Montana News Service coverage of the 2003 session of the 58th Legislature

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Weekly legislative coverage of the 58th Legislature

Director: Dennis Swibold

From Jan. 6, 2003, to April 26, 2003, I covered the 2003 session of Montana’s 58th Legislature, providing a weekly story free of charge to newspapers throughout the state. Topics ranged from the threat of methamphetamines to the debate over income and property taxes. I wrote 17 stories, each on a major topic of concern to Montanans, such as education, health and human services and the environment. The final story summarized the accomplishments and failures of the 58th Legislature, and it outlined the ultimate solution lawmakers crafted to solve the $232 million deficit facing them at the beginning of the session.
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From January 6, 2003, to April 26, 2003, I lived four days per week in Helena, Montana, covering the proceedings of the 58th Legislature. It was the single most valuable learning experience I had during my two years at the University of Montana Journalism School, earning a masters degree. My editor, and coach, was Professor Dennis Swibold, who reminded me at strategic intervals of the two most important considerations I needed to keep in mind regarding my coverage of the Legislature for small weekly papers around the state, such as the Choteau Acantha, the Billings Outpost, the Glendive Ranger-Review and, we hope, many others: First, you may not scoop anybody on news because your story runs weekly, generally on a Wednesday; and second, remember to make your copy relevant to the average reader, who wants to know, first and foremost, how he or she will be affected by the actions taken by the 150 citizen-legislators deliberating in Helena.

Professor Swibold had to remind me of these two caveats because it's easy to get caught up in the process of lawmaking rather than the results of lawmaking. As I formed relationships with legislators, lobbyists and bureaucrats, I was drawn into the unique world they populate, where many presume to speak for “the people” who are living and working and dying out there in the small towns and bigger cities of the state, and on its farms and ranches. But really this is a rather elite group of Montanans, some of whom are rich and/or well-educated, and nearly all of whom are charming, more or less sophisticated and reasonably well spoken. That's how they got elected. There are exceptions, of course, but we won't name any names here.

So as I was drawn into the unique, insular world of the Legislature, I found myself fascinated by hearings that lasted for hours on end and debates on the floor of the House or the Senate, and amendments made to bills that died, or got tabled, and then were suddenly resurrected when someone in a powerful position decided they were the only vehicles left to achieve some end, such as a reduction of income tax and capital gains tax, for example.

A certain amount of this “inside baseball” may be suitable for your stories when it is sufficiently dramatic, but it is best kept to a minimum, because your readers have not been indoctrinated into this world of the Legislature. In fact, most of them have probably given very little thought to the lawmakers in Helena, and therefore are not going to be as fascinated by who made what maneuver last Tuesday as you’re going to be once you immerse yourself in the legislative beat.

The philosophy of our coverage of the 58th Legislature was to always keep in mind
the direct effect our topics would have on our readers, who were, for the most part, the citizens of Montana’s small towns. The only notable exception to that characterization would be the readers of the Billings Outpost, a relatively new weekly in Montana’s largest city, which gave us quite good play.

We wanted to provide those small-town readers with more context for the issues we covered than daily papers typically do, and as much analysis as we could muster of a single topic each week. I actually found this approach to be very liberating, in that I didn’t have to worry about keeping up with the Joneses, i.e. the Capitol reporters on breaking news, or the news theme of the day. And there were quite a few reporters to keep up with if that had been my charge, when you consider the Three Kings — Mike Dennison of the Great Falls Tribune, Chuck Johnson of the Lee State Bureau, and Bob Anez of the Associated Press — plus Jennifer McKee, Courtney Lowery and Allison Farrell of the State Bureau, Matt Gouras and Curt Woodward of the Associated Press, Peter Johnson of the Great Falls Tribune, and Walt Williams of the Bozeman Chronicle.

Instead, I went my own way, focusing on a single topic each week and pursuing interviews with the legislators, lobbyists and agency officials who knew the most about, or played the most crucial role in, that particular topic. I would generally start with the leadership in both parties in the House and Senate, and I quickly became very familiar with the offices of Speaker of the House Doug Mood, House Majority Leader Roy Brown, House Minority Leader Dave Wanzenried, Senate President Bob Keenan, Senate Majority Leader Fred Thomas and Senate Minority Leader Jon Tester.

You will need to develop a wide range of sources, but I think it’s crucial to go to those legislative leaders early and often to establish the best rapport you possibly can with them, because ultimately everything that’s done in the Legislature really does go through them one way or the other. They are the first among equals, and it will be to your advantage to have a relationship with each of them that allows you to always tap them for their opinions on whatever your story topic is for the week.

I wrote 17 stories, averaging about 1,500 words each, for this project. The first story was a compilation of the final stories my classmates in Community News Service and I had done last fall for Professor Michael Downs and basically looked ahead to a session that was sure to be dominated by money issues. The story covered which issues were likely to be on the front burner, such as new taxes, for example, and included quotes from many of the legislative leaders mentioned above.

The next 16 stories covered a wide range of topics, from the push for tougher DUI legislation to the controversy over compensation at the State Fund. I also tried to focus on
topics that weren't being covered extensively, or at all in the daily papers, such as legislation sponsored by proponents of coal mining, the trials and travails of the environmental lobby and the methamphetamine crisis.

Professor Swibold suggested most of these topics, based on his extensive knowledge of the Legislature. Some of the topics — education, health and human services, DUI legislation — were obvious. Others — coal mining, for example — were not so obvious, and were not well covered, or were not covered at all, by the dailies.

I came up with five of the topics on my own, which were approved by Professor Swibold before I worked on them. Those five topics were: the State Fund controversy, the American Indian Caucus, coal bed methane, methamphetamines and the property tax vs. income tax relief debate. I knew people who worked at the State Fund, so I knew all was not well there. Then Jennifer McKee broke the story about the State Fund president's outrageous compensation, and I wanted to get in on the fun. I have always been interested in Native Americans and the challenges they face trying to fit into white society, so I knew I wanted to do a piece on the record seven American Indian legislators serving in the 58th Legislature. I have been interested in coal bed methane for years — in fact I was going to do my professional project on CBM before the opportunity to cover the Legislature came up — so I knew I wanted to do a story on that topic. My wife is a public defender for Missoula County, so I am well aware of the incredible problems meth causes and the widespread effect it has on the state. Many of her cases are meth-related. So I thought that would be a good story. And finally, the property tax vs. income tax relief story came to me during the course of my reporting — the only story I did on the fly in that manner. We had a relatively loose plan of attack for the story that week — it being story no. 15 we were thinking in terms of a general update on the progress of the Legislature — but as I began to work my sources to find out where things stood, this clear division between Republicans and Democrats on the question of just which of this taxes it was more important to deal with intrigued me.

I ran the idea by Professor Swibold via cell phone of hanging the story on the tax relief debate, and he immediately gave me the go-ahead to proceed.

Of all the stories I wrote, the one that probably got the most attention was a critical halftime assessment of the 58th Legislature by former legislators Mike Halligan, Mike Kadas and Bruce Simon, and political science professors Jim Lopach of the University of Montana and Craig Wilson of Montana State University in Billings. After the story ran, both a Democratic senator and an aide to the Republican president of the Senate stopped me in the hallways of the Capitol building to mention that they enjoyed reading the piece and
found it fair and balanced, despite the fact that it painted a fairly unflattering picture of the 58th Legislature.

I told the stories in fairly traditional third person news style. Even though we weren’t breaking any stories, we still were very serious about delivering news about the Legislature to the small towns across Montana, so we didn’t want to get too cute in our style. I did try to make connections and analyze trends and developments to a greater extent than the dailies generally did, although Mike Dennison of the Great Falls Tribune is known for his uncanny ability to search out new angles and broader contexts for his stories about the Legislature. Dennison has been called the best reporter in the state by some (you know who you are), and I certainly wouldn’t disagree.

Once I had written a story, I e-mailed it to Professor Swibold, pasting it directly into the body of my e-mail message. I tried to attach a Microsoft Word document to the e-mail, and for a while it seemed to work, but in the end we relied on the cut-and-paste into the e-mail method, which is foolproof.

Our general guideline was to write a 1,000-word main story, on the topics outlined above, accompanied by three to five briefs totalling 500 words, giving us an overall word count of around 1,500. In most cases I followed this general formula, although we did tinker with it. Sometimes the main story was longer, and the briefs were more brief. Sometimes the briefs took up more than 500 words. And in a few cases, such as the final report, for example, there were no briefs, just a 1,500-word main story. I liked the flexibility Professor Swibold allowed in this area, and I felt the total number of words I had to produce was well within the bounds of reasonableness for the schedule we were keeping of doing one story per week.

The deadline was basically Sunday night, although I always tried to have copy to Professor Swibold by Friday morning. This was, in part, because of my unique situation: I continued to work as the publications director of the Adventure Cycling Association, a job I held for 20 years, while I did this professional project, so I had to be in the Adventure Cycling office every Friday. This worked out fine, although there were a few occasions when I felt I was stretched pretty thin. The Legislature wasn’t always entirely cooperative with our deadlines either.

The final story, for example, would have been a problem if lawmakers hadn’t wrapped things up on their final Saturday, and had gone into Monday, Day 90, instead. Professor Swibold had to make our stories available by Monday morning so the weeklies could make their Wednesday editions. In that case, we were planning to send an e-mail out to our editors over the weekend, explaining the bind we were in, had the Legislature dragged into
Monday, Day 90.

Overall, I was satisfied with the coverage we gave to the 58th Legislature. I had terrific access to the leadership of both the House and Senate, and in fact, the same access to every other legislator, lobbyist or government official I wanted to speak to, with one exception — the governor. I asked on several occasions for an interview with Gov. Martz and was always promised that it could be arranged, but it never was arranged. Fortunately, she has a very good spokesman in Chuck Butler. I suspect that if I had pressed harder I could have gotten my interview with the governor, but I honestly felt she was perilously close to being irrelevant in the entire process, a feeling that was shared by more than one legislator, most notably Sen. John Cobb of Augusta. I should note, however, that the final budget passed by the Legislature was very close to the governor’s proposed budget, and she got the income tax cut she wanted, along with few tax increases.

Cobb had exceedingly harsh words for the governor during the session, which actually is a good example of the way in which our coverage differed from the coverage of the dailies. Cobb excoriated the governor, and his own party, on the floor of the Senate during a hearing about funding for Health and Human Services — a department that everyone would agree is Cobb’s bailiwick — saying that the governor and the Republican party simply didn’t care about the state’s less fortunate citizens, and that he hoped Martz would not be re-elected. He went on to say that he fully expected his party to be thrown out of power in the next election because of its callous attitude toward the poor, the disabled and the mentally ill. Cobb’s remarks were front page, headline news the next day. But not for us, because by the time our report came out, several days later, Cobb’s outburst was obviously old news. I did, however, allude to it in a later story.

There were several stories we did that gave great depth and strength to our coverage, I believe, one of which I’ve mentioned already — the assessment of the 58th Legislature by seasoned hands who could point to the weaknesses brought on by term limits. Before term limits, rookie lawmakers were routinely seated between two veteran legislators who knew the ropes and could teach them to the freshman in their charge. Today, with term limits, that just doesn’t happen, resulting in a far less knowledgeable and self-assured body.

I think this observation by Halligan and others was borne out in the frequent fights in both the House and the Senate over the rules. In both cases, the Republican majority essentially said they didn’t care what the rules, or Greg Petesch, the Legislature’s lawyer, had to say about the controversy at hand — they had their own opinion about the way things should be and it was good enough for them.

House Speaker Doug Mood, and after him Senate Majority Leader Fred Thomas,
were fond of the phrase "self-healing," which simply meant that if a mistake was made — and in one case the mistake was made by Mood himself — and nobody caught it at the time it was made, it was too late to bring it up later. Not surprisingly this approach left Democrats extremely frustrated.

One of the most heated exchanges in the Senate, between Thomas and Senate Minority Leader Jon Tester, came from one of these disputes, in which Thomas basically shouted at Tester that he, Thomas, was not interested in running "downstairs" — to Petesch's office — for an opinion every time the Senate wanted to pass a bill or take some other action. Tester responded that if the Republican majority only wanted to follow the rules when it suited them, he guessed that was the way it would have to be. Tester and Thomas, who genuinely seemed to like and respect each other, were able to move on from this exchange and others to get along well, but anyone witnessing the exchange couldn't help but think it had damaged the integrity of the Senate to some degree, which is exactly what Tester contended.

Our story on coal mining provides another example of a piece that went deeper than the coverage in the dailies. We talked about the Republican's focus on the Otter Creek coal tracts, and their belief that they would bring hundreds of millions of dollars into the state eventually, before anyone else did, but the greatest strength of the story, I believe, was Sen. Ken Toole's assessment of Montana's relatively weak competitive position in relation to Wyoming coal. Our neighboring state's coal, Toole said, is better, cheaper, easier to mine and easier to get to the big markets in Chicago and on the West Coast. Because Wyoming has competing rail lines, and Montana doesn't.

In discussing the topic of Montana's railroad monopoly, we were foreshadowing an issue that came up late in the session, when Republicans, and Fred Thomas in particular, pushed for $800 million worth of bonding to help someone build a railroad in the Powder River country in southeastern Montana. I didn't see as detailed an analysis of the controversies surrounding coal development in southeastern Montana in the daily papers as we provided to the weeklies. We made it clear to readers that the coal development Republicans wanted would probably require massive subsidies from the public.

Of all the stories we did, the one about methamphetamine abuse and the toxic "labs" where this terribly destructive drug is produced — in rental homes, trailer parks, motel rooms and even in campgrounds — probably was the one least covered by any of the daily papers. In fact, when I interviewed Attorney General Mike McGrath for the story, he thanked me for showing an interest in the subject, which I took as an indication that no one else had.
The headline on that story — CRITICS: LAWMAKERS HAVEN'T FACED MONTANA'S METH CRISIS — nicely summed up the problem, which seems to extend to the state's newspapers as well. If the problem is as pervasive and devastating as Great Falls Mayor Randy Gray contends, there should be far more coverage of the methamphetamine crisis in Montana's papers than there is currently.

Incidentally, I interviewed Gray almost as an afterthought because I remembered his testimony from a hearing about the meth problem early in the session, and he ended up carrying the story. I had talked to Sen. Duane Grimes of Clancy, whom I knew was well aware of the giant problem presented by meth because he had chaired a task force formed by the governor to look into the problems caused by all addictive drugs, including alcohol.

I also interviewed Attorney General McGrath, who is very forthcoming and knowledgeable not only about meth but about any issue related to law enforcement, but it was really Gray who spoke most eloquently, and most compellingly, about the problem. And it was only after talking to Gray, sort of at the last minute, that I understood Grimes and McGrath had not quite given me what I wanted — an urgent voice, speaking out on the problem.

Clearly, sources are the life blood for any reporter, and while it was important to cultivate relationships with the leadership of the Legislature, as I mentioned above, I also tried to move well beyond those six individuals to include not only other legislators, such as the seven members of the Indian Caucus, for example, but also agency officials, such as McGrath, lobbyists, such as Don Allen of the Western Environmental Trade Association, Jeff Barber of the Montana Environmental Information Center and Eric Feaver of the MEA-MFT and even outside observers, such as political science professors. Feaver, by the way, is a virtual quote machine; a very colorful speaker and passionate defender of teachers and public employees. I was looking for the unheard voices, not just the "usual suspects."

I also had my favorite sources among the lawmakers. I found myself, for example, going back to Rep. Rosie Buzzas of Missoula for her viewpoint on a whole range of topics. I didn't always use what I got from Rosie, but I could count on her to give me the liberal viewpoint on any topic. Just as I could count on Majority Leader Fred Thomas to give me the conservative line.

I was always polite and friendly toward all sources, which sounds corny, but is important, and was the behavior I noticed, for the most part, in veteran reporters like Johnson and Dennison. I had the luxury of being very flexible in terms of when and where I would meet sources, because I didn't have a daily deadline.

Just as an aside here, it quickly became obvious that there were several methods to
track down sources. First, all senators and representatives gather daily for the floor sessions, usually at 1 p.m., although the time began to vary toward the end of the session when they were trying to wrap things up. Both houses frequently would begin at 8 a.m. during that period. Anyway, you know where to find any lawmakers you’re looking for during the floor session and you can catch them either before or after the session.

Second, all key legislators serve on committees, and schedules of committee meeting are published each day, so you can always track down your sources by following them to their committee meetings. I often sat through long committee hearings simply to catch the source I wanted to talk to after it the hearing was over. The time in the hearing was far from wasted, however, as these hearings were the source of my briefs following the main story. Also, every hearing I attended further broadened my overall understanding of what was going on in the Legislature — a daunting task to be sure, because there is so darn much going on.

Third, every legislator has an office, although this is probably the least effective way to catch them, because they are so frequently not in their offices.

And finally, you will run into people in the hallways of the Capitol building. Constantly. We’re all trapped in the same maze of hallways and staircases. Always, always grab the people you want when you run into them by chance. You may not be able to interview them then and there, but you will always be able to set up an interview for later. Sources were unfailingly cooperative, with one exception, sort of, that I’ll get to in a moment.

After just a week or two, I felt entirely comfortable walking unannounced into the offices of all the leaders I’ve mentioned, except one — Senate President Bob Keenan. I’m not exactly sure why that was, because I had many interviews with Keenan, but I would always set them up in advance with his aide, Mary Schwartz. Part of the reason, I think, was Keenan’s idiosyncratic nature and mild disdain for the press. When I walked into his office to interview him for the coal bed methane story, for example, he bent over and said, “Here’s your methane gas.” While I was glad to see he felt so relaxed with me, it did strike me as oddly off-putting behavior.

The other factor concerning Keenan was that he was incredibly busy. Of all the leadership, he was the one who seemed to constantly have people in his office. So it just seemed wise to make appointments, which he always kept.

At the other end of the spectrum was Senate Minority Leader Jon Tester. I liked Tester immediately, and I think the same could be said for him regarding me. It felt like we were old friends, and I soon recognized that I would have to be extra vigilant to not allow
my personal feelings about Tester creep into my coverage of him. I believe I was successful
in that, but it was a good lesson in how powerful your own feelings about a source can be in
shaping the way you present that source in a story, if you’re not careful. It’s simply human
nature. If you really like someone, you want them to look good in your story — but as a
journalist, you don’t have that luxury. You should also be careful, however, not to avoid the
sources you like in a clumsy attempt at fairness. They’re still relevant sources.

House Minority Leader Dave Wanzenried was, as Chuck Johnson put it, “windy,”
and therefore not the best interview, although you certainly could not fault him for a lack of
sincerity. It came down to the fact that I knew I would have to spend more time than I
wanted to with him to get less than I hoped to get.

House Majority Leader Roy Brown, on the other hand, was very succinct and
straightforward, one of Johnson’s favorite interviews, and one of mine as well. Roy got to
the point, and that was greatly appreciated, even if he didn’t seem to me to be all that
comfortable with the press.

Senate Majority Leader Fred Thomas was always accessible and gracious in granting
interviews. He is very smart and very controlled — in fact, in such complete control that it
sometimes sends chills down your spine — but I thought he was an excellent spokesman
for the Republican majority and for the conservative agenda.

