
Beth Ann Britton
The University of Montana

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Delivering State Government to Montana's Communities:
The Community News Service's Legislative Reports

The Montana State Legislature
1999

A Professional Project

by

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presented in partial fulfillment of the requirements

for the degree of

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Approved by:

Chairperson

Dean, Graduate School

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This series of legislative articles marks the culmination of my two years as a graduate student at the University of Montana. I spent four months living in Helena during the 1999 Montana State Legislature, writing articles for the Community News Service.

The Community News Service, a collaboration between the Montana Newspaper Association and the University of Montana’s School of Journalism, gives student reporters the opportunity to cover state politics and issues while offering Montana’s smaller, weekly newspapers the opportunity to present their readers with legislative coverage.

This year marked the service’s third session, and my articles appeared in weekly newspapers from one corner of the state to the other. Writing almost a week in advance of publication was a constant source of difficulty. I found it necessary to let individual bills go by as I focused on broader, more general issues such as health care, tax reform, prisons and education.

Included in this professional project is an evaluation of my legislative experience, detailing not only the challenges and frustrations I faced, but also the lessons I learned as I covered Montana’s four-month legislative session.
ACKNOWLEDGEMENTS

To my parents, Gerald and Loretta Britton, who made it possible for me to return to school and who provided me with the encouragement and support I needed throughout the past two years; to my project advisor, Dennis Swibold, whose careful editing and patience kept me going on even the most difficult of days; to the other members of my graduate committee, Clem Work and James Lopach, who offered me advice, answered my questions and read what was often “old” news; to the Capitol reporters for providing much-needed laughter and advice; and to the many legislators with whom I shared four of the most interesting months of my life.
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LOOKING BACK: A STUDENT REPORTER’S CAPITOL EXPERIENCE

About six months ago, I was offered the opportunity to spend my last semester of graduate school at the Montana State Legislature, writing weekly articles for Montana’s smaller community newspapers.

This professional project is the result of four months of reporting from the state’s capital city — a snapshot of sorts showing the major issues tackled by Montana’s lawmakers.

After I found out that I would be the 1999 legislative reporter, I sought out information on the Internet, in books and from people more experienced in politics than I.

Like every other kid at East Junior High, I spent a year in Mr. Nelsen’s 9th-grade civics class, and I thought I knew as much about “boring” state government as I would ever want or need to know.

But I was mistaken.

I discovered, much to my relief, that state government could actually be quite interesting and entertaining. For 87 days, Montana’s Capitol was home to a cast of characters unlike any other I had ever seen.

Montana’s citizen Legislature is comprised of farmers, car salesmen, lawyers, doctors and accountants — all working toward one common goal: helping guide Montana into the 21st Century. It was the partisan battles over how to guide the state that I found so interesting, especially as lobbyists for every conceivable issue pushed, pulled and
screamed from the sidelines.

    I discovered that appreciating the finer points of state government is a lot like learning a foreign language. The only way to truly understand how it works is to go there and be part of it yourself.

WELCOME TO HELENA

    The Montana Capitol resembles a pressure cooker for 90 days every two years, and from the very first moment of the session, reporters, lobbyists and legislators are thrown in and the heat is turned up to high.

    Before I stepped through the massive front doors of the Capitol back on January 4, I thought I was well prepared to tackle Montana politics and the state's major players. But I was wrong. I don't think there is any way to sufficiently prepare oneself for the legislative experience. Just do it.

    As a student reporter, and one new to the world of political coverage, I must admit I was overwhelmed the first couple of weeks. First of all, writing for weekly newspapers presents a unique set of challenges. Writing almost a week in advance of publication forced me to carefully select my topic and present information that would be relevant six days later.

    Covering state politics and the myriad of issues presented during a biennial legislative session is not easy, especially for someone trying to do it alone. I discovered quickly that I would have to carefully pick and choose the hearings and bills I would cover.
During those first few weeks, I mistakenly thought I could cover every issue, as if I was in competition with the Great Falls Tribune or Lee Enterprises. I scrambled to each hearing and attempted to read up on the major bills being presented in those weeks. Frustrated and exhausted, I finally came to the realization that reporting for the weeklies would require of me a more broad-based outlook and the ability to sift through stacks of bills, choosing only a select few on which to focus. Admitting to myself that I could not do it all and letting go of so many interesting hearings and issues was probably the toughest lesson I learned early on.

Only when the bleak reality of not being able to do everything hit me did I manage to settle into a weekly routine.

The majority of lawmakers were unfamiliar with the Community News Service, so I delivered a letter of introduction and a business card to each senator and representative. From the moment they knew who I was, for whom I would be writing, and the more broad-based approach I would be taking toward issues, the legislators were more than willing to spend time talking to me.

Thankfully I had been involved with the Community News Service during the fall, reporting on ballot issues and getting to know, at least over the phone, some of the major players in Montana politics. This turned out to be a lifesaver as I immediately sought out those legislators with whom I had previously spoken.
Once my articles began appearing in statewide newspapers, I made a point of delivering copies to those legislators who had helped me. "Selling" the Community News Service and keeping my work visible was a constant chore, but it paid off as I continued to develop strong working relationships with legislators and lobbyists.

SETTLING IN

Once I learned my way around and had the first few articles under my belt, I began to relax and enjoy the process.

Information is not difficult to find if one knows where to look. The Capitol is a city in and of itself, and once I figured out how to navigate its back alleys and side streets, I was able to find most of the information I needed.

By the third or fourth week of the session, I had begun to learn the names and faces of the people from whom I would be seeking information for four months. Lobbyists, a group of people whose job was a mystery to me before I arrived in Helena, turned out to be the most valuable resource for this struggling reporter. The experience and knowledge the lobbyists bring to the process was a surprise to me, and there were many articles I couldn't have written without them.

Whenever the opportunity to spend time with legislators outside of the Capitol arose, I jumped at the chance. Following my first week in Helena, I talked my way on to a tour of the Montana State Prison. Accompanied by more than two dozen legislators and prison officials, I
spent a day walking around the prison grounds, talking to inmates, eating lunch with them and seeing for myself where Montana's millions go each year. This opportunity to view the prison and spend time getting to know some of the lawmakers was not only enjoyable, but also invaluable, for those lawmakers and I talked about our prison experience for the remainder of the session.

Later on in the session, I was invited by a senator to accompany a group of legislators on a helicopter tour of the Ulm Pishkun Visitor Center near Great Falls. Upon leaving the Helena airport, the Fish and Game helicopter flew us over the Beartooth Wilderness and through the Gates of the Mountains.

By the end of the legislative session, I felt comfortable in my role as reporter. My interviewing and writing skills had improved and I felt as if I belonged in the Capitol.

**COVERAGE**

Montana's weekly newspapers were very receptive to the Community News Service this year. I was astonished to see how many papers ran my articles each week.

Considering that I was working under a strange and oftentimes frustrating deadline, I think the coverage I gave the 1999 Legislature was successful in that it offered communities throughout the state the opportunity to examine the bigger issues. The daily papers presented
timely coverage of specific bills and legislators, while I had the chance to take a step back and write beyond those daily headlines.

Each week I examined upcoming hearing schedules and reviewed specific pieces of legislation in order to help myself establish a broad focus for that week. I think I did a good job of covering specific pieces of legislation as well as the larger issues of importance to Montanans.

I was able to track the number of newspapers running my work. As I look at the piles of clippings from those 16 weeks, it's interesting to see what areas of Montana decided to publish my various articles.

Taxation issues were at the forefront of legislative discussion this year, but if I had the opportunity to change anything about my coverage, I would spend less time on taxes and more time on issues such as the environment, hunting and fishing regulations, health care and education. My coverage of tax issues was thorough, but in the end the newspapers were not running those articles as heavily as they were running the development, access and hunting articles. The Community News Service needs to be aware of what the various publishers and editors want and then try to deliver that.

The 1999 Legislature was historic for two reasons. First, it was the first session during which party caucuses were open to the media and the public. The significance of opening the doors wasn’t readily apparent to me until about the fifth week of the session, when the two parties began to battle over education funding. Sitting in both the Republican and Democratic caucuses offered me the chance to hear
what the two parties were thinking as they developed strategy and discussed various proposals.

But legislative battles were not solely between the two parties. The House and Senate struggled to reach agreement on various issues throughout the session, and the open-door caucuses were avenues by which reporters could keep up with the latest decisions.

The second historic aspect of the 1999 session was the fact that about one-third of Montana's legislators were term-limited out and would be unable to return to Helena.

Much of the legislation introduced in 1999 was, I believe, a result of term limits. Several lawmakers, knowing that they would never again be given the opportunity, tried to steer their pet issues, such as a sales tax, through the Legislature.

The knowledge and experience walking out the door on that last day was overwhelming to me, and I was thankful that lawmakers like Rep. Royal Johnson, R-Billings, and Sen. Gerry Devlin, R-Terry, were there to help me understand appropriations and taxation. I am convinced that the 2001 session will be an entirely different experience.

LESSONS

It hardly seems necessary to say that my interviewing skills, news judgment and writing improved during my time at the Legislature. My main goal when I started the project was to improve in those areas, and I was not disappointed.
My second goal was to become familiar with how the state's political game is run. I feel fortunate to have had the opportunity to work side by side with some veteran reporters and long-time state leaders. I learned a lot about how Montana's government works and what issues — tax reform, development and the economy — are important to Montana as it enters the 21st Century.

From a distance, Montana's political system appears to be neatly divided into two parties — Republican and Democrat. Early on in the session, however, I learned that inside those parties there are distinct, separate groups out to promote their own agendas.

Some Republicans were surprisingly moderate, while some Democrats were surprisingly conservative. These "rebels" struggled to be true to their own ideals while attempting to please their party leaders.

