$15 million yearly contribution to the public assistance programs.

Regardless of whether Masolo's bill passes, the state will spend both the state and federal money, Hudson said. But the Department of Public Health and Human Services has already come up with other ways to do it.

"It's just a matter of not doing something and doing this instead," he said.

Hudson said the Department of Public Health and Human Services does not oppose Masolo's bill. And he went so far as to say, "I kind of like it."

But the department has already set priorities for spending its welfare money, and he said the department would prefer to follow its own plan.

Ultimately, though, it will be up to the Legislature to make that decision. There are about a dozen bills in the works that would use welfare money in ways the department had not anticipated - from low-income housing assistance to purchasing surplus state vehicles to be resold to families on public assistance.

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## House refuses to revive CHIP bill

HELENA - Rep. Michelle Lee, D-Livingston, could not get the backing she needed Friday to revive her proposal to allow parents to buy into the state's insurance program for poor children.

The House voted 58-40 to leave House Bill 222 where it is, tabled in committee.

HB222 would have created a demonstration project to allow the parents of children on Medicaid or the Children's Health Insurance Plan to get insurance through CHIP. It also would have increased the income limit for CHIP from 150 percent of the federal poverty level to 200 percent.

"Our CHIP program is full," Lee said. "We have a waiting list." She said it's high time for the state to help insure more low-income families.

Rep. Roy Brown, R-Billings, said he wished he could support the bill but that the cost would simply be too much, at \$130 million.

"The cost is going to be very, very high," said Rep. Dave Lewis, R-Helena and chairman of the Joint Appropriations Subcommittee on Health and Human Services.

## More money requested for in-home care

HELENA - Eric Hauffer of Missoula said he would have had to stay in a nursing home if it weren't for a special Medicaid program that provides in-home care. But without more money, he told a legislative panel Tuesday, the program can't give people the quality of care they deserve.

Hauffer spoke in front of the Joint Appropriations Subcommittee on Health and Human Services. The subcommittee will make initial budget decisions for the Medicaid community services program on Wednesday. The program serves people in their own homes as an alternative to nursing home care.

Hauffer, who has muscular dystrophy, moved out on his own when he was 19 but then moved into a nursing home because he needed help with daily activities. The Medicaid community services program allowed him to move out of the nursing home and still get the help he needed, but he said that help isn't always guaranteed.

"It's just hard to get good caregivers and keep them with what they're paid," Hauffer said. He said he has been stuck in bed on days when his caregivers didn't show up to help out.

Owen Deardorff of Lone Pine said he can't even get caregivers in the remote, rural area where he lives. The problem, he said, is low wages.

"If I don't find a caregiver, I don't know what I'm going to do," Deardorff said.

The subcommittee also heard testimony on funding for adult protective services, veterans' homes and nursing homes that serve Medicaid patients. Gov. Judy Martz's budget includes proposals to add money to all of those programs.

## Committee hears final CHIP bill

HELENA - The Senate Public Health, Welfare and Safety Committee heard on Wednesday the last of three bills this session to expand eligibility for a government-funded insurance program for poor children.

Senate Bill 338, sponsored by Sen. Dale Berry, R-Hamilton, would raise the income limit for the Children's Health Insurance Plan from 150 percent of the federal poverty level to 175 percent. For a family of four, the income limit would rise from \$25,575 to just under \$30,000. The bill would also give the Department of Public Health and Human Services authority to pay for some medical services on a fee-for-service basis, rather than relying on an insurance plan.

The department made the initial request for the bill to cover what it saw as flaws in the law.

Mary Dalton, who heads the department's CHIP and Medicaid bureau, said the bill is necessary to ensure the state can insure as many children as it has money for. For every \$1 the state puts into the program, it gets \$4 from the federal government - up to a total of about \$15 million. Even if there were enough money to insure kids above the current income limit, the department wouldn't have the authority to do so without the bill.

The fee-for-service provision merely clarifies the law, she said. The state already pays for eyeglasses, dentistry and some mental health services for kids on a fee-for-service basis but has never been given clear authority to do so.

In the case of dentistry, the state was forced to take the fee-for-services route. The federal government requires the program to include those services, but Blue Cross Blue Shield of Montana, the only insurance company in the state that covers CHIP kids, did not have enough member dentists to do so.

But representatives of Blue Cross Blue Shield of Montana said they wanted to



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limit the state's ability to bypass insurance plans through fee-for-service programs. They said the provision gives the state too much ability to randomly carve services out of the insurance plan.

Two other bills to increase CHIP eligibility have been tabled in committee. HB337, sponsored by Rep. Gary Forrester, D-Billings, would have increased the income limit for both CHIP and Medicaid to 200 percent of the federal poverty level. HB222, sponsored by Rep. Michelle Lee, D-Livingston, would have increased the CHIP income limit to 200 percent of the poverty level and expanded the program to include some parents of CHIP- or Medicaid-eligible children.

## Activist groups dislike new welfare plan

HELENA - Advocates for Montana's poor said they were disappointed after a legislative panel unanimously approved a package of welfare spending programs Wednesday.

Kate Cholewa of the Center for Policy Analysis and Community Change said the panel gave the department too much flexibility, creating concern among some advocates that money will be misspent or unspent.

"When we see low-income housing, we want to see that money is meeting needs," Cholewa said.

"It doesn't create the accountability that we need. ... It gives them way too much discretion."

The package of programs is a revised version of what had been presented to the Legislature this year as the second phase in the state's welfare overhaul. Advocate groups had criticized the original proposal for not providing enough money for education, housing and transportation.

Last week, the Joint Appropriations Subcommittee on Health and Human Services directed the Department of Public Health and Human Services to revisit its original proposal with the goal of spending at least \$16 million in the next two years. By the beginning of 2002, the state will have about \$29 million in unspent federal welfare money, and there is some concern that the feds will take it back if the state doesn't spend it.

The department's new proposal includes money for children's mental health services, special tribal programs and tribal mental health services, low-income housing, transportation and allowing parents to attend school as part of their public assistance work requirements.

The proposal did include \$664,950 for "faith based services" - largely in

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response to President Bush's recent commitment to church-sponsored programs. At the request of Sen. John Cobb, R-Augusta, however, the subcommittee voted to instead dedicate that money to further enhancing tribal programs.

Cobb also led a vote to combine the funds earmarked for tribal programs and tribal mental health services, giving the tribes more discretion in spending the money where it is needed most. In addition, the subcommittee voted to line item tribal programs to ensure the money is not spent elsewhere.

Chippewa Cree Tribal Councilman Tony Belcourt of Box Elder complimented Cobb for his efforts, saying his changes would give Montana's Indian people more control over their destiny.

"That helped us a lot with our tribal programs," Belcourt said.

But, he said, the tribes received considerably less money under the new proposals than they had requested. And he asked why the tribes were not given more say in the process.

Wendy Young of Working for Equality and Economic Liberation also wanted more say in the process. She said the department's recommendation for education programs "gutted" the intention of a similar proposal her organization supports. She said she would be meeting with the department later in the day to discuss her concerns.

## House passes welfare education plan

HELENA - Under a bill approved by the House Thursday, school time would count as work time for people on public assistance.

“If we want to get people out of the cycle of poverty, education is a way to do it,” Rep. Norma Bixby, D-Lame Deer, told the body. Bixby, the sponsor of House Bill 344, was the only person to speak on the bill before it passed second reading on a vote of 62-37.

The bill would eliminate the current 15-hour-a-week work requirement for full-time students on public assistance. Bixby said doing away with the work requirement could make the difference for people who simply cannot balance their commitments to their family and school with a part-time job.

Besides, she said, college is a full-time job.

Under Bixby’s bill, people would still have to pay their own way through college. It would merely set aside the work requirement, making it easier for them to find the time for college - and, after graduation, to find a high-paying job.

The bill would also allow certain family members to provide state-funded child care without getting state certification. The state would pay them in the same way it pays other day-care providers who look after children whose parents are on public assistance. Parents would have to sign an agreement releasing the family member from the certification requirement and background check.

“One of the basic philosophies of FAIM (Montana’s public assistance program) is to strengthen family values, and there is no better way to do this than to allow relatives who know the children to take care of them,” Bixby said.

She said the change would better recognize how extended Native American families care for each other and would make it easier to find child care in rural areas.

The Joint Appropriations Subcommittee on Health and Human Services approved

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a similar measure earlier this week as part of a welfare spending package. That proposal would require 10 hours of work a week. It would also allow the Department of Public Health and Human Services to provide some kinds of assistance to people who have left welfare but need education to increase their wages.

Rep. Gay Ann Masolo, R-Townsend, has also introduced HB425, the "Parents as Scholars" bill. It would require 180 hours of work a year - equivalent to a 15-hour-a-week summer job - and would stop the 60-month time clock for people on public assistance while they were in school.

## Panel votes to fund Libby worker

HELENA - Following a legislative panel's decision Thursday, the town of Libby is likely to get some help finding money for residents who suffer from asbestos-related illnesses.

The Joint Appropriations Subcommittee on Health and Human Services agreed to pay for a contract worker whose sole responsibility would be finding grants for counseling and medical care for people who are ill because of asbestos exposure. The money - up to \$18,500 a year from the state's pocket - will only last two years. The subcommittee also asked the Department of Public Health and Human Services to find a way to pay for the worker without using state money.

Rep. Eileen Carney, D-Libby, approached the subcommittee earlier this month to ask for \$18,500 a year for the worker. She sponsored a bill to create the job, but it was tabled in committee for lack of funding.

Carney's bill requests a half-time state employee for the job, but the subcommittee determined it would be less expensive to hire a contract worker.

Family and Community Health Bureau chief JoAnn Dotson told the subcommittee that contracting for the job would give the department more flexibility and would eliminate some costs, including office space.

She said the department does worry that other counties will come forward with similar requests. But, she added, "The idea is a good one to get some assistance."

Hundreds of Libby residents have been diagnosed with asbestosis and other asbestos-related illnesses linked to a now-defunct W.R. Grace and Co. vermiculite mine there. Tremolite asbestos is a contaminant of the vermiculite ore the company mined near Libby.

## Senate votes to expand CHIP

HELENA - The Senate approved a bill Wednesday that would make more kids eligible for government-funded health insurance but wouldn't necessarily insure more kids.

The idea behind the bill is to ensure the state can cover as many children as it has money for under the Children's Health Insurance Program, or CHIP, said Sen. Dale Berry, R-Hamilton and sponsor of Senate Bill 338.

"This merely opens the cap," Berry said just before the Senate voted 36-13 to approve the bill.

SB338 allows the Department of Public Health and Human Services to raise the income limit for CHIP families from 150 percent of the federal poverty level to as high as 175 percent - from \$25,575 to just under \$30,000 for a family of four. The bill does not require the department to raise the income limit if it does not have money to cover additional children.

Sen. Bill Glaser, R-Huntley and an opponent of the bill, said raising the income limit could lead to a situation in which poorer kids wait in line for coverage behind kids whose parents make more money.

"They're voting for waiting lists," Glaser said. "Kids that are just above poverty level are going to be on waiting lists."

The program is now capped at about 9,500 children, and there is a short waiting list. But Gov. Judy Martz's budget includes about \$1.5 million in additional funds for CHIP, including about \$291,000 from the state's pocketbook.

Mary Dalton, chief of the Medicaid Services Bureau, has said the increase is enough to cover children whose parents make up to about 162 percent of the federal poverty level, and the bill would simply allow the department to raise the cap to cover those kids. Current law will not allow the department to cover kids whose parents make

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more than 150 percent of the poverty level, even if the money is there.

The bill also clarifies that the department can directly pay doctors or other medical providers for services an insurance plan does not provide. Children on CHIP already get dental care, eyeglasses and mental health services on a fee-for-service basis.

Two other bills to increase CHIP eligibility were tabled in committee. HB337, sponsored by Rep. Gary Forrester, D-Billings, would have increased the income limit for both CHIP and Medicaid to 200 percent of the federal poverty level. HB222, sponsored by Rep. Michelle Lee, D-Livingston, would have increased the CHIP income limit to 200 percent of the poverty level and expanded the program to include some parents of CHIP- or Medicaid-eligible children.



## Subcommittee closes book on budget

HELENA -The House Appropriations Committee this week took a final look at the state health department's spending plans, switched some funding here and there, added money for audio-visual equipment in five rural hospitals and called it good.

The committee also added \$1.6 million to correct mistakes to the Department of Public Health and Human Services' budget made when Gov. Judy Martz's staff underestimated needs for mental health, nursing homes and home-based services.

Not everyone is satisfied. Advocates for the poor criticized aspects of the second phase of the state's welfare overhaul. And a lobbyist for Montanans with disabilities said the Legislature needs to find more money for people who care for the disabled in community settings.

Since January, the Joint Appropriations Subcommittee on Health and Human Services has been picking through the department's budget with a fine-toothed comb. When members were finished, they had increased the budget by more than \$50 million - but decreased the amount coming out of the state's pocketbook by \$4.2 million. The \$2 billion budget -largest of any state agency - gets more than half its money from the federal government. After the committee's action Monday, less than \$50 million will come from the general fund, the state's checkbook.

"Some good things happened," said lobbyist Kate Cholewa of the Center for Policy Analysis and Community Change.

"Our big concern was making sure that the money got spent the way it was intended," Cholewa said.

On Monday, the committee required the money for some new welfare proposals be spent only on those projects. That included more than \$3 million for Indian tribes to use for special projects and job training on reservations, \$3.5 million for the Board of Housing to assist poor people, \$500,000 for high-wage and high-skill job training and

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\$195,000 for adult basic education.

“That’s more money that we feel secure is going to get out into communities - and is going to get out there and do something, rather than just sitting in a pile somewhere,” Cholewa said.

In the next two years, the state will spend nearly \$32 million on one-time welfare projects, a \$14 million increase over Martz’s budget, mandated by the subcommittee to spend down \$27 million in leftover federal welfare money.

Hank Hudson, administrator of the Human and Community Services Division, said he is happy with the new plan, but it will be a challenge to actually spend all of the money, a concern shared by Cholewa.

“There are a lot of good uses for this money,” Hudson said. “It’s more a matter of setting our priorities, and I think our priorities are good coming out of the House.” One priority, he said, is reaching out to the working poor with programs to help them find and keep better jobs.

But Cholewa said the spending plan does not adequately address the need for education as a way out of poverty. The plan includes assistance for people who want to go to college, but limits it to two years.

In addition, she said, the plan does not include any child support assurance for people on welfare, an idea with broad support among community organizations.

A grass-roots proposal that made the cut is elimination of Medicaid assets test. People with incomes below 133 percent of poverty but who have more than \$3,000 in assets - a second car or a savings account, for example - are disqualified from Medicaid. That includes hundreds of children.

Many of those children then wind up in the government-funded Children’s Health Insurance Plan, or CHIP, which has a limited number of slots. By eliminating the assets test, those kids would get Medicaid coverage, freeing up CHIP slots.

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“It will make the process simpler for all of the kids,” Montana People’s Action lobbyist Briana Kerstein said.

A major department goal, said Director Gail Gray, was increasing provider wages, which was done across the board at a cost of \$44 million, \$12 million from the state’s pocketbook.

Bob Olsen of the Montana Hospital Association said increases for hospitals that provide Medicaid services “are going to be OK.” The 1.85 percent increase is still far below inflation, which has been over 3 percent, he said, but Medicaid payments are only about 10 percent of the payments hospitals receive.

Medicaid increases for nursing homes, which will be about 4.5 percent for each of the next two years, are much more important, he said.

“They’re under a lot of fiscal pressure right now, and this is going to be a substantial boost in Medicaid spending,” Olsen said. “Medicaid’s their primary payer.”

People who work directly with the disabled in community settings will also get a pay raise, but it’s not nearly enough, said Wally Melcher, a lobbyist for the disabled.

The budget includes a “provider wage parity increase” of about \$6 million over the next two years. But Melcher said \$24 million would be needed to bring community-based workers’ wages to the same level as those of people who do the same work at the state’s two institutions for the developmentally disabled.

The committee also added \$200,000 to the budget for audio-visual equipment for five rural hospitals. The hospitals need the equipment so they can use fiber-optic telecommunications to connect patients with specialists in larger towns.

## Supporters rally for direct care workers

HELENA - About 300 people in bright yellow T-shirts gathered in the Capitol Rotunda Thursday to call for increased wages for direct care workers who provide community services for the developmentally disabled.

“Recruitment of qualified direct contact staff workers has become very difficult with the low wages and the low unemployment levels found in many communities in Montana,” said Rob Tallon, executive director of Reach Inc. in Bozeman. Reach is one of 43 private, nonprofit organizations in Montana that contracts with the state to serve developmentally disabled people in their communities.

Since the beginning of the session, people with disabilities, their families and direct care workers in those organizations have been asking the Legislature for a raise. A study done a year ago showed direct care workers in the communities make an average of 38 percent less than people who do the same work at the state’s two institutions for the developmentally disabled.

Tallon said starting wages for part-time staff at Reach are about \$6.80 an hour - \$8.28 an hour for full-time workers. Reach gave its staff three raises last year but had to pay for them through fund-raising, donations and creative cutbacks. And, even with the higher pay, Tallon said the turnover rate at Reach still hovers around the state average of 120 percent to 200 percent.

If the state doesn’t raise its rates for contracted services, even the people who have stuck it out are going to start leaving, he said. But if he could give his staff a \$3-an-hour raise - about what it would take to bring their wages in line with the state workers’ - he said the turnover rate could drop to 20 percent.

Darin Heitt-Rennie has worked for Reach for four years and said he had considered leaving for a technology job that paid much more. But he said he couldn’t do it. One of his clients looked him right in the eye the morning after he got the offer and

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asked him to please never leave.

“Yes, I get paid lousy, but I also get huge, huge rewards from seeing them accomplish little goals,” he said.

The state budget for the department of Public Health and Human Services includes \$6 million to pay for a 4.6 percent raise in 2002 and a 9.3 percent raise in 2003. But Tallon said that will only narrow the gap between community and state workers’ wages to 36.2 percent, if you factor in state workers’ wage and benefit increases.

“At this rate, our leaders will grant us full parity in 2044,” he said. “People with developmental disabilities can’t wait 43 years.”

Sen. Bob Keenan, R-Bigfork and chairman of the Senate Finance Committee, thanked the crowd for being patient and taking the time to understand the complexities of the state budget.

“You show appreciation for what we’re trying to do,” Keenan said. “We’re not doing enough.”

## Division gets lots of direction, little cash

HELENA - Several bills this session are intended to improve the way the state handles allegations of child abuse and neglect, but none of them tackles what may be the most significant problem: money.