Speaker of the House Doug Mood is a tall, imposing man with a scholarly air and a
dep deep conservative streak. I always had the feeling that Mood desperately wanted to say that
the poor got what they deserved, but knew he couldn’t. He did give me my favorite quote of
the session, however, when he compared the Legislature to “grand theater,” which comes to
a climax and then is suddenly over. The question, said Mood, was whether this “theater”
had been a comedy or a tragedy.

Sources outside of the lawmakers were generally as cooperative as the lawmakers
themselves. I relied heavily on the Legislative Fiscal Division for its objective analysis of the
numbers, and on agency spokesmen like Matthew Cohn of the State Fund. One of the best
interviews I had was with Kurt Alme, director of the Department of Revenue, for the story
about for the story about income tax relief vs. property tax relief. I spent more than an hour
talking to Alme. That was unusual — most interviews were over in 15 minutes — but it was
very helpful in that tax policy is a complex subject, and Alme was more than willing to take
the time to explain his views on why income tax relief was critical to the economic
development of Montana.

This particular story also taught me a very helpful lesson in fairness. In the story there
were two distinctly opposing views, one presented by Alme that made the case for lowering
both income tax and capital gains tax to encourage economic development, and the other, made by Sen. Jon Ellingson of Missoula, who made the case for lowering property taxes in lieu of income taxes, saying that’s what Montanans need and want.

Ellingson argued that statistics showed Montana’s property taxes were disproportionately high — fifth in the nation per capita — and that income taxes were about average. Alme made exactly the opposite argument — income taxes disproportionately high, property taxes about average — using the same source of statistics, namely a study done by the Minnesota Taxpayer’s Association. The question becomes: Who gets to speak last?

In my original draft, I had Ellingson refute Alme’s argument (in rather colorful terms when he said, “I don’t know what Kurt’s been smoking but ...”) and left it at that, ending the story with the revelation that both protagonists were drawing their statistics from the same source.

Professor Swibold asked me to get a quote from Alme in response to Ellingson’s assertion that property taxes in Montana are high, but I declined to do it. Thinking better of it a day or two later, I got Alme’s response, which was very revealing, as he pointed out that the key point about Ellingson’s assertion regarding property taxes was that they were high when considered on a per capita basis. That’s because wages are so low, said Alme. Good point.

I rewrote the story at the last minute and Professor Swibold sent it out, but as far as I can tell it was too late. Most papers ran the original version, which Professor Swibold assured me was fine — but it was a good lesson for me. Go back for that response. Of course, you do have to draw the line somewhere. It’s a question of where, and that comes with experience.

For those who follow me in this role of writing for the Montana News Service, curiosity will be your biggest ally. There really is important business being carried out every two years in the Capitol, and it’s exhilarating to become involved in a process that affects every citizen of the state. Professor Swibold says that after completing this assignment, you join a group of perhaps 500 people who know a heck of a lot about how the political system in Montana works, and I believe that’s true. It’s well worth the effort to join that group of people.

You should subscribe to the Great Falls Tribune and the Helena Independent Record, which runs the coverage of the Lee State Bureau, so you can keep up on everything that’s happening in the Legislature. It is a massive enterprise — even though it seems like in the end they don’t get much done — and is very difficult to get your arms around. Fortunately, the number of big issues that affect a great many people and cry out for coverage is
relatively limited and manageable for the most part. It's a question of identifying those big issues. The one story I wanted to do, but didn't because of time constraints, was a profile of Sen. Cobb, who is easily the most fascinating character in the Legislature thanks to his refusal to toe the party line, and his infectious nervous energy.

I'll end by thanking my fellow graduate student, Nathaniel Cerf, for his excellent copy editing and helpful comments on the stories, and with some advice I got from Chuck Johnson, head of the Lee State Bureau and the recognized dean of statehouse reporters (apologies to Bob Anez and Mike Dennison, both of whom could also claim that title), who said the Legislature is like a merry-go-round. If you miss it — the hearing, the source, the debate — the first time around, you can always catch it the next time around. I kept that advice in mind throughout the session, and it always served me well.
LEGISLATORS BRACE FOR BUDGET BATTLE

By DAN D'AMBROSIO
Montana News Service
UM School of Journalism

As Montana's lawmakers settle down to the business facing the state's 58th Legislature, one word dominates their thoughts.

"Budget, budget, budget and budget," said Senate President Bob Keenan, R-Bigfork.

No surprise there, given the well-publicized $250 million deficit the state is facing over the next two years, but how do Republicans and Democrats differ when it comes to the question of how to spend the state's limited resources in 2003?

Republicans began the political arm wrestling Monday by proposing to roll back state spending to year 2000 levels, which would impose deep cuts on Gov. Judy Martz's budget plan. But the final answer may hinge on the two parties' differing positions on Gov. Martz's proposal to spend $93 million from the coal tax trust fund in an effort to balance the budget without raising taxes.

Early indications are that Republicans generally support the idea and Democrats generally oppose it, though leaders of both parties predict the measure's odds of passage are slim. Still, some Republicans are already prepared to blame Democrats for potential tax increase or cuts in spending if they don't back Martz's coal-tax proposal.

"It will be up to them," said Senate Majority Leader Fred Thomas, R-Stevensville. "Either Democrats will agree to use the coal tax trust fund, or they will raise taxes and cut programs."

Sen. Linda Nelson, D-Medicine Lake, responds that interest generated by the $700 million trust is already helping to pay for a variety of state programs, including education. It makes no sense, she said, to spend the principal earning that interest, based on the governor's vague promise to restore the money later, when the state can afford it.

"(The coal tax trust fund) is the hardest working asset we have for the state," Nelson said.
Education is an area few want to cut, but House Majority Leader Roy Brown, R-Billings, said there would be few options if legislators refuse to tap coal-tax money.

Compounding the problem, declining K-12 enrollment around the state means school districts will get less money despite Martz's proposed 2 percent increase in money paid out per student for next year's budget. School officials are already forecasting cuts in programs, higher local mill levies and even school closures.

At least one Republican sees the wages earned by state workers as a logical place to look for savings in the budget. Senate President Keenan said the $35,000 average annual salary earned by state workers is out of line, especially considering Montana's grip on last place in the nation for per capita income.

"When it comes down to it, payroll (for state employees) and collective bargaining drive the engine of government and the people, including the disabled, get what's left," Keenan said. "Are state employees going to strike for any kind of raise when we're cutting services for the mentally ill? It's very difficult to raise taxes on people making $25,000 a year to give a raise to people making $35,000 a year. It doesn't pass the coffee shop test."

In fact, Gov. Martz's budget proposes serious cuts for health and human services programs, including a 70 percent reduction in funding for a state program that provides therapy and drugs for mental health patients. Without more money, state health officials predicting gaping holes in the so-called "safety net" for its citizens most in need of help.

Senate Minority Leader Jon Tester, D-Big Sandy, said the crisis facing Montana's Department of Public Health and Human Services must be addressed in a more "progressive" way than by simply cutting funds.

Tester's counterpart in the House, Minority Leader David Wanzenried, D-Missoula, agrees.

"The most vulnerable are the people least likely to speak up for themselves," he said. "Their programs are more likely to be cut than others."

Despite the early finger pointing over cuts and coal-tax trust fund money, legislators seem to realize that the formidable task of balancing the budget will require some compromise between the parties.

"Everyone is going in without any illusions about the fact that we need to work together to get something done," said House Majority Whip John Brueggeman, R-Polson.

Tax policy is one area that should test the two parties' ability to work together, and some legislative leaders predicted a higher tobacco tax could get bipartisan support.

"New revenue will be needed along with cuts in spending," Thomas said. "Most likely at the top of the list is the tobacco tax. It seems an increase would pass the Legislature and
would raise a good chunk of what's needed."

Estimates of just how big that tobacco tax "chunk" would be vary from Thomas' estimate of $30 million to the $60 million Rep. Ron Erickson, D-Missoula, believes might be raised each year. Erickson is writing two tobacco tax bills - one puts a $1 per pack tax on cigarettes; the other levies a yet undetermined amount on smokeless tobacco products and cigars, he said.

While a tobacco tax sounds easy, and lucrative, not everyone is sure it would work as well as proponents believe. There are ways around the tax, critics say, including buying cigarettes on Montana's reservations, which are exempt from tax, or on the Internet.

Others, like House Speaker Doug Mood, R-Seeley Lake, oppose a tobacco tax on philosophical grounds.

"I don't believe in using taxes to punish people," Mood said.

After a tobacco tax, a tax on rental cars is probably the second most likely source of revenue legislators are likely to tap.

Rep. Erickson points out that Montana is one of only a handful of states in the nation that don't tax rental cars. But unlike a tobacco tax, the potential for generating revenue from taxing rental cars is relatively insignificant.

"Rental car tax is a no-brainer," said Keenan. "But rental car tax at 4 percent only brings in $2 million a year."

Erickson and others are calling for a 9 percent rental car tax. The revenue generated, however, would still pale in comparison to the potential for revenue from a tobacco tax - and in comparison to the size of the deficit the state faces.

Beyond raising taxes on tobacco and rental cars, lawmakers are also floating plans to raise the taxes on liquor and gambling. A selective statewide sales tax to tap tourists' dollars is also in the drafting stage.

In addition to increasing some taxes, many legislators will be looking to promote development of the state's natural resources as a way to fatten Montana's tax base. Those efforts, and plans to further streamline environmental regulations, are bound to raise controversy.

The development of coal-bed methane - natural gas trapped in coal seams far below the planet's surface - has caught the attention of many legislators who tout Wyoming's economic success in tapping that new energy resource.

"If we had not been sitting waiting on an EIS for the past three years we probably would not be faced with a $200 to $250 million deficit in this coming legislative session," said Rep. Keith Bales, R-Otter. "Two years ago, Wyoming was looking at a projected $160
million budget deficit. In less than one year's time, as they went to developing methane (the budget) went to a $170 million surplus."

But farmers and other irrigators fear the highly salty water that comes to the surface along with the gas will pollute rivers and run on their land, effectively sterilizing it.

"Once that sodium gets in the soil you can't get it back out," said Roger Muggli of the Northern Plains Resource Council. "You're finished."

-- UM journalism students Kellyn Brown, Nathaniel Cerf, Greg Lemon and Bryan O'Connor contributed to this article.
Without tougher DUI laws, Montana could lose millions of federal highway dollars - and perhaps more lives - but as the 58th Legislature enters its second week, it's uncertain how far lawmakers will go to crack down on drunken driving.

So far, legislators have introduced a series of anti-DUI proposals that would require a tougher blood-alcohol standard for driving under the influence, and a statewide ban on driving with open containers of booze, and stricter penalties for repeat DUI offenders. But changing Montana's attitude toward alcohol on the roadways won't be easy, they say.

Sen. Duane Grimes, chairman of the Senate Judiciary Committee and supporter of tougher DUI laws, said constituents are pressing him to vote against the open-container legislation, Senate Bill 39.

"People want to drive home from their fishing trips with beers in their hands," said Grimes, R-Clancy. "We want to change the drinking and driving culture we apparently have in this state."

Meanwhile, the Senate approved legislation last week to lower the blood-alcohol threshold for DUI conviction from 0.10 to 0.08 percent. Senate Bill 13, which passed with one "no" vote Friday, will hit a "buzz saw" in the House but should eventually pass the Legislature, Grimes predicted.

If it doesn't, the state will lose nearly $40 million in federal highway construction funds between now and 2007, state highway officials say.

"(Opponents say) we shouldn't be doing this because we don't want the federal government telling us what to do," said Grimes. "I think sufficient evidence was given to us to make (lowering the BAC) completely reasonable."

The blood-alcohol bill is not the only one tied to federal highway dollars. Officials
say failure to enact an open-container law and stiffer penalties for repeat DUI offenders would require shifting $11 million yearly in federal money from highway construction into safety education, meaning lost jobs.

But Sen. Dale Mahlum, R-Missoula and the sponsor both SB13 and SB39, said he worries less about losing federal money than he does about the young victims he sees confined to wheelchairs in a rehabilitation center near his home - the result of alcohol-related accidents.

And then there are the deaths. In 2002, Montana suffered 104 alcohol-related traffic fatalities, which represented 45 percent of all traffic deaths that year.

Mahlum believes SB13 will save lives, noting that fatalities related to alcohol have fallen by an average of 13 percent in states that lowered their blood-alcohol standards from 0.10 to 0.08. Like Grimes, he said he expects SB13 to pass.

"Federal factors are fine but I couldn't care less about that," Mahlum said. "If this bill can keep 15 people a year from being killed, and how many more from being maimed, it's worth it."

The open-container bill might be another story, however. Mahlum said the measure was hastily drafted by the Montana Department of Transportation, which asked him to carry the bill along with SB13.

"The bill (as currently written) says if you're riding down the road in your SUV with half a bottle of wine with a cork in it way back in the cargo area you could be fined $100," said Mahlum. "We have to have this thing right for the citizens of Montana. We got to save lives, but (the open-container bill) needs not only tweaking but rewriting."

Mahlum said the bill is being revised and would be reintroduced once the Judiciary Committee was happy with it but he offered no guarantee for its success.

"Just between you, me and the gatepost (the open-container bill) is going to have a lot of problems," Mahlum said, echoing Grimes' assessment.

Meanwhile, lawmakers are weighing an assortment of bills to stiffen penalties for repeat DUI offenders. House Bill 195, for example, sponsored by Rep. Cindy Younkin, R-Bozeman, would increase mandatory jail time from two days to five days for a second conviction and from two days to 10 days for a third conviction. In addition, Younkin's bill would eliminate the possibility of having some of the jail time suspended.

Grimes said the extraordinary focus on reforming the state's DUI laws this session is a credit to Gov. Judy Martz and Attorney General Mike McGrath, who made DUI a high priority this summer.

Martz and McGrath formed the Alcohol, Tobacco and Other Drug Control Policy
Task Force, chaired by Grimes, last August. In September, the task force outlined a comprehensive strategy for attacking the various addiction problems facing the state.

In testifying for the tougher blood-alcohol standard last week before Grimes' Senate Judiciary Committee, Martz said lawmakers must address the open-container and repeat-offender problems, too. The governor also cited the failing grade bestowed on Montana by the national Mothers Against Drunk Driving organization, which recently toured the state to promote the pending legislation.

"Senate Bill 13 is the first component of that package to be heard, and I am here today in full support of this bill," Martz said.

SB 13 is also receiving support from bar owners.

"We support anything truly effective," said Mark Staples, attorney for the Montana Tavern Association.

Staples added that the MTA would only oppose "draconian" measures to combat drunk driving, but he didn't specify what such measures would be. The association has not taken a position on the proposed open container law.

Attorney General McGrath said that in addition to supporting the anti-DUI bills mentioned, the Justice Department will press lawmakers to pass a primary seat-belt law allowing police to cite drivers specifically for failing to wear their seat belts. Current law requires the use of seat belts, but drivers may be cited only in conjunction with other violations.

"(Seat belt laws) are not directly related to DUI but they're related," McGrath said. "In 2002 in Montana there were 268 traffic deaths - 216 were not wearing belts. Seat belts save lives, but people sit on their belts.

"I understand people's reluctance to (wear seat belts), but it's absurd. The fatalities are one issue, but there are lots of crashes where people have lifetime disabilities, and the taxpayers are paying for that."

The Battle of the Budget

A surprise move by Republicans to dramatically roll back the starting point for budget negotiations dominated the news and the chatter in the Capitol's hallways as the 58th Legislature finished its first week's work.

During an opening session of the joint House-Senate budget committee, a session usually devoted to formalities, Rep. Edith Clark, R-Sweetgrass, moved that lawmakers base their examination of state spending on year 2000 totals, instead of 2002 levels.

The motion, which stunned Democrats, means lawmakers will start their budget building by looking at much less state spending - as much as $160 million less -- than Gov.
Judy Martz has proposed in her budget.

Traditionally, lawmakers begin the lengthy budget process by examining the spending for the current biennium - in this case, fiscal years 2002 and 2003 - and then projecting needs and revenues over the next two years.

But Republican leaders argued that because revenue projections are running at about what the state spent during the 2000 budget cycle, lawmakers should roll back spending accordingly.

"We need to start at a level that reflects the dollars we have now," said Rep. Dave Lewis, R-Helena, the idea's author and a former budget director for two governors. "When I rouged these numbers out a couple of months ago I wasn't sure we'd use them."

Democrats aren't convinced that Republicans' motives were quite so simple. Many believed Republicans intend to make headlines by restoring some of cuts, while pressuring pressure Democrats to avoid the rest by accepting the governor's proposal to take $93 million from the coal tax trust fund. Since its creation in the 1970s, Democrats have steadfastly refused to tap into the trust fund, which they consider an endowment.

"They're looking for a public outcry to make us bust the trust fund," Rep. Rosie Buzzas, D-Missoula, told fellow Democrats at a meeting later that day. "We have to do something equally dramatic and make them take responsibility for this mess."

The closest Democrats came to an "equally dramatic" response during the week was actually pulled off Friday by a Republican, Rep. John Cobb of Augusta. Cobb managed to restore $44.5 million in proposed spending for the state's health and human services programs, returning that budget to the level recommended by Gov. Martz. Cobb said his party's leaders were unduly frightening low-income Montanans who depend on those programs.

Republican leaders quickly promised to reverse Cobb's move this week.

Now the question remains as to whether the Legislature's contentious start will have a lasting effect on the session. An exchange between Senate Minority Leader Jon Tester, D-Big Sandy, and Majority Leader Fred Thomas, R-Stevensville, on the Senate floor last Tuesday reflected some of the tension the Republicans' opening gambit has created.

"We're all friends, we all like to work together," said Tester. "I am very, very disappointed in the partisan manner in which this session was started. Are we dealing with fantasy, or reality? I see this (rollback to 2000 budget levels) as a form of blackmail."

Thomas, seated directly across the aisle from Tester, rose, red-faced, to reply.

"I don't like the comments I just heard," said Thomas. "Nobody is trying to blackmail anybody in this Legislature."
Legislative Report No. 3
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CONTROVERSY CLOUDS WORKERS' COMP REFORM

By DAN D'AMBROSIO
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HELENA - Revelations that the head of the state workers' compensation fund was paid $280,000 last year have angered many lawmakers and threaten to scuttle legislation aimed at making the Montana State Fund operate more like a private insurer.

The controversy also included the revelation that State Fund CEO Carl Swanson was scheduled to receive a special $133,000 payment at retirement, or when a "legislative change" allowed the "taking of Montana State Fund assets," whichever occurred first.

A major bill to restructure the State Fund's operation, Senate Bill 153, sponsored by Sen. Walter McNutt, R-Sidney, would have triggered the retirement payment, according to legislative staffers.

As the controversy mounted late last week, Swanson announced that he would forego the retirement payment. His decision drew praise from the governor and several leading legislators, but a cloud still lingers over the fate of McNutt's bill to revamp the Fund that insures more than 20,000 Montana businesses against workplace injuries.

Matthew Cohn, a spokesman for the Fund, has denied the bill was written with Swanson's compensation in mind.

Gov. Judy Martz planned to meet with the Fund's board of directors in Helena this week to focus on the board's management, including its authorization of Swanson's compensation, which makes him by far the state's highest paid employee. Chuck Butler, the governor's spokesman stressed, however, that Swanson's salary is a "board matter" and not up to the governor.