Two groups that stood out throughout the session were the ultra-conservative Republicans and the ultra-liberal Democrats. These two "sub-parties" garnered much attention from the media, while many of the middle-of-the-road legislators seemed satisfied to follow the party line.

The Republicans enjoyed a solid majority this year, and it was surprising to me how complete their control was. The minority struggled to get anything done in a sometimes antagonistic, argumentative climate.

From the 1999 session I take a more complete understanding of issues and an appreciation for the legislative process. At the same time, I am pleased to have provided more complete legislative coverage for Montana's community newspapers.
HELENA — The pomp and circumstance of the 1999 Legislature's opening week has come and gone, leaving in its wake a sense of urgency to improve Montana's economy.

House Speaker John Mercer, R-Polson, elected for an unprecedented fourth term as speaker, said the urgency this session stems from national studies that rank Montana 50th in per capita income.

This last Legislature of the century faces a number of pressing issues, ranging from finding the money to adequately fund Montana's schools and prisons to setting a state speed limit, but Mercer said the issue of jobs and income remains a legislative priority.

Mercer urged fellow legislators last week to set priorities and focus on only the most important legislation. Bipartisan cooperation will be key to their success, he added. "We have to work together to get things done," Mercer said.

The Legislature's Select Committee on Jobs & Income is trying to do just that.

Last week the committee, composed of House and Senate members from both political parties, met daily to debate the best strategy for improving Montana's economy. To boost existing businesses and attract new ones, the committee is developing a package of more than a dozen bills, many of which aimed at reducing
Taxes.

Tax credits and exemptions for businesses are among the topics being discussed, but the elimination of Montana's business equipment tax is at the forefront of discussion.

Rep. Karl Ohs, R-Harrison and the committee's vice chairman, said the goal is to raise the economic strength of Montana.

"We are 50th in the nation in per capita income, and we have to address that problem," Ohs said. "We need to create jobs - good paying jobs."

The committee's chairman, Sen. Bob DePrat, R-Whitefish, agreed, saying that the Legislature's goal must be to develop jobs that will pay better than the state average.

"Montana is ripe to create industry and jobs," DePrat said.

The committee's task is to find out how to do that, and so far it has set a quick pace -- too quick for Democrats who worry the rush to cut business taxes could mean less state money for education or less property-tax relief for Montana homeowners.

"Yes, we have to do something," said Senate Minority Leader Steve Doherty, D-Great Falls. "But I worry that we're rushing things."

Doherty said he doesn't want legislation passed in the climate of urgency, only to later find out that it provides little substance. It took 10 years for Montana to fall from 38th to 50th place, and he doubts Montana's economic ills can be fixed quickly, he added.
At the Democrats’ first caucus of the session late last week, Sen. Mignon Waterman, D-Helena, said the jobs and income legislation should be developed as part of a broader tax and spending package. She and fellow Democrat Mike Halligan of Missoula both said they wanted to make sure the legislation would not strip money from other programs such as education.

House Minority Leader Emily Swanson, D-Bozeman, also worried that the process was moving too swiftly.

"My concern is that there are other tax proposals out there," Swanson said. "What is the greatest cost-benefit package for the people of Montana?"

Swanson said the Democrats want to give Montana homeowners a break this session and that pushing the jobs and income legislation through before the other tax proposals are on the table might be unwise.

But Republican lawmakers downplayed Democrats’ talk of haste, saying the jobs and income committee formed by Gov. Marc Racicot last fall has spent a lot of time drafting and discussing the bills already. The measures, they predict, will be thoroughly debated when they reach the full House and Senate.

Republicans are comfortable with the pace at which the committee is moving and say they should be moving quickly to improve economic conditions. Sen. Mike Taylor, R-Proctor and a member of the committee, said tax cuts that boost businesses are vital because Montanans can’t afford to buy homes if they don't have good jobs and strong incomes.
Taylor said that although giving homeowners tax breaks would be a good thing, people "need a horse before a cart, and this program gives them a horse."

"The economic policy we've had in the state of Montana for the past 100 years has put us in this position," Taylor said. "We have to give Montana families the income to rise out of the cellars to a higher quality of life."

***

BEHIND THE HEADLINES — Although the 56th Legislature is less than two weeks old, legislators have introduced more than 400 bills and resolutions, including these lesser-known proposals:

PERSONAL SERVICE — Fed up with impersonal, phone-answering systems? So is Rep. William "Red" Menahan, D-Anaconda. His House Bill 144 would require state agencies to use real people, not prerecorded voice menu systems, to answer calls from the public.

"I don't think it's right for state government to provide Montana customers a menu to go to - they should be able to talk to a person," Menahan said. Menahan is also sponsoring House Bill 54, a measure that proposes to make it a criminal offense for incarcerated persons to assault others with bodily fluids. Menahan said the bill was prompted by incidents at the state's correctional facilities. The Department of Corrections supports the bill.

***
GRIZZLY BEARS? — Not in my backyard, says Rep. Allan Walters, R-Hamilton. His House Joint Resolution 4 would put the Legislature on record in opposing the U.S. Fish and Wildlife's plans to reintroduce grizzlies in the Bitterroot Mountains straddling the Montana-Idaho border. The resolution also urges the federal government to take the grizzly bear off its threatened species list and allow state wildlife officials to manage the bears' fate.

***

FORT PECK'S FISH DREAMS — Montana may be known for its cold water trout fishing, but Rep. Sam Kitzenberg, R-Glasgow, aims to create a multi-species warm water fish hatchery near Fort Peck Dam. HB20 would establish the hatchery, and HB26 would create a surcharge and warm water game fish stamp that would allow a licensee to fish throughout the state. The surcharge revenue would support the operations of the hatchery. The hatchery bills were discussed in committee last week in front of a full house of supporters and opponents from throughout Montana.
CHANGING MONTANA'S TAX SYSTEM

HELENA — Gov. Marc Racicot urged the century's last Legislature to forge a new, improved tax system for Montana but left lawmakers struggling last week with just how to do it.

"We have a decrepit tax system which causes too many Montanans to pay too much and too few visitors to pay too little," Racicot told legislators during Wednesday's State of the State address. "Our state's tax system is unfair, and it must be changed."

Few legislators argued the point, but disagreed about how the state can fix a tax system that has long been in place.

Specifically, Racicot wants to eliminate the business equipment tax, reduce homeowners' property taxes and adopt a flat-fee vehicle licensing system to replace the current method based on a vehicle's value. To cover the lost revenue, Racicot is proposing a new tax: a 4 percent "value-added tax," essentially a tax on the production of goods and services that would get passed on to consumers.

Lawmakers from both parties have expressed doubts about enacting such a tax, which some say is too much like a sales tax. Montana voters killed a 4 percent sales tax by a 3-1 margin in 1994.

Racicot acknowledged the political difficulty in reforming the state's tax system, but urged lawmakers, many of whom are serving their final session because of term limits, to lead the way.

Racicot called for tax reform that is fair, but lawmakers were
divided on what "fair" means.

Like Racicot, many Republicans want to reduce the business equipment, motor vehicle and inheritance taxes this session, in hopes of boosting the state's businesses and their ability to provide better paying jobs. Democrats are pushing for more direct tax relief for homeowners and small businesses.

Senate Minority Leader Steve Doherty, D-Great Falls, said his party will fight for Montana homeowners, who he said have been paying more than their share of taxes in recent years.

"We want to put money directly in people's pockets by raising the wages of existing jobs and targeting tax relief to homeowners and small businesses," Doherty said. "We are standing up for homeowner tax relief."

As for Racicot's proposed statewide value-added tax, Rep. Diana Wyatt, D-Great Falls, said the idea would put Montana's small-business owners at a competitive disadvantage if consumers choose to bypass local businesses and purchase their goods via the Internet.

"Although the governor has good ideas, I don't think they are creative enough or strong enough to redirect the tax policy of this state," Wyatt said. "The tax breaks we've had in the last couple of sessions since he's been governor have increased the responsibility of homeowners for the education of children."

House Minority Leader Emily Swanson, D-Bozeman, agreed, and she said that she was also surprised that the governor's speech didn't
emphasize the need to keep Montana's schools strong. She said two issues the state must address are the state's schools and the lack of jobs for its graduates.

She said Democrats feel there is urgency this session to address the tax-reform issue. But like Doherty and Wyatt, Swanson said homeowners deserve the first tax break this time around.

Some Republicans were pleased with Racicot's performance, however.

"It was a very good speech, a thought-provoking speech," said Senate President Bruce Cripfen, R-Billings. Still, he predicted legislators will certainly disagree over which method of tax reform is best for Montana.

"I think the question is whether a consumption tax is the way to go," Cripfen said. "But it's early in the session, and we need to keep our minds open and look at various ideas."

Lawmakers began examining one of those ideas last week when the Senate Taxation Committee heard Sen. Alvin Ellis' plan to change the way property is valued for tax purposes.

Senate Bill 61, a constitutional amendment that would ultimately be subject to voter approval, proposes to base property values on what it costs to buy property, or its acquisition value. To start things off, property values would be set at 1993 levels, and future increases would be limited to a maximum of 1 percent each year. For property constructed after 1993, value would be based on its purchase price.
Ellis, a Red Lodge Republican, argued that the acquisition value plan is simple and easy, resulting in stable tax rates. Because the bill has an annual growth factor of only 1 percent, periodic reappraisals would no longer send a homeowner's property taxes skyrocketing.

"Montanans want a sense of stability in their tax rate," Ellis said. "I think it has a good chance of going through."

Realtors opposed the idea, saying the plan would hamper home sales. Lobbyists for the Montana Realtors Association said the method would make it difficult for young people to buy their first home and make it hard for retirees to buy smaller, yet more expensive, homes.