“With low-paid, overworked workers, you get more problems,” said Ann Gilkey, an attorney who works with the state’s court assessment program. “That’s a huge issue that really isn’t being addressed this session. They need more workers to really work with the parents in the home to prevent removing the children.”

Chuck Hunter, administrator of the Child and Family Services Division, said having more social workers in the field would mean workers could spend more time with families, take more time to review each case and actually move the process along more quickly.

A larger staff could also have a “huge” influence on public opinion, he said. As it is, many social workers don’t have enough time to ease parents’ concerns, and people come out of the process angry and frightened.

During a hearing Tuesday on a bill to require a performance audit of the division, Hunter said under-staffing is “a big part of the root cause of the problems in our system.”

A recent independent study of the division showed a need for 70 new social workers. Earlier in the session, Hunter said he was realistic enough not to expect 70 new employees or even the 26 requested in former Gov. Marc Racicot’s executive budget. He ultimately asked for and was granted six - the number approved in Gov. Judy Martz’s budget.

The legislative panel in charge of making initial budget decisions for the division approved all of the division’s requests for increased funding in Martz’s budget, something Hunter sees as a sign of improved public opinion of the division.

“I feel as if we have a higher degree of credibility than we did a while back,” he said. “In the past two sessions, we have been there trying to work with the parties who

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want change in the system and accepting those changes.”

He said the division is working more closely with parents, trying to solve problems in the family rather than putting children in foster care. And twice as many children who need to be removed from their parents’ homes are placed with relatives instead of foster families they don’t know. The division is also working to help parents better understand what will happen after someone has reported an incidence of abuse or neglect.

Several bills this session would clarify the division’s responsibilities, stressing the importance of placing children in need of care with family members, requiring the division and courts to move cases through the system more quickly and allowing some families to go through alternative dispute resolution instead of having to go to court.

But Gilkey said none of the bills really addresses parents’ rights, her biggest push this session. Indigent parents, who are not guaranteed the right to an attorney until the state has filed to terminate their parental rights, are chief among her concerns.

Having a attorney “makes the difference between getting your kids back and having your rights terminated,” she said. And she said attorneys who know the system can also help speed up the process for parents who may not know or understand what is required of them. Some district courts in the state do provide attorneys for poor parents, but the Montana Supreme Court has ruled they don’t have to do so.

Gilkey said she also supports a bill that would allow the division to develop a “centralized intake” system, giving division staff authority to decide which reports call for investigation and which are most urgent.

“There are many (reports) that we know will not necessarily lead us to uncover where abuse and neglect exists,” Hunter said. “This will be helpful to us, I think, in managing our workload in the front end, and also not being so intrusive.”

Gilkey said the proposal is “a little bit of a gamble,” but she supports it because it could free up much-needed resources for serious cases.

Hunter said his division does not actively oppose any of the bills that have made it through the first two and a half months of the session.

“There aren’t active attempts right now, as there have been in past sessions, to limit our authority,” he said. “I do feel that, in part, that’s a sign of our increasing credibility, perhaps.”

#### • Important child protective services bills

– House Joint Resolution 32, by Rep. Norma Bixby, D-Lame Deer, requests a performance audit of the Child and Family Services Division. The audit would determine whether the state properly treats families, adequately trains staff and sufficiently follows the federal Indian Child Welfare Act.

Status: Passed the House 95-5 and awaits executive action in the Senate State Administration Committee.

– House Bill 223, by Rep. Trudi Schmidt, D-Great Falls, defines a specific procedure for service of process or summons when parents cannot be served or summoned personally.

Status: Passed both houses and transmitted to the governor.

– Senate Bill 116, by Sen. Emily Stonington, D-Bozeman, was requested by the Department of Health and Human Services. It allows the division to assess which reports of abuse or neglect call for investigation and how urgent the cases are.

The bill also directs the division to place children with a family member instead of in foster care whenever possible. And it allows the division to remove an adult from a home - rather than the child - if the adult was the only perpetrator of the alleged abuse or neglect.

In addition, the bill makes the department, not courts, responsible for most decisions about where to place a child.



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And, to comply with federal law, the bill requires a criminal background check for all foster parents.

Status: Passed the Senate 47-0; heard by the House Human Services Committee on Wednesday.

– SB132 and SB257 — by Sens. Mike Halligan, D-Missoula, and John Bohlinger, R-Billings, respectively, provide for the protection of abandoned children.

SB132 would allow a parent or guardian to leave an infant with a law-enforcement agency or medical facility without being prosecuted for abandonment.

SB257 includes abandonment as a basis for abuse and neglect proceedings and gives extended family members priority in custody proceedings involving abandoned children.

Status: SB132 passed the Senate 42-0 and awaits executive action in the House Judiciary Committee. SB257 passed the Senate 47-0 and is scheduled for second reading in the House Thursday.

– SB170, by Halligan, consolidates and clarifies some laws that have been pieced together over the years, but it also makes some significant changes.

It tightens the time frames for court proceedings in child abuse and neglect cases, in some cases cutting in half the time in which a hearing must take place. And it allows for alternative dispute resolution, which would keep cases out of court entirely.

It also requires the court to appoint an attorney for indigent parents when the state requests a determination that it is not necessary to try to reunite a family.

And, to clarify when social workers or anyone else involved in cases of child abuse and neglect need to follow the Indian Child Welfare Act, the bill adds several references to ICWA where state law may differ from the federal requirements.

Status: Passed the Senate 42-0 and awaits executive action in the House Judiciary Committee.

## House tweaks public health budget

HELENA - Without spending any more money, the House on Thursday backed several proposals to pay for increases for Department of Public Health and Human Services programs.

The changes came as amendments to House Bill 2, the state's main budget bill.

The smallest of the proposals adds \$100,000 to state-funded HIV/AIDS treatment. The money will come from a telecommunications tax that funds access for the deaf and hard of hearing.

"It's not a lot of money, but it would mean so much to the individuals who need this help," said Rep. Rosie Buzzas, D-Missoula and sponsor of the amendment. Buzzas' brother died of AIDS in 1994.

Rep. Ralph Lenhart, D-Glendive, lost his daughter to the disease in the same year. He had been silent all day when he stood up to support Buzzas' amendment.

"Listen up!" he admonished. "Somewhere in this huge budget, you should be able to find \$100,000 to cover this amendment."

Buzzas also sponsored a successful amendment to steer \$500,000 of federal welfare money from a planned \$3 million Head Start program to a program to increase high-wage job training for welfare recipients. She said she had spoken with Hank Hudson, the administrator of the Human and Community Services Division, and he had "given his blessing" to her plan.

"It still would leave \$2.5 million (in the Head Start proposal), which is a lot of money - and maybe more than they can spend," she said.

To ensure that federal welfare money does not go unspent in the next two years, Rep. Tom Facey, D-Missoula, introduced an amendment directing the department to spend up to \$1 million on low-income housing and \$1.5 million on workforce development if it can't spend the money on other programs. The amendment passed overwhelmingly.

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On a fairly narrow vote, the representatives also agreed to add \$1.67 million to the Disability Services Division to further increase wages for people who provide community-based services for the developmentally disabled. Those workers make 38 percent less than state employees who have similar jobs at the state's two institutions for the developmentally disabled.

The \$1.67 million will bring the total cost of pay increases for the community workers to about \$7.67 million, still far short of the \$24 million necessary for wage parity. Rep. Joey Jayne, D-Arlee and sponsor of the amendment, came up with the money for the increase by removing funding for a department deputy director, reducing state support for the Department of Natural Resources and Conservation's agricultural heritage program and delaying the elimination of the Medicaid assets test by one year.

Jayne also sponsored an amendment to clarify that enrolled members of any federally recognized Indian tribe are eligible for assistance through welfare projects and job training authorized for the tribes. The amendment, which didn't carry a cost, passed 85-14.

Among the failed amendments was a \$6 million increase for statewide tobacco prevention programs. The money would have come from the state's pocketbook.

"The program is not all that old, but they have already accomplished a great deal," said amendment sponsor Rep. Christine Kaufmann, D-Helena.

But Rep. Dave Lewis, R-Helena and chairman of the subcommittee that made the initial budget decisions for the department, said the subcommittee had taken \$4 million out of the program for a reason: provider rate increases, which were the department's highest priority for this session.

"We still have a million-and-a-half-dollar-per-year program," Lewis said.

Representatives also denied proposals to shift money from contracted prison beds to treatment facilities, to decrease the travel reduction for the department and to fund development of a child support assurance program.

## Senate panel passes public health budget

HELENA - Following the decisions of a Senate committee Thursday, workers who serve the developmentally disabled are likely to get larger raise in the next two years, but the uninsured poor won't see an expansion of government-funded insurance programs.

The Senate Finance Committee left its mark on the Department of Public Health and Human Services' \$2 billion budget during deliberations of House Bill 2, the state's main budget bill.

The committee considered more than 30 amendments to the department's section of the budget bill, approving 15. Once the committee has finished its deliberations on other agency budgets, the bill heads to the Senate floor.

The committee's most creative action involved a complicated funding switch that restored money for a department deputy director, increased wages for people who work with the developmentally disabled and rejected a proposal to eliminate the assets test for some Medicaid recipients.

Although the subcommittee that made initial decisions about the department's budget approved eliminating the Medicaid assets test, the proposal has always been dependent upon the passage of Senate Bill 332, which the Finance Committee tabled a month ago. Eliminating the test for pregnant women and children would have qualified more people for Medicaid and opened slots in a government-funded health insurance plan for kids.

The switch didn't cost any new money, but the decision means community-based workers will inch closer to wage parity with workers who do the same job at state institutions, and department Director Gail Gray will get an assistant.

Several senators attempted to add new money to the budget, but only a few attempts succeeded.

The largest will take \$1.3 million from the state's pocketbook to pay for mental health services. About \$800,000 of the money will cover an estimated increase in the cost of providing mental health services to poor people who don't qualify for Medicaid. The rest will pay for a pilot program to keep emotionally disturbed children in their communities, rather than institutionalizing them.

The committee also reinstated the department's public information officer, a position the House eliminated.

## House approves affordable-housing bills

HELENA - Contributions to the state's affordable housing loan account would lead to a tax credit if a bill approved by the Senate Friday makes it past the governor's desk.

"This is a small bill ... to deal with an important problem we have in this state," said Sen. John Ellingson, D-Missoula and sponsor of Senate Bill 350.

The 1999 Legislature created the revolving loan account to help pay for affordable housing projects but did not put any money into it. The account has remained empty since then.

Sen. John Bohlinger, R-Billings and a co-sponsor of the bill, said the tax credits would give people in Montana an incentive to contribute to the account. Individuals would get a credit equal to 40 percent of their contributions, and corporations could claim 20 percent. The bill would limit credits to \$10,000 and would not allow a credit larger than someone's tax bill.

"Thousands of Montanans live in substandard homes," Bohlinger said.

He added: "This is a way to stimulate the economy, to provide housing for low-income Montanans."

Six people and businesses a year would contribute an average of \$9,800 each to the account, according to the bill's fiscal note.

House Bills 57 and 273, which passed the House Tuesday, would put a total of \$4 million in federal housing and welfare funds into the account as start-up money.

## Weakened CHIP bill passes Senate

HELENA - A watered-down version of a bill to expand government-funded insurance for children passed the Senate Monday with only one opponent.

"There's not a lot in this bill," said Sen. Dale Berry, R-Hamilton and sponsor of Senate Bill 338, during his introduction of the measure.

SB338 originally would have allowed the Department of Public Health and Human Services to raise the income limit for the Children's Health Insurance Plan, or CHIP, from 150 percent of the federal poverty level to 200 percent, the highest allowed by federal law. Later, it was amended to allow the department to raise the limit to 175 percent of poverty if money were available.

The current version of the bill reverts to the income limit of 150 percent of poverty - \$26,475 for a family of four - and allows the department to drop the cap if it needs to.

The changes in the bill reflect changes to the department's budget. Former Gov. Marc Racicot's executive budget requested funding to expand CHIP to include children whose parents make up to 175 percent of the poverty level, and Gov. Judy Martz reduced the request to about 160 percent of the poverty level. Legislative committees, however, denied all funding for CHIP expansion.

CHIP is not an entitlement program, so the department can use the plan to insure only as many kids as it has money for. The program is now capped at about 9,500 children, and there is a short waiting list.

In addition to allowing the department to tighten CHIP eligibility, the bill also allows the department to limit the services it provides. By limiting some services, the department may be able to cover more kids.

The bill also clarifies that the department can directly pay doctors or other medical providers for services an insurance plan does not provide or cannot provide at a rea-

sonable rate. Children on CHIP already get dental care, eyeglasses and mental health services on a fee-for-service basis.

The one opponent of the measure Monday, Sen. Jerry O'Neil, R-Kalispell, said allowing the state to contract directly with providers was a step toward socialized medicine.

Two other bills to increase CHIP eligibility died earlier in the session. House Bill 337 would have increased the income limit for both CHIP and Medicaid to 200 percent of the federal poverty level. HB222 would have increased the CHIP income limit to 200 percent of the poverty level and expanded the program to include some parents.



## Health-care bills stalled in Legislature

HELENA - Advocates for the state's poor have celebrated several small victories this session, but they appear to be losing the battle to increase access to government-funded health insurance.

"There is room, and there is time, for the Legislature to do more," Montana Children's Alliance lobbyist Steve Yeakel said Wednesday. By Thursday, however, he said the outlook was grim.

"Montanans are poor," said Kate Cholewa of the Center for Policy Analysis and Community Change. "Montanans don't have health care, and nothing's been done about that."

At issue are plans to eliminate the Medicaid assets test and raise the income limit for the Children's Health Insurance Plan, or CHIP. A combination of state and federal money funds both programs; but Medicaid is open to anyone who qualifies, while CHIP has a limited number of slots.

Medicaid is limited to people who make 133 percent or less of the federal poverty level - \$23,475 for a family of four - and don't have more than \$3,000 in assets, including a second vehicle or a savings account. Advocates argue the assets test excludes two-parent working families in which a second car is a necessity.

Sen. Mignon Waterman sponsored a bill this session that would eliminate the assets test for pregnant women and children, qualifying more than 3,000 kids and 126 women. Many of those children would come into Medicaid from CHIP, freeing hundreds of slots in that program, which has an income limit of 150 percent and no assets test.

Melissa Sundberg of Bitterroot Covering Kids in Hamilton has spent much of the past two years recruiting parents to enroll their kids in CHIP. But she said as many as 25 percent of Ravalli County's 850 CHIP kids would qualify for Medicaid if it weren't for the assets test.

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“Many of these families are not asking for any other kind of assistance, but just the ability to take their children to the doctor,” Sundberg said.

Waterman’s bill has been languishing in committee since late February and missed the March 24 deadline for transmittal to the House. In addition, the Senate Finance Committee stripped the money to pay for the proposal and used it to raise wages for people who work with the developmentally disabled.

But Gov. Judy Martz has gone on record saying she supports doing away with the assets test, which may provide the impetus the Senate would need for a two-thirds vote to suspend the rules and revive the bill.

“There’s still some hope,” Cholewa said. “There may not be any money in it, but if they (the Department of Public Health and Human Services) get the authority, there still could be a way.”

At least one of this session’s three CHIP expansion bills is likely to pass - but it’s no longer a CHIP expansion bill. Senate Bill 338, sponsored by Sen. Dale Berry, R-Hamilton, has been amended to instead allow the department to drop the income limit for CHIP below its current limit of 150 percent of poverty.

Sundberg said the income limit needs to be at 200 percent of poverty - the highest allowed by federal law - which is where Berry’s bill originally would have set it.

“It’s a lot of two-parent families that are being excluded,” she said. “I’ve literally had parents saying to me, ‘I’d be better off to just leave my husband or leave my wife,’ ... especially parents of children who have health-care needs. They actually consider those as options.”

Sundberg said she hopes legislators come to understand the situations of those parents and kids before the end of the session.

“A lot of good things can happen in the last few days of the session,” she said.

“When you really look at the facts, it just doesn’t make sense,” she added. “What

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we're doing is putting up a huge wall to these people trying to gain access to health insurance in Montana. ... Education and health care go hand-in-hand when it comes to giving every child in Montana an equal start."

## Senate increases public health budget

HELENA - The Senate added \$765,000 to the Department of Public Health and Human Services budget Thursday to help 25 troubled families stay together and increase wages for contract workers who provide home care for the elderly and disabled.

Both increases came at the urging of Sen. John Cobb, R-Augusta, during Senate deliberations of House Bill 2, the state's main budget bill.

Cobb said using \$100,000 of state money over the next two years to help parents at risk of losing their children would ultimately save the state more money than it invested. He said foster care costs \$18,000 a year, but \$4,000 is all it takes to help parents do their jobs better and keep their kids out of foster care. He added that the program, which provides intensive in-home counseling to a few families each year, has an 80 percent success rate and needs to be made more widely available.

"We can save your families if we do it early enough," he said. "This is trying to keep the families together and out of foster care. ... We'll make a big bang."

Another \$180,000 in state money and \$485,000 in federal money will give a 50-cent-an-hour raise to contract workers who provide home health care to people who would otherwise live in nursing homes at the state's expense. Again, Cobb said, a little money now will prevent big bills later.

"I don't care what the ending fund balance is," he said. "We can afford this."

Cobb also sponsored a successful proposal to move \$500,000 in federal welfare money out of a Head Start program and into a fund for tribal welfare projects. He said many of the children already in Head Start also live on the reservations, and the tribes might have other, more pressing needs for the money.

Sen. Jon Ellingson, D-Missoula, managed to find another \$1.16 million in federal welfare funds to pay for an earned income tax credit for Montana families on public assistance. Several other welfare programs will be cut by about 3 percent a year to pay

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for the tax credit, he said.

The money Ellingson found is limited to the next two years, though, so if the earned income credit program works, the next Legislature will have to find money to continue paying for it.

The Senate voted down five other human services proposals that would have cost the state a total of \$7.9 million. The largest was a \$6 million plan by Ellingson to restore funding to the state's tobacco use prevention program to the level requested by former Gov. Marc Racicot.

Sen. Jerry O'Neil, R-Kalispell, said he doesn't think the prevention program, which relies heavily on advertising, works.

"I don't think we can put up a billboard that will have more impact than your grandfather dying from cigarette smoking," he said.

## Legislature made last-minute changes because of increasing welfare rolls

HELENA - Just four months ago, Montana's welfare system began emphasizing increased efforts to help the working poor. Caseloads had fallen, and there was plenty of federal money available to develop new programs for people who work but need a hand finding better jobs.

The Human and Community Services Division came up with a plan to provide new services for the working poor and spend down \$29 million in surplus federal funds.