News of Swanson's salary drew the sharpest fire from Democratic legislators.

"We had no idea what (Swanson's) salary was," said Sen. Vicki Cocchiarella, a Missoula Democrat who served on a committee that studied the State Fund last fall. "I think it's outrageous. Businesses have just received (premium) increases averaging 4 percent.

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Some increases were as high as 30 percent. In the last 10 years we've cut benefits. Now (Swanson) gets this huge going-away present he granted himself. The money came from premium dollars."

If the governor doesn't deal with the compensation issues at the State Fund, the Legislature will, Cocchiarella said.

"There will be legislation to stop the drain (of funds)," she said, adding that legislators are also looking at the compensation of the Fund's five vice presidents.

McNutt's bill to restructure the State Fund, SB 153, includes measures to make the Fund operate more competitively. The product of a legislative study that McNutt chaired, the bill would allow the Fund to retain any surpluses, which it would use to stabilize rates.

Other provisions would allow Fund officials to negotiate the salaries of its employees, run its own computing and accounting systems, and buy needed equipment without going through the state's cumbersome purchasing process. For example, Fund officials say the current process to buy the latest workers' compensation software can take up to six months - an eternity by software standards.

The Fund would also be able to serve its customers online, something it can't currently do because of the state's policies on privacy.

"We want more flexibility to operate like a private business, but we still want to be a government agency," Cohn said.

In return for flexibility, Cohn said, Montanans would benefit from a more efficient agency that by law must accept any Montana business requesting workers' compensation insurance.

Those efficiencies probably wouldn't result in lower premiums for Montana businesses but they could keep rates stable, he said.

"If we're more cost-efficient, rates may not go up as quickly," Cohn said. "The reality is rates are going up over the next couple of years. There's more use of the system at higher costs. Medical costs have gone up. Fewer people have medical insurance, so they resort to workers' comp."

McNutt said the bill was bound to draw detractors but the storm over Swanson's salary makes a tough sell tougher.

"I'm standing in front of a howitzer right now," said McNutt, who conceded his bill would be "doomed" if he offered it up for a vote today.

Instead, he hopes that once the tempest over compensation calms, legislators will take a measured look at restructuring the State Fund.

"I'm saying we need to take a breath, look at the facts and very deliberately look at
this," McNutt said.

The Legislature should certainly not involve itself in the State Fund to the extent that it's setting premium rates again, McNutt said, because that's how the state found itself with a $500 million deficit in the late 1980s, a debt taxpayers shouldered through the Old Fund Liability Tax. Rates for worker's comp insurance had been kept artificially low for political reasons, resulting in the enormous deficit.

Rep. Joe McKenney, R-Great Falls, who served on the study committee chaired by McNutt, said he doesn't believe the controversy over Swanson's compensation is justified.

"The State Fund is different than any other (state) agency in that it operates on premium dollars," McKenney said. "It's vital that (the State Fund) operate in a businesslike manner. To attract the right people we have to pay salaries that reflect the private sector."

Senate Minority Leader Jon Tester, D-Big Sandy, wasn't buying that argument late last week.

"This doesn't smell very good to me," he said.

Tester has already drafted legislation to restructure State Fund salaries to bring them in line with other state agencies. He also wants to reorganize the State Fund's board of directors.

"That board is out of control," said Tester. "People are upset about this and they should be. Legislators are upset too, on both sides of the aisle, and they should be."

In a meeting between Democratic leaders and Gov. Martz last week, Tester suggested that the governor balance her budget by tapping the State Fund's surplus rather than siphon $93 million from the coal tax trust fund.

Using the State Fund's surplus requires only a simple majority vote whereas using the coal money requires a difficult three-quarters vote in both the House and Senate.

"I think (using the State Fund surplus) is better than robbing the coal trust," Tester said.

But McNutt argued that any excess money in the State Fund should benefit ratepayers, not the state budget.

Tester said that part of his bill would guarantee the money would be paid back to the Fund and that ratepayers would be unaffected.

LEGISLATIVE HIGHLIGHTS

SCHOOL DOLLARS RESTORED - The Legislature's Republican leaders restored money to K-12 education budgets last week, adding 2 percent to current funding levels in
the first year of the 2003-05 budget, and 1 percent in the second year.

The action brings the K-12 budget back in line with Gov. Martz's recommendations, reversing a rollback to year 2000 spending levels that Republican leaders ordered on the session's first day.

Senate Majority Leader Fred Thomas, R-Stevensville, saw no parallel between the action on K-12 education and a move the previous week's by Sen. John Cobb, R-Augusta, to restore spending on health and human services programs to levels recommended by the governor.

The money Cobb reinserted, which Republican leaders had also ordered cut on the session's first day, was cut - again - by Republicans last week.

"(Cobb's action) was a sneak attack in subcommittee," said Thomas. "In this case, we have Republican leadership working with the Board of Education, making public education our number one priority."

State education leaders praised the move but promised to continue fighting for more money, saying the governor's proposal still means less state money per student.

PRICING MENTAL HEALTH - Rep. Edith Clark, R-Sweetgrass, and fellow members of her health and human services budget committee listened to nearly three hours of heart-rending testimony last week from "consumers" and providers in the state's mental health system who urged that funding be restored to keep programs in place.

Reminding committee members that the "best measure of a society" is how it treats its most disadvantaged, Anaconda-Deer Lodge County Attorney Mike Grayson predicted a dire future if the state turns its back on the mentally ill.

"We can't afford to make more cuts in these budgets," Grayson said. "People will die. We have nowhere to put people."

NOTHING UP HIS SLEEVE - Rep. Dick Haines, R-Missoula, got a laugh from the audience at a House Appropriations subcommittee meeting last week when he assured Rep. Rosalie Buzzas, D-Missoula, that his proposal to appropriate money from the coal tax trust fund to pursue a lawsuit against ARCO was not a "back door attempt to steal money out of the trust fund."

"I thought I'd save you a little anxiety there," Haines said to Buzzas, who is known for her adamant opposition to tapping into the coal tax trust fund.

The governor has recommended that $93 million be taken from the fund to help balance the budget.
Haines told the subcommittee that the recent settlement with ARCO regarding the Clark Fork River, a Superfund site contaminated by decades of mining, did not include about $200 million in claims. His House Bill 160 would pay the state's legal costs in chasing down money the state believes it is owed.

"We intend to pursue (those claims)," Haines said. "If the state can't borrow $650,000, ARCO probably won't talk seriously. ARCO has to understand the state is serious about this."

Attorney General Mike McGrath, whose department will handle the lawsuit, supported Haines' bill.

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SOME LAWMAKERS SEE 'SIN TAXES' AS BUDGET'S SALVATION

Legislative Report No. 4
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By DAN D'AMBROSIO
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HELENA - It's the $100 million question no one in the Legislature can yet answer: How to build a budget that won't require drastic cuts in education, human service programs and other key services?

The governor's solution - tapping the state's coal-tax trust fund for $93 million - nearly faced an early vote in the House last week, where Democrats were confident the proposal will fail. That could leave lawmakers digging deeper for cuts or scratching for extra money from sources including the state's so-called "sin taxes" on tobacco, booze and gambling.

As budget committees vacillated last week over spending levels for schools, prisons and health care for the poor, other lawmakers began studying a series of proposed increases in a variety of selective taxes, including Rep. Stan Fisher's bid to increase state taxes on wholesalers of beer and wine.

The Big Fork Republican's proposal, House Bill 318, would raise an estimated $30 million in new revenue over the next two years, lawmakers were told in hearing last week.

This week, legislators are scheduled examine a trio of bills to raise the state's cigarette tax. House Bill 204, sponsored by Rep. Bob Lawson, R-Whitefish, would raise the tax from its current 18 cents a pack to $1.68, bringing in an estimated $140 million over the next two years. House Bill 413, sponsored Rep. Ron Erickson, D-Missoula, would raise the current tax by $1. So would House Bill 355, by Rep. Brad Newman, D-Butte.

The two Democratic bills would generate approximately $75 million over the next two years, but the bills differ in how the money would be spent.

Meanwhile, three bills to increase taxes on video gaming are in the works, but only one, sponsored by Rep. Dave Gallik, D-Helena, has made it as far as the drafting stage.
Gallik's bill would raise the tax paid on gross income from video gambling machines from 15 percent to 25 percent.

The various video gaming bills - including two others requested by Sen. Ken Toole, D-Helena, and Sen. John Bohlinger, R-Billings - would raise from $40 million to $80 million over the next two years, said Erickson.

Sponsors of all the "sin tax" bills can expect strong opposition from the industries affected. In hearings last week, Fisher's bill to raise taxes on beer and wine wholesalers drew fire from opponents ranging from grain growers to tavern owners.

Neal Leathers of Missoula's Big Sky Brewing, makers of Moose Drool ale, warned that Fisher's proposed 360 percent increase in the per barrel tax could price his beer out of the market, putting his 20 employees and an annual payroll of $850,000 at risk.

Mark Staples, an attorney representing the Montana Tavern Association, said the tax would hurt the state's rural bars and taverns, which are barely hanging on as it is.

"Thirst is not recession-proof," he said.

Bob Stevens of the Montana Grain Growers Association said he believed the tax could jeopardize a proposed Anheuser-Busch grain storage facility in Sidney and the new International Malting Co. barley-malting plant planned for Great Falls.

But Eric Feaver, who represents the state's teachers and health-care workers as president of MEA-MFT, testified that as a beer drinker himself, he would be willing to help pay the tax.

"I encourage a debate of a general sales tax," said Feaver, "but if you don't go that way, a selective tax is necessary."

The Taxation Committee took no action on Fisher's bill.

Republican leaders are being cautious in their talk about taxes, preferring to focus early in the session on efforts to hold down state spending. Even so, small tax increases could be a part of the final budget solution, some say.

For instance, House Speaker Doug Mood, R-Seeley Lake, opposes Lawson's bill, but said he might vote for a smaller increase in the cigarette tax.

"From a philosophical point of view I don't believe in using taxes to punish people or change behavior," Mood said. "I might possibly vote for a 50 cent a pack tax, but certainly not $1.50. That's too much."

Mood and others worry that a hefty cigarette tax could encourage a thriving black market in cigarettes as smokers look for ways around the tax, which might include buying cigarettes on the Internet.

"We'll get less revenue (from cigarette sales) than we are now," said House Majority
Leader Roy Brown, R-Billings.

While House Democrats worked to force the Legislature to find new revenue sources, Republicans weren't ready to concede that any tax increases are needed.

"At this early juncture in the session, we're still eager to see how the (budget) subcommittees deal with shortfalls," Mood said. "It's too early to make commitments on tax revenues. I don't believe the state has a revenue problem. We have a spending problem."

LEGISLATIVE HIGHLIGHTS

WORKERS' COMP CHIEF RESIGNS - The controversy over salaries at the State Fund came to a head last Wednesday when State Fund President Carl Swanson abruptly resigned.

Herb Leuprecht, chairman of the Fund's board of directors, handed Swanson's resignation to Gov. Martz in a meeting Martz called to question the board's decision to pay Swanson a $280,000 salary - $121,000 more than what any other state employee makes - and offer him a $133,000 retirement package. That's in addition to the $147,000 in bonuses Swanson received over the past three years.

"We realize incentives are to recruit employees but we've gone too far with it," Martz said.

Swanson's last day will be Feb. 21.

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SENATE PASSES OPEN-CONTAINER BAN - A proposal to ban open containers of alcoholic beverages in vehicles passed the Senate by a vote of 35-15 last Thursday and was referred to the House. The bill, Senate Bill 39, is sponsored by Sen. Dale Mahlum, R-Missoula,

"This has everything to do with the message we send our young people about drinking and driving," Sen. Duane Grimes, R-Clancy, said in an earlier debate on the bill. "I don't want to lose my kids because I didn't shift this culture (of drinking and driving) we have."

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GOP BLOCKS EARLY COAL-TRUST VOTE - Democrats, led by Rep. Jesse Laslovich, D-Anaconda, tried but failed last week to force an early vote on Gov. Martz's plan to take $93 million from the state's coal-tax trust fund.

"If we vote (the governor's proposal) down, we have 77 days to deal with tax issues and spending," Laslovich said. "My hope is by getting (the proposal) out of the way, it
won't be used as a political football. It's time for this body to get back to work on the budget. I would submit to you it's not a serious solution (to the budget crisis) to tap the coal trust fund."

Laslovich was confident the governor's plan, House Bill 74, would be defeated if put to a vote because it requires support from three-fourths of the members in the House and Senate to take money from the coal tax trust fund. That means 26 representatives or 13 senators can defeat any attempt to tap the fund.

Since 1976, when the coal-tax trust fund was created, Democrats have repeatedly defended it from attempts to withdraw principal. Interest earned from the $652 million fund is used to support a variety of programs around the state, ranging from education to public works projects.

The motion to vote on HB 74 failed on a party-line vote of 53-47. The bill could be debated by the full House late this week, or early next week.

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NATIVE RELIGION - Even as she introduced House Bill 27, calling for the Department of Corrections to provide at least one spiritual leader for American Indian inmates, Rep. Norma Bixby, D-Lame Deer, told members of a House committee she was uncomfortable with what she was doing.

"It's not appropriate for me to do this," Bixby said, explaining that Indian people do not like to discuss their religious practices publicly. "I'm doing it for the inmates, who need a voice."

Urging the committee to move her bill forward, Bixby said that American Indians are "the only people who need a federal law to practice religion."

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THE PRICE OF JUSTICE - Senate Bill 218, sponsored by Sen. Walter McNutt, R-Sidney, would bring the public defender system, now the responsibility of each county in Montana, under state control.

Testifying in front of the Senate Judiciary Committee last week, Gordon Morris, director of the Montana Association of Counties, said, "This is a piece of unfinished business, the final piece of the puzzle. The public defense system must be efficient and effective. Poverty is not an excuse to provide less than competent representation (in court)."

But Supreme Court Chief Justice Karla Gray, whose budget would have support the new system, said she doesn't have the money.

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The Otter Creek proposal is part of a broader push this session to promote mining and other resource industries. Legislation in the works would spur coal mining, drilling for coal-bed methane and timber cutting on state trust lands. Other bills would give miners more latitude over reclamation and would limit environmentalists' legal challenges.

Besides the push for coal-bed methane, the most far-reaching proposal centers on developing the Otter Creek coal tracts, which Montana acquired from the federal government in 2001 in exchange for Gov. Marc Racicot's decision to drop state support for a proposed gold mine on Yellowstone National Park's northeastern border.

Covering more than 8,000 acres in Powder River County near Ashland, Otter Creek contains an estimated 550 million tons of recoverable state-owned coal. The area's private landowners control roughly an equal amount.

In the past 30 years, Montana has taken a total of 900 million tons of coal from the five strip mines currently operating in the southeastern portion of the state, which speaks volumes to some legislators regarding Otter Creek's potential.

"The Otter Creek coal tracts are a fantastic asset given to Montana," said Sen. Keith Bales, R-Otter, who has requested a bill to develop the tracts. "We have the opportunity to develop this coal resource and supply a lot of the West with electricity. This will bring in billions to the economy and millions in taxes."

Bales said Montana has missed opportunities to develop its coal, and he pointed to Wyoming's contrasting success. That state, he added, has mined more than 4 billion tons of
coal since the 1970s, more than four times the amount produced in Montana, which has
twice the reserves. For much of that time, Montana's coal tax was significantly higher than
Wyoming's, he added.

Montana's coal taxes are lower now, but Bales said Montana could miss another
chance to expand its coal industry if it doesn't foster construction of "mine mouth" coal-
fi red power plants, which could fuel an increased demand for electricity as the nation
emerges from recession.

Sen. Ken Toole, D-Helena, doesn't buy that argument. He said it's a "cruel hoax" to
argue that the state can do much to encourage coal development, especially through its tax
policy. Montana collected $91 million in coal severance taxes before cutting its tax rate in
1987 and $38 million after, Toole noted.

"It's the great mythology up here, that we can stimulate the (Montana) economy by
cutting taxes," said Toole. "We've had 12 years of proving it doesn't work."

The problem in competing with Wyoming coal has nothing to do with taxes, Toole
argued. Wyoming coal burns cleaner than Montana coal, is closer to the surface and runs in
thicker seams, Toole said. Finally, Wyoming, unlike Montana, has a competitive rail market,
he said, adding that Wyoming's costs of shipping coal to Midwestern markets are roughly
half of Montana's.

"I don't think anything will happen at Otter Creek until the Wyoming coal fields have
emptied out," said Jeff Barber of the Montana Environmental Information Center. "Otter
Creek's problems are geologic and geographic. It's a pipe dream for the next 30 years, and
who knows if we'll be burning coal in 30 years."

But Senate Majority Leader Fred Thomas, R-Stevensville, who also has requested a
bill to develop Otter Creek, remains undaunted by such assertions.

"We've been developing our approach to get those (Otter Creek) assets ready
to lease, on a bipartisan basis," Thomas said.

The main provisions of Thomas' bill will include funding of approximately
$200,000 for exploratory drilling to determine the depths and "values" of coal seams
and to identify archaeological sites important to the Northern Cheyenne, whose reservation
is just across the Tongue River from the Otter Creek tracts.

As part of the state-federal agreement, the tribe's environmental and cultural concerns
must be addressed in any Otter Creek mining plan.

Another potential roadblock to development is its "checkerboard" ownership pattern. Great Northern Properties of Denver, Colo., owns alternating sections of the coal tracts, controlling roughly half of the land.
"Great Northern is interested in working with the state," Bales said. "It's in our mutual best interest to work together."

Putting the project in context, Bales said that even if development at Otter Creek began "right now," it would be eight years before the state would see an operating coal mine and electrical generation plant, and the jobs and tax revenue that would go along with them.

Besides promoting coal development, Bales is also a leading proponent of expanding Montana's production of coal-bed methane. He's also sponsoring legislation to direct more of the state's coal revenues into its general fund.

His Senate Bill 167 would divert 12.5 percent of the revenue now flowing into the coal tax trust fund to the general fund for the next two years. The bill could raise nearly $30 million for "education, health and human services, or whatever," he testified last week.

Like Gov. Judy Martz's plan to balance the budget by siphoning $93 million from the coal trust, Bales' bill would need a three-fourths vote in each house, a difficult prospect given Democrats' aversion to tapping the trust.

Representing the Montana Senior Citizens Association, Vemer Bertelesen, who helped design the coal trust in 1976, spoke against Bales' bill.

"The trust is doing exactly what it was intended to do," Bertelesen said, pointing out that the fund already funnels about $42 million in interest into the general fund each year. "That's $84 million we don't have to look for over the next two years," he said.

LEGISLATIVE HIGHLIGHTS

RECLAIMING THE LAND - Passions ran high last week as industry and environmentalists squared off over legislation to give miners more leeway in determining what constitutes reclaimed land.

House Bill 373, sponsored by Rep. Alan Olson, R-Roundup, would ultimately help mining companies to recover the multi-million dollar bonds they must post with the state before going forward with a project, Olson said.

Miners supported the bill, saying it wouldn't harm the land, but environmentalists were suspicious.