They also argue that businesses would be reluctant to expand because improving or adding on to their property would cause their taxes to increase.

Ellis countered by saying the method is used in Florida and California hasn't hurt home sales there. He argued that the cost of taxes is a small portion of the cost of property, depending on where one lives in Montana. Ellis said that if someone can afford to purchase an expensive home, the taxes should not be a problem.

After much debate, the committee approved the bill, sending it to the Senate floor for a preliminary vote. Because the bill proposes to change the constitution, it would need the votes of 100 of Montana's 150 legislators and would eventually have to be approved by the state's voters.

***
SPEED ZONE AHEAD — Bills designed to slow Montana's drivers down are speeding through the Legislature.

Rep. Sam Kitzenberg, R-Glasgow, and Sen. Arnie Mohl, R-Kalispell, are sponsoring separate bills that would re-establish speed limits now that the courts have knocked down Montana's "reasonable and prudent" law.

Kitzenberg's House Bill 22 began its trip through the Legislature during the first week of the session, and it is still being debated. HB22 would set a daytime speed limit of 75 mph on all Montana roads, a nighttime speed limit of 55 mph on two-lane roads and 65 mph on interstates.

Mohl's Senate Bill 149, slated to be heard in committee this week, would set a 75-mph speed limit on federal-aid interstates outside urban areas and a 65-mph speed limit on urban-area interstates. All other public highways would have a 70-mph daytime limit and a 65-mph nighttime limit.

Mohl's proposal also calls for a special speed limit on U.S. Highway 93 between the Idaho and Canadian borders. The speed limit on Hwy 93 would be 65 mph at all times unless it is upgraded to four lanes.

Meanwhile, Sen. Barry Stang, D-St. Regis, is sponsoring Senate Bill 78, a bill that would establish speed transition areas in advance of special speed zones, and Rep. Joe Tropila, D-Great Falls, is sponsoring House Bill 187, which would clarify the rules and requirements for work-zone signs.
GUNS IN SCHOOLS — The message that weapons will not be tolerated in Montana schools may get louder this week. The House could vote this week on House Bill 45, which would extend weapon-free school zones to include school grounds. It would also expand the definition of "weapons" to include BB and pellet guns.

***

BRACING FOR Y2K — Sen. Bob Keenan, R-Bigfork, has introduced legislation that would limit Montanans' ability to sue to recover from any damage caused by the millennium change and the Y2K bug.

Some fear the Y2K problem, caused by older computers that weren't programmed to work beyond 1999, will cause a massive shutdown of computer-dependent technologies that control everything from utilities to banking. Others say the problem has been overblown.

Keenan said that in an ideal world, neighbors would together to solve Y2K problem, without taking each other to court. Opponents argued that blanket immunity would do away with any incentive to fix the problem.

***

RIGHT-TO-WORK — An effort to end the closed shop in Montana and allow individual workers the right to reject union membership was thwarted last week when the House Business and Label Committee tabled the session's first right-to-work bill.

The action came shortly after the committee heard testimony on House Bill 122, sponsored by Rep. Rick Jore, R-Ronan, who argued that
the most important rights are the rights of the individual to choose. Workers should not have to pay for services that are not wanted, he said.

"In my opinion, coerced fraternity is an oxymoron," Jore said. "For a fraternity to be a fraternity at all, it must be voluntary."

Rep. Bob Davies, R-Bozeman, told the committee that forced unionism causes Montana to lose jobs to neighboring states, most of which are right-to-work states. He said that Montana's economic growth is suffering because of it.

Roger Koopman, president of a group called Montana Trustees of Freedom, testified that it is unconscionable to force people to join a union, and that if HB122 were to pass, people would still join good unions.

"Right to work is not union-busting legislation, and competition will not weaken unions," he said. "But their guaranteed existence is not right."

However, opponents, led by state AFL-CIO leader Don Judge, argued that HB122 is anti-union, anti-worker legislation. Judge said that workers already have the freedom of choice to join a union.

Eric Feaver, head of the Montana Education Association, told the committee that he was a "unionoid" and proud of it.

"It's what we are as a state and as a people," Feaver said. "It is our place in the world to be unionized. It's as American as apple pie."

The bill was tabled on a 14-4 vote. Similar legislation was rejected last session.
HELENA — A call to expand Montana's hate-crimes law went under the spotlight last week as lawmakers burrowed through a still-growing mountain of legislation.

Sen. John Bohlinger, R-Billings, urged the Senate Judiciary Committee to require additional penalties for crimes motivated by hatred for the victim's sexual orientation. Montana's current hate-crimes law mandates additional punishment for those who maliciously intimidate or harass people because of their race, religion, creed, color or nationality.

Bohlinger's Senate Bill 66 comes in the wake of last year's beating death of a gay college student in Wyoming. Other states are considering similar bills.

Bohlinger admitted that including sexual orientation in the law would not end harassment of Montana's gays and lesbians but he said society would receive a stronger message that such harassment is against the law.

Support for the bill came from Montana's Attorney General Joe Mazurek, the sponsor of Montana's original hate-crimes law in 1989.

"This is a measure of our character as a society," Mazurek said. "Will we not tolerate those people who are different?"

Because of his support of the bill, Mazurek said he has received hostile letters and calls from throughout the state, proving, he said, that
there is a real need for the legislation.

The intolerance, he said, will become "a cancer on our society if we don't stop it."

Mazurek said the bill would not give special status to anyone. Instead, he said, the legislation focuses on the perpetrator of the crime and the hate and discrimination behind his or her actions.

Christine Kaufmann of the Montana Human Rights Network agreed, saying that the violence of the perpetrator, not the status of the victim, is at the core of the legislation. Kaufmann said the law should recognize the attitude behind such crimes.

One misconception, say many proponents, is that the legislation would somehow grant homosexuals special rights.

"This bill isn't about gay and lesbian Montanans," said Rep. Jeff Mangan, D-Great Falls, who supported the bill. "It's about all Montanans, and it would affect only those accused of the crime."

But opponents of the measure argued that the law would indeed give homosexuals special legal status.

"I'm insulted at the notion that someone attacking my son wouldn't get the same treatment as someone attacking a gay man," said Steve White of Bozeman, who testified against the bill.

White said that Montana already has laws against violent crimes and he urged the committee not to send a political message for those of a particular persuasion, a sentiment echoed by Lori Koutnik, executive director of Montana's Christian Coalition.
"This legislation is a further attempt by the homosexual lobby to advance their agenda," Koutnik said.

Koutnik said the legislation disturbs her because it sets aside a new category of people for special protection based simply on how they practice sex. As citizens of Montana, she argued, they already have the same rights as everyone else.

The Senate Judiciary Committee also heard testimony last week on Senate Bill 213, which would allow judges to increase sentences for crimes they believe to be motivated by bigotry of any kind.

But the bill, sponsored by Sen. Lorents Grosfield, R-Big Timber, would not enumerate specific forms of prejudice, such as racism or hatred of homosexuals. Grosfield said the problem with listing hate crimes is that any list is bound to be incomplete.

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DEATH PENALTY DEBATED — Montana's death penalty law should be abolished because it doesn't deter serious crime and tends to be applied unfairly to convicts who happen to be poor or members of a racial or ethnic minority, the House Judiciary Committee was told last week.

The comments came during testimony on two death penalty bills sponsored Rep. Joan Hurdle, D-Billings. Her House Bill 278 would abolish the death penalty altogether while House Bill 279 would repeal a 1997 law that made the death penalty possible upon a second-offense conviction for rape.
Too often society doles out its ultimate punishment based on anger, fear and outrage, Hurdle said. Eliminating the death penalty would save the state millions of dollars in litigation and court costs and would have little effect on the state's crime rate, she argued. States with death penalty laws do not have less crime, she said.

Some supporters of the bill argued that the death penalty often leads to more crime. Father Jerry Lowney, chairman of the sociology department at Carroll College, said the death penalty can act a countdeterrent, encouraging some to seek the attention that often accompanies capital crimes.

"I call for you to abolish the death penalty in Montana," Lowney said. "You'll never teach people it's wrong to kill by killing people."

Helena attorney Ron Waterman testified that the death penalty not only fails to deter crime but also is disproportionately handed out to the poor, the abused, the developmentally disabled and ethnic minorities in society. Waterman said he is most disturbed by the random assignment of the punishment.

"Why do we sentence some individuals - and not others - to death?" he asked.

Montana State Prison's Catholic chaplain, Herbert Pins, said executions are discriminatory and do not deter crime. Pins said prisoners with whom he has worked have told him that the death penalty punishes not them, but their families.
"My punishment is another day in a very small room," one death row inmate told him.

Both Pins and Father Lowney testified that the church supports the notion that every human life is valuable, and they urged the committee to put an end to legalized execution.

"All life is precious, even if it is despicable in our judgment," Pins said.

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**REDUCED SPEED AHEAD** — Lawmakers and other state officials seem to be zeroing in on a plan to limit speed on Montana's highways.

There was strong support last week for Kalispell Sen. Arnie Mohl's Senate Bill 149, which calls for a 75-mph speed limit on Montana's interstate highways, except on stretches through for urban areas of at least 50,000 residents, where 65 mph would be the maximum allowed speed.

The bill would set a 70-mph daytime limit and 65-mph nighttime limit on Montana's two-lane highways. The area between Canada and Idaho on U.S. Highway 93 would, under Mohl's plan, have a 65-mph speed limit at all times. The Montana Highway Patrol supported the bill.