But in the final days of the 2001 legislative session, division director Hank Hudson found himself asking for more flexibility in his budget for cash assistance. The days of declining caseloads appear to have ended.

After an October low of 4,389 cases, the rolls started swelling. April's projection is 5,068, an increase of 15 percent in only six months.

"That's a lot, in proportion to a 5,000-person caseload," Hudson said.

Hudson's office is still scrutinizing the past four months' data, so he couldn't say what caused the increase. But preliminary information does indicate that Montana's numbers match what he called a "national phenomenon."

"It might have something to do with a softening job market," he said. "Most states are seeing a gradual increase in their caseloads right now."

Rep. Dave Lewis, R-Helena, said he suspects layoffs and plant closures may have something to do with the recent jump in the welfare caseload.

"Even though unemployment hasn't gone up in the numbers, there are some changes in the job market," he said.

The Legislature did approve the division's plans for spending down that \$29 million in leftover federal funds, with the stipulation that, if the division needs more money

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to pay for cash benefits, it must reduce the amount available to new programs. But Hudson said some of the new programs will also be helpful to people who have recently entered the welfare system.

The division's local staff will spend more time with people who are just starting out on public assistance, helping them overcome personal problems that may have hindered their success in the past. There is also more money in the budget for mental health services, treatment for chemical dependency and family strengthening.

New ideas for "nonassistance" - aid with transportation or high-skill job training, for example - will help people who find jobs keep working and become upwardly mobile, he said.

And families who are leaving the cash assistance program will get an extra month's benefits to get them through to their first paycheck.

Sen. Mignon Waterman, D-Helena, agreed with Hudson that some of the new programs are going to make a difference in helping people both find jobs and get out of poverty.

"When we started out with (the state's welfare overhaul), it was 'any job is better than no job,'" Waterman said. "We've now moved to saying, 'No, we need to train people and educate them so they get something better than an entry-level job.'"

But Waterman worries that increasing welfare rolls may be tied to increasing Medicaid caseloads. There's plenty of money in the budget to cover welfare, but Medicaid expenses tend to be unpredictable.

"We're OK on benefits, but then it's when we get into increases in Medicaid costs that we run into problems," she said. "We need to find out why they're going up and really watch that closely."

Lewis, a former state budget director, said the Legislature did increase estimates for the next two years' Medicaid caseload and added several million dollars to the

Medicaid budget.

“We’re just at the mercy of unanticipated demand,” Lewis said. “We’re never very good at predicting those things.”



# Taxes

## Big Sky asks to be tucked into bed tax

HELENA - Big Sky is the state's No. 3 collector of bed taxes, but an unfair state law prevents the resort area from collecting its share of that money, business owners and residents told a legislative panel Thursday.

Senate Bill 268, sponsored by Sen. Don Hargrove, R-Belgrade, is an attempt to fix that law. The Senate Taxation Committee heard testimony on the bill Thursday but did not take immediate action.

"It's a matter of fairness," Hargrove said. "It's a matter of efficiency. ... It's the way it would have been if it weren't for these little definition things in the law."

The problem for Big Sky is that it is a "resort area district," something that didn't exist when the bed tax laws were written in 1987.

Resort areas and resort area districts - unincorporated, tourism-dependent areas with populations of less than 2,500 - legally came into being in the 1990s. Along with a handful of small tourist towns, they are allowed to collect locally adopted sales taxes on luxury goods and services.

All Hargrove's bill would do is make it possible for resort areas and resort area districts to keep a larger proportion of the bed tax funds they collect - just like incorporated cities and towns are allowed to do.

About one-fifth of the state's bed taxes are distributed proportionally to each of six geographic regions, where the money pays for tourism advertising. Within those regions, incorporated cities and towns that bring in more than \$140,000 each year get a bigger share. The state's seven largest communities all qualify, as do Whitefish and West Yellowstone.

In 2000, Big Sky collected \$704,000 in bed taxes but got only \$14,000 back, Big Sky Chamber of Commerce lobbyist Mona Jamison said. Under Hargrove's bill, Big Sky would get about \$60,000.

That would mean two towns in the region, West Yellowstone and Bozeman, would lose some money, but Jamison said they don't mind. The West Yellowstone Chamber of Commerce has given the measure its full support. And in Bozeman, the Airport Authority has recognized that Big Sky tourists are essential to maintaining the size and number of flights coming in each day.

## Business owners blast rental-car tax

HELENA - Lobbyists and business owners came out in force Wednesday to oppose a bill to more than double the bed tax and add a 9 percent tax to car rentals.

Stuart Doggett of the Montana Innkeepers Association called Senate Bill 439 a "risky new high-level tax scheme."

The House Taxation Committee heard testimony on SB439, sponsored by Sen. Lorents Grosfield, R-Big Timber, but did not take immediate action. The bill passed the Senate last week, 33-14.

By increasing the bed tax from 4 percent to 9 percent and adding the rental-car tax, the bill would raise an estimated \$39 million in new money over the next two years. Montanans would get about \$2 million of that money back because the bill would allow residents to claim lodging and car-rental tax payments as a state income tax credit. Another \$19 million would go to K-12 schools.

The remaining money would go toward statewide tourism-development programs that have traditionally received funding from the 4 percent bed tax, including new programs for downtown improvements, business marketing and community heritage grants.

Grosfield stressed that, because of the income tax credit for Montanans, out-of-state tourists would pay the bulk of the tax.

But the bill's opponents said the Legislature shouldn't put Montana's burdens on the back of the tourism industry.

"Contrary to popular belief, tourists are not rich," Amy Sullivan of the Montana Tourism Coalition said. "They live on a budget, just like you and I."

Sullivan said the bill would force tourists to shorten their visits to Montana and ultimately cripple the state's tourism industry.

"As taxes go up, tourists stay fewer days," she cautioned.

Candace Payne of the Montana Car Rental Association said many tourists

already pay a 10 percent airport concession fee for rental cars, and the new tax would raise their cost almost 20 percent over the actual price of a rental.

Some business owners, like Joe Taylor of Rent-A-Wreck in Missoula, said the bill would also burden Montana residents. Taylor said most of his customers are Montanans and would qualify for the tax credit - but might not be able to afford paying the tax up-front.

“These people are not high up on the income scale,” Taylor said. “Our customers are not the sophisticated renters that pile up a huge amount of money that are going to file (for the credit). ... These people are already burdened with heavy income tax, with property tax.”

Several bill opponents also said it would be inappropriate to tap tourists to pay for education.

Cathy Burwell of the Helena Chamber of Commerce called SB439 a “quick fix for education” that unfairly targets the tourist industry.

Pat Anderson, a Wolf Creek bed and breakfast owner, said, “We have gotten to a sad state of affairs to look to outsiders to educate our children.”

But education advocates praised the bill as a new strategy to pay for schools.

“The revenue has got to come from somewhere,” said Erik Burke, a lobbyist for MEA-MFT, the state’s largest teachers’ union. “We believe that this is a source that makes sense for Montana.”

Madalyn Quinlan of the Office of Public Instruction said the bill would create a pot of money for public schools that would grow with the tourism industry.

Grosfield said he has no doubt the industry will grow, although he doesn’t necessarily agree that the industry should support schools. A Senate committee, not Grosfield, added the rental-car tax to the bill as a way to provide increased school funding.

“The rental-car tax thing, that wasn’t my idea,” Grosfield said. “I’m not tied to

that rental-car tax, and if the committee wants to take it out, that's fine.”

Grosfield also told the committee it will have to turn the bill into a referendum, or Gov. Judy Martz won't sign it. She has said repeatedly this session that she will not approve new or increased taxes.

## Committee kills bed, rental-car tax bill

HELENA - A House committee on Friday gutted, then killed, a proposal to more than double the state's bed tax and add a 9 percent tax to car rentals.

Sen. Lorents Grosfield, R-Big Timber and the sponsor of Senate Bill 439, approached the House Taxation Committee with amendments to strip the bill of any tax increases, leaving only a few minor changes to the law. The committee approved the amendments but later voted to table the bill.

Grosfield said he proposed the amendments to put the bill in a form Gov. Judy Martz might consider signing. She has said she will not endorse new or increased taxes.

During discussion of the amendments, Rep. Dave Wanzenried, D-Missoula and a member of the committee, said, "Senator, I liked your original bill." Like many who supported the bill, Wanzenried said it would give much-needed money to schools.

By increasing the bed tax from 4 percent to 9 percent and adding the rental-car tax, the original bill would have raised an estimated \$39 million in new money over the next two years, with about \$19 million going to K-12 schools. Montanans who paid bed or rental-car taxes would have taken another \$2 million in income tax credits, and the rest would have gone toward programs traditionally funded by the bed tax.

Schools advocates have supported the bill as a new, reliable way to fund education, but tourism industry lobbyists said the bill would unfairly target their businesses.

Later Friday, House Minority Leader Kim Gillan, D-Billings, unsuccessfully attempted to revive SB439.

"Many of us felt it was going to be important to bring that bill to the floor," Gillan said. "I think we would be remiss as a body if we did not continue our fight, our quest, to find new funding for education."

House Majority leader Paul Sliter, R-Somers, quickly moved to table Gillan's request and succeeded with a mostly partisan 49-43 vote.

## Panel passes tax on power sales

HELENA - A bill to impose a graduated tax on electricity sales costing more than \$45 a megawatt-hour passed out of a legislative conference committee Tuesday on a 5-1 vote.

Supporters of Senate Bill 512 say the threat of an "excess revenue" tax as high as 90 percent would encourage power suppliers to keep their prices down. Montana has no such tax now.

"The economic life of this state is hanging in the balance of the energy issue," bill sponsor Sen. Mike Halligan, D-Missoula, said. He said the tax money would be used to help buy down rates and would benefit the power companies, businesses and homeowners.

But the bill's lone opponent on the committee called it a "bad, bad precedent."

"I have a basic philosophy that goes against what we're doing here," Rep. Gary Forrester, D-Billings, said. "If you want to put forth a chilling effect on future business improvement, this is the way to do it. ... We're going the wrong way."

The excess revenue tax would apply only to the amount of the price above \$45 a megawatt-hour, and the tax rate would increase with the price, ranging from 50 percent to 90 percent. For rates above \$50, there would be an extra tax of \$2.5 to \$6 per megawatt-hour.

If a power company sold 3 megawatts - just under the amount used by a small commercial electricity customer in a month - for \$56 a megawatt-hour, the tax would be \$20.70.

The tax trigger of \$45 is about twice the current regulated cost of electricity in Montana, and most electricity sales in 2002 would not be affected. If prices continue to rise, however, more and more sales would be subject to taxation.

Some companies would be exempt from the tax, including new generation facili-



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ties, small generation facilities and generation facilities owned by rural electric cooperatives. The committee declined an exemption for Montana-Dakota Utilities Co., which sells its excess power to other utility companies and uses the profits to keep its rates down.

The committee spent much of its time Tuesday discussing reasons for exempting certain companies from the tax. Halligan said he wanted to get the conversation on record, in case the exemptions are ever challenged in court.

The rewritten bill now goes to the House and Senate for approval of the conference committee's recommended changes.

SB512 is part of an energy package that legislative leaders want to enact to address skyrocketing energy prices in Montana.

## Bills give tax breaks to energy producers

HELENA - A pair of bills giving tax breaks to new electricity suppliers passed out of a legislative conference committee Wednesday after several hours of debate and the addition of amendments to ensure they would work together.

The two bills are part of a package of bills put together by legislative leadership to address the threat of soaring energy prices in the state. Conference committees are studying the entire package this week with the goal of cleaning up the bills before legislators cast their final votes.

House Bill 600, sponsored by Rep. Sylvia Bookout-Reinicke, R-Alberton, exempts energy-generating machinery from the business equipment property tax. To qualify for the bill, businesses must produce less than 80 megawatts of electricity and use at least 80 percent of what they generate.

Bookout-Reinicke said Tuesday that some lumber mills and grocery stores could create enough power at a low enough cost to stay in business.

“This is job retention, and that’s the most important aspect of this bill,” she said.

Rep. Robert Story, R-Park City and a member of the committee, said the tax breaks probably aren’t enough to entice larger industries that need to produce greater quantities of electricity. He said the tax savings wouldn’t even pay for one day of maintenance on a \$1 million generator.

“I think this bill will have a lot more effect on the littler industries,” he said.

Although HB600 initially applied to equipment powered by fossil fuels as well as alternative energy sources, the committee chose to limit it to fossil fuel generation equipment, including older locomotive engines. Committee members said they didn’t want HB600 to conflict with Senate Bill 506, which gives tax breaks and other incentives to business owners and individuals who use alternative energy sources, including the sun, wind and agricultural waste.

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SB506, sponsored by Sen. John Cobb, R-Augusta, grants a five-year exemption from the business equipment property tax for generation equipment that uses alternative fuels to produce less than one megawatt of power.

The bill allows businesses that buy larger-capacity generation equipment to apply to their counties for tax credits for new or expanding industries.

Although the bill contains many different tax credits for businesses and individuals - for installing energy-efficient roofing or windows, for example - many of the credits are smaller than they were before the committee took action on the bill. Cobb himself introduced a number of amendments to reduce tax credits.

“I don’t want to break your budget - that’s the concern - but still give these credits,” he said.

Another amendment added by the committee increases tax credits for businesses that generate wind power on school trust lands. Under the bill, electricity generated by those businesses is also exempt from the wholesale energy transaction tax.

To qualify, a company must agree to sell at least one-third of its power through five-year contracts with prices no more than 12 percent over the cost of production.

Secretary of State Bob Brown, who sits on the Montana Land Board, said wind power might be a way to bring in as much as 10 times more money on land that isn’t much good for grazing or timber.

The bill also includes a revolving loan account within the Department of Environmental Quality that individuals or small businesses can tap into for help building alternative energy systems. The account is funded by air quality violation fees, and loans are limited to five years and \$10,000.

## Energy taxation bills pass committee

HELENA - A legislative committee studying energy taxation bills wrapped up its work Thursday morning, putting finishing touches on proposals to tax high-cost electricity and exempt new electrical generation facilities from property taxes.

The committee is one of two appointed to look at a package of bills chosen by legislative leadership to address the threat of soaring energy prices in Montana.

The committee approved the "excess revenue" proposal, Senate Bill 512, earlier this week but voted Thursday to reconsider it for the purpose of limiting exemptions and simplifying the tax rate. The tax, which would be new to Montana, applies only to the cost of electricity above \$45 a megawatt-hour, which is about twice the rate residential customers now pay.

Committee members and state officials said allowing too many companies to avoid the tax might prompt a lawsuit. So the committee limited the exemptions to new producers, companies that use at least 50 percent of the power they produce, federally qualified small generators and generation facilities owned by the federal government.

Montana-Dakota Utilities lobbyist Beth Baker argued that MDU, which sells its power into fully regulated markets, also should not have to pay the tax. But the committee rejected a proposal by Rep. Ron Devlin, R-Terry, to exempt the company.

The committee also voted for a flat tax rate of 90 percent, replacing the bill's initial graduated rate of 50 percent to 90 percent. Under the new rate, a company selling electricity at \$50 a megawatt-hour would pay \$4.50 a megawatt-hour in taxes.

Revenue Director Kurt Alme said the aggressive one-rate tax is more simple and more likely to discourage high prices.

SB508, sponsored by Rep. Mack Cole, R-Hysham, aims to encourage construction of new electricity generation plants by granting the companies building the plants a five- or 10-year property-tax exemption. The companies would have to pay local impact

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fees, however, to ensure local governments have the resources to deal with the businesses moving in.

Most of the committee's discussion of the bill centered around the impact fees. Cole said he wanted to ensure the fees remained small enough to give companies an incentive to come to Montana.

"It's going to give a statement to the company, whoever it is, that we're willing to work with them, that we're willing to help them as much as we can," Cole said.

But others wanted the fees large enough to ensure local governments won't lose money.

"It's too easy for the state government to give an incentive at the local governments' expense," Devlin said.

The committee finally settled on rates of 0.75 percent of the cost of construction for the first two years, 0.1 percent in the next four years and 0.08 percent in the remaining years.

Both bills now need final legislative approval before heading to the governor's desk.

## Legislature kills excess revenue tax

HELENA - Both the House and Senate on Saturday voted to shelve a bill requiring a 90 percent "excess revenue" tax on the price of electricity above \$45 a megawatt-hour.

Senate Bill 512, sponsored by Sen. Mike Halligan, D-Missoula, was part of a package of proposals legislative leadership hoped would help to address the threat of mounting electricity costs in Montana.

On Friday, however, PPL EnergyPlus announced it has agreed in principle to provide 500 megawatts of power to Montana Power Co. at \$40 a megawatt-hour, and representatives of both companies said the deal "anticipated" the Legislature killing SB512.

Jack Haffey, Montana Power Co. president and chief operating officer, stopped short of saying the agreement was contingent on legislative action but did say it "really contemplates and hopes for no need for that legislation."

After the announcement Friday, House Majority Leader Dan McGee, R-Laurel, vehemently rejected the notion that the deal between PPL and Montana Power would affect the outcome of SB512.

"There is absolutely no agreement between this legislative body, and this leadership, between any company," McGee said.

McGee said he had already decided to vote against the measure because a 90 percent tax was simply against his principles.

"If that bill lives or dies, it will be at the discretion of the Legislature," he said. "Are they holding a hammer over our head? The answer is no. Absolutely no."

On Saturday morning, Rep. Dave Gallik, D-Helena, attempted to move the bill to the top of the House agenda for the day, saying it was important to have the discussion early. Gallik also accused legislators who were planning to vote against the bill of bowing to corporate interests.

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“If you vote it down today, then you’re going to say to Montana Power and PPL, ‘Here’s the keys to the car, now drive us into the side of the mountain,’” he said.

Immediately following Gallik’s remarks, House Majority Leader Paul Sliter, R-Somers, snapped: “You want to know who’s driving this bus? It ain’t you. It’s us.”

Sliter’s motion to pass consideration of the bill passed 57-40.

In the Senate, the discussion was more sedate.

Halligan said SB512 was a way to “bring the giant to the table” and that killing it would be akin to unilateral disarmament, forcing the people to give up their bows and arrows and leaving the corporations with nuclear warheads.

But, he said, he had already been told the bill would die.

Senate President Tom Beck, R-Deer Lodge, gave Halligan a chance to speak again before requesting a vote to pass consideration. Beck’s motion passed 26-19.

Beck said he doesn’t think now is the right time to force the issue but that the bill will still be on the shelf if it becomes necessary.

“This is the bill that I think the industries fear the most,” Beck said. “This is the bill that will be there ready to put back in action.”