"Unless (the mining companies) have real plans to shortchange reclamation, there's no reason for this bill," said Jeanne Charter, a rancher from Shepherd and a founding member of the Northern Plains Resource Council.

KEENAN OFFERS TAX PLAN - Senate President Bob Keenan, R-Bigfork, made
headlines last week when he proposed a $145 million solution to the budget crisis that included increased or new taxes on rental cars, cigarettes and motel stays.

Gov. Judy Martz responded that she was sticking with her revenue-neutral tax plan, taking $93 million from the coal tax trust fund to balance the budget. Sen. Jon Tester, D-Big Sandy, and Rep. Dave Wanzenried, D-Missoula, gave the Democratic response later in the week: Take the $93 million we need out of the reserves of surpluses in the state workers' compensation program.

MANAGING WOLVES - Is the federal government about to change its policy on the reintroduction of wolves?

The regional plan has always tied Montana, Wyoming and Idaho together. Before the animals can be "delisted," -- or taken off the federal threatened species list and made the responsibility of the states -- each state must sustain 10 breeding pairs of wolves for three consecutive years and submit plans to protect the animals.

That could happen now, except that Wyoming is insisting on classifying its wolves as predators, allowing them to be killed on sight. Now Montana is considering legislation similar to Wyoming’s, legislation that would take effect if wolves were not delisted by 2004.

The feds have considered that unacceptable, but in a hearing late last week, Rep. Dan Fuchs, R-Billings and the sponsor of Montana’s wolf bill, House Bill 283, said Craig Manson, assistant Interior Department secretary, assured him that Montana wolves will be delisted this year, separately from Wyoming, and that Montana would have control of its wolves before the deadline in his bill.

ON THE ROADWAYS - The Legislature’s crackdown on drinking and driving gathered speed last week with Senate passage of bills to lower the maximum blood-alcohol level to .08 and ban open containers in vehicles. Now lawmakers are focusing on young drivers.

House Bill 226, sponsored by Rep. Kim Gillan, D-Billings, would implement a graduated driver's license for young drivers and impose restrictions, including a limit of two passengers under 18 years old in a car, unless the passengers are members of the driver's immediate family.

Testifying that one-third of traffic accidents in Montana involve drivers under the age of 18, Attorney General Mike McGrath told the House Transportation Committee that "we have an obligation to do what we can to reduce those rates."
HELENA - The state's corrections chief says he's certain legislators will find a way to avoid deeper budget cuts to a prison system that has already released hundreds of inmates early to save costs.

The state Department of Corrections has granted early release to 483 inmates since last summer and will release another 100 by this summer, prison officials report. Programs that treat convicted sexual offenders and substance abusers have been chopped, too.

Corrections Director Bill Slaughter conceded last week that deeper cuts are still possible but adds that it is "too early to panic" about where budget talks with lawmakers will end.

"(The budget process) is going to go to the end of the session," Slaughter said. "We have the opportunity to educate (the Legislature) for the whole session."

The corrections budget has been on a roller coaster since lawmakers began the session by cutting $31.6 million from Gov. Judy Martz's spending plan for prisons. The move effectively rolled back corrections spending to what it was in the year 2000.

Rep. Stan Fisher's joint appropriations subcommittee on corrections later restored the $31.6 million to prisons but then took back $11.6 million. Fisher, a Big Fork Republican, said GOP leaders want the money for schools and health and human service programs for the poor.

Slaughter, a former Gallatin County sheriff, understands the logic.

"Oh sure, I think it's the right thing to do," he said. "Educating our children and taking care of our elderly should come before corrections. The priorities are exactly right."

Still, Slaughter predicted lawmakers will ultimately restore most of the money he needs because basic public safety is at stake.

"Public safety affects everything," Slaughter said. "It affects families and education. The most important thing is how do you balance corrections with education and health and
human services?"

Legislative Fiscal Analyst Clayton Schenck agrees that lawmakers will be highly motivated to avoid deeper cuts in prison spending. Cuts that run too deep today could force lawmakers to find money later, when, for example, a nervous public demands an end to early releases of inmates.

"This is a budget that can come back as a supplemental (appropriation)," Schenck said. "It's a required pay-out. You're talking about letting prisoners go or finding the cheapest housing possible."

That housing will not be at the Crossroads Correctional Center, Shelby's privately owned prison, where it costs the DOC $51 per day to place a prisoner. It costs $6 to $7 per day to add an inmate to the Montana State Prison, according to Joe Williams, centralized services administrator for the DOC.

That's why Crossroads finds itself struggling to stay in business three and a half years after opening in 1999, with 188 of its 512 beds empty as a result of the DOC drawing down its inmate population in the facility to save money.

"We are hard-pressed to deal with the 35 percent vacancy we face," Crossroads Warden Jim McDonald testified last week during a hearing on a controversial bill that would allow his prison to accept out-of-state inmates. "We must look at alternatives to remain viable."

The irony of the situation is not lost on Montana ACLU Executive Director Scott Crichton, who points out that while Crossroads hopes to import out-of-state prisoners, the Montana State Prison is overflowing. The prison has a capacity of 950 inmates, but currently houses more than 1,300.

The DOC is unlikely to send inmates to Crossroads, where it would cost the state approximately $45 per day more to house each inmate.

"Is it the taxpayers' responsibility to bail out failed profiteers?" Crichton asked. "We should not be interjecting a profit motive into any of this discussion."

In another cost-saving measure, last July, the DOC eliminated its rehabilitation programs for state prisoners housed in regional jails in Missoula, Great Falls and Glendive. It also scaled back programs in the men's and women's prisons in Deer Lodge and Billings, respectively. Crossroads also cut back its programs.

Late last week, Williams said the programs would be reinstated in the state prisons this July, regardless of what else happens with the budget.

"If these prisoners don't have their programs, they just get worse," Williams said. "It's like your mother told you - idle hands really are the devil's workshop. We can get by
(without rehabilitation programs) for one year, but not beyond that. We must reinstate all these programs or we'll just make things worse for the general fund."

To cover the costs of bringing the programs back, the department will use $875,000 of the $20 million Fisher restored to Corrections after last month's back-and-forth budgeting.

If the Legislature does come up with the additional $11.6 million the DOC needs, the early release of inmates should end. That would be fine with Williams, who said the recidivism rate among the early-release inmates spiked from 7 percent to 10 percent in recent weeks.

"(Early release) is like winning the lottery," he said. "I hate to see people get this shot at redemption and screw it up. They must not have any confidence they'll ever amount to anything. They're back out in society and just can't handle it."

**LEGISLATIVE HIGHLIGHTS**

**DEMOCRATS OFFER THEIR PLAN** -- House Minority Leader Dave Wanzenried, D-Missoula, unveiled the latest Democratic answer to the state's projected $232 million deficit.

His plan would combine $30 million in cuts ($15 million from Health and Human Services, $8 million from Corrections, $2 million from Commerce, and $5 million from "general agencies") with $202 million in revenue from various "sin" and tourist taxes, taxes on out-of-state property owners, and a $10 million transfer from surpluses in the state workers' compensation fund.

"There's more than one way to balance the budget and do what's right for Montana," Wanzenried said.

**ABORTION** - The state Senate last week approved a bill aimed at giving the state more control over abortions.

After an emotional debate, senators passed Senate Bill 274, sponsored by Sen. Dan McGee, R-Laurel, which would have Montanans vote on a constitutional amendment to establish a "compelling state interest" in the "protection of unborn human life."

The Senate passed the anti-abortion bill largely along party lines and sent it to the House, where it needs the support of 73 out of 100 representatives to make the ballot.

**DRINKING AND DRIVING** - The juggernaut of DUI legislation continues to roll.
In hearings last week before the House and Senate judiciary committees, bills to lower the legal blood-alcohol limit to .08, to enact an open-container law, and to generally toughen DUI penalties all received praise and support.

The exception was Senate Bill 37, a bill dealing with penalties and how DUIs are reported to insurance companies. Some lawmakers said SB 37 was too easy on first-time DUI offenders.

The bill's sponsor, Sen. Dale Mahlum, R-Missoula, said he was just trying to give young people a break. He also said he thought the open-container bill, which he also sponsored, was doomed in the House.

ELK NUMBERS - So which is it? Are there too few elk or too many elk?

In a hearing two weeks ago regarding the reintroduction of wolves, ranchers, outfitters and hunters lined up to complain that wolves were slaughtering elk herds in and around Yellowstone National Park and elsewhere, causing precipitous declines in their numbers.

But last week, ranchers and farmers lined up in a hearing for House Bill 42, sponsored by Rep. Debby Barrett, R-Dillon, to complain about the burgeoning hordes of elk eating their pastures down to the nubs.

HB 42 would require the Department of Fish, Wildlife and Parks to survey landowners for their "tolerance of wildlife on their properties" and to adjust wildlife populations accordingly.

NATIVE TEACHERS - Rep. Carol Juneau, D-Browning, is sponsoring two bills, House bills 422 and 423, that would give preference to hiring American Indian teachers in schools that are "wholly within" reservations or that have more than 50 percent Indian students.

In hearings last week, Juneau said it is hard for non-Indians to understand just how foreign Indian children can feel in classrooms that feature only non-Indian teachers. To make her point she used a metaphor that drew chuckles from the audience.

"Most of the teachers have three heads," Juneau said, "and you only have two heads. You're different. No one spoke of the two-headed people's culture and you begin to wonder, 'Do I belong here?'"
HELENA - Looming cuts in crucial services for Montana's poor, disabled and mentally ill face broader scrutiny in the House this week as lawmakers continue to wrestle with a $75 million shortfall in health and human services spending.

"I don't want to be inflammatory, but the cuts would mean people going without prescription drugs or mental health treatment," said Sen. Emily Stonington, D-Bozeman, who serves on the Joint Appropriations Subcommittee on Health and Human Services. "It would not be right for the Legislature to expect the bureaucrats to make the decisions about who gets covered and who doesn't."

The subcommittee's recommendations to budget builders from both the House and Senate will likely include diverting $17 million of tobacco settlement money, earmarked by voters in Initiative 146 last fall for prevention programs, into the health and human services budget instead. The subcommittee also may recommend added revenue from higher cigarette taxes and a rental-car tax.

"These are very tough decisions," said Rep. Edith Clark, the Sweetgrass Republican who heads the subcommittee. "But when I explain to people why I have to take the tobacco prevention money, they understand. It will all be used for very, very crucial health care needs."

Those needs became clear in packed hearings last month, when hundreds of witnesses lined up to testify about what would happen to them if mental health, substance abuse and other human services programs were eliminated or reduced. The often tearful testimony ran the gamut from parents who would no longer be able to afford medication for their bipolar children to developmentally disabled adults who would be forced to give up working and living independently without help from the state.
The shortfall for the state's Department of Public Health and Human Services began when Gov. Judy Martz recommended it receive $30 million less over the next biennium than the department had hoped for. The problem was compounded on Jan. 6, the session's first day, when a Republican-led rollback to year 2000 budget levels cut an additional $45 million.

Ironically, it was Clark who made the motion to roll back the budget in front of a packed audience in the capitol's old Supreme Court chambers.

Sen. John Cobb, R-Augusta, the subcommittee's vice chairman, was visibly upset by Clark's motion, and immediately offered an amendment to exclude DPHHS from the rollback. The amendment was defeated on a voice vote.

"We're on a sinking ship together and we're throwing people off," Cobb said after the rollback passed.

Cuts included in the governor's budget would:

-- Reduce funding for non-Medicaid mental health services by 70 percent, from $11 million per year to $3 million.

-- Eliminate a program designed to decrease the infant mortality rate among children born to low-income women.

-- Eliminate optional Medicaid services, including all organ transplants except corneal transplants.

-- Eliminate state funding for the Big Brothers and Big Sisters program.

-- Reduce the Medicaid provider rates by 1.8 percent, which follows four other reductions since Jan. 1, 2002. Physician provider groups around the state have already begun to decline new Medicaid patients based on these reductions.

-- Eliminate Medicaid hospice treatment for the terminally ill.

-- Reduce nursing home services for Medicaid patients.

-- Reduce the reimbursement rate and eliminate child-care aid for foster care children.

-- Additional cuts resulting from the budget rollback would:

-- Close Eastmont, a state-run institution in Glendive for the developmentally disabled.

-- Eliminate Medicaid coverage for breast and cervical cancer for women with an income twice the poverty level - about $18,000 per year for a single woman or $36,000 per year for a woman in a family of four.

-- Further reduce the numbers of elderly and poor who are eligible for Medicaid.

In addition, there will be staff reductions in most of the DPHHS's 11 divisions, according to Lois Steinbeck, a fiscal analyst with the Legislative Fiscal Division.

Mary Caferro, an organizer for the Helena-based Working for Equality and Economic
Liberation, a low-income advocacy group, calls the health and human services budget a "moving target" that keeps everyone guessing about what the ultimate consequences will be. "Nothing has a stable funding source that we can say 'This program has been saved,'" Caferro said. "For people involved in these programs, it's absolute misery, especially people living with mental health issues."

After 18 years in the Legislature, Cobb says his biggest failing has been his inability to get across the importance of the Department of Public Health and Human Services to his fellow legislators and the public at large. He feels he has let down the people served by the department - typically the most vulnerable segment of society.

"I've done a poor job defending these people," Cobb said. "People will vote to pay for schools, but people don't want to pay for health and human services. Education is a higher value."

Cobb fears that if the department's programs aren't adequately funded in this session, there are "huge wrecks coming down the road" as the consequences come to fruition. The continuing reductions in provider rates for Medicaid, for example, have already resulted in a "huge access problem" for eligible patients.

"If we don't stabilize the health and human services department's programs this time, we're on a death spiral," Cobb said.

A glimmer of hope, for the Medicaid program at least, came last week in the form of House Bill 481, sponsored by Rep. Dave Lewis, R-Helena, which would allow hospitals in the state to tax themselves in order to collect matching federal funds for Medicaid patients.

The governor's office estimates the program would generate $18.6 million in federal matching funds in 2004 and $21.9 million in federal funds in 2005, which could help keep hospitalization costs down for everyone.

"Without HB481, those dollars not paid by Medicaid would be paid by private payers and their insurance companies," said Bob Olsen of the Montana Hospital Association.

Senate President Bob Keenan, R-Big Fork, also serves on the joint subcommittee and says his legislative life has been "wrapped up" in human services issues.

Because of the budget crisis, Keenan believes DPHHS will have to prioritize its services "by diagnosis," giving top priority, for example, to those who suffer from major mental illnesses, such as schizophrenia, bipolar disorder, and clinical depression.

Restoring the $45 million lost to the rollback in the heath and human services budget would be a "shallow victory," he said, but in reality that's probably all that can be accomplished.

"We can't take care of the worried well," Keenan said.
For Health and Human Services Director Gail Gray, however, drawing the line on the programs her department provides is a daunting proposition.

"Any reduction of service is painful for someone," Gray said. "Every cut has a face on it. We don't provide services people don't need."

LEGISLATIVE NOTES

CASH-ONLY, PLEASE - Rep. Paul Clark, D-Trout Creek, is sponsoring two bills aimed at the metal mining industry. House Bill 433 would restrict the Department of Environmental Quality to accepting only cash, certificates of deposit, or letters of credit for reclamation bonding requirements. Current law allows the department to accept real estate, mineral rights or even equipment for those bonds.

"The state should not operate as a real estate agent," said Clark.

House Bill 432 would require mining company executives to sign a sworn affidavit stating their companies haven't violated environmental laws in any state, not just Montana, as current law provides.

"We have a welcome mat out," Clark said. "If you're a company with questionable business practices, come to Montana. You have at least one free ride."

INCENTIVES TO RETIRE - State employees may have reason to hit the rocking chair sooner than later, if Rep. Dave Lewis, R-Helena, has his way. House Bill 360, sponsored by Lewis, gives a "voluntary termination incentive," also known as early retirement, to state employees that Lewis said would spend $14 million to save $34 million over the 2004-05 biennium.

One problem though: The $14 million in seed money would come out of the coal tax trust fund, meaning it needs a three-fourth vote of each house to pass.

IMAGE PROBLEMS - Why is tax law so darn complicated? Senate Bill 338, sponsored by Sen. Joe Tropila, D-Great Falls, is supposed to be a model of simplicity, setting state tax at 26 percent of federal tax, yet the bill runs 49 pages.

Tropila hoped his bill would dispel the notion that Montana's 11 percent top marginal tax rate is the highest in the nation. After deducting federal income taxes, that rate is actually 7.7 percent, but the perception is still there that Montana's taxes are the highest.

Sen. Jim Elliot, D-Trout Creek, pointed out that Tropila might have an image problem of his own.
"If the perception is the highest state income tax rate is 11 percent, what will they do with a 26 percent rate, ignoring federal deductibility?" Elliot asked. "You might be right," said Tropila. "I'm not an expert on taxes."

SUMMER-HOME BLUES - Sen. Ken Toole, D-Helena, has it in for trophy homes. Senate Bill 301, sponsored by Toole, would levy a 1 percent tax on the sale of second homes in Montana, with exemptions for primary residences, home sales within families, inherited homes and other situations.

The proceeds from the tax, which Toole estimated at $19 million for the 2004-05 biennium, would go toward building affordable housing, preserving working farms and ranches, and helping the general fund. An amendment to the bill would eliminate the $4 million in expenses the Revenue Department thought it would incur to do new appraisals. Existing appraisals would be used.

"We have a widening gap between those who live here and try to make a living and those who play here," Toole said. "We're the have-nots who live in a playground for the haves."

Byron Roberts of the Montana Building Industry Association wasn't impressed by the logic of Toole's bill.

"Builders in Montana are very supportive of affordable homes, but you can't make housing more affordable by taxing at any level," he said. "This is no more than a sales tax on housing."

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HELENA - Gov. Judy Martz's plan for jump-starting Montana's economy ignores American Indians, reflecting a broader lack of concern on the governor's part for the state's native people, a leading Indian legislator said.

"We're nonexistent in that plan," said Rep. Carol Juneau, D-Browning and a member of the American Indian Caucus. "Are we invisible in the state as Indian people? I think it's true if they're not going to include us in the economic plan."

But the governor's spokesman, Chuck Butler, said no group was singled out in "Road Map for a New Economy" as the economic plan is known, because it's intended for all Montanans, including Americans Indians.

"It's regrettable that Representative Juneau wants to continue to make this an issue," Butler said. "The governor is working for prosperity for all her constituents."

Adding to Juneau's concern for what she describes as the Caucus' "strained" relationship with Martz was House Bill 64, requested by the budget office, which would have stripped $153,000 from a special account for tribal economic development.

The State Tribal Economic Development Commission was created in 1999 and funded with $200,000. Since then, it spent about $50,000 on an economic feasibility study for the state's reservations, leaving the remaining $150,000 in the account unspent. That's the money Rep. Stan Fisher, R-Bigfork, wants transferred to the general fund under HB 64.

Lori Ryan, of the Governor's Office of Indian Affairs, testified at the hearing for the bill. She said she had contacted the leaders of the state's seven tribes about the transfer of funds and that they were "fine with it."