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**GUNS AND THE LAW** — The Senate gave its OK last week to a bill that would outlaw the possession of weapons on school grounds but also heard testimony on legislation that would allow the carrying of concealed weapons in businesses that serve alcohol.
GUNS IN MONTANA'S SCHOOLS — In a 29-21 vote, the Senate passed Senate Bill 65, sponsored by Sen. Debbie Shea, D-Butte, which would ban weapons from all school property. Current law makes it a crime to possess a weapon in school buildings only.

Opponents questioned whether the inconvenience to hunters, parents and sports spectators was worth it, but Attorney General Joe Mazurek said the legislation is "important enough to be willing to live with a little inconvenience."

Meanwhile, the Senate Judiciary Committee heard testimony on a bill by Sen. Jack Wells, R-Bozeman, that would allow the carrying of concealed weapons in government buildings and bars, places currently off limits to hidden guns.

Senate Bill 186 would allow the carrying of concealed weapons anywhere except inside financial institutions. The bill also provides for breath tests for persons suspected of carrying a concealed weapon while under the influence.

"Citizens are not able to protect themselves adequately by restricting where they can carry their weapon," Wells testified. "Permit holders are law-abiding citizens."

The bills supporters include the Montana Women's Shooting Association, the NRA and the Montana Sheriffs and Peace Officers Association, all of whom argued that of the 42 states with concealed weapon laws, Montana alone restricts their presence in specific places.
A Justice Department representative opposed the bill, saying there's no reason to carry weapons in public buildings and bars. She also said the bill would leave the decisions on where concealed weapons are allowed to local governments, creating a patchwork of inconsistent rules.

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**MONEY FOR SCHOOLS** — Montana's K-12 schools made their pitch last week for a $36 million increase in state financial aid, saying the money is badly needed to offset money lost to declining enrollments statewide.

Supporters, including the Office of Public Instruction, the Montana School Boards Association and state teachers unions, told members of the House Appropriations Committee that schools costs don't necessarily decline with student numbers. They also argued that an increase in state aid would lighten the growing burden on local taxpayers to fund their schools.

House Bill 133, by Rep. Rosalie Buzzas, D-Missoula, would give schools $6 million more in state aid than the $30 million increase proposed by Gov. Marc Racicot.

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**SENATE CRIPPLES TERM-LIMITS EXTENSION** — An attempt to extend legislators' terms from eight years to 12 was all but killed by the Senate last week.

The Senate voted 49-0 against Senate Bill 39, sponsored by Sen. Mike Taylor, R-Proctor, who argued that eight years isn't enough time for lawmakers to gain the experience to govern effectively.
Because the bill would ask Montana voters to change the constitution, it needs the endorsement of at least 100 legislators. It's highly unlikely that all 100 members of the House would support the measure.
MONTANA’S EDUCATION BATTLE BEGINS

HELENA — Most members of the 1999 Legislature acknowledge that Montana’s schools deserve more money. The questions are how much and where to get it.

The battle over school money began last week as lawmakers considered competing plans to increase state aid to schools by at least $30 million and to tap the state’s biggest savings account — the coal tax trust — for the money.

The Democrats’ plan, House Bill 133, sponsored by Rep. Rosie Buzzas, D-Missoula, would give schools a $36 million increase over the next biennium.

Gov. Marc Racicot is proposing a $30 million increase.

Buzzas said the last Legislature gave programs such as prisons more than their fair share of money and now it is education’s turn.

“We’ve compromised before,” Buzzas said. “We have to balance the equation much better than we’ve done in the past. I think our investment of money is much more effective in education. Our priority needs to be education.”

Eric Feaver, president of the state’s teachers union, said that with tax revenue up, lawmakers could afford to give schools more.

“There’s no revenue problem in terms of what the schools are asking for,” Feaver said. “Maybe we didn’t ask for enough, because we
sure could use it."

Of the $36 million Buzzas' bill seeks, only $6 million would actually be new to the schools, said Superintendent of Public Instruction Nancy Keenan.

Contained in the state's budget, she said, is $30.2 million in savings from declining enrollment and one-time technology monies. That amount was appropriated in 1997, and Keenan said it is still in the budget, so the schools are actually asking for only $6 million in new money.

"The wealth is there," Keenan said. "Do they have the will to do what's right by schools?"

While Buzzas' plan calls for money to come from the general fund, the state's main cash drawer, both parties introduced bills last week that would use more of the state's coal-tax money for schools.

The Republican plan, sponsored by House Speaker John Mercer, R-Polson, would tap the coal tax trust fund, giving schools $50 million extra in each of the next two years to spend mainly on buildings, books and technology.

But the idea faces a fight because it would siphon money directly from the trust's principle and divert future deposits, thereby reducing its interest earnings, most of which flow into the general fund. Tapping the trust's principle requires a three-fourths vote in each house, votes Republicans alone don't have.
Democrats, who have long argued against "busting the trust" are instead lining up behind Rep. Carol Williams' proposal to use more than $102 million in interest from the coal tax trust for schools. Supporters say using the fund's interest is a more responsible approach because it provides an ongoing source of school funds without reducing the trust's earning power.

But Mercer and others defended the idea of taking money directly from the trust, saying it would not only give schools badly need money, but help lawmakers cover the cost of another major goal this session: tax cuts.

"Look at what we could accomplish," he said.

Williams' proposal, Republicans say, would merely reduce the general fund money available for schools and for tax reductions.

Democrats remained unconvinced. The problems of declining enrollment and rising costs are not going to disappear, so schools need an ongoing, stable source of money, they said.

"Mercer's bill is totally bad," Buzzas said. "It basically blows the fund apart in a two-year period. It's one-time spending for a long-term problem."

Feaver agreed, said the trust is expected to earn $83 million in interest over the next biennium, but that amount would be reduced by $11 million in 2001 and $15 million in 2003 if Mercer's idea were to pass. Feaver also worried that the battle over education funding was becoming a partisan battle.
“The money’s there,” Feaver said. “Don’t make us storm the Bastille of partisan politics and die.”

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SCHOOLS AND THE LAW — Money wasn’t the only education topic on the Legislature’s agenda last week. Policies on spanking students, choking off Internet smut and offering tax credits for parents of students in private schools grabbed the spotlight, too.

Lawmakers considered whether to allow teachers to spank students. Under Senate Bill 3, now before the House Education Committee, teachers could physically discipline students as long as they don’t “knowingly and purposely inflict prolonged physical pain.”

The bill’s sponsor, Sen. Daryl Toews, R-Lustre, said it would give teachers guidance, but critics contend there would be confusion over the definition of “prolonged” and that corporal punishment has no place in modern education.

Meanwhile, a bill to prevent state or local governments from interfering with parents’ rights to raise their children was tabled by the Senate Judiciary Committee last week. SB152 aimed to give parents the ultimate authority over their children’s health-care decisions, religious teaching, education and reasonable corporal discipline.

Also tabled was Rep. Rick Jore’s House Bill 242, which would have abolished laws requiring that parents enroll their children in school. The bill also would have freed non-public and home schools from state supervision.
New education bills presented last week included legislation calling for the blocking of obscene Internet material from school computers.

House Bill 367, sponsored by Hamilton Republican Rep. Allan Walters, would require that all elementary and secondary schools buy and use filtering devices to prevent students from accessing obscene material on school computers.

Walters amended his original bill to exclude college campuses, saying he knew he would receive harsh opposition. Walters said the bill's biggest obstacle is finding the money so schools can do the job.

Charter schools would be easier to establish in Montana under legislation introduced by Sen. Tom Keating, R-Billings. His Senate Bill 204 would authorize the establishment of charter schools and create a 5-member Board of Charter Schools to oversee them. Charter schools are state-funded, non-parochial schools whose programs often emphasize specific learning philosophies or subject areas such as science or music.

Lance Melton of the Montana School Boards Association said the problem with Keating's proposal is that it would not require the charter schools to be held accountable to state educational guidelines.

And finally, if your child attends a private K-12 school, you would receive a $1,200 tax credit under a bill introduced last week by Hamilton's Rep. Walters.

Under House Bill 318, parents of private-school students would be required to apply annually for the credit. The bill would apply retroactively to tax years beginning after Dec. 31, 1998.
COLLEGES — Montana's University System took center stage last week as officials and students from around the state pleaded for more money for the next biennium.

The Joint Appropriations Subcommittee on Education and Cultural Resources listened as leaders from the Montana State University and University of Montana campuses spoke of past accomplishments and future goals.

Board of Regents Chairman Pat Davison said campus employees understand that the state has limited resources for higher education, but he stressed that investment in education would return a good value to students and taxpayers.

UM President George Dennison called the past "hardly a story of lavish expenditures," and he said the goal of controlling skyrocketing tuition can only be reached through increased state support.

The committee will vote on the University System's budget this week.

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HATE CRIMES — The Senate Judiciary Committee last week voted 5-4 to increase the sentences for crimes motivated by bigotry or prejudice but refused to specify particular forms of prejudice, such as hatred of homosexuals.

Under Senate Bill 213, sponsored by Sen. Lorents Grosfield, R-Big Timber, the sentencing judge would determine whether the offender was motivated by prejudice when he or she committed the crime.
Montana's current hate-crimes law requires stiffer penalties for crimes motivated by prejudice against a person's race, creed, color and ethnic origin.

Some Montanans, led by Sen. John Bohlinger, R-Billings, and prompted by last year's beating death of a gay Wyoming college student, had hoped to add sexual orientation to the list. But Bohlinger's Senate Bill 66 was tabled in favor of Grosfield's bill.

Critics called Grosfield's bill vague and predicted it would be interpreted differently from judge to judge. Grosfield, however, said he opposed defining specific forms of prejudice because no list could be complete.

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**SPEED LIMITS** — Numerical speed limits came one step closer to returning to Montana's highways last week as the Senate Highways Committee approved bills that would set statewide speed limits.