# Long-range planning and environment

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## Committees oppose Breaks designation

HELENA—Two legislative committees made a symbolic gesture Thursday by voting to oppose federal designation of the Missouri River Breaks as a national monument.

The House Federal Relations, Energy and Telecommunications Committee and the Senate Fish and Game Committee voted on identical resolutions Thursday evening after hearing more than an hour and a half of public testimony. The resolution has no legal impact; it merely serves as an open letter to the secretary of the interior, the Montana congressional delegation, President Clinton and President-elect Bush.

The Missouri Breaks is a 149-mile stretch of the Missouri River running from Fort Benton to the James Kipp Campground. It has been designated as a wild and scenic river since 1976.

No one at the packed hearing disagreed the Missouri Breaks ought to be protected. They disagreed on the level of protection needed.

Those who favored the resolution said the Wild and Scenic Rivers Act is protection enough. They said the monument designation - which would affect about 400,000 acres of public land - could put too many restrictions on farmers and ranchers who graze cattle in the area and on recreationists who fish and boat on the river.

Eleven-year-old Morgan Darlington of Big Sandy expressed the sentiments of many supporters when she said she thought the designation would lead to her rights being threatened by "people with maps in distant parts of the country."

"We know how to care for our land in this state," she said.

Oscar Cantu, a Winifred teacher, said he has taken his classes to the Missouri Breaks every year for more than a quarter of a century, and he has seen improvement in the area since it was designated under the Wild and Scenic Rivers Act. Further protection is unnecessary, he said.

"I know that the range has improved along the Missouri River in the last 27

years,” he said. “It’s in better shape now than it was 27 years ago. ... And now we want to change it?”

Opponents of the resolution said the area needs greater protection. And ensuring that the Missouri Breaks is protected as a national monument would bring more tourists - and their money - to the area.

“This is an exquisite natural area that needs to be protected, and the monument status for the Missouri Breaks is an idea whose time has come,” said Will Boland of Helena.

Kris Dunn, a Great Falls businesswoman, said monument designation for the Missouri Breaks would be good for the Breaks and good for the economy.

“To have a successful and thriving economy, you must have an anchor destination,” she said. “National monument designation and the Lewis and Clark bicentennial would be the anchor destination for (the Missouri Breaks) area.”

The Senate committee approved the resolution 7-2 without discussion. Sens. Jon Ellingson, D-Missoula, and Al Bishop, R-Billings, opposed the resolution. Sens. Eve Franklin, D-Great Falls, and John Tester, D-Big Sandy, were absent and were given 24 hours to vote.

Bishop expressed concern about a portion of the resolution that says “a majority of Montanans oppose a new designation for the Missouri River or the Missouri River Breaks.” He said he didn’t have enough evidence that the statement was true.

In the House, the resolution was amended three times before it passed 9-3. The most notable amendment was by Rep. Carol Juneau, D-Browning, who requested to remove a reference to the Corps of Discovery that made it sound like Lewis and Clark were the first people to travel along the Breaks.

“We always forget that there are people in Montana who have existed here since the beginning,” Juneau said.

Juneau voted to oppose the resolution, as did Reps. Tom Dell, D-Billings, and Trudi Schmidt, D-Great Falls.

President Clinton is expected to declare the Missouri River Breaks a national monument before he leaves office.

## Bills reduce MEPA's power

HELENA - Heated debate in the House Natural Resources Committee Monday came down to a simple disagreement over whether the Montana Environmental Policy Act is a law with a full set of teeth or a simple statement of policy.

The committee heard testimony on two bills that would settle the debate on the side of those who say the act is mere policy and cannot be used to control the development of industry in Montana. The committee did not take action on the bills.

House Bill 459, sponsored by Rep. Doug Mood, R-Seeley Lake, would allow sponsors of a proposed project to reject alternative proposals listed in a MEPA-required environmental review if they deemed them too expensive. It would also require environmental impact statements to include a description of the benefits and economic impacts of a proposed project and an analysis of what would happen if the project didn't go forward.

HB473, sponsored by Rep. Cindy Younkin, R-Bozeman, would block state agencies from imposing restrictions on a proposed business based on an environmental review - unless the agency could prove the restrictions were necessary to prevent violations of law. Agencies now use MEPA to impose certain restrictions to protect wildlife habitat, abate noise pollution and control traffic safety.

Proponents of both bills blamed the state's poor economy on its environmental laws. They said businesses would find it easier to start up and keep running if MEPA weren't standing in their way. Besides, they said, there are other laws to prevent businesses from causing major environmental damage, including the Clean Air Act and the Clean Water Act.

"As time has gone on, we have seen increasing litigation over the role of MEPA," said Todd O'Hair, natural resource policy adviser to Gov. Judy Martz. "Instead of being used as a vehicle to prevent destruction, it is often times used as a vehicle to present obstruction."

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“Let’s conduct MEPA analysis on proposed projects, judge the environmental impacts and get on with life,” he said.

But opponents said MEPA is an important safety net. They said it has been used to put important limitations on businesses that would damage the land or water or wildlife in ways that are not addressed by any other law.

Tracy Stone-Manning of the Clark Fork Coalition said Younkin’s bill would prevent an agency from requiring mitigation efforts for weed control or traffic safety.

Stone-Manning also said relaxing water quality laws and deregulation didn’t fulfill promises of more jobs and a better economy - and taking the bite out of MEPA won’t help, either.

“Industry reps are wrong again,” she said.

Leaving MEPA alone ensures there are no gaps in Montana environmental law, said John Wilson, conservation director for Montana Trout Unlimited.

But Younkin said people shouldn’t rely on MEPA to Spackle holes in the law. If habitat needs specific protection, there should be specific laws to protect it, she said.

Tim Ryan, who procures resources for a small out-of-state company that extracts natural compounds from trees for use in food products, said relaxing MEPA would allow his company to expand into this state and employ Montanans in high-paying jobs.

He said his company, Lorax Inc., is clean, but building a plant in Montana would still require MEPA review - and Lorax wants to be in business here as quickly as possible.

“We can’t afford to have a long permitting process,” Ryan said.

But former Rep. Hal Harper of Helena cautioned the committee against participating in what he sees as a “blame game” in which Montana’s conservation laws are held up as the source of all industries’ problems.

He said it is “misleading” to continue attacking MEPA and other environmental laws when the obstacles truly began with deregulation.

## Journalism school may get new digs

HELENA - After originally denying a request by the University of Montana to begin raising money for a new building for the School of Journalism, a legislative panel agreed Thursday to allow the school to try to come up with the necessary \$12 million.

With a 4-2 vote, the Joint Appropriations Subcommittee on Long-Range Planning gave the university authority to raise the money through private donations, grants and federal funds - and then to use it for construction of the new building. Although the proposal was included in Gov. Judy Martz's budget, the subcommittee had initially voted against it.

"We really don't take spending authority lightly," University of Montana president George Dennison told the subcommittee. He said the new building would be large enough to house both the print journalism and radio/television programs, bringing together students who work in the various media.

The state will not contribute to the construction of the new building, but it will ultimately have to take over some of the cost of maintaining it. Some of that burden will also be borne by the students at the university, since part of their tuition goes toward operations and maintenance for campus buildings.

Sen. Tom Beck, R-Deer Lodge and a member of the subcommittee, wanted to also reinstate spending authority for the University of Montana to upgrade and remodel its museum of fine arts, but two motions to do so were voted down.

The subcommittee also voted against a motion by Sen. Jon Tester, D-Big Sandy, to reinstate proposed bonds to pay for an applied technology center at Montana State University-Northern, expansion of the University of Montana College of Technology in Helena and a new central reception unit at the Montana State Prison. Those proposals were also included in Martz's budget but rejected by the committee.

Sen. Jon Tester, R-Big Sandy, said the college projects are particularly important

now, when the state is concerned about economic development. He said the College of Technology could become increasingly important for retraining laid-off ASARCO workers.

“It isn’t the building of the buildings ... it’s what come out of the buildings that creates economic stimulus,” Tester said.

## Subcommittee passes building budget

HELENA - A legislative subcommittee added \$12.4 million to the pot and approved a \$101.7 million budget for statewide building and renovation projects Friday night.

The state will pay for about \$25 million in projects through bond sales. Another \$5.6 million will come from state funds, and the remaining \$71.1 million will come from federal or private funds.

A \$6.35 million renovation of the University of Montana chemistry building is the most expensive bonding project.

Three other important projects will receive a combination of bond money and other funds. A central reception unit at Montana State Prison will get a total of \$7 million. Montana State University-Northern in Havre will receive \$4 million to build an applied technology center. And \$2 million was granted to the Montana State University-Bozeman agricultural experiment stations for necessary repairs and upgrades.

Although the subcommittee denied bonding for a \$5.5 million expansion of the Helena College of Technology, it did approve \$365,000 in state funds to finish the engineering and design of the project. That work should be finished by the next legislative session, and the College of Technology is expected to ask for - and receive - funding for construction then.

Sen. John Tester, D-Big Sandy, said that, with the money the subcommittee appropriated this session, the College of Technology could "start moving dirt" in two years.

Among the major cash projects are a new, \$12 million journalism building and a \$5 million law school library expansion at the University of Montana. None of the money for those projects will come from the state's pocket. The state will pick up the operations and maintenance costs for the journalism building when it is finished, but the law school will have to pay for any additional costs due to the library expansion.



## House committee passes building bills

HELENA - After several hours of discussion and debate, a House panel on Monday passed two bills that include nearly all of the money for state agencies' construction and renovation projects.

The House Appropriations Committee passed House Bill 5, which contains "cash" projects, on a vote of 12-6. HB14, which authorizes the state to issue bonds for projects and requires a two-thirds vote, passed 16-2.

The total cost of the two bills was nearly \$103 million. State-issued bonds make up \$26.4 million, and the cash projects add up to \$76.6 million, with \$5.5 million coming from a special state account for building projects and the rest coming from federal, private or other sources.

Before the bills reached the committee, the Joint Appropriations Subcommittee on Long Range Planning spent more than two months tweaking the proposals. By the time the subcommittee was finished, it had cut nearly \$55 million from bonded projects and \$8.8 million from cash projects.

The largest cut was a new, \$40.7 million building for the Department of Public Health and Human Services - a project that is unlikely to get any money this session. A \$5.5 million expansion at the Helena College of Technology also got the ax, but the subcommittee did agree to pay \$365,000 for the project's design and engineering, with the expectation it would get the money next session.

The Appropriations Committee made no significant changes to the subcommittee's work.

### • Significant proposals

– \$12 million in federal or private funds for a new journalism building at the University of Montana.

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- \$6.35 million in bonds to renovate the chemistry building at the University of Montana.
  - \$6 million in bonds and federal money for a central reception unit at the Montana State Prison.
  - \$5 million in outside cash to expand the law school library at the University of Montana.
  - Nearly \$5 million in bonds and outside cash for a federally mandated digital conversion for public television.
  - \$4 million in bonds and outside cash for an applied technology center at Montana State University-Northern.
  - \$2 million in bonds and outside cash to expand and renovate Montana State University's agricultural experiment stations.
  - \$177,800 and \$165,875 in state special revenue to upgrade Montana's two veterans homes.

## Bonded building projects in limbo

HELENA - Without discussion, the House voted 57-36 Thursday in favor of a bill that allows the state to issue bonds to pay for statewide building and construction projects, but the bill will need stronger support to survive.

Because House Bill 14 would put the state \$26.4 million into debt, it requires a two-thirds vote in each house. The House will make its final vote on the bill today.

The bill includes the following projects:

- \$5 million of a planned \$6 million central reception unit at the Montana State Prison,
- \$2 million for a \$4 million applied technology center at Montana State University-Northern,
- \$1.9 million toward a \$5.7 million armory in Dillon,
- \$13.2 million in building renovations at the state's colleges and universities,
- \$1.9 million for a federally mandated public television digital conversion and
- \$1 million for upgrades at Montana State University's agricultural experiment stations.

## House approves 'cash' building projects

HELENA - Without discussion Friday, the House voted 87-8 to approve a bill containing \$76.6 million in building projects for agencies statewide.

House Bill 5 includes the agencies' "cash" projects. The state's long-range building account, funded by coal and cigarette taxes, will cover \$5.5 million, mostly for renovations and improvements to existing buildings. The rest of the money will come from private, federal or other sources.

The projects include:

- \$1 million in federal funds toward a \$6 million central reception unit at the Montana State Prison,
- \$1 million in other funds for \$2 million in upgrades at Montana State University's agricultural experiment stations,
- \$2 million in other funds to go toward a \$4 million applied technology center at Montana State University-Northern,
- \$365,000 in long-range building and other funds for engineering and design work necessary to expand the Helena College of Technology,
- \$5 million in other funds for the animal and range science facility at Montana State University-Bozeman,
- \$5 million in other funds to expand the law school library at the University of Montana and
- \$12 million in other funds for a new journalism building at the University of Montana.

## House Democrats hold up bonding bill

HELENA - The House voted Saturday to put off \$26.4 million in statewide building and renovation projects.

“It’s hard to think about appropriating funds for more public buildings when we haven’t decided on our level of commitment for public education,” said House Minority Leader Kim Gillan, D-Billings.

Only four of 42 House Democrats voted for House Bill 14, which would allow the state to issue bonds to pay for the projects, including \$5 million toward a new central reception unit at the Montana State Prison and more than \$14 million in college campus upgrades. The bill requires a two-thirds vote in each house, so Saturday’s mostly partisan 56-44 third-reading vote wasn’t enough to keep it alive. Saturday was also the deadline for the House to transmit HB14 to the Senate.

Gillan said she is hoping to find a solution for funding both schools and long-range building projects.

“We’ll just have to see how things go,” Gillan said.

The bill’s sponsor, Rep. Matt McCann, D-Harlem, said he thinks the Democratic leadership is “holding that chip (HB14) until they’re satisfied that some of their concerns in education are met.” McCann is carrying the bill at the request of Gov. Judy Martz, who included the projects in her executive budget.

Gillan said Monday she had been meeting with the governor and her staff to discuss education funding.

House Majority Leader Paul Sliter, R-Somers, said HB14 is dead as far as he is concerned. Although he supports the proposals in the bill, he said he will leave it up to the Democrats to try to revive it, and the longer they wait, the more difficult it’s going to be to get Republican support.

Because HB14 missed the transmittal deadline, it will take a two-thirds vote to

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bring it back to the House floor and another two-thirds vote to pass it.

“I’m at a loss,” Sliter said. “I don’t understand what they’re doing. ... They’re holding it up, and we’re not quite sure why.”

Before Saturday’s vote, legislative committees had already chiseled \$55 million from the bonding projects originally requested in Martz’s budget. The largest project to get the ax in committee was a \$41 million building for the Department of Public Health and Human Services. The committees also denied a \$5.5 million expansion at the Helena College of Technology but did agree to pay cash to finish engineering and design work for the project.

McCann voted for the bill but said he would understand if there isn’t enough support to revive it.

“It wouldn’t hurt the state to sit back for a year or two without a bonding program,” he said.

#### • The projects

House Bill 14 contains nine bonded building and renovation projects and one funding switch to pay for debt service on outstanding bonds.

The projects are as follows:

- \$5 million toward a \$6 million central reception unit at the Montana State Prison,
- 1.9 million toward a \$5.7 million armory in Dillon,
- \$6.4 million to renovate the chemistry building at the University of Montana,
- \$1.5 million for renovation and deferred maintenance at Linfield and Montana halls at Montana State University,
- \$1 million toward \$2 million in upgrades to the Montana State University agricultural experiment stations,

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- \$3.2 million for renovation, deferred maintenance and life-safety upgrades to the liberal arts building at Montana State University-Billings,
  - \$2.2 million to upgrade heating and air conditioning in Cowan Hall at Montana State University-Northern,
  - \$2 million toward a \$4 million applied technology center at Montana State University-Northern,
  - \$1.9 million toward a \$5 million, federally mandated public television digital conversion and
  - \$1.3 million for a funding switch to the general fund to pay debt service on outstanding bonds.

## Committee hears water project requests

HELENA - The Senate Finance Committee on Monday heard two bills to authorize the Department of Natural Resources and Conservation to spend more than \$23 million on renewable resource projects.

The money will pay for water, wastewater, irrigation and sewer projects statewide.

“We did try to get the dollars out into the communities of Montana,” said Rep. Matt McCann, D-Harlem and sponsor of House Bills 6 and 8. “This is a dang good piece of legislation.”

HB6 contains \$4.8 million in grants. The bill lists the projects to receive the grants by priority, with high-hazard and unsafe dams at the top of the list. If money for a high-priority project goes unused, it will be passed down to a lower-priority project.

Money for the grants comes from the state’s resource indemnity trust, which gets its income from the resource indemnity and ground water assessment tax and oil and gas tax revenues.

The remaining \$19 million would come in the form of loans financed through the sale of coal severance tax bonds authorized in HB8. Because HB8 creates state debt and uses coal severance tax funds, it requires a three-quarters vote in both houses of the Legislature to pass.

John Tubbs, chief of the Resource Development Bureau of the DNRC, said the renewable resource loans are “one of the only places irrigation districts have to turn to for low-cost debt.”

McCann said he and others worked on the bill in subcommittee to make the projects more affordable by setting relatively low interest rates. Nevertheless, some members of the Senate committee on Monday voiced concern that some borrowers would still find it difficult to repay the loans.



## Money requested for Marysville road

HELENA - Residents and state officials say they have big plans for the small road into Marysville.

House Bill 447 would allow the Department of Transportation to spend up to \$1 million in federal funds for the planning work needed to clean up, reconstruct and pave the seven-mile stretch of road from Highway 279 to Marysville and the Great Divide ski area northwest of Helena. The Senate Finance Committee heard testimony on the bill Monday but took no immediate action.

Marysville resident Bill Willing said the dirt road “more nearly represents an obstacle course for an Army tank.” Intermittently made up of sharp granite and soft clay, the road is “antiquated, substandard and dangerous,” he said.

On a good ski day, more than 700 cars travel the road into Marysville and Great Divide, Lewis and Clark County Public Works Director Eric Griffin said. The county maintains the road, but Griffin said it was constructed in the mid-1800s for horse-drawn vehicles and was never intended for the kind of use it sees today.

In addition, Lewis said, the road was originally built with mine waste that may be contaminated with heavy metals and mercury, which is why he’s seeking federal special projects money for the road reconstruction. He said the road project would be tied in with the reclamation of the mine site.

Once the planning and design work is finished, Lewis said, the state will likely apply for federal lands money for the road reconstruction, since the road sits on Bureau of Land Management property.

Transportation Director Dave Galt assured the committee that Lewis’ bill would not put the Marysville road ahead of other, already-planned state road projects. He said the Marysville road project has “Superfund implications,” and Montana’s congressional delegation is working to secure a separate source of money to pay for it.