Rep. Norma Bixby, D-Lame Deer, of the Northern Cheyenne reservation, later characterized Ryan's testimony as "inappropriate," and said the tribes weren't even aware they had the economic development money to spend because they had been told in the
special session last August that it was gone.

Butler responded that he didn't know why it would be inappropriate for Ryan, the governor's acting coordinator of Indian affairs, to testify at a hearing and that the controversy was "another unfortunate situation on an ongoing issue."

The Governor's Office of Indian Affairs works directly with tribal leaders, who, Butler said, are not always in agreement with Indian legislators. As an example, he said tribal leaders on the Crow, Fort Belknap and Fort Peck reservations support Gov. Martz's proposal to transfer $93 million out of the coal tax trust fund, which the American Indian Caucus opposes.

In addition to Juneau and Bixby, the Caucus includes Reps. Joey Jayne, D-Arlee; Veronica Small-Eastman, D-Lodge Grass; Jonathan Windy Boy, D-Box Elder; Frank Smith, D-Poplar; and Sen. Gerald Pease, D-Lodge Grass, for a record seven Indian legislators.

House Bill 64 was ultimately tabled, but not before tempers flared over Fisher's use of the term "chiefs" to describe tribal government leaders.

"They're not chiefs, they're tribal chairmen," an upset Juneau told Fisher.

Fisher later apologized for the comment, but added that the tribal leaders didn't get anything done with the economic development money.

Now the tribes are working with the Native American Development Corp., in Billings, to quickly come up with a plan to spend the money before June 30, when the appropriation expires. Failing that, Juneau says Indian legislators will fight to divert the money to the tribal colleges, where there are programs in place to help tribal members start small businesses.

Education is a priority for Juneau, who founded Blackfeet Community College in Browning in 1976 and served as its president until 1983. Beginning in 1984, she taught in Browning's public schools, retiring in 1996.

"You can't not talk about economic development when you talk about education," Juneau said. "We need to tie those things together."

Juneau's main concern is the "unacceptable" dropout rate among Indian high school students, identified as 50 percent by the Caucus.

In the last two sessions, Juneau has introduced bills aimed at dealing with that dropout rate, mandating compulsory attendance until age 18. Juneau also sponsored bills in this session specifying an Indian hiring preference for teachers in reservation schools, and schools with more than 50 percent Indian students. All of her bills were tabled.

Admitting that patience is not one of her virtues, Juneau came back last week with
House Bill 582, a bill that would allow casinos with 20 video gambling machines to add two more machines, diverting any additional tax revenue generated to an "alternative education support account." That account would fund programs in school districts where the dropout rate exceeds the state average.

Rich Miller of the Montana Gaming Industry Association opposed the bill - or at least its fiscal note - saying the stagnant gaming industry wouldn't generate anything close to the $2.8 million Juneau anticipated over the biennium.

Meanwhile, Senate Minority Leader Jon Tester, D-Big Sandy, said he's well aware of the obstacles faced by Juneau and her fellow Indian legislators.

"They're up against a tough go," Tester said. "Their needs are extreme for health and human services. Their other challenge is their representation, which reapportionment will address."

The state's 2003 reapportionment plan, which drew new boundaries for the state's legislative districts, was challenged by the Republican Party and has ended up in court. If the plan survives, it could make possible the election of two more Indian senators, for a possible total of nine Indian legislators, which the Caucus says would give them proper representation in the Legislature.

As for the anticipated cuts to the Department of Public Health and Human Services, the picture for Indians is not so optimistic. Indians represent 7 percent of Montana's population; they also represent about 50 percent of the state's welfare caseload. And if programs like TANF (Temporary Assistance for Needy Families) are cut, tribes will be hard-pressed to respond, according to Bixby.

"Right now it doesn't look good for Indians," Bixby said.

Like Juneau, Bixby has had several bills tabled in this session, including one that would have mandated a traditional spiritual leader for Indian inmates in Montana State Prison. She still has a joint resolution alive, however, co-sponsored with Juneau, Smith, Small-Eastman and Windy Boy, that would require the state to develop a plan to reduce the student dropout rate in time for the next Legislature's consideration.

Bixby is also keeping a close eye on development of coal bed methane and the Otter Creek coal tracts, both of which could affect the relatively pristine air and water on the Northern Cheyenne reservation. Unlike the neighboring Crow, who have made it clear they will dig for coal and drill for coal bed methane on their reservation, Bixby says the Northern Cheyenne will resist energy development on their land.

"For us it's a process of educating other legislators about American Indian issues," Bixby said. "When you see your bills go down, it hurts, but we're not going away. We're
here to help our people get out of poverty."

LEGISLATIVE NOTES:

ASBESTOS TREATMENT - Senate Joint Resolution 14, sponsored by Sen. Aubyn Curtiss, R-Fortine, urges the Montana congressional delegation to find money for a new research clinic in Libby to study ways to treat diseases associated with tremolite asbestos, diseases that have claimed the lives of dozens of Libby residents who worked and lived around the W.R. Grace vermiculite mine. At a hearing for the resolution, a tearful Sen. Bob DePratu, R-Whitefish, testified that his father died in 1994 from an asbestos-related disease connected to using insulation from the Libby mine in the family home. The Senate Public Health, Welfare and Safety Committee approved the resolution on the spot.

LET'S TALK - Rep. Jonathan Windy Boy, D-Box Elder, began his introduction of House Bill 608 for the Federal Relations, Energy and Telecommunications Committee in Cree, then slipped into English to explain the bill, which would formalize government-to-government relations between the state and the tribes. Among other things, Windy Boy's bill would require the governor to have quarterly meetings in Helena with tribal leaders.

"I think the governor does have it in her heart to sit down with tribal chairmen, and that's how it should be," said Windy Boy.

WAR ON METH - The growth of methamphetamine use in Montana has Great Falls Mayor Randy Gray worried. Gray testified last week in favor of Senate Joint Resolution 11, sponsored by Sen. Trudi Schmidt, D-Great Falls, which calls for a new study of the drug and alcohol problem in Montana and methods of prevention and treatment. In his testimony, Gray said that five years ago he hadn't even heard of methamphetamine. In 2000, he said, two meth labs were discovered and cleaned up in Great Falls. In 2001, that number rose to 15, and 29 labs were discovered last year. "This stuff is horrible," Gray said. "It's toxic. The police are risking their lives to clean up these labs."

SHINE A LIGHT - Sen. John Bohlinger, R-Billings, took a fishing trip to Canada with his wife last summer and noticed that all of the cars on the highway had their headlights on during the day. That's when he got the idea for Senate Bill 352, which would require Montana drivers to use their headlights during the day on the state's highways. In a hearing last week, Bohlinger said the Canadians found that accident rates went down by 20
percent after they began requiring headlights during the day. "If accident rates go down, insurance rates might drop," he said. Anticipating complaints about infringing on drivers' personal rights, Bohlinger told fellow legislators that they were "elected to make hard decisions."

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HELENA - With the 2003 session half gone, Montana's 58th Legislature is deeply divided along party lines, no closer to a solution for the state's projected $230 million budget deficit than it was at the session's opening in January.

"It is apparent now that there will be significant reductions in the governor's budget," said House Speaker Doug Mood, R-Seeley Lake. "Education and the Department of Health and Human Services make up 80 percent of the budget. That's where the cuts will be."

Budget Director Chuck Swysgood estimates that without any new sources of revenue, those cuts would run $100 million deeper than the governor's financial plan. Gov. Judy Martz's budget is itself $60 million short of what state agencies have said they need over the next two years.

As lawmakers headed home for the session's halftime break, Martz promised to veto any new taxes or tax increases to balance the budget, forcing lawmakers to focus her solution for the deficit.

Her plan calls for fewer spending cuts but only if lawmakers agree to siphon $93 million from the state's coal tax trust fund, a move that requires a three-fourths vote in each house. Democrats, many of whom adamantly oppose tapping the coal trust, can easily kill the idea.

In the House last week, Republicans tried to make their coal tax plan more palatable to Democrats by proposing the transfer of $31.6 million to the general fund rather than $93 million. The move failed in a vote that House Majority Leader Roy Brown, R-Billings, described as "disingenuous" on the part of Democrats.
"I said on the floor that this is a compromise, but it didn't matter," Brown said. "They wanted it to stay at $93 million so they could vote against that."

But House Minority Leader Dave Wanzenried, D-Missoula, says his party's position against taking any money from the interest-earning coal trust has been clear all along.

"We've told them for three and a half weeks we don't like their idea," Wanzenried said. "This is a mess and it's our responsibility for it not to be a mess. The only way is to sit down and talk about it."

Rather than face a fatal vote on the coal-tax idea, Republican leadership sent House Bill 74, sponsored by Rep. Dave Lewis, R-Helena, back to committee, keeping it alive for another time.

Despite the odds against it passing, Lewis isn't ready to give up on his bill.

"Do we raise taxes or do we spend part of the trust?" Lewis asked. "The governor has said she will veto any tax increases. If the Democrats think those of us on the Republican side are going to override the governor's veto, they're nuts. I think House Bill 74 will be part of the final solution. We don't have any choice."

Rep. Rosie Buzzas, D-Missoula, responded that if the Legislature doesn't have any choice, it is because Republicans want it that way.

"All the revenue bills have been held up in committee because HB 74 is hanging over our heads," Buzzas said. "It feels to me like a lot of the first half of the session was wasted. We've given a lot of people false hope with Lewis' bill when Republicans knew from day one it wouldn't pass. The whole process was undermined."

Tension rises over reapportionment

After the budget, the most divisive issue between the Republicans and Democrats is reapportionment. Every 10 years, legislative districts are redrawn to reflect the most current census. The state's constitution requires the population within those districts to be within 1 to 5 percent of the number it would be if the state's residents were divided equally among the districts. For the 2000 reapportionment, that number was 9,000.

Reapportionment is important to both parties because the boundaries of legislative districts can be manipulated somewhat to favor candidates from one party or the other. Democrats controlled the commission that did the 2000 reapportionment, and Republicans were not pleased with the results.

Senate Majority Leader Fred Thomas, R-Stevensville, characterized the commission's work as "gerrymandering," and said Republicans will not "roll over" and let the
reapportionment stand.

"That's wrong what they did to Montana voters," Thomas said.

Under the Constitution, the Legislature may only comment on the reapportionment plan before sending it on to the secretary of state, who accepts it to make it law. Instead, the Republicans drafted House Bill 309, sponsored by House Majority Leader Brown, which prohibited the secretary of state from accepting the plan unless it required districts to deviate no more than 1 percent from the "ideal population."

Since the commission's plan included districts that deviated from the ideal population by as much as 5 percent, HB 309 prevented Secretary of State Bob Brown from accepting it. The plan is now before the courts.

Thomas concedes that the districts in the existing reapportionment plan will "more than likely" stand, because the plan is constitutionally legal, but says Republicans will work to change the system before the next reapportionment in 2010.

Last week, Sen. John Esp, R-Big Timber, rolled out Senate Bill 429, which would allow the Legislature to approve reapportionment plans rather than just commenting on them. The bill provides for a three-judge panel appointed by the Montana Supreme Court to approve a plan if the Legislature can't manage it.

Critics of SB 429, which included Montana Democratic Party Chairman Bob Ream and ACLU Executive Director Scott Crichton, said it would make reapportionment more contentious than it already is.

"The first half of the session has been far too partisan, which has severely restricted our ability to come up with common ground," said Senate Minority Leader Jon Tester, D-Big Sandy. "Reapportionment and the coal tax have driven wedges between Republicans and Democrats. This whole thing could fly apart and in the end we could be making massive cuts. If we keep playing politics we're heading for a wreck."

Bills take aim at voter-approved laws

Showdowns also loom over a series of bills aimed at overturning initiatives passed by Montana voters, including initiatives aimed at fighting tobacco use and banning the expansion of game farming and cyanide leach mining.

Sen. Debbie Shea, D-Butte, wants voters to reconsider their 1998 ban on the cyanide leach mining of gold and silver, a ban Montanans enacted by passing Initiative 137. Her Senate Bill 436 would require a new vote.

Meanwhile, Senate Bill 451, sponsored by Sen. John Esp, R-Big Timber, asks voters
to give lawmakers final say in how the state spends the $30 million it receives annually from
the settlement of a national lawsuit against Big Tobacco. Initiative 146, approved by voters
last November, earmarked $9 million of the money yearly for tobacco-use prevention
programs. Many legislators want part of that money go to health programs for the poor.

And on another front, House Bill 379, sponsored by Rep. Rick Ripley, R-Wolf Creek,
would reverse what is effectively a ban on game farms, put in place when Montanans passed
Initiative 143 in November 2000.

What's behind the move to overturn the voters' will? Some lawmakers believe voters
may have been either misinformed or ill informed about the initiatives they voted on, and
that it's a good idea to revisit the issues involved.

"Because people passed (an initiative) does that mean we should never talk about it

But the emotions rekindled by such talk run hot, as Helena Rep. Dave Lewis
discovered during the debate over Ripley's game-farm bill.

"I voted for (House Bill) 379 and I never should have done it," said Lewis, R-Helena.
"It's like a religious war. There's no middle ground. The public voted for the game farm ban
and it should stand."

Crow coal

Senate President Bob Keenan, R-Bigfork, and Crow Tribal Chairman Carl Venne are
talking about building a 500-megawatt power generation plant on the Crow Reservation.

The Crow are sitting on millions of tons of coal, and Venne says mining it and turning
it into electricity could secure his people's future. Keenan says the best-case scenario has
the Crow power plant up and running in four years.

But for the project to work, the tribe must upgraded transmission lines from their.
reservation to Billings, at a cost of $25 million. Keenan may introduce a bill that would
issue bonds to raise that money.

Talking tax reform

Despite Gov. Martz's threat to veto any tax increase, two rural Montana lawmakers are
rallying support for an upcoming bill that would implement a 4 percent retail sales tax on
everything but groceries, medicine, utilities and health care.

In return, Montanans would receive reductions in property taxes and income taxes
totaling $423 million for the biennium. Out-of-state homeowners would not be eligible for
the break. In addition, the typical Montana household would pay no tax on the first $17,250
of income.


The governor's own tax-reform plan, which would levy a sales tax to offset cuts income and capital gains taxes, brings in no additional revenue.

Anti-DUI bills roll on

Senate Bill 37, sponsored by Sen. Dale Mahlum, R-Missoula, passed the Senate last Thursday on a 45-5 vote and heads to the House with momentum.

Coupled with bills already passed in the Senate that ban open containers of booze in vehicles and lower the legal blood-alcohol limit to .08, SB 37 would require violators to pay bigger fines, do more jail time, and suffer license suspensions that hurt.

Fourth-time offenders would lose their licenses for five years and would be placed on a statewide "blacklist" that would authorize stores and bars to refuse to serve them.

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HELENA - Ask a few seasoned observers of the Montana Legislature what, if anything, is wrong with the way things are being done in Helena this session, and you'll get an earful:

* Too many lawmakers are putting the needs of their local and special-interest constituents above those of the state as a whole.

* Term limits have left a majority of lawmakers inexperienced and afraid to ask tough questions.

* Party caucuses have become press conferences rather than informal sessions where compromises can be worked out.

Those are a few of the reasons why the Legislature finds itself in a bind as it enters the second half of the 2003 session, observers say.

"I'm concerned that the Legislature is incapable of developing a statewide view of the problems facing Montana. I would include both parties in that," said Jim Lopach, a UM professor of political science.

As an example of such "parochial and self-serving" views, Lopach pointed to proposed taxes on gambling and cigarettes. Those "sin taxes," he said, single out the 20 percent of Montana citizens who smoke and gamble to shoulder the burden of generating revenue to help cover the state's $230 million deficit.

"It's unethical to tax some of the most vulnerable members of society for the benefit of the whole state," said Lopach, who believes any new taxes must be spread across the broad spectrum of Montana citizens. "They're taking the slimiest, easiest way out."

Lopach's counterpart at MSU-Billings, political science professor Craig Wilson,
agreed that the Legislature has been myopic in many ways, citing the "personal pet issues" lawmakers have brought to the floor, such as protecting fetuses from pain and undoing reapportionment.

"They simply have not dealt with spending and revenue issues," Wilson said. "They've been dancing and prancing around a bunch of issues, including the budget."

Calling this "one of the more ideological sessions of recent times," Wilson also blamed some of the session's problems on Gov. Judy Martz's poor popularity. Republicans, he said, have lost the "bully pulpit" that the governor's office usually represents because of Martz's poor approval ratings, which have dipped as low as 24 percent in polls.

"Martz hasn't been broadly accepted even by Republicans as a leader," Wilson said.

As proof he cited Martz's "peculiar" hardening of her position on taxes - promising to veto any increased or new taxes - just before session's halftime break.

"Republican leadership wasn't fully on board," said Wilson of Martz's tough stance.

Senate President Bob Keenan, R-Bigfork, proposed a compromise budget plan weeks earlier that included both a car-rental tax and sin taxes, and legislators on both sides of the aisle concede that some new revenue from taxes will likely be part of the ultimate solution to Montana's deficit.

"I presume party officials and advisors have told (Gov. Martz) that her best chance for re-election is a tough stand on taxes," Lopach said.

According to Lopach, if Martz were guided instead by the "civic virtue" James Madison wrote about, she would not unilaterally vow to veto any tax increases, knowing that Montana's poor, mentally ill and disabled are in danger of losing services because of budget cuts.

"If re-election is your priority, you're not going to be courageous," he said.

Some of the 58th Legislature's difficulties are also due to lack of experience, said Bruce Simon, a Billings property manager and former legislator who spent 14 years in the House as a Republican, during the 1980s and 1990s. He said he is astonished at the lack of experience in today's House, which included 38 freshmen representatives and 40 sophomores.

"When you go in the learning curve is steep," Simon said.

Not only do new legislators have to learn about the issues, but they must also learn about the legislative process, which can be intimidating, Simon said.

Before term limits, said Simon, there was an experienced cadre of representatives in the House who could help freshmen learn the ropes. And to make sure that happened, new representatives were seated between two experienced legislators.
"You don't have that today," Simon said. "In committee work, new people seem shy to ask more and difficult questions. Any controversial bill needs to have a full hearing. Until all questions are answered, it should not go to a vote. A lot of discussion is not happening."

Former Sen. Mike Halligan, a Democrat who spent 22 years in the Legislature who now works as a lobbyist for Washington Corp., agrees with Simon that today's lawmakers are generally less experienced. He casts the problem in business terms.

"You can't run a $5 billion operation with people with an average experience level of four years," he said. "You need some gray hair in there to balance the new blood."

Halligan also believes a 1999 lawsuit by the press to open up party caucuses hampered the legislative process. Summits, like the one held recently by the leaders of both houses, don't work, he said, because the press and public are there. Party caucuses don't work for the same reason, he added.

Contrary to popular opinion, closed caucuses didn't produce secret deals because ultimately everything the Legislature does has to be voted on publicly, he said. Instead, closed caucuses allowed lawmakers to get away from lobbyists and the media to speak freely and candidly - the only way to hammer out compromises, he said.

"Now they are press conferences and that's all," he said.

Simon offered another side effect of open caucuses.

"Open caucuses make it more difficult for the leadership to strategize because (an operative from) the other party is sitting right there," he said.