In a 10-1 vote, the committee approved Senate bills 133 and 149, both aimed at creating a speed limit for the state.

Taken together, the bills would set an Interstate speed limit of 75 mph at all times. Urban interstates would be subject to a 65-mph speed limit. Two-lane roads would have a 70-mph daytime and 65-mph nighttime speed limit. Motorists on Highway 93 between the Idaho and Canadian borders would be limited to 65 mph at all times unless it is widened to four lanes. SB133 would establish fines starting at $20.
County governments would be given the authority to alter the speed limit on dangerous stretches of highway in their county.

The state has not had a posted speed limit since 1995, when the "reasonable and prudent" law was put in place. The Montana Supreme Court recently ruled the law unconstitutional.

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**THE SALES TAX** — Montana needs a sales tax to replace an antiquated, obsolete tax system that overburdens property owners, a Billings lawmaker argued last week.

Senate Bill 143, sponsored by Republican Sen. Mike Sprague would establish a 4 percent sales tax and revamp the property-tax classification system.

Sprague and supporters told the Senate Taxation Committee that a sales tax would allow the state to reduce property taxes for homeowners, businesses and agriculture while providing more money for schools.

Critics, however, said that the only beneficiaries under SB143 would be the wealthy. A sales tax, they said, would take a proportionately bigger bite from the incomes of average Montanans and especially the poor.

Montana voters have rejected sales-tax proposals in the past, but committee Chairman Gerry Devlin, R-Terry, said public opinion on the issue is changing because Montanans are frustrated by higher property-tax bills.
LEGISLATURE STRUGGLES WITH TAX REFORM

HELENA — Tax reform has quickly emerged as a major theme this session, but Montana's legislators are struggling to determine which route is best for Montana.

While there appears to be overwhelming consensus on the need for reform, there is little agreement on how to fix what many legislators view as an antiquated system that relies too heavily on property taxes.

The major questions include whose taxes to cut and how much tax cutting the state can afford in the face of rising demands that the state spend more on schools, prisons and health care.

So far lawmakers have introduced dozens of bills calling for tax cuts for an array of interests, including businesses, homeowners, ranchers, farmers, the elderly, utilities and motor vehicle owners.

Most tax proposals will remain on hold until late in the session when lawmakers also consider the state's spending needs, but Republican have put a plan to cut business taxes on the fast track.

The Senate has already passed Sen. Mike Taylor's Senate Bill 200, legislation aimed at reducing Montana's business equipment tax and providing tax breaks for agriculture. Part of Gov. Marc Racicot's Jobs and Income package, SB200 is the instrument with which many legislators hope to attract new businesses to Montana and enable current businesses to invest in equipment.

Every Republican senator and six Democrats voted for the
measure, but the debate sparked some of the session's sharpest debate as the remaining 12 Democrats argued that SB200 guarantees no future economic boom and that it would be wiser to cut property taxes for Montana's homeowners.

"That's the difference between the parties," said Sen. Barry "Spook" Stang, D-St. Regis. "We feel they want to give breaks to businesses and not homeowners. The way we perceive issues is so different."

In the House, Democrats failed to get a floor debate on House Minority Leader Emily Swanson's plan to provide tax relief to 95 percent of Montana's homeowners. Republicans said they planned to continue working on the Bozeman Democrat's bill in committee.


"It is my hope that we are not going to approach taxation from a traditional partisan standpoint," Hibbard said. "We can work together, incorporating ideas and philosophies from each party and arriving at a solution that's good for Montana."

Partisanship was clearly evident, however, as House Republicans rebuffed an effort by Democrats last week to get a quick commitment to increasing state spending on schools. Democrats argued that the needs of schools should be considered before tax cuts for businesses. Republicans accused Democrats of grandstanding.
Meanwhile, Rep. Dan Fuchs, R-Billings, took another tack on tax reform in proposing that cities and counties have the power to impose local sales and income taxes if the money is used to offset cuts in property taxes.

Fuchs' bill would allow communities, with the approval of local voters, to impose a tax of up to 3 percent, half of which would be used to reduce local property taxes. Montana already allows resort communities to impose local voter-approved taxes, he argued.

"We've allowed some communities this taxing authority, and it's not fair," Fuchs said.

Fuchs' supporters said the legislation would allow cities and counties to finance their own operations while becoming less reliant on mill levies.

But critics said the measure would hurt businesses in sales-tax towns as people flock to shop in communities without such taxes.

Although cutting property taxes remains the priority for tax-reformers, Republican Rep. Rick Jore of Ronan offered a plan last week to reduce personal income taxes by 20 percent over the next four years. Jore's House Bill 386 would lower income taxes by 5 percent each year, starting in fiscal year 1999.

"We're very inclined to take care of the special interest groups, but we're very stingy about leaving money in the pockets of the people who made it," he said.
His supporters argued that the economic benefits letting Montanans keep more of their income would outweigh the loss of money for government services.

Critics argued that reducing property taxes on livestock, business equipment and homes would help the economy.

The debate over tax reform is likely to get more intense as the session goes on. Unless lawmakers intend to make controversial cuts in state spending or tap special savings accounts such as the $600 million coal tax trust, the prospects for cutting taxes hinge on replacing the money government stands to lose.

So far, those efforts have focused on a sales tax.

Sen. Mike Sprague, R-Billings, is sponsoring bill calling for a 4 percent statewide retail and sales tax. His supporters argue that a sales tax would force millions of tourists to contribute to the state's support, and allow for the elimination of taxes on livestock and business equipment.

But sales-tax foes argue that Sprague's proposal would simply shift more of the tax burden from industry to the individuals and benefit the wealthy at the expense of middle and low-income families.

House Taxation Committee Chairman Hibbard said that although most major taxation issues won't be resolved until near the end of the session, he is convinced the Legislature will generate a consumption tax/sales tax proposal to put before the electorate.
"It is my hope that we will accomplish some real tax reform," Hibbard said. "But there is a degree of healthy skepticism about whether the electorate is ready to accept a sales tax in Montana."

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**VEHICLE TAXES** — Buying a car or truck is an expensive proposition, but licensing it is leaving many Montanans overheated and frustrated, many legislators say.

With the blessing of Gov. Marc Racicot and the Montana Taxpayers Association, lawmakers are steering several plans to reduce the state's motor vehicle tax through the Legislature.

Sen. Bill Glaser, R-Huntley, is sponsoring legislation aimed at reducing Montana's motor vehicle tax rate from its current 2 percent to 1 percent of the vehicle's depreciated value of the retail price.

The governor's plan also calls for a 1 percent tax rate and eliminating the new car sales tax.

Another proposal being drafted, this one by House Speaker John Mercer, R-Polson, would create three flat fees based on a vehicle's age. Cars and light trucks would be subject to taxes of $295 for the first four years, $120 for years five through 10, and $10 for those at least 11 years old. Mercer's plan would not take into account the make or model of individual vehicles.

Critics said the loss of revenue would hurt local governments, but supporters contend Montanans have paid too much for too long and that there would be other means of replacing the lost revenue.
**SCHOOL VOUCHERS** — A House committee has tabled a bill calling for tax credits for parents who send their children to private schools.

Rep. Allan Walters, R-Hamilton, said his legislation would provide tax breaks to parents, allowing them to place their children in safe, moral and structured school environments. Opponents of the measure claim the bill would provide for no system whereby private schools would be accountable for the public funds they receive.

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**TRUTHFUL CAMPAIGNING** — Tired of dirty electioneering, two state legislators introduced separate pieces of legislation last week aimed at bringing truth back to Montana's campaign trail.

Candidates or partisans who say or publish false statements about their opponents or ballot issues would face fines ranging from $500 to $5,000 under a bill sponsored by Rep. Brad Molnar, R-Laurel. The amount would depend on when the politically libelous statements were made.

Similar in intent is Rep. Kim Gillan's proposal to require that all facts used in campaign advertising be substantiated. The source of any factual information would have to be printed on the ad.

Gillan, a Billings Democrat, said the bill would force politicians and activists to prove the statements and information they use in local, state or national campaigns.
Opponents claim the measures would infringe on Montanans' First Amendment rights, increase governmental control over citizens' lives and lead to a tangle of litigation.

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NO SOLICITORS — Imagine an entire evening with no annoying phone salespeople. Sound too good to be true?

Not if one Clancy Sen. Duane Grimes gets his way.

Grimes' Senate Bill 275 would require the secretary of state's office to maintain a list of Montanans who do not want to receive sales calls. Citizens could, in writing, request to be placed on a "do not call" list.

All telephone solicitors in the state would be required to use the list, and SB275 would also provide for civil remedy if a solicitor continued to call.

Opponents say the measure would not be effective because it would apply only to in-state telemarketers. They argue that telemarketers are already federally regulated and that people can request to be taken off the list.

In separate legislation, Sen. John Hertel, R-Moore, wants to protect Montanans - especially its senior citizens - from telemarketing fraud. His Senate Bill 27, passed unanimously by the Senate last week, would require that all telemarketing companies be annually licensed and regulated by Montana's Department of Commerce.
Hertel's proposal would also require telemarketers to be bonded for $50,000. The proceeds would pay for consumer awareness programs and to maintain records for a minimum of 24 months. The Department of Justice could impose civil and criminal fines for violators.

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**SPARE THE ROD** — The Senate has rejected a bill that would have allowed teachers to spank students as long as the punishment didn't inflict "prolonged pain."

Sen. Daryl Toews, R-Lustre, who said it would help teachers keep order in the classroom, sponsored the legislation. Critics argued that corporal punishment merely teaches students contempt for authority.
REINING IN SPRAWLING DEVELOPMENT

HELENA — The change in Sen. Don Hargrove's home county over the past few years has been remarkable.