## Senate supports Marysville road project

HELENA - The Senate voted 33-14 Friday to allow the Department of Transportation to spend up to \$1 million of federal money figuring out how to clean up and reconstruct the seven-mile road to Marysville and the Great Divide ski area northwest of Helena.

The Marysville road project has yet to gain federal funding, but Sen. Mignon Waterman, D-Helena, said it is the Bureau of Land Management's No. 1 priority in Montana. The Montana congressional delegation has also pledged to work toward securing cash for the project. Waterman is carrying the proposal, House Bill 447, in the Senate on behalf of Rep. Dave Lewis, R-Helena.

In a hearing on the bill Monday, Lewis said the road was originally built with mine tailings and could be contaminated with heavy metals and mercury. The road reconstruction would go hand-in-hand with clean-up at the mine, he said.

Once the planning and design work is finished, Lewis said, the state will likely apply for federal lands money for the road reconstruction, since the road sits on Bureau of Land Management property.

Transportation Director Dave Galt said that, because of its separate source of funding, the Marysville road project will not affect any other state road construction.

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## Senate passes building projects bill

HELENA - It was held up in the House for three weeks, but a bill to allow the state to pay for \$25 million in building and renovation projects through the sale of bonds passed the Senate without discussion Wednesday.

The total cost of House Bill 14 is just under \$26.4 million, which includes \$1.3 million to pay for debt service on outstanding bonds.

HB14 also contains \$14.2 million for building renovations and upgrades at the state's colleges and universities, \$5 million toward a \$6 million central reception unit at the Montana State Prison, \$2 million toward a \$4 million applied technology center at Montana State University-Northern, \$1.9 million toward a \$5.7 million armory in Dillon, and \$1.9 million toward a \$5 million digital conversion for public television required by the federal government.

House Democratic leadership refused to pass the bill at first, saying it wasn't right to commit to new construction when there wasn't enough money to keep schools open.

HB14 passed the Senate 49-1. Because it puts the state into debt, the bill required a two-thirds majority vote in both houses.

## Local government and growth

## Planning group suggests changes to law

HELENA - After researching Montana's planning and land-use laws for a year, the American Planning Association on Monday released a list of 29 recommendations for change and clarification, including several to tighten subdivision laws.

The Chicago-based nonprofit association, which promotes progressive planning nationwide, was commissioned to do the research by the Montana Smart Growth Coalition. The coalition is a group of 27 nonprofit groups that work together to combat rapid, unplanned growth across the state.

Stuart Meck, principal investigator for the American Planning Association, said his organization tried to address the state's planning issues in ways that were "realistic and practical" and that "fit Montana."

Four of the association's recommendations for land-use legislation have become part of the Smart Growth Coalition's 2001 legislative package, said Tim Davis, the coalition's executive director. The package also includes legislation to promote affordable housing and to address transportation issues.

Davis said the coalition will focus this session on getting the four recommended land-use bills passed and continue to discuss the American Planning Association's remaining 25 suggestions.

Two of the four land-use bills deal with subdivision.

One would require subdivision review for land divisions made for the purpose of giving or selling fewer than 20 acres to a family member. Currently, all family transfers are exempt from subdivision review.

The other would revise and consolidate the laws concerning minor subdivisions.

The coalition has also requested a bill to institute a realty transfer tax of 1 percent on the value of property in excess of \$100,000. The property buyer would pay the tax. The money would be used to fund local planning, the agricultural heritage program

and the affordable housing revolving loan account.

The final bill would modify the legal description of a growth policy. Under this bill, growth policies would have to include affordable housing and identify critical or sensitive environmental areas, including areas at high risk for wildfires.

## Big Bill meets first test next week

HELENA - The 1999 Legislature gave the interim Local Government Funding and Structure Committee a big task: Find a better way for the state to fund local governments. The result of the committee's work is largely contained in House Bill 124, the "Big Bill."

The Big Bill, a 189-page document that largely restructures the financial relationship between the state and local governments, meets its first real challenge this week, a hearing in the House Local Government Committee. The hearing is scheduled for 3 p.m. on Thursday in Room 472 of the Capitol.

The Big Bill is intended to fix problems created by previous Legislatures and to simplify and clarify laws that have been pieced together over the past several decades.

And the Big Bill is supposed to give local governments a more stable and dependable form of state funding. To do that, it makes major changes in large chunks of the law - some that have been batted around since the 1972 Montana Constitutional Convention.

Rep. Robert Story, R-Park City, the bill's sponsor and chair of the interim committee, acknowledges the lengthy bill needs some adjustment - it's actually missing one very important section - but needs to be kept largely intact to work.

The Big Bill's most important goal is to end many of the complicated, back-and-forth transfers of money between the state and local governments. And neither the state nor the local governments are supposed to lose money in the deal.

Gambling, motor vehicle and alcohol taxes now collected locally, where some of the money is kept and some sent on to the state, would go directly to the state. That switch would result in more money for the state and less for local governments, but the idea is to make up for the difference in annual "entitlement share" payments.

The entitlement share would also replace reimbursement payments the state has

been paying to local governments to make up for losses due to certain tax cuts. Over the years, the Legislature has reduced the tax rates on business equipment, telecommunications and utilities, among other things. Local governments lost money in the deal because they were getting a portion of those taxes. As the rates fell, their cuts shrunk.

Part of the interim committee's task was to find a way to deal with the upcoming phase-out of those payments.

The entitlement share would grow based on statewide economic growth. As the bill is now written, the share would never be reduced; it just wouldn't grow in a bad year.

In addition, the entitlement share would be required by law, which means it would have to be included in the state's base budget each year. To take away the money, the Legislature would have to change the law.

But this shift requires putting a lot of trust in the state to do what it says it's going to do. That's a tall order for a lot of people.

Dawson County Commissioner Jim Deckert said he researched the bill and agrees there needs to be some clarification and simplification of current law.

But, he said, "We'd be a lot more comfortable with the money that's supposed to come to the counties to come directly to the counties."

He said he doesn't quite believe the state will take all of that money and divvy it up the way it should.

"We just don't feel the basis of that trust has been established," he said.

Gordon Morris, executive director of the Montana Association of Counties, said his organization is "cautiously" supporting the bill, largely because of people in smaller Eastern counties who have the same worries as Deckert.

"We're sending a lot of money to Helena, and we're taking it for granted that that money will come back in the entitlement," Morris said.



Missoula Mayor Mike Kadas said he was struggling with “the general philosophy” of giving up a number of small but relatively stable revenue streams for one big one. If the state were to get in trouble, he said, it would “enhance” its ability to dam that whole big stream.

But Story said it would be “politically dangerous” for the Legislature to cut such a significant source of local revenue. If the Legislature decreased entitlement shares, local governments would have to make up for the loss by increasing property taxes, which is never a particularly popular idea.

Billings City Administrator Dennis Taylor was also optimistic. Because entitlement share growth would link directly to the state’s economy, both the state and local governments would have a vested interest in economic development, he said. He sees the Big Bill as a big step in creating a strong partnership between the state and local governments.

“It’s based on trust, respect and partnership,” he said. “Without that, nothing is possible.”

Taylor worked as staff to the Senate Local Government Committee and an interim committee back in the late ‘70s and early ‘80s. Those committees, he said, were looking at reforms similar to those in the Big Bill - and that would bring the law closer to the intentions of the 1972 Montana Constitution. None of those reforms passed.

“It’s the most optimism we’ve seen in 29 years with regard to state and local government issues,” he said of the Big Bill.

“It’s really an encouraging idea. ... Now we just need to buff it.”

#### •What the Big Bill would do

All vehicle fees and taxes, alcohol taxes and gambling taxes would be deposited into the state’s general fund. This would, according to supporters of the Big Bill, simpli-

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fy collections and accounting. Now, local governments get to keep some of it, some goes to the state in a series of complex, back-and-forth payments.

“Entitlement share” payments would replace local governments’ portions of the above-listed taxes and fees and the reimbursement system the state uses to help fund local governments. Currently, the state reimburses local governments for money they lose when the state lowers taxes on certain types of property. The entitlement share would grow each year, based on the state’s economic growth.

The entitlements would also be required by law. That means the Legislature would have to change the law if, for some reason, it did not want to pay up.

Local governments would be able to assess property taxes up to a certain amount - as they can now - but the cap would no longer be based on the previous year’s collections. The cap would also grow based on inflation. The bill’s sponsors say the current system encourages cities and counties to collect as much as they can so their cap won’t drop. The bill, they say, would encourage property tax reductions in good years without making it difficult to find money in a bad year.

New mill levies and exceeding the mill levy limit would require elections.

Current law sets limits on the number of mills local governments can levy for specific uses. The Big Bill would eliminate those caps, which supporters say would give local governments more flexibility in deciding how to spend their money.

Counties would no longer have to help pay for district courts - except for the Clerk of District Court’s office - and the state’s public assistance program. The counties have very little say over those programs anyway, and the interim Local Government Funding and Structure Committee said they shouldn’t have to pay for things they can’t control.

## Senators call for local-option taxes

HELENA - Locally adopted sales taxes on luxury goods and services are a good answer to the problem of local government funding, two senators told the Senate Taxation Committee during a hearing Friday.

Republican Bill Glaser of Huntley and Democrat Mike Halligan of Missoula are sponsoring similar bills this session that would allow any county or municipality in the state to adopt the taxes with approval from local voters.

Glaser's Senate Bill 213 and Halligan's SB155 are based on resort tax law, which allows voter-approved taxes on "luxury" goods and services in designated resort communities and resort areas - tourism-dependent towns and unincorporated areas with relatively small populations. The taxes have been adopted by several communities, including Whitefish, West Yellowstone and St. Regis.

Supporters of the bills say it's time for the Legislature to give local governments a new funding tool, and the local option taxes would place some of the burden on tourists. But opponents - including business, labor and farm organizations - say the bill would create a "Balkanized" system of sales taxes and wouldn't work in places where tourism is not an important part of the economy.

Both bills would limit the local option sales tax to luxuries such as restaurant meals, drinks purchased at a bar and recreational vehicle rentals. They prohibit taxing groceries, medical supplies, appliances, hardware and the "necessities of life."

Both bills also cap the tax rate, with Glaser's bill at 3 percent and Halligan's at 4 percent

"Income tax, property tax and fees ... are the government's taxes," Glaser said. "I think this is the people's tax."

Halligan said: "This bill is about empowerment. All right? Let's get that straight. ... It's the freedom to mold your own solution to your own problems."

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Alec Hansen, executive director of the Montana League of Cities and Towns, said his organization has been supporting local option tax measures since 1981 and will not back out on this year's bills.

"If we're not persuasive, I think we sure as hell are persistent," Hansen said.

As much as 47 percent of the taxes collected would come from people who lived outside of Montana, he said.

"If these bills pass, property taxes in cities and towns that adopt local option taxes will be reduced," he said. Neither bill would require a reduction in property taxes, but voters aren't going to approve the tax without it, he said.

Dillon Mayor George Warner concurred.

"Even though Dillon is very conservative, I believe they would do that (approve the tax) in exchange for property tax relief," he said.

After the hearing, Warner said he is philosophically opposed to any sales tax. But he supports this year's local option tax bills because they offer a tool for local governments to raise money, and they require the involvement of local people.

"If the people want to vote this in at a local level, I'd be fine with that," he said. "Whatever it takes."

But Nancy Schlepp, a lobbyist for the Montana Farm Bureau Federation, said people in rural areas would have little use for the tax. Few tourists visit, and when they do, they stay in the larger towns, she said.

Webb Brown, president of the Montana Chamber of Commerce, said the bills would allow for a "tangle of taxes" stretching across the state. A statewide sales tax would be a better option, he said.

Montana Chamber membership is about 2-to-1 against local option taxes and 2-to-1 in favor of a statewide tax, he said.

But Don Judge, executive secretary of the Montana AFL-CIO, said neither local

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option nor statewide sales taxes are the answer. Increasing e-commerce, he said, makes it unlikely that the taxes would bring in as much revenue as predicted because Internet sales are generally not taxed.

“Clearly, local government has taken an unfair hit,” he said. “But we believe two wrongs don’t make a right.”

The committee did not take immediate action on the proposals, but chairman Bob DePratu, R-Whitefish, did appoint a subcommittee to study the two bills. Glaser will head the subcommittee, joined by Sen. Emily Stonington, D-Bozeman, and Sen. E.P. “Pete” Ekegren, R-Choteau.

## House panel gets first peek at Big Bill

HELENA - During a hearing Thursday, everyone agreed the so-called "Big Bill," which would make big changes in how the state does business with local governments, needs work.

The House Local Government Committee got its first look Thursday at the 189-page, House Bill 124, and testimony on both sides came mostly from the people the measure would affect most - the governmental leadership of the state's towns, cities and counties.

The bill's sponsor, Rep. Robert Story, R-Park City, said the bill, already the product of an 18-month study, needs fixing. There are technical details that still need to be ironed out, he said.

"The devil is in the details," said Mona Jamison, a lobbyist for Gallatin County, which opposes the bill.

"Don't focus on the policy," she said. "Focus on the details, or you're going to be back next session with a bill THIS big."

Those who support the bill say it will create a more simple, stable and dependable source of revenue for local governments. They also say it will encourage a stronger, more trusting relationship between the state and local governments.

But opponents said the bill is incomplete as it is currently written and is not so simple as the supporters would like to believe. They say it is an enormous, complex piece of legislation that will have subtle but significant financial impacts statewide.

The most important thing the Big Bill would do is fundamentally change the way the state funds local governments. Rather than receiving several little streams of revenue - from motor vehicle, alcohol or gambling taxes and from a number of reimbursement programs set up by past Legislatures - each local government would get one "entitlement share" payment.

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The entitlement shares would grow each year based on a percentage of statewide economic growth.

Money from vehicle, alcohol and gambling taxes would be sent directly to the state. And local governments would no longer have to fund public assistance or district courts, except for the clerk of court's office.

Among other things, the bill would also remove caps on the number of mills local governments can levy for specific purposes. It would continue to limit the amount of money local governments can raise through property taxes but without basing the limit on the previous year's taxes - removing what many see as an incentive to assess higher property taxes.

Story asked the committee to look beyond the details to the bill's essential policy changes.

"If you get lost in the details, then you'll never see the policy," Story said.

But many of the bill's opponents don't like the details.

Jamison was joined by Gallatin County fiscal officer Ed Blackman and Flathead County Commissioner Dale Williams in pointing out that entitlement share growth would be equal for every town, city and county in the state. Places like Gallatin and Flathead counties, where there has been a great deal of economic development recently, would not see a proportionately larger entitlement.

But Stillwater County Commissioner Harold Blattie said the bill will encourage local governments to take an active role in the state's economic development.

Blattie and Story both sat on the 10-member, bipartisan Local Government Funding and Structure Interim Committee that spent 18 months developing the ideas behind the Big Bill. The 1999 Legislature requested the interim committee to study problems between the state and local governments.

"There are no winners nor losers," Blattie said. "It is the intent of the committee

for the bill to be revenue neutral.”

But he added: “There will undoubtedly be some unintended consequences that will need to be addressed by future sessions.”

Because of the size and complexity of the bill, an eight-member subcommittee has been appointed to study the measure and work out the kinks as best it can. The subcommittee comprises four members of the House Local Government Committee and four members of the House Taxation Committee, including Story.



## Counties request additional judges

HELENA - Ravalli and Cascade counties have the highest criminal caseloads per district court judge in the state, and they want help.

In their support, Rep. Jim Shockley, R-Stevensville, is sponsoring a bill this session that would grant each county one additional judge. House Bill 214 was heard in the House Appropriations Committee Friday. The committee did not take immediate action on the measure.

“Everything is just jammed up,” Shockley said.

“The people in these counties deserve justice, and they deserve it in a timely fashion.”

It would cost the state about \$240,000 a year to pay for the judges.

But Cascade County Commissioner Gayle Morris said it would cost the county more than \$1.5 million just to prepare a space for the new judge and staff to work - and the county is willing to pay.

He said some of the county’s attorneys have left because they felt overburdened with work, and they have been difficult to replace because of the low pay and hard work. And heavy caseloads have slowed down trials, meaning people spend more time in the county jail at the county’s expense.

“We need some relief of some kind,” Morris said. “The additional judge has become an answer to that.”

The Ravalli County Commission has also agreed that it would be worth its while to pay up. The commissioners signed a resolution Jan. 8 requesting the Legislature to grant them a second judge.

Judges from both counties said they have seen an increase in serious criminal cases over the years - cases that take a great deal of court time.

In Cascade County, District Court Judge Tom McKittrick attributed much of the

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problem to methamphetamine. He said Great Falls is at a distribution crossroads for the drug as it travels across the country and into Canada.

“That spreads out to homicides, to aggravated assaults, to burglaries,” McKittrick said.

Ravalli County District Judge Jeffrey Langton said he is seeing more serious crime, which he attributed in part to tremendous population growth. The county has grown more than 43 percent in the past 10 years.

Langton said the civil cases in his court have been put in “the back seat” because the constitutional right to a speedy trial demands that criminal cases take precedence.

“We’ve got so many criminal (cases) right now that we don’t even have room in the back seat,” he said.

## Bill urges agencies to locate downtown

HELENA - A state agency's decision to put up a large office building on the edge of a town leads to all sorts of costs for that town, and that's disconcerting, Sen. Ken Toole, D-Helena, told a Senate committee Thursday.

Toole's Senate Bill 249 would require state agencies to consider downtown locations when they plan to move or add new offices in a city or town. The Senate Local Government Committee heard testimony on the bill Thursday but did not take immediate action.

"This is not a requirement," Toole said. "This is not an effort to tie state agencies' hands."

Helena developer Alan Nicholson said: "All of us recognize that the downtown is the heart of the community."

Putting up state buildings on the outskirts of town may be less expensive in the short run but contributes to sprawl, Nicholson said. Because of the increased need for new roads, traffic signals and sewer and water lines, he said, sprawl can get very expensive.

"When you totally neglect the core of a community, it rots from the inside," he said.

No one spoke against the bill, but Sen. Don Hargrove, R-Belgrade, asked if it were really necessary. During the hearing, Garrett Bacon, who handles the state's leases, said the Department of Administration already considers downtown office space when it decides where to put state offices.

Toole said Bacon's statement is probably true, but he thinks the bill would make a necessary policy statement about helping to revitalize downtown areas.

## Committee rejects 4 annexation bills

HELENA - Opponents of annexation struck out Thursday when a legislative panel voted without discussion to table four of their bills within hours of hearing public testimony.