But Missoula Mayor Mike Kadas, a Democrat who served in the Legislature from 1982 to 1996, doesn't buy the open-caucus argument.

"I think caucuses have a very minor role," said Kadas. "Leadership and leadership style play a huge role."

And when the governor's style is to lay down ultimatums, like she did on the issue of higher taxes, that's a problem, said Kadas, because it pressures the rest of her party to "fall in line."

"You can't play chicken the whole time," he said.

Otherwise, he said, Montana may end up with a situation like the nation faced in the mid-1990s, when President Clinton and a Republican Congress deadlocked over the budget and shut down the government.

"Term limits are the big problem," said Kadas. "You've got to have a few people with the respect of other folks in the chamber who can walk across the aisle and know who to talk to. Trust only comes with time. That's the only way across the divide."

During Kadas' legislative tenure, which included eight years on the House Appropriations Committee, the state faced a severe budget shortfall brought on by drought
and tumbling energy production in the mid-1980s.

That crisis, Kadas said, was solved by "a combination of things."

"We made cuts, we raised taxes, and we totally busted the education trust," he said.

The education trust, which held $100 million before being drained by the Legislature, was funded by the coal severance tax, and serves as an example for current lawmakers opposed to Gov. Martz's proposal to balance the budget by taking $93 million from the fund.

But Kadas said the more indelible lesson for Democrats from that mid-1980s budget crisis came from their decision to raise a variety of taxes by 7 percent, across the board - the equally shared tax burden Lopach calls for.

"We got skewered in the next election by it," Kadas said.

And that, he said, is why Democrats are "narrowly focused" on sin taxes, and other targeted taxes, in this session. It also explains their fear of tapping the coal trust, he added.

The problem with using money from a trust is that it is "one-time money," Kadas said, and therefore it is not a solution for long-term problems like funding health care for the poor. Still, he said he expects the coal tax trust fund to be in play at the end of this session because there will be few alternatives.

"The trust fund won't be used until the last minute," Kadas said. "It's part of the end game."

Lopach also predicted that the coal trust will be used, but he said he hopes legislators don't touch the $630 million principal.

"I think we should leave the corpus as is, but use the interest and new revenue for the greatest needs of the state," he said. "It's just a compromise."

On the subject of compromise, Lopach summed up his concerns about Montana's 58th Legislature with an apocryphal story about a small Wisconsin town that received a grant to build a swimming pool. Each of the representatives from the town's five districts wanted the new pool in his or her district, and no one would back down. The town finally built five wading pools, one in each district, instead of one big swimming pool.

With 150 legislators, Montana is split into too many small legislative districts, resulting in a scramble for resources not unlike the one faced by that small Wisconsin town, Lopach said.

Too many lawmakers believe they should represent only their friends and neighbors back home, he added.

"That's not good," he said. "You can argue for it, but I think we need a broader view. We have to compromise for the greater good."
BATTLE LOOMS OVER SHRINKING DOLLARS FOR SCHOOLS

Legislative Report No. 11
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By DAN D'AMBROSIO
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HELENA - Montana schools lost ground in the Legislature's tug-of-war over funding last week as a key committee cut $10 million from K-12 education, dropping it $5 million below Gov. Judy Martz's budget.

The move drew fire from educators and Democrats and worried one of the Legislature's Republican leaders, too.

"We're going to have to fix that," said House Majority Leader Roy Brown, R-Billings.

But even a return to the governor's budget leaves K-12 nearly $12 million below what the state spent on schools in 2002-03 and would not likely to end the debate over education between the two parties.

Republicans say they're giving education top priority in tough budget times, and point to the fact that it was the only program spared in an early-session move to roll all state spending back to year-2000 levels. But Democrats argue that the burden for funding schools is being increasingly shifted to property owners, who face higher local taxes or budgets cuts at local schools.

Meanwhile, key education advocates have already made up their minds about where schools stand with the 58th Legislature.

"This session will go down as the worst session in modern days for education," said Lance Melton of the Montana School Boards Association.

As proof, Melton points to Senate Bill 323, which is the K-12 funding proposal backed by the governor and Republicans. Melton said the bill, sponsored by Sen. Duane Grimes, R-Clancy, would result in a $22 million net loss to schools, despite a 2 percent increase in 2004 and a 1 percent increase in 2005, because it requires school districts to assume costs previously covered by the counties.

"Your school will have to figure out how it will take out its share of the $22 million,"
Melton said.

The House Appropriations Committee, chaired by Rep. Dave Lewis, R-Helena, dropped school funding below the governor's budget when it slashed 1 percent across the board from the main appropriations bill, taking $10 million from K-12 education and $3 million from the university system. The savings generated by the cut would go to support health and human-service programs for Montana's poor.

At the root of debate over public school funding this session is the fact of declining enrollments. Because state aid to local schools is tied directly to student numbers, tumbling enrollment means less state money.

Given those circumstances, Republican leaders insist that they are treating education as well as can be expected.

"I'm satisfied that education will come out of the session with more and larger increases than anyone else," said Senate Majority Leader Fred Thomas, R-Stevensville. "They're going to have to appreciate that fact."

But Melton says the education community has no reason to feel grateful.

"We don't make our judgment based on relative harm inflicted on others," Melton said. "We make it based on actual harm inflicted on our children. We're dismantling a quality educational system that took generations to build."

Melton said Montana students consistently rank among the top 10 states in standardized testing and other measures of academic achievement. But budget cuts could damage the system that produces those high-achieving kids, particularly in Montana's rural areas, he added.

"When you lose staff and everybody loses morale, you can't suddenly say wait a minute, we didn't mean it," said Melton. "You can destroy rural education in a matter of two years."

Time is of the essence, said Melton, because children grow up whether you're ready to educate them properly or not.

"We have to address this issue now," he said. "We can't wait two years, because you're only a first-grader once."

Eric Feaver, spokesman for the state teacher's union, agreed with Melton that SB 323 would be worse than doing nothing for schools. His organization, the Montana Education Association-Montana Federation of Teachers, has an alternative plan.

He wants lawmakers to revive House Bill 193, sponsored by Rep. Gary Branae, D-Billings, because it would grant schools additional state aid based on the fixed cost of having teachers in the classrooms.
Under HB193, now tabled in committee, school districts would receive a $1,000 payment for each teacher they employ in addition to the entitlements they already receive. The payment would not go directly to the teacher, but rather to the district's general fund.

The current system, said Feaver, fails to recognize that when enrollment falls, the need for teachers does not, leaving schools with less money for fixed costs.

"One year you have 25 students, then 20, then 18," Feaver said. "You've lost $30,000 in state aid, but the teacher is still there. She hasn't gone away. The state doesn't recognize that."

To the contrary, said Sen. Thomas, the state recognizes the situation for exactly what it is - declining enrollment that must ultimately result in funding cuts.

"MEA-MFT wants to shift away from funding students to funding teachers," Thomas said. "I don't find a lot of value in that."

Thomas says that declining enrollments must be matched by declining expenses, because when enrollment begins to grow again, as demographics say it inevitably will, schools will be calling for more money.

"They can't have it both ways," he said. "I fully appreciate that declining enrollment isn't easy on schools. It's down 10 percent in the last six to seven years and will continue to decline for another 10 years.

"You've got to be subtracting. It isn't easy but you have to do that to keep the infrastructure affordable."

Thomas said that if the state doesn't downsize to serve the 30,000 fewer students schools expect to have in a decade Montana will be in trouble when enrollment does head back up.

"It will break the state," Thomas said.

The second piece of legislation Feaver favors is House Bill 107, sponsored by Rep. Alan Olson, R-Roundup. HB 107 would help repay the college loans of teachers trained in hard-to-fill specialties, such as music.

But "the most important bill in decades" for education, Feaver said, is House Bill 302, sponsored by Rep. Dave Lewis, R-Helena. The bill would pool the health insurance plans of all 16,000 state K-12 employees into one mandatory plan, instead of the 230 plans that currently exist.

"It's absurd that we have 230 health care pools when we should have one, with 16,000 employees in one pool," Feaver said. "We know we'll save a ton of money if we go this way."

Feaver said that in smaller school districts, health insurance costs have become so
onerous they've actually depressed salaries, or prevented teachers from accepting positions. Larger school districts, however, often enjoy relatively good health care plans.

"There are huge inequities and no fairness from district to district," said Feaver.

However, to iron out those inequities, larger school districts may have to pick up the tab, a prospect feared by many teachers in those districts.

"If we are forced into a state pool, we'll see a $1.8 million increase in expenses," said Marta York, a teacher at Missoula's Hellgate High School. "We have a $350 deductible. In the pool we would go to a $1,000 deductible."

Higher education faces deeper cuts

With most of the budget debate centered on proposed cuts in K-12 and human services, cuts in the state's higher education budget have received much less attention this session.

"There's general apathy toward higher ed., but what am I supposed to do?" asked Senate Minority Leader Jon Tester, D-Big Sandy. "I'm going to react to the amount of pressure put on me, and I haven't had much pressure put on me by higher ed. The pressure has come from the DPHHS and K-12."

Following the 1 percent across-the-board cut, the university system stood about $48.5 million short of what it needs to continue current programs, according to Interim Commissioner of Higher Education Carrol Krause.

But Tester says no one is panicking for a very simple reason.

"They've got another source of funding called tuition," he said. "That's why they're not pushing."

University officials say that to cover the anticipated shortfall, 10 percent increases in tuition are likely over each of the next two years. That would raise the average cost of resident tuition in state schools to about $3,600 per year.

Campus officials see some hope in a new bill from Rep. Roy Brown, whose House Bill 750 would raise $58 million from the coal tax trust fund and a temporary increase in cigarette taxes. Brown would earmark $5.7 million of that for the university system, bringing its budget back to the governor's recommendation.

Brown says the university system deserves every penny the Legislature can give it because of their "mature and responsible attitude" toward funding this session.

"They want more money but they're not going to sit around and cry over spilled milk," said Brown. "They made their case but they realize we don't have the money."
Not all of Brown's colleagues are so generous. Compounding the university system's funding problems is controversy surrounding what some legislators consider to be the anti-business attitude of the University of Montana's Environmental Studies Program.

Rep. John Witt, R-Carter, recently called the program "disgusting" and made a largely symbolic attempt to cut its funding.

Witt's protest drew fire from Democratic legislators, who accused him of trying to stifle the free flow of ideas in an academic setting, but Interim Commissioner Krause realizes that the animosity toward higher education won't be easily dispelled.

"I'm trying to make the attitude toward the university system better than it appears to be," said Krause. "I think it's important for us, as a state, to recognize the value of the university system. The state benefits tremendously from educated citizens."
INDUSTRY, ENVIRONMENTALISTS GRAPPLE OVER ACCESS TO COURTS

Legislative Report No. 12
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By DAN D'AMBROSIO
Montana News Service
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HELENA — After 10 years of attacking environmental standards, Republican legislators are using this session to limit citizens' access to the courts to challenge development projects that damage Montana's air, water and land, a leading environmental group charges.

"They're attacking the process more than standards," said Jeff Barber of the Montana Environmental Information Center. "They're fundamentally limiting access to state agencies and courts."

There are several such bills before the Legislature, according to MEIC's Ann Hedges, including House Bill 700, and Senate bills 410 and 298. HB 700 and SB 410 would make it harder to challenge air-quality permits by requiring an injunction and a minimum bond of $10,000. SB 298 politicizes the courtroom, says Hedges, by requiring that challenges to permits be heard in the county where the project in question is being built.

But the main effort to hamstring environmentalists is House Bill 437, according to Barber. Like SB 298, HB 437, sponsored by Rep. Alan Olson, R-Roundup, would require that permit challenges for major facilities such as mines and power plants be heard in the county where the project is being built, rather than the Helena courts, where challenges are typically heard.

"(Environmental groups) litigate everything in front of environmentally friendly judges in Helena. We're taking that away from them," said Senate Majority Leader Fred Thomas, R-Stevensville.

HB 437 also addresses the question of the right to a "clean and healthful environment" guaranteed in the state Constitution, which the MEIC used in a high-profile case last July to challenge a permit for a proposed coal-fired power plant in Butte.

Last December, Helena District Court Judge Jeffrey Sherlock ruled against the MEIC
in that action. Sherlock said the group could not challenge the Butte permit based on the constitutional guarantee of a clean and healthful environment, but rather had to challenge the constitutionality of the underlying statute in the state’s Clean Air Act that allowed the permit to be issued in the first place. MEIC decided not to challenge that decision.

Olson’s bill codifies Sherlock’s decision as law, and would permanently take away the ability to challenge permits based on the Constitution’s guarantee of a clean and healthful environment.

"They have tried to abuse the clean and healthful language of the Constitution to mean whatever they want it to mean," said Thomas of the MEIC’s tactics. "I would say we’ve been taking away avenues they’ve been abusing and put this state’s economy in the tank. We’re going to continue taking away avenues they use to kill projects and jobs."

But Hedges says her organization won’t be prevented from going to court to fight projects they believe will damage Montana’s environment. If HB 437 passes this Legislature as expected, she said, it only means MEIC will end up in Supreme Court rather than District Court with its challenges.

"They’ll make our life more difficult and expensive," Hedges said.

A third provision of HB 437 gives challenges of licenses or permits for projects worth more than $1 million precedence over any other civil cases before a court. The permit challenges would go to the top of a court’s schedule — an effort to quickly deal with actions that could potentially delay building a power plant or digging a strip mine.

If the court finds that the challenge brought against a permit or license was frivolous, and only intended to "harass … cause unnecessary delay or … impose needless or increased cost in litigation," it can make petitioners pay the attorney’s fees and defense costs of the other side.

In committee action last week, the House amended HB 437 to make the law retroactive, a move Hedges says came in response to MEIC’s lawsuit against another proposed coal-fired power plant in Roundup.

MEIC is trying to stop the Roundup plant because it would increase statewide carbon dioxide emissions by 27 percent, according to the state’s Department of Environmental Quality. Carbon dioxide contributes to the controversial "greenhouse effect," which many scientists believe is warming the earth’s atmosphere and could lead to disastrous consequences for the environment.

A decision on MEIC’s challenge to the Roundup plant is expected from the Board of Environmental Review by the end of the summer. Hedges said MEIC would almost certainly lose that decision, and then appeal its case to district court. If HB 437 passes, as
Olson expects it will, that will mean MEIC will be forced to go to Roundup to file its appeal, due to the amendment making the bill retroactive.

"This doesn't limit their access," said Olson. "They just have to come to Roundup to challenge a project in Roundup."

But Hedges says it's clear what going to Roundup really means to MEIC's challenge of the proposed power plant: defeat and certain appeal.

"If we have to go to Roundup, the pressure on the judge to make a bad decision will be tremendous," said Hedges. "Then we'll go to the Supreme Court for a better decision."

And that's exactly the problem — too much litigation — says Don Allen of the Western Environmental Trade Association, a broad umbrella group representing the state's oil and gas, agriculture, timber, and mining interests, along with snowmobilers, contractors, real estate agents and others.

"The word gets out across the country that it's hard to operate in this state mostly because of court challenges brought by MEIC and NPRC (Northern Plains Resource Council)," Allen said. "We're trying to change the climate so (industry) will have a better idea — they won't get blindsided by lawsuits all the time."

But Sen. Ken Toole, D-Helena, says the argument that Montana would have a strong economy if not for the lawsuits of environmental groups is misguided.

"That we're in the economic shape we're in because of environmental laws and that environmentalists use those laws to stop projects is demonstrably not true," Toole said. "The real reasons are that coal power is expensive and not very flexible."

Massive coal power plants take a couple of years to build and a couple of weeks to bring online, says Toole. Natural gas plants, by comparison, can be built in six months and "fire right up and shut right off," he says, so producers can follow the fluctuating demand for power.

"(Gas-fired plants) are a much more flexible option," Toole said. "Why aren't they building coal plants in eastern Montana? Because of environmentalists? No, because of economic conditions."

Toole says what has happened to Montana's Major Facility Siting Act over the past 30 years proves his point. The act was passed in 1973 to ensure that projects such as power plants, pipelines and transmission lines were only built if they were necessary and didn't harm surrounding communities.

Over the years the act has died a "death by a thousand cuts," according to the MEIC, as exemption after exemption was made to make the business climate more friendly to companies interested in coming into the state. In 1979, refineries were exempted. In 1995,
power plants up to 150 megawatts were exempted. In 1997, that exemption was bumped up to 250 megawatts, and this year there are bills to make additional exemptions for certain pipelines and transmission lines.

"It would be entertaining if it wasn't so sad," Toole said. "I've been watching it for four sessions. We whittle away at the Major Facility Siting Act until it's close to meaningless, and not a single big plant has been built.

"It's not about that law, it's about economics."

Anti-abortion bill faces uphill test

Sen. Dan McGee, R-Laurel, spoke before a House committee last week on behalf of his Senate Bill 274, which would put a constitutional amendment on the 2004 ballot asking voters to give the state "a compelling interest" in human fetuses.

The bill, commonly thought of as an anti-abortion law, passed out of the Senate with 28 votes and needs 72 votes in the House to be implemented.

"Is the protection of unborn human life a compelling state interest?" McGee asked the committee. "I believe it is."

Later McGee admitted that it would take "a miracle" for his bill to get the votes it needed in the House.

Lawmaker works to keep Bair museum open

Pioneer rancher Charlie Bair had a knack for making money. He came to Montana in 1883 as a conductor for the Northern Pacific Railroad and by the turn of the century was raising 300,000 sheep on one of the largest ranches in the world, headquartered near Martinsdale.

Bair had two daughters, Marguerite and Alberta, and when Alberta died in 1993 at age 98, the Bair name died with her. The legendary philanthropy of the family in southwestern Montana, however, lived on. The sisters left the family home, filled with treasures gathered on 20 European trips, to the state as a museum.

Now the Bair Family Trust wants to shut the museum down because of declining visitation. Sen. Royal Johnson, R-Billings, is determined to prevent that.

"The Bair family put up the money, put up the house, put up the endowment," Johnson told a Senate subcommittee. "There is no reason to have one of the most historic places in Montana closed."
The subcommittee unanimously passed Johnson's resolution to keep the Bair Museum open.

Legislator halts drive for new vote on cyanide mining

Sen. Debbie Shea, D-Butte, has given up on her bill asking voters to reconsider the ban on cyanide leach mining ban passed in 1998 through Initiative I-137. The bill, Senate Bill 436, would have required a new vote next year.

Shea and her supporters claimed the mining industry couldn't tell its side of the story in the 1998 election because another initiative, I-125, banned them from spending money to oppose the measure. I-125 was later ruled unconstitutional.

"In spite of notes from environmentalists calling me a prostitute and stupid ... I stuck to the high road," Shea said on the Senate floor.

At a press conference immediately afterward, she said labor, industry and others would join together to organize a petition drive to get cyanide leach mining back on the ballot next year.
AGENCIES CLEAR THE WAY FOR COAL-BED METHANE DRILLING

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By DAN D'AMBROSIO
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HELENA — A three-year moratorium on developing coal-bed methane in southeastern Montana could end this summer as long-awaited decisions last week from two key agencies paved the way for drilling to begin.