Once a largely agricultural landscape dotted with farms and smallish towns, today's Gallatin County is marked by sprawling subdivisions, the result of a boom that has added nearly 100,000 people to the state since the mid-1980s.

The influx has brought jobs and diversity to those local economies, but it has also taken a toll on wide, open spaces throughout Montana, particularly in the west.

For Hargrove, a Republican from Belgrade, the pressure to protect Montana's open space from sprawl and poorly planned growth is increasing. It's time, he says, to give landowners incentives to keep more of their property free from development.

"The time is right for this legislation," Hargrove told fellow lawmakers last week as he presented the first of two bills he's carrying this session to limit development. "Development will be a bigger problem in the future if we don't take care of it now."

Hargrove's Senate Bill 342, the Montana Agricultural Heritage Program, would give landowners financial incentives to place part of their land into a conservation easement and agree not to sell to developers.

Gov. Marc Racicot has requested $4 million over the next
biennium to fund the program. Hargrove said the program is needed because cash-strapped farmers and ranchers are often forced to sell off portions of their land for development in order to keep the rest.

Proponents applauded Hargrove's measure, saying it would make it possible for landowners to maintain open spaces and Montana's agricultural heritage.

But the idea has its critics. Opponents argued that public money should not be used to fund conservation easements for private landowners. Wildlife organizations and sportsmen testified against the program because it would not guarantee access to land that the public is paying to conserve.

What's more, they said, the Department of Fish, Wildlife and Parks already pays farmers and ranchers $5 million a year for conservation easements.

In a second bill, Senate Bill 38, Hargrove hopes to enable Montana landowners to cluster development in smaller areas of their land, allowing them to sell some property and keep the rest in production.

Ann Hedges of the Montana Environmental Information Center said the concept behind SB383 is sound, but she said problems lie in the details.

"It's critical to protect the consumer and the environment," Hedges said. "We don't want unscrupulous development."
Hedges said her main concern is that SB383 provides for little public review of any proposed development, and the MEIC would oppose anything that prevents public comment.

Nonetheless, she said it is reassuring to see that the Legislature wants to control runaway development.

Steve Snezek of the Montana Association of Realtors said he "reluctantly" opposed the bill in its current form. The transferring of development rights needs further review, he said, but he approved of its intent to give landowners more choices.

Supporters of SB383 said the legislation would create one more tool with which landowners could guide the development of their property.

Mona Jamison of Gallatin County said that public comment related to safety, public health and the environment would still be required under Hargrove's proposal.

Some opponents fear change and dwell on past mistakes, she said.

"Don't let the past be an albatross around our neck," Jamison said.

"Don't prevent us from saving Montana's land."

Hargrove stressed that "something needs to be done" and he would be willing to work with any opponent to amend SB383.

Because of the potential impact on the environment and property rights, changing Montana's development laws is often controversial.

Earlier this session, Rep. Cliff Trexler, R-Corvallis, introduced legislation that would have instantly created thousands of new lots for
development throughout Montana. It would have overturned a 1997 Montana attorney general's ruling saying that although commas separate legal descriptions of adjoining lots on the same deed, the property is considered to be one piece of land.

Trexler argued that the commas indicated that the land was already subdivided. The bill, House Bill 270, drew heavy fire from local government officials who said it was an attempt to develop property without adequate subdivision review. The bill was tabled two weeks ago, but Sen. Bob Keenan, R-Bigfork, may introduce similar legislation.

Meanwhile, Sen. Barry "Spook" Stang, D-St. Regis, is pushing a bill that he says would help communities set their own strategies for managing growth. His Senate Bill 97, endorsed by the Environmental Quality Council, has received unanimous Senate support.

Specifically, SB97 would allow communities the option of guiding their own development by creating growth plans and policies for the future.

The Senate also approved Stang's Senate Bill 96, which would give local governments more authority to override landowners' complaints about zoning.

Montana needs to focus more on planning, according to Rep. Bill Tash, R-Dillon and chairman of the House Natural Resources Committee. Legislators, he said, must strike a delicate balance between growth and conservation to avoid the "Aspenizing" of Montana.

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MINING WITH CYANIDE — Montana's mining industry presented its case last week to repeal Initiative 137, which banned new or expanded open-pit cyanide heap leach mines.

Sen. Chuck Swysgood, R-Dillon, introduced a series of bills last week to repeal the initiative and send the issue back to Montana's voters in 2000.

Although I-137 was passed by 52 percent of Montana's voters last November, Swysgood and supporters, including former Gov. Tim Babcock and Jill Andrews of the Montana Mining Association, argued that the election was unfair because the mining industry had little opportunity to educate the public on its point of view.

The culprit, they say, was a 1996 initiative, Initiative 125, which prohibited for-profit companies and trade associations from spending money on ballot-issue campaigns. The courts overturned I-125 just 10 days before the election.

Swysgood's opponents, however, argued that Montanans knew exactly what they were voting for in November and that the Legislature should not tamper with the vote of the people.

Lawmakers also heard a proposal by Sen. Debbie Shea, D-Butte, to let voters in individual counties to decide whether cyanide should be used in local mining. Shea argued that 76 percent of her constituents voted against I-137 and now their economic future is jeopardized because of voters from other counties.
The Senate Natural Resources Committee took no immediate action on any of the cyanide bills.

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**FIELDS OF HEMP?** — Legislation aimed at allowing Montana farmers to grow industrial hemp brought snickers and smiles from the House Agriculture Committee last week, but Rep. Joan Hurdle, D-Billings, hopes Montanans will soon be laughing all the way to the bank.

Hurdle is sponsoring House Resolution 2, a measure that would urge the federal government to repeal current restrictions that prevent American farmers from producing what Hurdle calls a "valid, profitable crop."

Proponents say the United States spends more than $80 million each year by importing industrial hemp, a crop currently produced in dozens of countries, including Canada, England and Japan.

Hurdle said the crop is a serious way in which Montana farmers can diversify their crops and create a prosperous future. Hemp currently has a market value of $100 to $500 per acre.

Hurdle said U.S. resistance to hemp production stems from the fear that industrial hemp is a drug. Although often mistaken for marijuana, industrial hemp is a completely different species, he said.

Brian Cameron of the Alternative Crop Coalition said the genetically different species couldn't be confused for marijuana in either appearance or psychoactive quality. Industrial hemp contains less than
.3 percent tetrahydrocannabinol, compared to 20 percent in street-grade marijuana.

There were no opponents to HJ2, and the committee is expected to take executive action early this week.

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SPACE TRAVEL — In separate pieces of legislation last week, two Montana legislators urged the state to offer incentives aimed at bringing the space age to Montana.

VentureStar, the space vehicle many think will replace the space shuttle, is searching for a home, and Sen. Bill Wilson, D-Great Falls, has proposed Senate Bill 274, a measure that would exempt from taxation personal property used to build or launch space vehicles.

He told the Senate Taxation Committee that Montana must exempt the project from the state's business equipment tax if it wishes to compete for the $4.5 billion project.

VentureStar plans to build two launch sites, one of which would be in northern latitudes. Wilson said Montana's biggest competitors are Maine, Idaho and Washington.

Supporters say Montana has a strong chance of being selected as the building and launch site for VentureStar. Great Falls was recently chosen as the landing site for the project's half-sized prototype, the X-33, a space vehicle capable of traveling from Edwards AFB in California to Malmstrom AFB in Great Falls in 24 minutes.
Retired Air Force Major Gen. Gary Blair testified that Montana is the perfect location because of high altitude and latitude, both of which cut down on the amount of fuel needed to launch the VentureStar.

Montana's relatively traffic-free skies are another plus, he said.

In separate legislation, Rep. Jay Stovall, R-Billings, successfully maneuvered his House Joint Resolution 15 through the House. The resolution urges support for the spaceport program.

Stovall said Montana must nurture an economic and regulatory environment that will attract VentureStar and its space-related businesses to Montana.

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**CONCEALED WEAPONS** — Those who carry concealed weapon came closer to expanding their territory last week when the Senate passed a bill that would allow them to carry hidden weapons in more places, including bars.

Senate Bill 186, sponsored by Sen. Jack Wells, R-Bozeman, would permit concealed weapons in businesses that serve alcohol and in other formerly off-limits areas such as ATMs and in bank drive-through windows. The legislation would also provide for breath testing of those permit holders in locations serving alcohol.

Wells argued that of the 42 states with concealed weapon laws, Montana alone lists places where such weapons cannot be carried. He said permit holders already adhere to stringent requirements when they apply for licenses.
Opponents argued that it would be tough to administer the law. Administering breath tests would be impossible, they said, because an officer would not know who had a concealed weapon.

Senate Minority Leader Steve Doherty of Great Falls said the real question is whether Montanans want people packing guns in bars. Supporters argued that allowing weapons in places serving alcohol would cause no problems because permit holders can't consume alcohol while carrying.

The measure passed the Senate 37-12.

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DEATH IN MONTANA — Senators got their first look last week at a proposed moratorium on Montana's death penalty.

Sponsored by Sen. Dorothy Eck, D-Bozeman, Senate Bill 363 would place a 5-year moratorium on the death penalty, during which lawmakers could study the issue and consider abolishing the penalty entirely.

Proponents argued that the death penalty doesn't deter violent crime and that it sometimes results in the execution of innocent people.

No opponents appeared at the hearing.

So far this session, the House Judiciary Committee tabled bills aimed at abolishing the death penalty and eliminating its use as the sentence for a second rape conviction. Rep. Joan Hurdle, D-Billings, sponsored those bills.