The bills were all sponsored by Missoula-area representatives - two by Rep. Dave Wanzenried, D-Missoula, one by Rep. Holly Raser, D-Missoula, and one by Rep. Butch Waddill, R-Florence. The representatives and their bills were faulted by opponents for trying to change state law because of a problem specific to Missoula.

“Annexation laws are doing very well in Montana, everywhere except Missoula,” said former Attorney General Joe Mazurek, now a lobbyist for the City of Great Falls.

Wanzenried, Raser and Waddill all have constituents in the Target Range area just outside the Missoula city limits. For years, Target Range residents have opposed what they see as the city’s attempts to forcibly overtake their community by annexation.

Several Target Range residents appeared in support of the bills, claiming the city’s treatment of them is in violation of their basic rights to assemble as a small community.

Gerard Berens, president of the Target Range Homeowners Association, said the bills would still allow cities to expand but would give people like him and his neighbors a greater say in that expansion. He said the bills would replace forced governance with voluntary self-governance.

But Missoula Mayor Mike Kadas opposed the bills.

Kadas called the hearing a “biennial right of passage.”

He said it is often difficult to tell without a map what is technically Missoula and what is not. Densely populated areas just outside the city boundaries, where people receive city services, should be a part of the city, he said.

Alec Hansen, executive director of the Montana League of Cities and Towns,

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opposed all four bills, saying they were a Helena solution to a Missoula problem. But he did support a study of the state's annexation laws.

"A lot of these laws go back to territorial days," Hansen said. "They need to be studied. ... You don't have to have five annexation bills at every session of the Legislature. It's not a requirement. It just seems to happen this way."

•What the bills would do

– Waddill's House Bill 289 was perhaps the most radical of the four. It would have allowed residents to request incorporation of areas like Target Range that are very close to another city or town. Current law says an area cannot become incorporated if it is within 3 miles of another incorporated town.

– HB356, Raser's bill, would have required a vote of the people who are affected when a city or town tries to annex an area with fewer than 300 parcels of land. Under current law, the owners of the affected land are allowed to protest in writing, and if more than half of the landowners are opposed, the area cannot be annexed.

– Wanzenried's HB404 would have required a public hearing and a vote of the people affected any time a city or town tries to incorporate an area by the "wholly surround" method. Currently, areas that are entirely surrounded by annexed property can be annexed with only a notice of intent given to the landowners. Certain kinds of property, including farms, cannot be annexed by wholly surround.

– His other bill, HB453, would have put a two-year moratorium on annexation of areas in which more than 25 percent of the residents oppose it. The moratorium was to accompany a study of the state's annexation laws, but that bill was not ready for presentation, Wanzenried said.

Although the committee tabled all four bills Thursday, they could be revived before the end of the session.

## Big Bill fee increases get little attention

HELENA - A little-known fact about the so-called "Big Bill" to streamline the financial relationships between the state and local governments is that it contains small fee increases for some motor vehicle registrations.

As part of the attempt to simplify fee and tax collections under House Bill 124, the license, registration, junk vehicle, weed control, computer and state parks recreational fees people see on their registration cards each year would be wrapped into one. That fee would be \$18 for road vehicles, \$12 for trailers and motorcycles, \$10 for vintage vehicles and \$6 for off-road recreational vehicles. The bill would also create a flat \$20 fee for personalized, collegiate or vintage license plates and a \$10 fee for HAM radio or veterans' license plates.

Under the proposed fee schedule, it would cost \$2.25 more to register a motorcycle, \$4.25 more for a passenger car and \$5 more for a vintage vehicle. It would also cost \$10 more to renew personalized license plates - but \$5 less for new personalized plates.

It would cost \$3 less to register off-road vehicles, \$3.75 less for motor homes and \$4.25 less for trailers weighing more than 6,000 pounds. The biggest decrease, \$5.25, would be for logging trucks.

"If they want to try to reduce it to four categories, I'd love to try to help them make it more revenue neutral," said Michele Hand of American Bikers Aiming Toward Education, a statewide motorcycle advocacy group.

Hand admitted that \$2.25 isn't a huge chunk of money, but it is an increase nonetheless. And, she said, a Department of Revenue analysis of the proposals showed the streamlined fees could add up to \$900,000 statewide.

"They figure they can raise \$900,000, and it's you and me they're taking it from," Hand said.

Hand said she is also concerned that Gov. Judy Martz has promised to not raise

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taxes - but HB 124 raises fees that look and act a lot like taxes.

The bill's sponsor, Rep. Robert Story, R-Park City, said the goal wasn't to charge anyone more or less but to make the system simpler. He said he plans to "let the political process work it all out" if people think the numbers need to change.

Already, motorcycle groups have successfully lobbied to have their fee removed from the \$18 bracket and put into the \$12 bracket. Motorcyclists would still pay \$17, however, because they would pay an additional \$5 for motorcycle safety programs - a fee motorcycle lobbyists wanted to keep separate from the flat fee.

"We addressed the motorcycle safety fee, and now we'd like to have a chance to address the (other) fees," Hand said.

## Subdivision, annexation top growth issues

HELENA - With energy, education and the environment at center stage this legislative session, growth and planning issues have been sitting fairly quietly in the wings.

Although the debate has been relatively quiet, there have been dozens of growth and planning bills introduced this session, and at the heart of nearly every one is the question of how much power local governments should have over development in their area

“I think what will pass ultimately will be clean-up and improvement,” said Anne Hedges of the Montana Environmental Information Center. Since 1995, Hedges said, there have been no significant changes to subdivision laws, and planning laws have only improved. She said she expects to see more of the same.

“Moderation in the land-use area really carries the day,” she said.

One of the more popular subdivision bills this session was initiated by the Montana Association of Realtors. House Bill 543, sponsored by Rep. Roy Brown, R-Billings, requires local governments to adopt their growth policies as part of their subdivision regulations before using the policies to approve or disapprove subdivisions. The bill passed the House 92-7 and has been transmitted to the Senate.

Although some opponents of the bill said it would render growth policies toothless, Peggy Trenk of the association said, “We were in no way advocating that growth policies go on the shelf.”

Trenk said the Realtors don't think growth policies provide enough specific direction for developers and merely want to strengthen the connection between policy and regulation.

Originally, the bill would have nearly eliminated local governments' ability to force subdivisions to conform to growth policies. Gallatin County Commissioner Bill Murdock said that would have taken away any hope cities and counties might have had



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of controlling subdivision development through growth policies.

But Murdock said he likes the bill as it now stands - allowing local governments to enforce the policies as a part of their subdivision regulations.

“We can still do it,” he said. “We can still require subdivisions to comply with growth policies. For those counties that do want subdivisions to conform, they have to adopt it in their subdivision regulations.”

Byron Roberts, executive director of the Montana Building Industry Association, said the bill also meets the needs of his industry.

“What we are saying, and what should be reality, is that a (growth policy) is an advisory document, and if you want to implement that plan, you use zoning and regulation,” he said.

Also affecting subdivisions are bills to limit cities’ power to enforce building codes or other regulations outside city limits. Under current law, cities can extend their jurisdiction as far as 4.5 miles beyond the city limits if they get approval from the county to do so. Several bills would either eliminate those expansions of jurisdiction or require a vote of the people affected.

In Gallatin County, Murdock said, Bozeman has that extra jurisdiction. Although the county commission is split over the issue, he said he doesn’t think cities should be allowed to extend their permitting authority beyond their boundaries.

But Roberts said allowing cities to extend their building code jurisdiction can help promote good growth and planning. And, since cities can’t extend their jurisdiction without approval from the county, the two governments have to make that decision together.

“We feel very strongly that cities and counties should be able to get together and plan for growth in an area outside of a city,” Roberts said.

“Planning is essential. We have got to be able to plan for growth outside of the

cities and contiguous with the cities.”

Statewide, growth outside of or next to cities is nothing new. Neither is annexation, which is often unpopular but is one of the few ways cities can extend their boundaries. There were several bills this session to limit cities’ power to annex, but all failed in committee.

Two annexation proposals are still kicking, though.

House Joint Resolution 24, by Rep. Dave Wanzenried, D-Missoula, merely requests a study of the state’s annexation laws.

Senate Bill 359, by Sen. Mike Halligan, also a Missoula Democrat, would allow cities or towns to create “annexation districts,” areas that would be annexed into the city gradually so residents wouldn’t be caught by sudden property tax increases they couldn’t afford.

Alec Hansen, executive director of the Montana League of Cities and Towns, said Halligan’s bill would “provide some orderly planning and some growth management that is based on an agreement between government and landowners.”

“Some of these places are like the Gaza Strip, and they’ve been fighting these things for years and years,” Hansen said.

#### • This session’s major growth and planning bills

Here are some of the most important growth and planning bills this session, living and dead:

– HB543, by Rep. Roy Brown, R-Billings, would prevent local governments from using their growth policies to approve or disapprove subdivisions unless they specifically adopted those policies into their subdivision regulations. This bill passed the House and is awaiting consideration in the Senate.

– SB242 and SB470, by Sen. Jerry O’Neil, R-Kalispell, would prohibit cities from enforcing their building codes or, respectively, zoning and subdivision regulations

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outside city limits. Both bills have passed the Senate and are awaiting consideration in the House. A similar bill, HB457, by Rep. Dick Haines, R-Missoula, would require a vote of the people in the affected area before a city could extend its building code jurisdiction beyond its boundaries. The House has approved Haines' bill, and it has been transmitted to the Senate.

– SB359, by Sen. Mike Halligan, D-Missoula, would allow cities and towns to create special “annexation districts.” The districts would be gradually incorporated into the city, rather than being annexed all at once. The bill passed the Senate and is awaiting consideration in the House.

– HB586, by Rep. Dave Wanzenried, D-Missoula, would have consolidated and clarified minor subdivision laws. The House Natural Resources Committee unanimously approved this bill, but it was killed on the House floor with a vote of 56-43 against.

– HB587, by Rep. Rick Laible, R-Victor, would have restricted the fees local governments require subdivision developers to pay for extending services like roads, water and sewers. The bill would have required governments to show their fees were exactly proportional to the subdivisions' use of the services. Opponents claimed the bill went too far in limiting the services developers should have to pay for, while supporters said it would make the system more fair. The bill was killed on the House floor with a 58-41 vote against.

– SB287, by Sen. Emily Stonington, D-Bozeman, would have required minor subdivision review for family land transfers of less than 20 acres. It also would have required that any family transfers not subject to subdivision review could not be transferred outside the family for five years. Although it passed second reading in the Senate, it was killed by a 26-24 third-reading vote.

## House votes for new judges for counties

HELENA - Ravalli and Cascade counties are a step closer to acquiring one new district court judge each after an 86-14 vote in the House Thursday.

"We don't really have any choice," Rep. Jim Shockley, R-Victor, said before the vote.

District court judges in Ravalli and Cascade counties have among the highest caseloads in the state. Under Shockley's House Bill 214, each would get one additional judge, bringing the total to two in Ravalli County and four in Cascade County.

"They're at the point where they have to have some relief," Shockley said.

According to information provided by Ravalli County District Court Judge Jeffrey Langton, the state's district court judges saw an average of 852 cases apiece in 1999. But Langton saw 1,119 cases, and judges in Cascade County saw 1,116. Langton saw 1,202 cases in 2000.

With populations and crime rates rising in both counties, Shockley said, caseloads are unlikely to decrease. He said adding judges would help move cases through the system more quickly and with less expense.

"We need to have this done by judges who have enough time to give to the cases they get," he said.

But some representatives said the money required to pay the new judges should be spent on other things. In the next two years, the new judges would cost the state \$129,409, but that represents only about six months' work. The new judges would be elected in November 2002 and wouldn't take office until January 2003. Each subsequent year, the judges' salaries and benefits would cost about \$238,800.

"I think we have enough judges, enough court actions, and I think we could spend this money better elsewhere," Rep. Joe Balyeat, R-Bozeman said.

Balyeat didn't say where he would like the money to go, but Rep. Ron Erickson,

D-Missoula, said it should pay for education. Erickson called the bill a “buy now, pay later” plan and said the state has other, more pressing needs.

But Rep. Matt McCann, D-Harlem, said, “You’re going to pay for this sooner or later.”

“If you think you can put the money in education, good luck,” McCann said.

The bill must pass a third reading in the House before being sent to the Senate for consideration.

## Resort towns like local-option taxes

HELENA - As a Senate subcommittee polishes a proposal to allow local governments to enact voter-approved sales taxes on luxury items and services, community leaders in several small tourist towns that have a similar tax say their towns are better for it.

“Definitely, for small towns, it’s indispensable,” Virginia City Clerk and Treasurer Jerry Fox said.

Virginia City is one of six tourism-dependent towns and unincorporated communities that have adopted “resort taxes,” sales taxes on luxuries that are intended to target tourists. To qualify for the tax, an incorporated town must have a population of 5,500 or less, and an unincorporated area must have a population of less than 2,500. The tax is capped at 3 percent.

The proposal under consideration in the Senate is based on the resort tax, with a few adjustments. Like the resort tax, it requires voter approval and can only be used to tax luxuries. It would be capped at 4 percent.

In Virginia City, the resort tax brings in about \$60,000 a year. For a town of 160 with annual property tax collections of \$14,000, that’s big money, Fox said - especially considering the town collects the tax only six months out of the year.

“We’ve put it to uses that we would not have been able to afford had we not had the resort tax,” he said. “At this point, we couldn’t be without it.”

Much of the money has been used to build a new fire hall and buy firefighting equipment, but the town also used the money to buy its first snowplow this year. Some money has also paid for museum and library grants, and state law mandates that 5 percent of it go toward property tax relief.

Sen. Bill Glaser, a member of the subcommittee studying the local-option tax and the sponsor of one of two bills being combined for the proposal, said Tuesday that local-option taxes aren’t new to the Montana Legislature. But the Huntley Republican said a

requirement that 10 percent of the collections go toward property tax relief might be the ticket for this year's proposal.

In Virginia City, Fox said each property owner sees a \$2- or \$3-a-year reduction in property tax because of the resort tax.

"I don't think it's really important at all; it's kind of just a nuisance," he said. "It's so insignificant."

But Whitefish Sen. Bob DePratu, also a member of the subcommittee, said the property tax reduction has "turned out to be one of the most positive things" about that town's resort tax.

"I've had older people vote for it because they said they were going to see their property tax rates go down," the Republican senator said. Whitefish, with a population of about 4,500 and a 2 percent resort tax, was expected to bring in almost \$1 million in resort taxes last year.

While property tax relief may have drawn some voters to approve the resort tax, community leaders say the biggest benefit has been infrastructure improvements.

In Big Sky, an unincorporated ski-resort community, a 3 percent tax brings in about \$1.5 million a year and funds the water and sewer district, fire protection, police, an extra sheriff's deputy and public transportation.

"The resort tax has really, really helped the community of Big Sky, without a doubt," said Bob Stober, chairman of the Big Sky Resort Area District board of directors.

West Yellowstone operations manager Fred Rice said his town is staffed and equipped at a level almost unheard of for small towns in Montana. It can afford to be because of the resort tax, he said.

Rice cautioned, however, that West Yellowstone can collect \$2 million a year in resort taxes only because of its unique situation as the gateway for 1.5 million

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Yellowstone National Park visitors each year.

The subcommittee recognizes that not every town and city in the state can take advantage of a local-option tax targeted to tourists, and residents of rural areas where the tax wouldn't work could still wind up paying the tax when they shopped in a larger city.

Their final proposal will likely include a distribution plan requiring 25 percent of the taxes collected in a city or county to be spread out among neighboring counties. The subcommittee has divided the state into four regions and 10 sub-regions; the regions would get 15 percent, and the sub-regions would get the remaining 10 percent.

A computer model of the distribution shows that Powell County, in Region 2, probably wouldn't collect any local-option luxury taxes. But if the other counties in Region 2 all adopted the tax, Powell County would still get \$95,769 - money coming in from places like Butte, Bozeman, and Helena.

The subcommittee will meet once more to discuss the proposal before passing it on to the Senate Taxation Committee early next week.



## Big Bill flies out of subcommittee

HELENA - With the tentative support of the governor's office, schools, counties and cities, House Bill 124, the so-called "Big Bill," passed out of subcommittee Thursday on a 7-1 vote.

HB124 would generally revise the financial relationships between the state and local governments. At its core is the assumption that the state will take over collection of most fees and taxes that it now shares with local governments, and in return, local governments will get "entitlement share" payments to make up for the loss. The entitlement share payments are designed to grow with the state's economy, and neither the state nor local governments are supposed to lose any money.

Since the bill was introduced to the House Jan. 25, there has been a lot of talk about trust, and representatives of the state and local governments indicated Thursday there are lingering doubts over how the bill will work

"We're going down here, and we're doing it to make the bill work," Missoula Mayor Mike Kadas said during a discussion on the growth rate for the entitlement share. Missoula doesn't stand to lose money under the bill, but the city might not gain as much as it would under current law.

During discussion of an amendment to ensure continued funding for schools and the county retirement and transportation funds, Chuck Swysgood, budget director for Gov. Judy Martz, said, "Right now, we're on board for a little while."

Just before the vote Thursday, Rep. Robert Story, the bill's sponsor and chairman of the subcommittee, said, "In the end, we have a reimbursement program for local governments that's got to be funded one way or another, and this is the vehicle to do it."

The Park City Republican added that no other bill to take care of revenue promised to local governments in the last legislative session is likely to make it out of committee.

The House Local Government Committee will take action on HB124 March 20. It then must pass the full House, at least one Senate committee, the full Senate and the governor's desk before it can become law.

## House panel favors property-tax bill

HELENA - A House committee unanimously approved a bill Tuesday to allow local governments to reduce property taxes without being punished by the unintended consequences of a law passed last session.

In 1999, the Legislature limited the amount of money local governments can collect through property taxes - but tied the limit to the previous year's collections. So if a city or county wants to reduce property taxes one year, its limit in later years is capped at that reduced amount.

Senate Bill 265, sponsored by Sen. Don Hargrove, R-Belgrade, doesn't change the property tax caps, but it cuts the tie between the cap and reduced collections in good years. The bill has already passed the Senate on a 49-1 vote and is now headed for debate by the full House.

During the bill's hearing in the House Local Government Committee Tuesday, Hargrove said the current law puts cities and counties in a "use it or lose it" situation.

"It forces us to impose the maximum levy allowed under the law, even when the maximum levy amount is unnecessary and therefore unwarranted," said Gallatin County Commissioner John Vincent. "It can only undermine the credibility of government itself."

In 2001, a Gallatin County conservation district collected about \$10,000 more than it needed to because the county knew it would need the maximum in the next year, Vincent said.