Last week the Montana Board of Oil and Gas Conservation accepted an environmental impact statement developed by the federal Bureau of Land Management and the state Department of Environmental Quality. The decision allows producers to apply for drilling permits.

The moratorium resulted from a lawsuit filed in May 2000 by the Northern Plains Resource Council, an environmental group. The suit prevented the Board of Oil and Gas from issuing permits for coal-bed methane wells before the environmental assessment was completed.

The other key decision came Friday when the state’s Board of Environmental Review adopted standards for the quality of wastewater generated by coal-bed methane wells, tackling the thorniest issue associated with development: permits to flush the highly salinated coal-bed methane water into surrounding rivers and streams.

Farmers and irrigators in the region worry that the salty water could sterilize their pastures and croplands.

Attempts by Democratic legislators to place additional restrictions on coal-bed methane drilling, and to slow down development, failed early in the session. Sen. Emily Stonington, D-Bozeman, and Rep. Monica Lindeen, D-Huntley, offered four bills dealing with such drilling, including measures to regulate wastewater management and to protect the rights of surface owners. All four bills died in committee.

Last week, Stonington tried to amend House Bill 700, sponsored by Rep. John Brueggeman, R-Polson, to exclude the compressors on coal-bed methane wells from
qualifying for the less stringent air-quality permits proposed in the bill.

"I rise in opposition to this amendment," said Sen. Keith Bales, R-Otter and the Legislature's most outspoken proponent of coal-bed methane development. "The sponsor (of the amendment) put it very well – it's to slow down or stop coal-bed methane development. We certainly have not rushed into coal-bed methane development.

"Three years ago this month we had a lawsuit that stopped coal-bed methane in its tracks. Now we have an amendment that will stop it for I don't know how long."

The amendment was defeated in a 26-22 vote along party lines, but Stonington said she thought the debate itself sent a strong message that the DEQ should carefully monitor coal-bed methane drilling.

If such drilling in the Powder River Basin reaches the 10,000 to 20,000-plus wells that experts predict, tens of millions of gallons of highly salinated water would be brought to the surface as a byproduct. The water traps the methane gas in coal seams far below the surface, and must be pumped out to get the gas flowing.

Should that salty water finds its way into the Tongue and Powder rivers, which the region's farmers and ranchers use to irrigate their lands, it could "lock up" the clay-based soils through a chemical reaction that makes it impossible for water to penetrate the ground. Once that happens it's difficult to reclaim the land.

"Soil problems are hard to fix and can be irreversible," said Art Compton, an administrator for the DEQ.

When the DEQ issues its formal decision on the EIS, which is expected in about two weeks, coal-bed methane developers will be free to begin drilling on state and private land. But before they can drill on federal land, the Bureau of Land Management will also have to sign off on the EIS. That decision also is expected in about two weeks.

"The moratorium will be off and (developers) can go full-scale," said Mark Fix, chairman of the coal-bed methane task force for the Northern Plains Resource Council.

Fix, a rancher on the Tongue River 20 miles southeast of Miles City, said the EIS doesn't include the strict guidelines it should have to ensure that energy companies handle coal-bed wastewater in the best way possible. Other methods of dealing with the water include re-injecting it into the aquifer and treating it, but such techniques are costly and neither is included in the EIS.

However, Fix is optimistic about the numeric standards issued by the Board of Environmental Review for the sodium absorption ratio — the primary measurement for the water's salinity — in the Tongue and Powder rivers.

"The standards are pretty good, so we're hopeful," Fix said.
Based on last week's developments, Fidelity Exploration & Production Co. is planning to expand its coal-bed methane operations this summer on the CX Ranch near Decker. Fidelity is the only company currently producing coal-bed methane in Montana, with 250 wells in operation.

"Now that we have a (decision), we will drill 150 new wells, give or take, in the CX field in 2003," said Bruce Williams, Fidelity's vice-president of operations. "The rest of the industry will start up with exploratory wells to ascertain potential."

Williams said the development of coal-bed methane in Montana would be "slow and deliberate," as many exploration companies have already made their plans for 2003 and would not be able to drill this summer.

But in a presentation to the Legislature last January, Fidelity estimated that Montana could receive more than $1.5 billion in revenue from coal bed methane development over the next 20 years.

"I think there is great potential for revenue," said Bales last week on the eve of the decision from the Board of Environmental Review. "I just hope no more lawsuits will be filed. We have the laws in place to protect the water."

Senate takes up budget bill

Debate over the state's budget for the next biennium moves this week to Senate, where leaders from both parties hope to bolster spending in key areas such as human services and education.

House Bill 2 passed the Republican-controlled House last week by a vote of 53-47, despite Democrats' arguments that the $2.3 billion bill would leave the state's most vulnerable citizens without an adequate safety net.

As it left the House, HB 2 set spending for human services, prisons and higher education at levels lower than those recommended by Gov. Judy Martz. K-12 schools would receive more money than the governor requested.

Late last week, the Senate's budget committee, led by Senate President Bob Keenan, R-Bigfork, was already working to restore money lost in across-the-board cuts approved by the House.

Butte's big gamble wins first hand

Plans to create a Las Vegas-style gambling playground in Butte jumped its first hurdle
last week, winning approval from the House Taxation Committee. It could reach the House floor this week.

Supporters say the multi-billion-dollar proposal by Florida developers would revive Butte's struggling economy and pump hundreds of millions of tax dollars into the coffers of local and state governments.

Critics worry the project would lead to broader gambling across the state because Indian reservations may offer any gambling the state permits. Some critics also object to the way the project's promoters are pushing their proposal.

"This thing is preposterous," said Senate President Bob Keenan, R-Bigfork. "They think they can come in here on Day 50 of the Legislature and we're all going to jump around like a bunch of trained poodles. What they do have is highly paid lobbyists pushing this ridiculous plan. That's the only way revenue is being generated."

Bill targets management of historical sites

Senate Bill 431, sponsored by Sen. Jim Elliott, D-Trout Creek, would transfer the management of Virginia City and Nevada City from the Montana Historical Society and the Montana Heritage Preservation and Development Commission to the Department of Fish, Wildlife and Parks.

In hearings last week, Elliott said the Heritage Commission is mismanaging the attractions. For example, he said, only 4,000 of nearly a million artifacts have been catalogued after five years of work. FWP — or for that matter, almost anyone — could do a better job, he added.

Elliott also objected to the $75,000 salary paid to the Commission's executive director, Jeffery Tiberi.

"I don't want Virginia City to fail," said Elliott. "I don't care if it's attached to the Board of Cosmetology or the Board of Plumbers; I want it managed the right way. And I would posit that the state of Montana could get the level of management it's currently getting at a much cheaper price."

Opponents to the bill included Tiberi himself, who pointed out that in 1997, FWP refused to take on the management of Virginia City and Nevada City when it was offered, because it would be a "drain on the system."

"Fish, Wildlife and Parks has a full plate," Tiberi said. "Virginia City and Nevada City would be given a low priority."
HELENA - For a growing number of police and civic officials, Montana's greatest criminal and social problem is the production and abuse of methamphetamine, cooked in deadly illegal "laboratories" across the state. The question is: Does the Legislature realize it?

Great Falls Mayor Randy Gray has his doubts, and he's concerned about what that means for efforts to curb the burgeoning crime that follows meth, as the drug is commonly called.

"We won't accomplish squat unless legislators understand that this is Montana's No. 1 problem," Gray said. "I don't think rural legislators do. Meth is news to them, just like it was to us five years ago."

Five years ago, Gray said, Great Falls police had never heard of meth, a drug that is cheap to make and hugely profitable. It's common for a user to spend $700 weekly on a meth habit, he said.

To make meth, producers use readily available ingredients such as cold medicines, solvents, and common farm fertilizers. Setting up portable labs in residential homes, motel rooms or even Forest Service campgrounds, producers combine and cook the ingredients, creating deadly, explosive fumes and toxic waste.

For every pound of meth produced there are five to six pounds of lethal waste, which cooks often pour down plumbing drains, storm drains, or directly onto the ground, according to records provided by a drug task force created last year by Gov. Judy Martz.

When they are discovered, meth labs must essentially be treated like Superfund sites, making cleanup costly, running as high as $100,000 for some labs.

Great Falls police found their first meth lab in 1999, two labs in 2000, 15 labs in 2001,
and 29 labs in 2002. Over the last two years, assaults on Great Falls police officers have nearly doubled, from 54 in 2001 to 97 in 2002, with the "vast majority" of those assaults related to meth, Gray said.

Meth producers are typically heavily armed and often use booby traps to protect their labs. Users become paranoid and violent. Many can find themselves addicted after their first use of meth, experiencing up to a 12-hour "rush" from the drug.

"They have an immediate addiction trying to recreate that first high," Gray said. At enormous cost, Great Falls has been forced to devote not only police officers to the growing meth problem, but also firefighters, who have been trained to deal with the extremely hazardous aftereffects of the labs.

"It's sucking us dry, diverting the police and fire departments from what they would normally do," Gray said.

And as Great Falls police become savvier about meth, and bust more labs, producers are fleeing to rural areas.

"The Conrads, the Belts, the Brownings, the Rudyards - all have had labs," said Gray.

In addition to the drain on government resources meth creates - the federal Drug Enforcement Agency spent more than $1 million cleaning up 122 labs across Montana last year - Gray cites meth's terrible human costs.

He tells the story of Great Falls District Judge Tom McKittrick, who found himself moved to tears by the sight of a 23-year-old pregnant woman, hooked on meth, standing before him for sentencing. The woman was covered from head to toe in scabs, and had lost all of her teeth - the result of meth use.

Because the body is unable to filter out the heavy metals it absorbs during meth production, it exudes them through the skin, creating open sores that eventually scab over, Gray said.

"I can't tell you how bad this stuff is," he added.

Sen. Duane Grimes, R-Clancy, is one lawmaker who understands just how bad the meth problem is in Montana. Grimes led Gov. Martz's Alcohol, Tobacco and Other Drug Control Policy Task Force, which issued its "Comprehensive Blueprint for the Future" in September 2002, outlining the substance abuse problem in Montana and making recommendations for how to deal with it.

"I am disheartened by the extent of the (meth) problem out there," Grimes said. "The problem is so acute and so pervasive that the only hope is a comprehensive community response."

The current Legislature's response to the problem comes in the form of two bills and
one joint resolution.

House Bill 402, sponsored by Rep. John Parker, D-Great Falls, doubles the penalties for meth production, putting producers in prison for up to 50 years. The governor has signed the bill into law.

Senate Bill 364, sponsored by Sen. Mike Cooney, D-Helena, makes it a form of child abuse to manufacture a dangerous drug in the presence of a child, giving social workers and other authorities more authority to intervene. Meth production often involves adults with children, who are exposed to the toxic fumes and other hazards of the lab. SB 364 passed the Senate easily and is expected to become law.

Finally, there is Senate Joint Resolution 11, sponsored by Sen. Trudi Schmidt, D-Great Falls, who wants to continue the study begun by the governor's task force in 2002, focusing specifically on meth.

The resolution sets a deadline of Sept. 15, 2004, for the study, with recommendations to be reported to the next Legislature. SJR 11 passed the Senate easily.

Conspicuous by their absence are any bills dealing with the treatment of meth addicts because treatment costs a lot of money.

"You can't imagine a tougher session to get money for treatment programs," said Rep. Brad Newman, D-Butte.

And that's terribly unfortunate, said Montana Attorney General Mike McGrath, who was "most hopeful" that House Bill 745, sponsored by Rep. Eve Franklin, D-Great Falls, would pass.

HB 745 would provide $900,000 over the next two years to fund two recovery homes for meth-addicted mothers and their children. The bill missed the late March deadline for the transmittal of appropriation bills from the House to the Senate, and is listed as "probably dead."

"Meth is highly addictive and very difficult to treat," said McGrath. "It takes long-term residential treatment - six months on average - and is very expensive. That's not happening right now."

Until treatment becomes part of the solution, Montana will be plagued "border-to-border" with an ever-increasing problem of meth-related crimes and ruined lives, said Great Falls' Mayor Gray.

"I'll tell you this is the worst social problem we've come across, and absent treatment (programs), we're not going to get out of this ditch," he said. "The situation can be turned around, but it will take resolve and leadership. I don't know that we're there yet as a state, but I sure hope we are."
Crunch time for the budget

The budget battle that has raged all session could come to a head this week over two major bills that offer a balanced budget and spending at levels recommended by Gov. Judy Martz.

The first, Senate Bill 407, sponsored by Sen. Bob DePratu, R-Whitefish, is a much-retooled version of Gov. Martz’s original proposal for increased taxes on restaurant food and drink, coupled with income-tax relief.

Martz’s bill was revenue neutral, raising no new money to help with the deficit. But the Senate’s version switches to a cigarette tax, increasing it from the current 18 cents a pack to 70 cents, more than doubles the bed tax to 9 percent, and imposes a new rental car tax of 9 percent.

It also cuts in half the income-tax relief the governor proposed - from 10 percent to 5 percent - and postpones it for a year. The end result: $85.5 million in revenue, which balances the budget at the governor’s spending levels.

The governor has threatened to veto the altered bill, but Senate Republican leaders believe they have enough votes to override such a move.

The other main bill, House Bill 750, sponsored by Rep. Roy Brown, R-Billings, has come within one vote of the 75 it needs to pass the House. It requires a three-quarters vote because it would take $29 million from the coal tax trust.

It also increases the cigarette tax to 65 cents, raising a total of about $70 million. But HB750 has already missed a crucial deadline, which means it would take a two-thirds vote just to bring it up again.

For that reason, and others - including the fact that SB407 only requires a simple majority to pass - the Senate’s bill is seen as the frontrunner.

Even if lawmakers do find a way to spend as much as Gov. Martz proposes, her budget is millions less than what state agencies had originally requested for the next biennium.

Lawmakers balk at Butte’s casino plan

Destination Montana is no more. The ambitious $1.8 billion plan to bring Las Vegas-style gambling to Butte died last week amid fears that it would foster wide-open gambling throughout the state.

Butte’s bill, House Bill 757, failed by a vote of 59-41. Its sponsor, Rep. John Witt, R-
Carter, made no effort to revive it, although the Florida developers behind the push say they'll be back for another try with another Legislature.

Lawmaker criticizes coal-bed methane study

A "white paper" commissioned by the 2001 Legislature to help settle the debate over coal-bed methane development turned out to be too little, too late, said Senate President Bob Keenan, R-Bigfork.

The study, done by the Flathead Lake Biological Station at Yellow Bay, was supposed to be ready before the session, but was delivered to Keenan on Feb. 4. Even then, the study made no solid recommendation on whether the state should proceed with the development of coal-bed methane issue, Keenan said.

"In its simplest form, it says we need more study," he said. "I ran into a bureaucracy that makes a living out of doing studies."

But Yellow Bay's Richard Hauer, who co-wrote the paper, said the delay was unavoidable as he and fellow author Jack Stanford were still waiting in late December for crucial information regarding rare and endangered species in southeastern Montana.

Hauer also said he and Stanford did what they were asked to do.

"Bob asked us to look at the (coal-bed methane) problem and give our assessment of the state of knowledge and look at water-quality issues, and we did," he said.

Overall, the white paper has received "extremely positive feedback" from all concerned, Hauer said.

"This is the first negative thing I've heard, other than Bob being really upset that it was late," he said.

Hauer stressed, however, that he had "no hard feelings" toward Keenan and said the senator has always been very supportive of the biological station.

"Bob has been one of the more environmentally aware senators out there, and we appreciate that," Hauer said.
INCOME TAX OR PROPERTY TAX RELIEF: WHICH SHOULD IT BE?

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By DAN D'AMBROSIO
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HELENA – As the Legislature limps toward the session’s finish line, Senate Bill 407 may be the last source of new revenue left standing. But swirling around that much-amended bill is the central question dividing Republican and Democratic lawmakers: Does a state income tax cut represent economic development, or simply a gift to the rich?

Republicans contend that Montana’s capital gains tax of 11 percent, the highest in the nation, and the state’s top income tax rate — also 11 percent — discourages businesses from starting up or relocating here. They also say those tax rates drive existing businesses out of the state as soon as they become successful.

The property tax, they say, is not really a problem. Montanans just think it is because they’re so poorly paid.

"The reason property tax seems high is because we're a low-income state," said Rep. Dan Fuchs, R-Billings.

Montana’s property-tax rates rank somewhere between 37th and 44th in the nation, depending on what sort of property you’re considering, according to Kurt Alme, director of the state’s Department of Revenue and a supporter of income-tax cuts.

Alme agreed with Fuchs that property tax has a "perception problem" in Montana and believes the solution is to invite economic development, which will raise wages and reduce the relative burden of property taxes.

"We're not just trying to give tax relief here," said Alme. "We're trying to get a competitive tax structure that will bring jobs and industry to Montana."

Accordingly, Alme said, SB 407 lowers the top income-tax rate in Montana from 11 percent to 6.9 percent, and phases in a reduction in the capital gains tax from 11 percent to 4.9 percent by 2007.

Because Montanans can deduct their federal income taxes on their state tax returns,
the highest income-tax rate they actually pay is 6.9 percent. That puts Montana in the middle of the pack when considering the top rates of Colorado, Arizona, North Dakota, Utah, Idaho and New Mexico. South Dakota, Wyoming and Nevada have no state income taxes.

Unfortunately, Alme said, no one — neither entrepreneurs considering a move to the state nor top financial magazines like Kiplinger’s — take the trouble to make the calculations to arrive at the effective rate. Kiplinger’s recently ranked Montana as the worst state in the union with respect to the "income tax bite on retirees."

As a result, Montana has another perception problem that erroneously identifies it as the state with the highest income-tax rate in the nation.

"The effective rate is so complicated, people just look at the rate on the (Montana state) Web site and don’t do the calculations," said Alme.

"We can’t reverse that publicity," he said.

By lowering the top rate to 6.9 percent and eliminating Montanans’ ability to deduct their federal income taxes, SB 407 eliminates that perception problem, he said.

Meanwhile, the current 11 percent capital gains tax really is the highest in the nation, even after federal deductibility is factored in, bringing the effective rate to 9 percent.

That’s important to businesses like computer software firms that are free to locate anywhere, Alme said. Montana’s onerous tax structure makes it unlikely that they’ll locate here, he added.

"If your key taxes aren’t competitive, you won’t get any further (with businesses) compared to other states," Alme said.

New Mexico, which was second only to Montana for the highest income and capital gains taxes, just lowered its top income-tax rate from 8.2 percent to 4.9 percent and cut its capital gains tax in half to just over 4 percent. Alme takes that as confirmation that Montana’s fellow Western states understand the importance of being competitive in the tax arena.

But what about Wyoming, South Dakota and Nevada, which have no state income or capital gains taxes? How could Montana compete with them?

Alme believes other factors — quality of life, family ties, natural beauty — will retain existing businesses and bring new ones to Montana once our taxes are at least competitive with those of surrounding states.

"Montana is a nice place to live," he said.

In its original form, as the governor’s economic development bill, SB 407 was "revenue neutral," raising no additional money for the general fund.
The revenue lost by cutting income and capital gains taxes was made up with "replacement revenue" garnered from an increased bed tax and new taxes on prepared food and drink, rental cars and recreational equipment, guided tours, admissions (except to movies and amateur athletics), and other fees - all of the things tourists spend money on.