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HEALTH COVERAGE FOR CHILDREN — The Montana Senate passed a bill last week that would provide health coverage for more than 10,000 of the state's uninsured children.

Senate Bill 81, requested by Gov. Marc Racicot, would establish the Children's Health Insurance Program, or CHIPS, a federal-state program aimed at insuring children of parents who make too much to qualify for Medicaid but too little to afford health coverage.

Proponents said taking care of Montana's children would pay off in lower future health-care costs. They also said CHIPS would allow low-income parents to make co-payments they could afford.

The program is expected to cost the state $5.3 million during the next biennium. The governor recommends that the money come from the $830 million Montana expects to receive as its share of a huge multi-state settlement of lawsuits against major tobacco companies.

Opponents argued that if the tobacco money doesn't come, the state would have cut other programs to pay for CHIPS.
HELENA — The Montana Legislature heads toward its halftime break Wednesday with the bulk of its work still to come, including critical decisions on billions of dollars in state spending.

As the first half of the 90-day session wound down, a select group of legislators struggled to forge the largest budget in the state's history.

The Legislature's six key budget subcommittees, controlled by Republicans, have been poring over Gov. Marc Racicot's budget for state agencies and programs, and there is a growing frustration among committee leaders such as Rep. Ernest Berksagel, who came to Helena hoping to contain new state spending and new programs.

"We are blinded by our desire to fund government as it exists," said the Malta Republican who heads the subcommittee that oversees spending on long-range building projects and maintenance. "It absolutely drives me crazy."

Montana's economy is dying, Berksagel said, and the governor is trying to solve the problem by throwing money at it in the form of $1 million each day over the next two years.

"We're all beginning to believe the only solution is to throw money at people," he said.

So far, most of the budget battles have centered not on actual cuts in spending but on subcommittee attempts to reduce the size of requested increases in areas such as prisons, higher education and new
building projects.

Yet despite the frustration expressed, the subcommittees have made few reductions in Racicot’s proposal, -- about 1.5 percent -- a fact that proves the governor’s budget was a good, tight plan, said Budget Director Dave Lewis.

“This fairly conservative Legislature hasn’t pulled much out,” he said. “When you get down to it, they are still spending 98 to 99 percent of the recommended amounts.”

Some of the major requests before Bergsagel’s subcommittee this session include $2.1 million for a Department of Transportation roofing and storage project, $2.9 million to expand the Montana Women’s Prison, $4 million for the Kalispell and Bozeman Armories, and $7.5 million to revamp MSU-Bozeman’s Renne Library. So far, the committee approved about $34 million less than the governor requested.

Bergsagel said he has no problem funding the maintenance and renovation of existing buildings, but he said he is frustrated that the state continues to construct new buildings it can’t afford.

Another lawmaker feeling the pressure is Rep. Royal Johnson, R-Billings, who heads the subcommittee responsible for examining higher education spending. Johnson said his frustration stems from the fact that no matter how much money you spend, it is never enough.

Johnson said he understands neither the lack of acknowledgement nor what he described as the continual “harassment” lawmakers take over the percentage of state help the University System receives.
"We've been fair, but the University System won't acknowledge that fairness," Johnson said. "The spending this time is greater than any time before."

Johnson said his subcommittee did cut the University System's request by about $10 million in the research, agriculture stations and library technology areas, but they did approve increased funding overall.

As of late last week, the University System stood to receive more than $300 million in state funding over the next biennium, and no cuts were in operating budgets, according to the subcommittee’s staff analyst.

While the Education Subcommittee doles out the greatest share of the general fund, Health and Human Services isn't far behind.

Rep. Betty Kasten, R-Brockway, heads the committee overseeing a $1.6 billion budget - $450 million of which comes out of the general fund - for over 350 agencies in Montana. Her committee's budget, she said, will be slightly under the governor's plan due to a $4 million decrease in Medicaid. Kasten said the savings are a result of an overestimation in the growth of Medicaid.

However, the budget calls for an additional $34 million to be spent over the next biennium on increasing provider rates for contracted workers, Kasten said.

That's the lowest percent increase in the Health and Human Services budget in quite some time, she said, but the fact remains that "government continues to grow bigger all the time."
The most controversial spending, perhaps, is in the state's prison system. Gov. Racicot called for a $184 million Department of Corrections budget over the next biennium, but the subcommittee responsible for prison spending, chaired by Rep. Steve Vick, R-Belgrade, has trimmed more than $9 million from that request.

"It's a constant debate with the governor," Vick said. "He wants to spend more and we try to spend less because I don't believe it's needed."

The Department of Corrections received more than adequate funding in 1995 and 1997, he said, and its base budget is enough to take care of the existing prison population.

"The Department always says it's a safety and security issue, but at some point enough is enough," Vick said.

While he understands how difficult it is for the department to predict future prison populations, Vick said the department has little credibility because they don't provide lawmakers with solid numbers and facts about prison populations.

Last week, the subcommittee voted to cut 1 percent of the overall corrections budget, amounting to about $1.5 million over the biennium, leaving the increase over 1997's budget at $21 million. Lewis said the governor is worried that the cuts might mean there wouldn't be money to pay for the new prison space in Shelby, Glendive and Great Falls.

Corrections will be the big issue this year, Lewis said, because the department still needs money to handle growth.
The appropriation subcommittees are only the first step in a long journey, Lewis said, and in his 30 years of working in state government, he knows there will be compromise along the way.

"Things always work out," he said. "The kinks will be ironed out."

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**SLOW DOWN, PARTNER** — Legislators came a step closer last week to establishing a numerical speed limit for Montana's highways. The House voted 73-27 for Senate Bill 133 after making changes that would impose lower speed limits on trucks than for cars.

Senate Bill 133 would set a 75-mph day and night speed limit on interstates and four-lane divided highways, except in urban areas where the speed limit would be 65 mph at all times.

Two-lane highways would have 70-mph daytime and 65-mph nighttime speed limits. Highway 93 between the Canadian and Idaho borders would be subject to a 65-mph limit at all times.

The House amended the bill to lower truck speeds to 65 mph on interstates and 60 mph daytime and 55 mph nighttime on two-lane highways.

Because the bill was amended, the House and Senate will have to iron out their differences before sending the bill to the governor.

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**THE HALFTIME SCORECARD** — House and Senate bills are beginning to land on Gov. Marc Racicot's desk, and as of late last week he had
signed more than a dozen of them, including two bills aimed at ensuring University System funding.

Racicot signed Senate Bills 56 and 80, which would impose a six-mill levy for funding higher education in Montana and submit the idea to voters. Although voters approved the levy in November, they also approved a constitutional amendment requiring a public vote on all tax and fee increases, hence the need for a new vote on the six-mill levy.

As of late last week, the House and Senate had introduced 1,194 bills and resolutions. Of those, 220 were tabled and never made it out of committee, but 874 remained alive in the House and Senate.

That could change with this week's transmittal deadline when all non-revenue bills must be transmitted from one house to the other to remain alive.

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Some newsworthy bills signed by the governor:

--SB7 - Revise the laws concerning the leasing of grazing and agricultural land

--SB26 - Streamlining business licensure procedures

--SB56 - Imposes a 6-mill levy for funding the University System

--SB80 - Submits the 6-mill levy to the electorate

--SB141 - Exempts in-state irrigation pipelines from Major Facility Siting Act
Some key bills that have passed the House and are now before the Senate:

--HR2 - urges the production of industrial hemp as an agricultural product
--HB109 - establishes automated video gambling accounting and reporting system
--HB241 - revises electronic mail registration and voting
--HB258 - funds online access to campaign finance information
--HB353 - allows local government sale or gift of historic property
--HB379 - revises the management of rare, sensitive or endangered species
--HB387 - clarifies the definition of lake and pond for fishing purposes
--HB396 - establishes rider responsibility for carnival rides and limits operator liability
--HB412 - removes the word "squaw" from place name designations
--HB442 - allows breweries to have retail sample sales
--HJ14 - urges the adoption of Eddie Eagle Elementary Gun Safety Education Program
--HJ15 - urges support for the spaceport program (VentureStar)

Some key bills that have passed the Senate and are now before the House:

--SB111 - exempts intangible personal property from taxation
--SB123 - increases the septic disposal fee
--SB224 - supports pathological gambling treatment and prevention
--SB293 - revises the state endangered species list
--SB383 - creates the Agricultural and Open Space Land Preservation and Cluster Development Act
--SB387 - prohibits employers from charging job application fees
--SB410 - prohibits alcoholic beverages in non-licensed restaurants, or "bottle clubs"
LEGISLATION ROARS THROUGH HOUSES

HELENA — A bullet train of legislation roared through the House and Senate before last week's transmittal break, carrying some of the most important legislation of the 1999 session.

The Legislature is on a record pace to address such key issues as school funding and tax cuts for businesses, vehicle owners and homeowners, Speaker of the House John Mercer said.

The Polson Republican told the House before the final first-half floor session last week that it would probably be the most important day they would spend at the Capitol this year.

House Republicans agreed.

"We processed big pieces of legislation not typically done till after transmittal," said House Majority Leader Larry Grinde of Lewistown, adding that he can't remember when issues such as education funding and taxation moved so quickly.

Among the fast-moving bills is one many Republicans consider the centerpiece of this session's economic development efforts: Senate Bill 200, which would phase out property taxes on business equipment and livestock by 2004.

The bill received solid Republican support, but many Democrats remain adamantly opposed to what they see as sweeping tax cuts for big business. The focus should be on tax relief for homeowners and small businesses, said House Minority Leader Emily Swanson of Bozeman.
Other Democrats worried that Republicans, in their haste to cut taxes this session, would cripple the state's ability to provide essential services and programs in the future.