The current system "contributes to a cynicism, I think, among our constituents and causes irresponsible spending," Hargrove said. His bill, he added, would provide an incentive for local governments to reduce taxes in good years.

"A lot of counties have told us they've spent money they really didn't want to," he said.

## Local-option tax bill moves forward

HELENA - Just 24 hours after the chairman threatened to withdraw his support for a bill to allow local governments to adopt sales taxes on luxury items and services, a legislative subcommittee finally reached consensus and moved the bill forward Wednesday.

Sen. Bill Glaser, R-Huntley and chairman of the subcommittee, is the sponsor of one of two local-option sales tax bills on the table this session. Glaser's Senate Bill 213 now contains pieces of the other bill, SB155 by Sen. Mike Halligan, D-Missoula, and is headed toward consideration by the full Senate Taxation Committee.

Under the bill, a local government could adopt a sales tax of up to 4 percent on "luxuries," including souvenirs, recreational vehicle rentals and drinks served at a bar. Supporters have said out-of-state tourists would pay as much as 47 percent of the taxes.

"You tap the people from outside the state as much as possible, and you give the money back to the people who are providing the services," Glaser said Tuesday.

The bill requires voter approval of the tax. And it requires that 10 percent of the money go toward property tax relief and 5 percent be returned to merchants to cover their administrative costs.

The bill also contains provisions for sharing 30 percent of the remaining money with surrounding communities. That way, rural residents who paid the tax while shopping in larger communities would also see some benefit from it.

The subcommittee broke the state into four regions and 10 sub-regions, with the regions getting two-thirds of the shared money and the sub-regions getting the rest.

On Tuesday, Glaser threatened to give up on the bill when the other two members of the subcommittee voted to remove the state's seven largest cities from the sharing pool. By Wednesday, however, he had spreadsheets to show that removing those cities from the pool gave an unfair advantage to some smaller communities.

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Alec Hansen, executive director of the Montana League of Cities and Towns, put together one of the charts, showing that if Flathead, Lincoln and Missoula counties all enacted the tax, but Kalispell and Missoula were excluded from the sharing pool, Lincoln County would get the most money per capita.

“It would make a lot of sense to get more of this money out to the rural areas,” Hansen said. But, he added, taking the seven largest cities out of the equation “really removes the incentive to some of these counties to put the tax on.”

“I’m sold; you’re right,” said Sen. Emily Stonington, D-Bozeman, after going over Glaser’s charts.

Glaser said he thinks the bill is crafted to benefit nearly everyone, but, he added, “Doing the right thing in this place doesn’t sell very well.”

He said he will try to sell the bill to the leadership in both houses before it’s heard in the Taxation Committee next week.

A similar proposal in 1999 came the closest to passing of any statewide local-option tax bill to reach the Legislature since the 1972 constitutional convention. SB213 was based on that bill, which passed the Senate 28-22 but failed in the House.

## Committee passes Big Bill

HELENA - The Big Bill is headed for the House floor.

The House Local Government Committee voted 13-5 Tuesday to approve House Bill 124, one of the largest bills this session. The committee made only a few small changes to the bill, which has been under close scrutiny in subcommittee since January, before making its vote.

HB124 would make big changes to the financial relationship between the state and local governments. Most statewide taxes and fees - including gambling and alcohol taxes and motor vehicle fees - would go directly to the state's coffers, and local governments would no longer get a share of each tax or fee. In exchange for the lost revenue,, local governments would get a yearly "entitlement share" payment that would grow along with the state's economy.

School districts would also lose certain streams of money under the bill, money that would be replaced by semi-annual block grants. The block grants expire in 2003, partly because the Legislature hopes to come up with a new and better school funding program by then.

The idea behind HB124, said sponsor Robert Story, R-Park City, is to simplify the flow of money and improve both accounting and accountability.

The bill is intended to be revenue neutral, meaning no one should lose any money because of the changes it makes. Both the Montana Association of Counties and the Montana League of Cities and Towns, which represent the groups most affected, support the bill and worked closely with the subcommittee to make the bill more palatable to their constituents.

Motorcycle advocates also worked closely with the subcommittee. They lobbied to have a special motorcycle safety fee kept separate from other motor vehicle fees and were the only motorist group to come forward against provisions in the bill that would

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have raised some vehicle fees and lowered others by creating four categories of flat fees.

The subcommittee took the flat-fee provision out of the bill because, Story said, “the governor was not interested in signing a bill that had a fee increase in it.”

Although lobbying groups seemed fairly content with the bill as it left the committee Tuesday, it wasn’t easy for many members of the committee to vote for it.

Rep. Jeff Mangan, D-Great Falls said cities and counties need the stable source of revenue the bill could provide, but he doesn’t think schools are getting a fair deal.

“My concerns I still have are education and how schools are treated in this bill,” he said. “I think there was a lack of communication during the interim ... and they were the forgotten stepchild in this.”

Rep. Rick Laible, R-Victor, sat for several seconds with his eyes closed after the secretary asked for his vote. He finally said yes.

“If Bob Story wasn’t the one that was bird-dogging this thing, I probably would have gone the other way,” he said later.

And Rep. Ken Peterson, R-Billings, said he is adamantly opposed to the bill but would vote for it because the local governments he represents want it.

“They’ve gotten themselves in a corner in such a way they have to go along with this,” he said. “I’ve got a real problem with the overall philosophy of it, but everybody I talk to ... tells me they have to have it.”

The bill next goes to the House, where it must pass by March 24 to stay alive.

## House passes Big Bill

HELENA - The Big Bill landed on the House floor Friday and is likely to bounce into the Senate by next week.

After little more than an hour of debate, the House passed the 221-page House Bill 124 on a second-reading vote of 76-24. Friday was the last day for the House to consider the bill.

HB124 would have significant impacts statewide, a fact not lost on the representatives, many of whom were seeing it for the first time. The bill is the product of nearly two years' worth of work, but there are relatively few people in the Legislature who have actually read it.

"I want to challenge all of you: Do you really understand what's in the bill?" Rep. Dave Wanzenried, D-Missoula, said. "We should not rush into this decision. We need to cast a responsible vote on this bill just like we do all the others."

Wanzenried was one of eight House members who sat on a select subcommittee that studied and amended the bill throughout the month of February. He voted against it on Friday.

Rep. Robert Story, R-Park City, has been working on the Big Bill for nearly two years. He was a member of the interim committee that came up with the bulk of the bill, and he sat on both the subcommittee and committee that worked with it before it reached the floor. He is also the bill's sponsor.

"This bill does make some significant policy changes, and you need to understand that," he said. "But understand it under the idea that local governments were involved in this whole process."

The centerpiece of HB124 is an entitlement share program for local governments. The state would take in a number of fees and taxes that it now shares with cities and counties - including alcohol, gambling and motor vehicle taxes - and, in exchange, local



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governments would get yearly payments that would grow with the state's economy.

The entitlement share also includes reimbursements to local governments for money they lost when the Legislature reduced certain taxes over the years, including the business equipment tax. It is the only bill still alive that would provide those reimbursements.

In addition, the state would take over funding of district courts and county welfare programs. Even though they have almost no control over either program, counties now must pay part of the cost.

Under the bill, schools would also lose money when the state took over collection of taxes and fees, and that money would be replaced by semi-annual block grants. The block grants expire in 2003, partly because the Legislature hopes to come up with a new and better school funding program by then.

Rep. Jeff Mangan, D-Great Falls and another member of the subcommittee, said schools should also see growth in their payments, and he promised to continue working on the bill as it winds its way through the legislative process.

"It's not a perfect bill; I don't think we'll ever get a perfect reimbursement bill of any type," Mangan said.

But he added: "In the overall scheme of things, this is not a bad bill."

Another member of the subcommittee, Rep. John Esp, R-Big Timber, urged representatives to pass the bill so the Senate can continue work already begun.

"This bill's come a long way since we first saw it a couple of months ago, and I think we're headed in the right direction," Esp said. "In order for us to do a little more work, we're going to have to pass it out of here today."

## Senate approves local-option tax bill

HELENA - For many senators Tuesday, it came down to a choice between local sales taxes now or a statewide sales tax later.

Local-option taxes won the day when the Senate voted 26-20 in favor of a bill to allow cities and counties to enact voter-approved sales taxes on luxuries. But the debate, which has been going on for years, isn't over.

"Ever since I came here in 1985, I've seen a local-option sales tax," said Rep. Bill Glaser, R-Huntley and sponsor of Senate Bill 213. "Every time. Most of the time I didn't vote for it."

"This is the best local-option tax bill ... that I have ever seen," Glaser said of SB213. "If you don't like it, this is still the best local-option tax bill you will see."

SB213 would allow cities and counties, with voter approval, to adopt sales taxes of up to 4 percent on luxuries, including souvenir T-shirts, snowmobile rentals and cocktails. Glaser said out-of-state tourists would pay as much as 47 percent of the taxes collected.

Glaser also said he is confident the bill has statewide bipartisan support. Missoula Mayor Mike Kadas and Kalispell Mayor Bill Boharski, two former legislators who sat on far opposite sides of the aisle, have both written to him in favor of the measure.

"They're both mayors of major cities that have problems, and they're coming here asking for our help," Glaser said.

Local governments have few options for raising money and rely heavily on property taxes. Glaser said SB213 would give cities and counties a way to raise revenue without raising property taxes - and actually requires 30 percent of the money go toward property tax relief.

But many opponents of the measure say it would preclude future statewide sales

tax proposals.

“If you really believe in the statewide sales tax ... then you shouldn’t vote for this because this is a slippery slope that’s going to take us away from a statewide sales tax,” said Sen. Jack Wells, R-Bozeman.

“Whether you like the concept or not, this is an innovative approach,” Sen. Don Hargrove, R-Belgrade, said. “I don’t like the concept.” Hargrove said he could see support for a statewide sales tax during discussion of SB213 and that a statewide tax would be more fair and more appropriate.

Glaser said he doesn’t expect Montanans to vote for a statewide sales tax before his great-granddaughter reaches old age.

Glaser’s bill began as a resurrection of last session’s SB370, which passed the Senate but died on the House floor. SB213 has since been amended to include the ideas of city and county officials and parts of another local-option tax bill requested by the Local Government Funding and Structure Interim Committee.

What will make SB213 work, Glaser has said, is a requirement that cities and counties that enact local-option sales taxes must share the wealth with their neighbors, so rural residents who pay the tax while shopping in larger cities also benefit. The bill breaks the state into four regions and 10 subregions, with 20 percent of the money collected going to the surrounding region and 10 percent to the subregion.

Computer analysis shows that if Yellowstone County adopted the tax, it would collect just over \$40 per capita each year. Counties in the subregion would get just under \$15 per capita from the Yellowstone County tax collections, and counties in the region would get about \$10 per capita.

But Sen. Alvin Ellis, R-Red Lodge, said he doesn’t believe urban areas could enact the tax without burdening their rural neighbors.

“To me, it’s just wrong to have a tax policy ... that allows those communities to

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benefit from their less-wealthy brethren,” Ellis said. “The idea of helping local governments is all right if it works for all local governments.”

Sen. Mike Halligan, D-Missoula, responded that “one size does not fit all” when it comes to funding local governments. Halligan sponsored the local-option tax bill that was merged into SB213.

He said SB213 would give cities and counties greater choice in deciding where to get their money. With a local-option sales tax, he said, some local governments would no longer have to rely on property and gambling tax money to survive.

“We are giving them the tools,” he said.

SB213 must still pass third reading in the Senate later this week before being transmitted to the House. Gov. Judy Martz has said she will probably support the bill if it reaches her desk.

## Analysis: Legislature isn't ready for local-option taxes

HELENA - The death of Senate Bill 213 is a lesson in the capricious nature of Montana lawmaking.

The Senate defeated the bill - one of many over the years that would have allowed cities and counties to adopt a local-option sales tax - during its fifth vote on the measure. The final tally was a narrow 25-24.

SB213 began as a resurrection of a previous bill, a 1999 proposal for local-option sales taxes on "luxuries" that narrowly passed the Senate but died on the House floor, despite efforts to revive it. And SB213 was not taken lightly by its sponsor, Sen. Bill Glaser, R-Huntley, who admits to having strenuously opposed several local-option tax proposals during his tenure in the Legislature.

"This is the best local-option tax bill ... that I have ever seen," Glaser said Tuesday during debate on the proposal. "If you don't like it, this is still the best local-option tax bill you will see." The bill on Tuesday passed second reading -when the full body of the Senate or House debates a bill and makes an initial vote - 26-20.

By Thursday morning, though, at least half the senators had decided they didn't like it. Several voiced opposition to local sales taxes in general, saying they would prefer a statewide sales tax. Others said they didn't think the bill was fair to rural communities, where local-option sales taxes wouldn't do much good.

In between, the Senate voted on the bill three times. The first vote, on what is usually no more than a procedural third-reading vote, killed the bill. The second vote approved a motion to reconsider killing it. And the third was a second second-reading approval.

During all those votes and the debate that came with them, no one argued that

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local governments don't need a shot in the arm. Cities and counties have few choices for raising money, and their best bet - property taxes - is both unpopular and heavily restricted by the Legislature.

SB213 represented an enormous effort on the part of local government officials, legislators and lobbyists who spent the past two years trying to polish a local-option tax proposal that would finally work. A legislative staffer created a computer modeling program that Glaser and two other senators used in subcommittee as they tweaked the bill to make it do exactly what they wanted it to.

Alec Hansen, executive director of the Montana League of Cities and Towns, was at the center of those efforts. He has lobbied for local-option taxes for years, and he spent much of the past two and a half months advancing SB213 and its counterpart, SB155, which was eventually merged into SB213.

On Thursday morning, all Hansen could say was: "All that work for nothing."

SB213 will not be the last local-option tax proposal to reach the Legislature. City and county officials will continue looking for new ways to find money, and local-option taxes will continue looking like an easy way to do it.

But local governments can't sail that ship of their dreams into the sunset until they get the Legislature on board.

There are rumors at the Capitol that SB213 died because of political bickering among senators, because some senators were enticed by the possibility of a statewide sales tax proposal passing the House or because of the ongoing struggle for money and power between urban and rural communities.

But none of those things would have defeated the bill if the senators who voted on it were really ready to take it on. They weren't. Not this time around.

## House gives nod to cluster development

HELENA - One way to preserve farmland and open space is to allow local governments to encourage developers to build homes closer together, Rep. Cindy Younkin, R-Bozeman, said Monday.

Younkin is the House sponsor of Senate Bill 479, approved by the House Monday on a 76-24 vote. The bill already passed the Senate 49-1.

SB479 would allow and encourage local governments to promote "cluster development" with special regulations. Through cluster development, landowners subdivide a small portion of a large piece of property and preserve the rest as agricultural land, green space or wildlife habitat. Cluster development also makes it easier for local governments to extend services to new subdivisions, since they need only serve the smaller portion of land containing the cluster.

"This just gives us another option where we can put the development all in one place, where we can preserve the open space," Rep. Verdell Jackson, R-Kalispell, said.

Under the bill, cluster development regulations would include a maximum lot size, a maximum number of lots per cluster and a minimum amount of land to be preserved. The bill would also require landowners to put the preserved land into a perpetual conservation easement.

Local governments could also include in their regulations incentives for landowners to consider cluster development, including a shorter time frame for subdivision review and exemption from environmental assessment.

Several representatives on Monday praised the bill as a way to preserve open space, especially farmland.

"There are a lot of people who are concerned when you are starting to develop agricultural land into tracts," Rep. Robert Story, R-Park City, said.

Giving farmers and ranchers the opportunity to develop a small piece of their

property might give them the cash flow they need to continue production - and would also ensure that the remaining land remains in production, he said.

The only person to speak against the bill was Rep. Donald Hedges, R-Antelope, who said he doesn't like the idea of requiring perpetual conservation easements.

"We are, for the short term, saying it's a good deal," Hedges said. "But are we not, by taking advantage of the moment, tying the hands of future generations who may see a better way? ... While it looks good today, it may not tomorrow."

But Younkin said it's up to the landowner to decide whether to put a conservation easement on a piece of property.

"It may be that that's what you need to do to continue to farm," Younkin said.

She added: "If my great-grandfather decided 100 years ago that this is what he wanted to do ... that was his decision."



## Senate panel hears testimony on Big Bill

HELENA - Speaking to the Senate Taxation Committee Tuesday, opponents of the so-called "Big Bill" mostly described themselves as "reluctant."

"Our approach is to continue the efforts to improve the bill to see if we can support it in the future," Gallatin County fiscal officer Ed Blackman told the committee.

Gallatin and Yellowstone counties are among the few still opposed to the 221-page House Bill 124, which would overhaul state funding of local governments. The bill passed the House 75-25 last month and now needs the approval of the Senate.

The Big Bill has the approval of the Montana Association of Counties and the Montana League of Cities and Towns, and the tentative support of the Montana School Boards Association and the Montana Rural Education Association.

Those who don't like the bill have specific concerns that the bill's sponsor, Rep. Robert Story, R-Park City, said he is working to address.

"There are still people going through the bill and finding issues they think need to be fixed," Story said. But he warned the committee against spending too much time trying to pick the bill apart.

"Really, you're down now to the policy issue of do you want to do it or not," he said. "I think the bill is, philosophically, a good direction to go."

HB124's most important function is to reimburse local governments for revenue they will lose because the Legislature has reduced certain taxes and fees over the years, including the business equipment property tax.

But the bill goes beyond reimbursement and rewrites 100 years of local government finance law to update and simplify how money travels between the state and cities and counties.

"There is a reason that this is a big bill," said Alec Hansen, executive director of the Montana League of Cities and Towns. "If you look at some of the finance laws of

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the State of Montana, you can almost read the history of our state.”

Within those laws is a complicated mix of taxes and fees the state collects and shares in various proportions with local governments. Under HB124, all of that revenue - including gambling and alcohol taxes and motor vehicle fees - would go directly to the state. The state would also assume funding for district courts and welfare, now paid for in part by counties. In return, cities and counties would get annual entitlement share payments that would grow with the state’s economy.

The bill also removes caps on the number of mills local governments can levy for specific purposes, while retaining an overall mill levy cap. In addition, it allows cities and counties to reduce property taxes one year without affecting their cap for subsequent years.

“This is a step forward for the state and for local governments,” Missoula Mayor Mike Kadas said. Kadas supports the bill even though Missoula is one of a handful of cities and counties that could, under current law, see revenue growth greater than that proposed for the entitlement share.

“Without a doubt, this bill is more advantageous to regions with declining or stagnant populations,” Kadas said. But, he added, “I need this stability over the long term.”