The whole idea was to shift the tax burden from businesses and high-earning individuals to tourists, who would, in effect, pay for Montana's economic development plan.

"Sharing your tax burden out of state is a common philosophy (among states)," Alme said. "We don't do that."

But somewhere in its long, strange journey through the Senate, SB 407 morphed into a revenue bill. The tourist taxes were stripped out, except for bed and rental car taxes, and replaced with a 52-cent-per-pack increase in cigarette taxes, raising an additional $85 million for the general fund.

At a hearing before a House committee last week, the bill's sponsor, Sen. Bob DePratu, R-Whitefish, warned against more tinkering.

"This is the last vehicle we have to get us out of here," said DePratu. "I would encourage you not to amend it to the point it doesn't work."

But amend it the committee did, lowering the proposed rental-car tax from 9 percent to 4 percent and the bed tax from 9 percent to 7 percent, leaving the bill to raise only $69.2 million for the general fund.

"We got heisted," said Alme of the governor's original revenue-neutral economic development bill. "We're going to keep working to get something acceptable. Everything is in the bill now. It's the ultimate compromise. But the economic development program is still in there."

Democratic leaders in the Senate, and a few like-minded Republicans, have concluded that SB 407 is far from the "ultimate compromise."

At a press conference late last week, in which three Democratic and two Republican senators denounced the budget bill as "woefully inadequate," Sen. Sam Kitzenberg, R-Glasgow, made a scathing reference to SB 407.

"We're raising the tobacco tax and using it for a tax break for the upper 17,000 Montanans," he said. "I'm embarrassed, quite frankly. K-12 is underfunded, again. The university system is underfunded. This is terrible. What are we doing to our young people? I'm almost ill at what is happening in this Legislature."

As for property tax, Sen. Jon Ellingson, D-Missoula, contends that Alme is "dead wrong" when he says Montana ranks between 37th and 44th in the nation. Montana ranks 5th in the nation if you look at the amount of property tax paid per $1,000 of income, at
$47.51, Ellingson said.

"I don’t know what Kurt is smoking or how he’s looking for numbers, but there’s logic in property-tax relief (for Montanans)," Ellingson said. "I don’t hear people asking for income-tax relief. I do hear them asking for property-tax relief."

In fact, it’s the income tax that’s reasonable in Montana, said Ellingson, who pointed out that Montana ranks 30th in the nation for the amount of individual income tax collected per $1,000 of income, at $25.75.

"At a time when we don’t have the money to pay for basic services in Montana, is that the right time for an income-tax cut?" Ellingson asked.

Both Ellingson and Alme got their numbers from the same source — a nationwide survey compiled by the Minnesota Taxpayers Association.

Northwestern seeks shelter from lawsuit

A major bill to shield Northwestern Energy from lawsuits filed by former Montana Power shareholders moved closer to passage last week.

Senate Bill 458, sponsored by Walt McNutt, R-Sidney, passed a House committee last week and will move to the House floor for a vote.

The bill would protect Northwestern Energy from a $3 billion lawsuit brought by stockholders of Touch America who have watched the price of their shares plunge from $65 to 11 cents since the company was spun off from what used to be Montana Power Co.

Because Northwestern bought Montana Power’s distribution and transmission system, lawyers for Touch America’s shareholders argue that it should assumed the old company’s responsibilities to investors.

"I feel terrible about the old Montana Power stockholders," said McNutt. "It isn’t spit they’re going to get. The only place they’ll get anything is from the ratepayers of Northwestern. Should Northwestern remain liable for decisions made by Montana Power Company?"

McNutt thinks not, and the committee agreed. If SB 458 becomes law, the shareholders’ attorneys can still challenge it in Supreme Court.

Legislature snuffs local smoking bans

In a debate that had senators invoking the civil rights movement and the cause American soldiers are fighting for in Iraq, the Senate passed House Bill 758 last week,
effectively reversing Helena’s voter-approved ban on smoking in the city’s casinos and bars and guaranteeing similar businesses statewide that they can allow smoking.

"Get ready folks, local control ain’t local control. Local control is what the Legislature says it is," said Sen. Mike Cooney, D-Helena. "This bill was designed to prevent Helena from having the smoking ordinance it wants."

Cooney’s impassioned pleas to let local voters decide such issues fell on deaf ears as the majority of senators felt the Helena ordinance interfered with business owners’ rights to run their businesses as they saw fit, hence the references to freedom and liberty and the troops in Iraq.

Backers of the bill also claimed the smoking ban would soon put many Helena bars and casinos out of business because when patrons drink and gamble, they like to smoke, too. Now the bill goes to the governor, who is expected to sign it.

GOP mavericks blast budget bill

Senate Minority Leader Jon Tester, D-Big Sandy, and Sen. Jon Ellingson, D-Missoula, were joined last week by Sen. John Cobb, R-Augusta; Sen. John Bohlinger, R-Billings; and Sen. Sam Kitzenberg, R-Glasgow, in a press conference called to denounce House Bill 2, the main funding bill sent to the Senate by the House.

All five senators said they would be voting against the "woefully inadequate" bill. As it stands, HB 2 includes significant cuts to most agencies, including the Department of Health and Human Services.

"It’s often been said the way we spend our money reflects our values," Bohlinger said. "We Montanans carry in our hearts concern for our neighbors. I cannot support HB 2 because we didn’t provide for the most vulnerable among us."

Earlier in the week, in one of the session’s most dramatic moments, Cobb blasted his party’s governor and legislative leaders on the Senate floor, saying he was "ashamed" of his party’s unwillingness to serve the state’s neediest. His criticism followed a vote to cut millions in day-care subsidies to the poor.

Gov. Judy Martz and Republican legislative leaders defended the budget cuts as the rational response to dwindling state revenues.

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HELENA - Montana's 58th Legislature hopes to finish this week, completing a session many legislators regard as the most difficult, and most contentious, in recent memory. It was mostly about the money.

"I don't think we did a lot of good this session," said Rep. Rosie Buzzas, D-Missoula. "We just spent a lot of time spinning our wheels. The process broke down."

Buzzas said the breakdown began on day one, when Republican leaders rolled back the budget to year 2000 spending levels but couldn't explain what the move would do to specific programs ranging from health care to schools.

"We started off with bad information," she said, "and turned into a leaderless therapy group with everybody muddling around."

Senate Majority Leader Fred Thomas, R-Stevensville, rejected Buzzas' scenario, saying the only people confused about the rollback were those who didn't like it.

"The rollback was an excellent move for balancing the budget for the revenue we had anticipated coming in," Thomas said.

As the clock runs outs, the Legislature's budget for the next biennium falls $100 million short of the state's current spending levels, according to the Legislative Fiscal Division, with the human services and higher education taking the biggest hits.

Buzzas points out that the Department of Health and Human Services alone will be down a staggering $100 million, considering additional cuts taken in the months leading up to the session.

"A lot of Montanans will be hurt," she said. "There were good ideas for raising revenue, but no one was listening."

But Thomas said that when legislators showed up in Helena on Jan. 6 "everyone knew we'd have to make cuts and reductions," and that no one could reasonably believe that spending would continue at "present-law" levels.

The governor's budget, which reflects the $100 million shortfall in revenue, became the ceiling that Republican leaders worked to reach after the rollback. Thomas expects the Legislature to finish near that goal.
K-12 education, Thomas said, was "held whole," down only $2 million from the governor's budget and up $62 million in federal spending. University officials told lawmakers they could live with the governor's budget, and that's what they got. The Department of Health and Human Services faces hard cuts, but Thomas noted that total state spending is up 2.2 percent from the last biennium.

"That's a lot in this climate," Thomas said. "Who's to complain about that unless you're a spendthrift? There are things that won't be funded, but the economy has taken a great hit because the Montanans who produce all these services took a hit. The state of Montana doesn't provide anything. It's the taxpayers who provide these services."

Sen. John Bohlinger, R-Billings, said he came to the session expecting cuts but hoping for more revenue, too.

"It's been the most difficult of my seven sessions," Bohlinger said. "We arrived in Helena with the understanding of a $250 million budget shortfall. That would indicate we have to raise revenue as well as challenge expenses."

Bohlinger served on taxation committees in the last three sessions. Since 1999, those committees never raised taxes, he said. "Today we can no longer do that," he said. "We have to raise revenue."

Bohlinger sponsored Senate Bill 466, which called for a general 4 percent sales tax, exempting groceries, thrift store purchases, utilities and prescription drugs. The exemptions in Bohlinger's bill would have eased its burden on the state's poor, he added.

After his bill died in the Senate taxation committee, Bohlinger said many of his ideas were married into another general sales tax bill, SB470, sponsored by Sen. Jeff Mangan, D-Great Falls.

"It was generally felt a Democratic sales tax would have a better chance, but I had my fingerprints on it," said Bohlinger.

But SB470 died in the House last week, the last of a slew of sales-tax bills that came and went this session.

Even if legislators had passed SB470, it would have taken a vote of the people next fall to implement it -- an unlikely scenario given the resounding defeat of a sales tax at the polls in 1993, as Rep. Jonathan Windy Boy, D-Box Elder, remarked in the House last week.

"When is enough enough?" asked Windy Boy. "Leave the will of the people alone."

Yet Bohlinger believes it's "asinine" for Montana to not have a sales tax, considering that 9.7 million tourists spend an estimated $1.7 billion here every year. A 4 percent sales tax would generate approximately $60 million yearly from those tourists.

"We subsidize their vacations," said Bohlinger. "They dump their garbage and we pick it up without charging them."

Bohlinger also sponsored unsuccessful bills to enact or increase taxes on motels, car rentals, cigarettes and video gambling. Absent higher gaming taxes, those ideas are included in House Bill 407, one of the few revenue bills still alive, but that legislation would raise less from those sources than Bohlinger wanted.
HB 407 also includes cuts in income taxes. That, and the fact the budget hinges on many short-term revenue solutions, means the next Legislature could face continuing deficits, Democrats fear.

"It was a very short-sighted session," said Senate Minority Leader John Tester of Big Sandy. "We didn't do anything to get us out of the situation we're in."

But the governor and many Republicans hope the income-tax cuts will spur Montana's economic growth, leading eventually to stronger state revenues.

Sen. Thomas believes the long-term fiscal prospects for the state are good. He said this Legislature has set the stage for a number of energy projects - the development of coal-bed methane, state-owned coal reserves, and a proposed coal-fired electrical generation plant on the Crow Reservation - that will one day bring hundreds of millions of dollars to the state's treasury.

"There are areas of hope in our revenue stream that are not included in the budget," Thomas said. "We've had our fair share of obstructionists who don't want economic development. Every session will be a challenge."

As for the budget and the process that led to it, Senate President Bob Keenan, R-Bigfork, said Republican leaders have kept their focus.

"I'm going to stand up and defend (our actions)," said Keenan. "We're going to balance the budget. We put the budget together with baling wire and duct tape, but we did it without raising taxes. I'd have to say the mission was accomplished. People will have to decide if we did a good job or not."

Tensions rise in session's final days

Animosity between the Republicans and Democrats, which has been building all session in the House, boiled over last week in two disputes over parliamentary procedure. Democrats accused Republicans of playing fast and loose with the rules by refusing to deal with a misstatement by House Speaker Doug Mood, R-Seeley Lake, that would have negated the passage of SB 407, the last remaining revenue bill. They also accused Rep. Cindy Younkin, R-Bozeman, of "ethical misconduct" for holding the voting on SB 407 open until she received the one vote it needed to pass.

Younkin, acting as chairwoman of the House, was supposed to be impartial, Democrats said. "If we ignore our rules, where are we?" asked Rep. Tim Dowell, D-Kalispell.

Republicans responded that Younkin had done nothing wrong and that Mood's mistake was "self-healing" because no one caught it at the time.

"Let's quit dillydallying with parliamentary procedure and get the work of the people done," said an agitated Rep. Dan Fuchs, R-Billings, during an impromptu Rules Committee meeting outside the House chamber.
Anti-DUI effort wins and loses

Sen. Dale Mahlum, R-Missoula, carried stronger DUI legislation as a personal crusade this session. Mahlum said he was motivated by the white crosses lining Montana's highways, not the threat of losing federal dollars if the state failed to bring Montana's laws in line with federal guidelines.

The senator got most of what he wanted out of the session: enhanced DUI penalties and a lower legal blood-alcohol level of .08 percent. But his bill to outlaw open containers in motor vehicles died in the House, much to his dismay.

"I cannot explain what they do over there," Mahlum said, adding that he was confident an open-container law would be "looked at again" in the next Legislature.

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HELENA - The philosophical and fiscal debates that burned hotly for most of the 2003 session were reduced to glowing embers late Saturday as exhausted lawmakers balanced the budget with one more $7.5 million across-the-board cut, on top of $100 million in cuts already made.

And with that, the 58th Legislature adjourned.

The final heated battle was fought in the Senate Friday over House amendments to Senate Bill 407, the only bill to raise new revenue for the state. SB 407 increases taxes on cigarettes and motel stays and adds a new tax on rental cars, generating $75 million over the 2004-2005 biennium.

Democrats, upset by income-tax cuts also incorporated in the bill, tried to block a final Senate vote, arguing that Republicans had violated legislative rules in the way the bill was handled.

Fed up with Democratic tactics, Sen. Duane Grimes, R-Clancy, accused his colleagues across the aisle of wasting time with "dilatory nonsense."

"It's not dilatory to stand up for what you believe in," shouted a normally soft-spoken Sen. Jim Elliott, the Trout Creek Democrat who led the challenge against the Republicans' procedural tactics.

"It is not partisan to fight for your constituents," Elliott continued. "We're giving a $50 million tax cut when we can't feed people or give them medicine. That is not dilatory. That is faith, that is passion, and that is why I'm in the Montana Senate."

Tax cuts for the wealthy

Senate Democrats wanted to strip the tax cuts from SB 407 and increase the amount of revenue it raised, meaning the House would have to sign off on the bill again. It had taken four tries, and another bitter rules controversy, to get the bill through a deeply divided House the first time.

With that in mind, the Republican majority now pushed for a final vote on SB 407, ensuring that it would not be returned to the House.

"What do we do with this document?" asked Sen. John Bohlinger, R-Billings, during
the debate. "If we tinker with it and send it back to the House, it will crash and burn. That
would be a colossal mistake. We must accept it or we'll be left with nothing, requiring even
more cuts, and I don't even want to contemplate that."

The bill, which one senator described as a "pig dressed up as a stallion," passed on a
26-23 vote.

Once SB 407 passed the Senate, the largest piece in the puzzle to fund House Bill 2,
the state's main spending bill, was in place. Funding shifts and budget cuts covered the
remainder of the $232 million deficit legislators faced when the session began. The largest
shift was $26 million pulled from surpluses in the state workers' compensation fund.

"We had to cut $100 million out of the budget and we were able to do it without
raising income and property tax," said Senate Majority Leader Fred Thomas, R-Stevensville.
"I don't think there was a lot to complain about once it was all said and done."

Local school taxes will rise

That depends, of course, on your perspective, and your party. Property taxes will rise
by $11 million statewide to cover a change in the way retirement for federally funded
teachers is paid.

And Democrats found plenty to complain about in the passage of income and capital
gains tax cuts in a year when child care for poor working mothers is hanging by a thread,
and Montana universities are facing tuition increases to pay the costs of growing enrollment
left uncovered by the Legislature.

"At a time (when) we must cut services for our least fortunate, we've been told we must
become richer and everyone else either treads water or sinks."

Ellingson said the tax cuts would cost the state more than $30 million in 2007 and
2008, money "succeeding legislators will have to find."

Republicans responded that Montana's high income and capital gains taxes were
hindering economic development by driving away entrepreneurs or preventing them from
coming here in the first place. The tax cuts were needed, they said, to promote economic
development.

"I believe this bill is more important to the working class than the rich because the cuts

Despite the fact that the game was essentially over when SB 407 passed the Senate,
Democratic legislators in both houses made 11th-hour appeals to their fellow lawmakers on
Saturday to "do better" for the people of Montana by voting down House Bill 2, the main
funding bill.

"I hope we have the guts to ... make this a better bill," said Sen. Jeff Mangan, D-Great
Falls, during the final debate of HB2. "If we have to work all night to do it, we can."
Taxes on pop, 'box stores' rejected

In the House, Minority Leader Dave Wanzenried, D-Missoula, made a similar appeal, saying, "We need to do better than this and we can do better. Wishful thinking got us back in here with major, major cuts. Where are we going to cut next? All of our attempts to raise money were rejected, but we gave a tax break to the rich."

Both Mangan and Wanzenried wanted the Legislature to reconsider previously rejected proposals such as taxes on soda pop and "big box" stores, which would have injected tens of millions of dollars into the budget.

Their arguments fell on deaf ears, however, as antsy legislators' thoughts turned toward home with only one day left in the 90-day session. Any changes to HB 2 would have had to be completed by Monday, and considering SB 407's difficult passage, modifying HB 2 at such a late hour would have been a daunting task.

"There comes a time when it's our fiduciary, civic and moral responsibility to vote for the best thing we can come out with because we have to agree with 149 other people," Sen. Grimes said in urging the Senate to vote for HB 2.

The budget bill passed the Senate on a 27-23 vote and the House on a 53-47 vote, ending the most contentious legislative session in recent memory.

An indication of just how difficult the session was came when Sen. Bohlinger was asked about his achievements in the session. He pointed to the only bill of his that passed - Senate Bill 183 - which provides an education for anyone exonerated of a crime through DNA testing.

Though pleased with its passage, Bohlinger admits his bill affects only one person - Jimmy Ray Bromgard, who was acquitted through DNA testing last year of raping an 8-year-old girl. Bohlinger said Bromgard, who served 15 years in Montana State Prison for the rape he didn't commit, called him "a couple of times" to thank him for the bill.

Help with prescription drug costs

Senate Minority Leader Jon Tester, D-Big Sandy, cited Senate Bill 473, sponsored by Sen. Elliott, as a "good thing" this Legislature did. Elliott's bill makes nearly 43,000 additional Montanans eligible for the Medicaid prescription drug program. Of that number, more than 28,000 are seniors.

Tester also pointed to House Bill 564, sponsored by Rep. Monica Lindeen, D-Huntley, as an "outstanding bill" and "a real piece of economic development" that came out of the session.

The measure calls for a seven-member loan review committee to make grants to Montana businesses to pay for employee education and training. Funding for the grants would come from loans of up to $10 million from the Board of Investments. The loans would be repaid from taxes paid by new workers employed by the companies that received the help.

However, looking at the big picture as represented by House Bill 2, Tester found little
to make him optimistic.

"We've put a lot of people on the margins at real risk," he said.

Contrary to the Democratic view, Senate Majority Leader Thomas was upbeat about the session, saying he had no regrets. Everything Republicans wanted to get done got done, he said, from encouraging economic development with tax cuts and a relaxed regulatory climate to using tobacco settlement money at the last minute to cover prescriptions for the mentally ill.

House Speaker Doug Mood, R-Seeley Lake, was more philosophical.

"It's like grand theater," he said after adjournment late Saturday. "It comes to a climax and it's all over. I can't tell if it's a comedy or a tragedy though."

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