Gallatin County lobbyist Mona Jamison, on the other hand, said the Big Bill is “too huge, too big, too much at one time.” She said the bill contains too much “centralization and equalization.”

“Use 124 to fix reimbursement, get rid of mill levy caps,” she said. “Then incrementally determine what should be the next phase.”

Jamison and Yellowstone County lobbyist Charles Brooks also asked the committee to amend the bill to require a three-fifths vote in the Legislature to reduce entitlement shares.

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Rep. Jeff Mangan, D-Great Falls and a member of the subcommittee that worked on the Big Bill in the House, supports the bill but said it should contain more money for schools.

Instead of entitlement shares, HB124 would give schools semiannual block grants. But the block grants would expire in 2003, partly because the Legislature hopes to come up with a new and better school funding program by then.

“We’ll come up with a new formula with which we can come back and change this,” Mangan said. Until then, he said, the bill should include a continuing block grant program with a growth factor similar to local governments’.

Another concern for opponents is whether the state has the money to take over district court funding and what that funding includes.

“Where is the money?” asked Missoula District Court Judge John Larson. “I don’t see it.” Larson said he has received assurances that the money is in the bill but asked the committee to add a specific appropriation for district courts.

Brooks had similar concerns and also said the state should pay for public defenders and the guardian ad litem program for abused and neglected children.

Story said the Senate needs to pass HB124, with or without significant amendments.

“This will be the reimbursement bill in whatever form you decided to send it out in,” he said.

A three-member Senate subcommittee will examine and amend the bill this week. The Taxation Committee will make its final decision by Monday.

## Senate committee votes for Big Bill

HELENA - It didn't take long Monday for the Senate Taxation committee to advance the Big Bill, a proposal that would completely overhaul state funding of local governments.

The lone voice against House Bill 124 belonged to Sen. Bill Glaser, R-Huntley, who said passing the bill would be "the second biggest mistake this Legislature will ever make."

The biggest mistake, he said, was a 1999 bill to reimburse local governments for money they lost when the Legislature reduced or eliminated certain property taxes. That bill also required an interim committee to study local government funding, and HB124 is the result of the committee's efforts.

"I think that we will rue the day we did this, mostly because we are building on past mistakes," Glaser added.

Sen. Emily Stonington, D-Bozeman, said she was at first "very skeptical" of the Big Bill but has since changed her mind.

Stonington is a member of the Taxation Committee and also served with Glaser and Sen. Alvin Ellis, R-Red Lodge, on a subcommittee that investigated the bill last week. During the subcommittee's deliberations, Stonington put together a stripped-down version of HB124 that would provide reimbursements similar to those enacted in 1999. She later dropped the idea.

After studying the Legislature's options for this session, she said she is "now 500 percent behind" the Big Bill as it stands.

Stonington described the bill as a "very ingenious mechanism" that gives the state the ability to fully fund district courts and welfare, while also giving local governments predictable yearly payments.

"This is the bill we need to put through this body," she said.

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The Big Bill's centerpiece is an "entitlement share" program for funding local governments.

Under HB124, the state would keep all of the money from a number of taxes and fees it now shares with local governments, including alcohol and gambling taxes and motor vehicle fees. In exchange, cities, counties and school districts would get predictable payments designed to grow with the state's economy. In addition, the state would have enough money to pay for district courts and welfare, now partly funded by counties.

"This bill addresses the needs of those local governments," Ellis said. "It gives them some assurance that any tweaking that we do in the future will not be to the detriment of those local governments."

Another benefit, Stonington said, is that the bill won't cost the state anything until 2006. After that, the cost to the state will increase at the same rate as any state agency budget, she said. Her stripped-down version of HB124 could have cost the state millions of dollars more, beginning in 2004.

## Senate strips Big Bill

HELENA - After a confusing series of votes and complaints of rules violations, the Senate passed a stripped-down version of the so-called "Big Bill" Tuesday on a 38-10 vote.

Known for its heft and complexity, House Bill 124 would have rewritten the book on local government finance, a complicated mix of taxes and fees the state collects and shares in various proportions with local governments. The intention behind the bill was to streamline collection of taxes and fees and give local governments a more reliable source of state money.

In its current state, however, HB124 is merely a beefed-up version of reimbursement bills passed by previous Legislatures and set to phase out over the next several years. Those bills were an attempt to repay local governments some of the money they lost when the Legislature reduced certain taxes and fees, including the business equipment property tax.

HB124 as amended Tuesday would continue the reimbursement payments at the 2002 level, without any phase-outs.

The bill is unlikely to remain in its new form, however. After killing the bill on a second-reading tie vote, the Senate agreed to reconsider it for the purpose of amending it, passing it and getting it into a conference committee. Depending on the type of conference committee chosen to revisit the measure, the bill could be restored to its previous form or rewritten even further.

Changes to the bill by a conference committee could hinge in part on the opinion of the governor's office and of Budget Director Chuck Swysgood, who said Tuesday that the new version of the bill "is going to cost."

In the next four years, the new version of the HB124 will cost \$24.4 million more than the old version, according to information provided to the Senate by the

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Legislative Fiscal Division.

“We’re going to have a conference committee to at least get this bill to where we can pass it,” Senate President Tom Beck, R-Deer Lodge said. “We’ve got to get something out of here.”

For local governments to get any reimbursement in the next two years, HB 124 - in one form or another - must pass. It is the only reimbursement bill to make it through the session thus far, and Tuesday was the last day for the Senate to consider the bill.

“I don’t think the House is going to accept this decision, “ Alec Hansen, executive director of the Montana League of Cities and Towns, said after the Senate’s vote to strip the Big Bill. The bill passed the House with a three-fourths majority.

Hansen worked closely with the interim committee that built the bill and has lobbied for it all session.

“There’s an awful lot of people that put a lot of long hours into this bill to try to find a better system for local government finance,” Hansen said.

Until now, those people have ensured that the bill has seen fairly smooth sailing through the legislative process. It passed the Senate Taxation Committee Monday on a vote of 8-1. On Tuesday, however, several senators said they thought the bill was too complex and too radical to pass in one fell swoop.

“It’s not the end of the world if we just kind of keep things as they are,” Sen. Corey Stapleton, R-Billings, said. “My instinct tells me everything is wrong about this bill.”

Stapleton argued the bill would centralize government at the state level and remove local control of city and county finances.

Under HB124 in its original form, the state would have kept all taxes and fees it imposes, no longer sharing that money with cities and counties. The state then would have compensated local governments with annual “entitlement share” payments

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designed to grow with the state's economy. And counties would no longer have had to partly fund district courts and welfare, since the bill would have required the state to shoulder the full cost.

In its current form, the bill does none of that.

The bill's supporters have said the entitlement share system would create a more stable and dependable source of revenue for local governments. And, they said, it would greatly simplify how money flows between the state and local governments.

"Over time, the work of this body has created the most complex, nightmarish funding system that I have ever seen," said Sen. Walter McNutt, R-Sydney. "I think this bill is as close and as good as it's going to get," he said of the original bill.

In its new form, the bill does continue to remove caps on the number of mills local governments can levy for specific purposes, while retaining an overall mill levy cap. And it allows cities and counties to reduce property taxes one year without affecting their cap for subsequent years. Both of those changes were included in the original bill and correct the unintended consequences of a bill passed last session.



## Analysis: Backers hope to restore Big Bill

HELENA - The Big Bill isn't dead. It's just lost weight.

House Bill 124, once a hefty 246-page overhaul of local government financing, is much leaner after the Senate voted Tuesday to strip the bill's more revolutionary proposals and turn it into a glorified local-government reimbursement proposal.

But if supporters get their way, the bill will gain back some heft before the session's over.

The bill sailed through earlier legislative proceedings before the Senate killed it with a 24-24 vote, then revived it, stripped it and finally passed it 38-10 Tuesday evening.

The 24 senators who initially voted against the bill had 24 different reasons for doing so.

"There's something in there that everyone hates," said Sen. Ken Miller, R-Laurel. Miller voted against the bill twice Tuesday and opposed three attempts to amend it. He said he didn't think the state could afford to pay for built-in pay increases for every city and county in the state, including those in economic decline.

Sen. Jim Elliott, D-Trout Creek, introduced the amendment that stripped HB124. He voted against the bill the first time but supported it once his amendment was in place.

Elliott's amendment removed the centerpiece of the bill, an entitlement share program for local governments to replace the current system of reimbursements for money they lost when past Legislatures cut taxes.

Under the entitlement share program, cities and counties would give up their shares of taxes and fees collected by the state - including motor vehicle, alcohol and gambling taxes - and the state would pay them back with annual lump sums. The payments, which would include reimbursements the state now pays, would increase with time and a growing economy. In addition, the state would shoulder the burden of fully

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funding district courts and welfare, programs that counties now must pitch in for.

Elliott had several criticisms of the Big Bill, but his primary concern was that the entitlement share program would usurp the authority of local governments to collect and distribute money.

“Once you give up the power of the purse, you’ll never get it back,” he said.

The bill’s sponsor, Republican Rep. Robert Story of Park City, disagrees.

“Having their hands on it - that’s the only thing they’re giving up,” Story said.

Story said he hopes to put the entitlement shares back in the bill in conference committee deliberations, which could begin as early as today. But, he said, the bill will still be a slimmer version of its former self.

He is working with Budget Director Chuck Swysgood to come up with a way to do the entitlement shares without hitting up the state’s bank account.

“The budget office is kind of in the driver’s seat right now,” Story said.

The original bill would have paid for itself in the first four years, according to analysis by the Legislative Fiscal Division. After 2006, though, it would have become an increasing burden to the state: \$15.6 million for the 2007 biennium, \$28.9 million for the 2009 biennium and \$37.3 million for the 2011 biennium.

And Elliott’s amendment actually increased the cost of HB124 by about \$34 million over the next 10 years.

Story said he has a plan that would create an imbalance of only \$1 million a year, something he said the Budget Office will probably be able to swallow.

But local governments - fairly strong supporters of the pre-Senate HB124 - are still deciding if they can back a smaller Big Bill, with less money and less potential for growth.

“It goes right to the bottom line,” Alec Hansen, executive director of the Montana League of Cities and Towns, said of Story’s new plan for entitlement shares. At

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first glance, he said, it appears that cities and towns would get a slight gain in the first year, a slight loss in the second year and only narrow gains in subsequent years.

Hansen said he has been in touch with the league's members and leaders, asking if there are other parts of the bill that still make the deal worth doing.

"If the cities decide this isn't going to work, then maybe we should go into a reimbursement program under current law and hang on to those other revenues," he said.

But he remains optimistic that local governments, the Legislature and the Budget Office can come up with a version of HB124 they can all live with - and even like.

## Committee reconstructs, passes Big Bill

HELENA - Defying votes made in the Senate two weeks ago, a legislative conference committee reconstructed the so-called "Big Bill" on local government financing, pared it down some and on Wednesday voted to pass it.

House Bill 124 sailed through earlier legislative committees, passed the House by a three-fourths majority vote, then nearly died on a tie vote in the Senate on April 10. Senators voted to strip the bill of its more radical proposals before passing it.

The free conference committee appointed to make the bill palatable to both houses finished its work Wednesday evening, with most members saying they were hopeful the bill would pass in its current form. It now has the approval of Budget Director Chuck Swysgood, who said he would recommend the bill to Gov. Judy Martz.

"We've got to get the votes now," said bill sponsor and committee member Rep. Robert Story, R-Park City. "That's the only thing we're missing is the votes."

But the bill's lone opponent on the committee, Sen. Bob Keenan, R-Bigfork, said he still isn't convinced the bill is the right thing to do.

"Are we just locking ourselves into obligations that we have to carry out?" he asked.

HB124 was 246 pages long before the Senate stripped it, and it is at least that long in its current form. Its length is due to the number of laws that must be rewritten for it to work.

Local government finance now involves a complicated mix of taxes and fees the state collects and shares in various proportions with local governments. The intention behind the Big Bill is to streamline collection of that money and make state funding for local governments more predictable.

The bill's centerpiece is an entitlement share program for local governments. It would replace the current system of reimbursements the state pays local governments for

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money they lost because past Legislatures cut taxes.

Under HB124, cities and counties would give up their shares of taxes and fees collected by the state - including motor vehicle, alcohol and gambling taxes - and the state would pay them back with annual lump sums. The payments, which would include reimbursements the state now pays, would increase with time and a growing economy.

In addition, the state would shoulder the burden of fully funding district courts and welfare, programs counties now must pitch in for.

Much of the committee's work has centered around reducing the cost of the bill. It first cut the amount of the entitlement shares by reinstating two current reimbursements that will phase out by 2008. It then dropped the growth factor for counties' entitlement shares from an estimated 3 percent a year to 2.3 percent a year.

The reductions bring the price of the Big Bill down to an estimated \$21.4 million over the next 10 years. When the bill reached the Senate, it would have cost \$79.2 million, and the Senate's stripped version of the bill cost even more, at \$113.3 million.

The executive director of the Montana Association of Counties, Gordon Morris, said counties remain "very comfortable" with the bill, even with the reduction in entitlement shares.

The bill has long had the support of most Montana cities, towns and counties.

## Big Bill passes Legislature – for good

HELENA - The Big Bill on local government finance has passed the Legislature.

Both houses thought they gave House Bill 124 their final approval Friday, but, because of a drafting error that would have cost the state hundreds of thousands of dollars, Gov. Judy Martz was forced to amend the bill and send it back for a truly final Saturday vote.

“I was sick about it, but it’s one of those things that’s got to be corrected,” Senate President Tom Beck said when he introduced the bill to the Senate Saturday for a fourth debate-stage vote. The Senate spent two excruciating hours debating the bill Thursday, and when it came up for third reading Friday, everyone assumed it was all over.

“It was strictly a clerical error,” Beck said.

The bill’s self-described “chief gadfly,” Sen. Jim Elliott, D-Trout Creek, said he would support the governor’s amendment, even if he didn’t support the bill.

HB124 requires local governments to give up their shares of certain taxes and fees - including alcohol, gambling and motor vehicle taxes - in return for entitlement share payments from the state. The payments, which would grow or decline with the state’s economy, would include reimbursements local governments receive for property taxes lost because of past Legislative action.

In addition, the bill obligates the state to pay for district courts and welfare, programs now funded in part by counties.

In the House, HB124 didn’t even make it onto the agenda until late in the day.

“It wasn’t on my agenda until last night, either,” said bill sponsor Rep. Robert Story, R-Park City.

After minimal discussion in both houses, the final votes on the Big Bill were 30-16 in the Senate and 71-25 in the House.

## Big Bill is here to stay. What next?

HELENA - The Big Bill on local government finance is almost a done deal, awaiting only the governor's signature. All that remains is to see how it works.

"A lot of people have looked at this bill in a lot of depth," Revenue Director Kurt Alme said Tuesday. "There's always the possibility that something was missed, but in comparison to other legislation, this bill was significantly scrutinized."

Gov. Judy Martz already has pledged to sign House Bill 124, sponsored by Rep. Robert Story, R-Park City.

Most major changes in the bill begin July 1. The first payments to local governments will go out Sept. 15, and Alme said his department will be ready.

But Flathead County Commissioner Dale Williams said he doesn't believe the department is technologically prepared for the taxing revisions in the Big Bill. The new calculations, collections and distribution will "complement an already-overburdened computer system," he said.

Alme said he is confident the changes under the Big Bill will actually improve his department's efficiency. And the computers that will handle the transactions do not use POINTS, the department's much-maligned new software system.

"If you're concerned about inaccuracy in calculations of shares, this is better," Alme said.

The Big Bill is the two-year project of an interim committee of state and local officials brought together to fix city and county finance laws.

Those laws, strung together over more than 100 years, connect a number of state-mandated taxes and fees to an even greater number of state and local accounts. Under the Big Bill, all of that money will go to the state, and cities and counties will get quarterly payments equal to what they received under the old system. Those payments, which include some reimbursements for property tax losses caused by past Legislatures,

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will grow or shrink with the state's economy.

Local governments should also gain leeway in deciding how to spend their money. While the bill retains an overall cap on the amount of money they can raise through property taxes, it revokes caps on the amounts they can raise for specific purposes.

In addition, the state will shoulder the full burden for district courts and welfare, programs counties don't have control over but now have to pay for.

"The whole thought of this is it would simplify the whole taxing system," said Yellowstone County Commissioner Bill Kennedy. The Yellowstone County Commission opposed the Big Bill up to the last minute. Then, Kennedy said, it was "the only game in town" for state funding for local governments.

Kennedy said he's still not sure he trusts the state to do what the Big Bill says it should.

"The counties are still going to have to be in Helena and talking and making sure that everything in this bill is carried out," he said. "It's like Big Brother is watching the counties, but now little brother is going to have to be watching Big Brother to make sure everything is being followed through."

Lake County Treasurer Patricia Cook, a member of the interim committee, has not been a strong supporter of the Big Bill. She doesn't agree that it will simplify revenue collections - at least, not for the county, which will continue to collect motor vehicle taxes and fees before passing them on to the state.

What the bill will do, she said, is eliminate about 100 funding "break-outs" she and her staff do after they collect that money. They'll simply send it all to the state.

"I think that maybe I'm a little nervous about change, but it's probably a good start," Cook said.

Williams disagrees.



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“There’s going to be a number of consequences that do not bode well for counties,” he said. The bill smacks of centralization, he added, and he believes local governments should take more control over their money - not give it all up to the state.

But Gordon Morris, executive director of the Montana Association of Counties, asked: “What are we losing? We don’t get that money locally now.”

Except for motor vehicle revenue, all of the taxes and fees local governments will give up in exchange for the entitlement share already go to the state first, Morris said.

Missoula Mayor Mike Kadas said, “The state has stepped in in so many places in terms of what we do that the notion of local control is pretty substantially restricted already.”

The difference between the old and new systems, Kadas said, is that local governments will have one source of state funding instead of five or 10. And, he added, no one stands to lose, although Missoula is a growing community and might gain less under the Big Bill than some more depressed areas of the state.

“There is a possibility that we won’t receive as much as we would have had we stayed with the old system, but that possibility could also go the other way,” he said. “It depends on whose crystal ball you’re using. ... We felt comfortable to move forward with what we saw as a more stable revenue stream.”

But Williams, who also represents a growing area, doesn’t like the idea that every local government, including those that are declining, will see some growth in their entitlement payments.

“Where does individual responsibility come in?” he asked. “If you have a county that, through its own leadership, is failing to address issues of concern to the county, then why should they be rewarded?”

Williams recognizes, however, that Flathead County will have to accept the

changes, like it or not.

“What we’re obviously going to have to do is, as the rules come into play on this thing ... we’re going to have to have, or attempt to have, some handle and some voice as that rule-making comes down,” he said.