Senate Minority Leader Steve Doherty said he was concerned that the Legislature was pushing bills through without paying attention to long-term impacts.

"We run the risk of sacrificing good public policy for good sound bites," Doherty said.

The Great Falls Democrat also criticized Republican bills that would make it tougher for citizens to enact laws through the initiative process, and he blasted legislation asking voters to reconsider their approval last fall of an initiative banning the use of cyanide heap-leach technology in new or expanding gold mines.

"Our actions might be interpreted as not very respectful to the public," Doherty said.

Swanson, meanwhile, denounced the Legislature's refusal to strike Montana's "sexual deviancy" law from the books, even though the law was ruled unconstitutional by the Montana Supreme Court in 1997.

Both Democrats and Republicans seemed pleased with early action on the level of K-12 school funding, a contentious issue rarely settled before a session's waning days. The Senate has already passed a bill calling for $35 million in new spending for schools. That's more than what the governor proposed and about $1 million less than what school officials wanted.
However, a fight still looms over how to pay for the extra school money, and Democrats remain opposed to Speaker Mercer's plan to tap into coal tax trust, a proposal that would need the support of 100 lawmakers because it requires changing the constitution.

Several key issues did, however, garner bipartisan support during the first half of the session. Both Democrats and Republicans said they were pleased with the Senate's passage of legislation that would provide health insurance for some 10,000 children whose parents can't afford it.

"We've answered the call to take care of children in this state," said Senate Majority Leader John Harp, R-Kalispell. "The message from the Senate is that children are our priority."

And both parties were pleased that a bill aimed at establishing a speed limit traveled through the two houses so quickly. Senate Bill 133, which sets a numerical speed limit for Montana, was signed by Gov. Marc Racicot last week.

A reduction in motor vehicle taxes received broad support during the first half of the session, as both the House and Senate approved Senate Bill 260, a measure that would trim the unpopular tax by up to 30 percent.

One of the first issues addressed by this year's Legislature was the 6-mill levy funding for the University System. Both houses approved Senate Bills 56 and 80, measures that guarantee continued support of the levy.
Gov. Racicot said the diligent work and businesslike attitude of the first 45 days impressed him but he remains concerned about several budgetary issues, including a legislative subcommittee's decision to slash about $10 million from his proposed budget for prisons.

Senate Majority Whip Fred Thomas, R-Stevensville, said he hoped that Montana taxpayers would look back at this session as one that laid a solid groundwork to a higher standard of living in Montana.

"We are starting to sow the seeds this session that will grow us out of 51st place," Thomas said. "We're getting business done in a more expeditious manner than before."

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**CYANIDE REVISITED** — Montana voters decided in November to restrict the use of cyanide in mining, but the Montana Senate passed two pieces of legislation last week that would ask voters to reconsider their action.

Initiative 137 banned any new or expanded open-pit cyanide heap leach mining in Montana.

Senate Bill 344, originally aimed at repealing I-137, was amended and would allow I-137 to remain in effect until the issue could be placed on the ballot again in November 2000.

Senate Bill 345 would allow individual counties to decide the fate of cyanide mining in their area.

Supporters of both bills argued that the public was misled about the environmental effects of cyanide mining and the harm I-137 would do
to Montana's mining industry. Foes said voters knew exactly what they were doing when they approved the measure.

Both bills received solid support in the Senate, and the issue will be debated next before the House Natural Resources Committee.

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**CHANGING THE RULES** — The Montana Senate approved a six-pack of bills last week that would make it harder for Montanans to get initiatives on the ballot.

Sen. Lorents Grosfield, R-Big Timber, is sponsoring six bills aimed at changing the constitution by creating stricter standards for the public to follow when gathering signatures for and voting on ballot initiatives.

The measures would increase the number of signatures required to qualify initiatives, as well as the number of votes required to approve initiatives.

Although approved by the Senate, the bills face an uphill fight because changing the constitution require a two-thirds majority of legislators, or 100 out of 150 votes.

If the bills receive enough support, they will appear on the November 2000 ballot for voter consideration.

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**AXING TAXES** — Lawmakers approved three major tax cuts in the session's first half, breaking with the tradition of saving major tax and spending bills until the end when they are typically considered together.
The tax cuts include:

* Senate Bill 260, approved by both the House and Senate and on its way to Gov. Racicot's desk, which would lower motor vehicle registration taxes by up to 30 percent.

* Senate Bill 200, considered by many legislators to be the centerpiece of this session's GOP taxation legislation, which would gradually phase out business equipment and livestock taxes by the year 2004. The bill has passed the Senate and House in different forms and lawmakers from both houses are meeting to iron out the differences.

* House Bill 108, a Democratic bill that would reduce Montana homeowners' property taxes. The bill now goes to the Senate.

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CI-75 THROWN OUT — In a unanimous decision last week, the Montana Supreme Court threw out Constitutional Initiative 75, a measure requiring that all new or increased taxes and most fees be voted on by the public.

Gov. Racicot defended the court's decision and said that he does not perceive the ruling to be a rejection of voters' wishes but instead as an appropriate defense of Montana's constitution.

Opponents of CI-75 argued before the Supreme Court two weeks ago that CI-75 was unconstitutional because it amended several sections of the constitution, not just one as the constitution requires.

They argued that the initiative effectively expanded the governor's veto powers and limited constitutional provisions pertaining to the
handling of financial matters and the immunity of public officials from lawsuits. Changing each of those provisions would require individual initiatives, the court ruled.

But the measure's supporters argued that no initiative could be so narrowly tailored as to affect only one section of the constitution, and that each separate piece of CI-75 worked together to form one package. They also said the voters' decision should be upheld because Montanans knew the effects of each section of the initiative.

CI-75's supporters criticized the court's action, calling it an attack on citizen participation in government. The measure's critics, mostly local government officials who feared lengthy ballots each year to accommodate even the most mundane fee increases, expressed relief.

The court's decision came just as Montana's legislators were leaving on their four-day transmittal break. Upon arriving back in Helena early this week, lawmakers scrambled to examine the legislation already passed and how it might be affected without CI-75 in the picture.
HELENA — The perennial tug of war between hunters and landowners has landed smack on Gov. Marc Racicot's desk, as both sides await his decision on a bill that would require all hunters to ask permission before they hunt on private land.

The clash over access, a recurring theme in recent Montana legislative sessions, is no less than a struggle between two heritages, both deeply ingrained in Montana culture: the right to enjoy the state's world-class hunting and fishing and right to protect one's property.

The growing tension has everything to do with the increasing number of resident and nonresident hunters and anglers in a state where easy access to both private and public lands was itself something of a tradition among neighbors, says Rep. Dan Fuchs, R-Billings and vice chairman of the House Fish, Wildlife and Parks Committee.

The flashpoint this session is Senate Bill 171, sponsored by Sen. Ken Mesaros, a Cascade rancher and Republican whose bill aims to give landowners more control over their property.

The bill passed the Senate easily, escaped the House by a narrow margin and now rests with Gov. Racicot, who said late last week that he was still considering whether to sign it.

Currently, only big game hunters are required to get permission to hunt on private land that is not posted. Bird hunters and others,
however, can assume that unposted land is open to hunting. The onus is on the landowner: If he wants to keep bird hunters off his property, he has to post it.

Mesaros' bill shifts the responsibility to the hunter to ask first in all circumstances, making a law out of what Mesaros considers common courtesy. The law, he says, will force more hunters to get to know their local landowners, fostering better relations in the bargain.

"My intention is to preserve opportunities in the future for Montana hunters to hunt on private land," Mesaros says.

Hunters and representatives of sportsmen's associations argue -- and Mesaros concedes -- that most bird hunters do ask for permission to hunt unposted land. The problem, hunters say, is figuring out who owns the land.

Good maps outlining local land ownership aren't always easy to find, nor are they always up-to-date, say hunters, who add that nothing in Mesaros' bill requires landowners to mark their boundaries. Nor does the bill offer hunters who misread their maps any leeway, they add. The fine for a first offense is $25.

Mesaros agrees that most hunters do ask for permission but contends that landowners need protection from the minority who don't. As for the concern about accurate maps, Mesaros notes that his bill requires the Department of Fish, Wildlife and Parks to develop land ownership maps, making it relatively simple for sportsmen to locate landowners.
Montana Fish, Wildlife and Parks Director Pat Graham says he supports the bill as a way to foster better relations between landowners and sportsmen and ultimately improve recreational access to private land. But it's a slow process, he cautions. The department is improving its information about land ownership, Graham says, but he admits that complete maps may not be available right away.

Groups such as the Montana Wildlife Federation say Mesaros' bill will do little to ease tensions on Montana's hunting grounds.

"It punishes people for making honest mistakes," says Tony Jewett, the MFW's executive director.

Nor is Rep. Doug Wagner, R-Hungry Horse, convinced that SB171 will alleviate the problems surrounding access.

Access will remain a hot topic as long as farming and ranching fare poorly, says Wagner, who also serves as chairman of the House Fish, Wildlife and Parks Committee. As farmers and ranchers struggle to hold on to their land, he says, they must consider the prospect of leasing private lands to outfitters, creating hunting preserves or otherwise seeking ways to make money from hunting.

"You can't blame the rancher," he said.

Still, Wagner says, SB171 may appease landowners but it won't improve relations with sportsmen.

"We've created more friction between groups," Wagner says. "It doesn't help the sport, and I don't see what we've done in this session to alleviate that."
Like almost everything in government, he adds, solving the access problem comes down to money.

Graham said that FWP wants the state to expand its Block Management program, which pays landowners to open private land for public hunting. The problem is where to find the money.

Part of the answer may rest with lawmakers who are considering a couple of bills that would place an increased financial burden on nonresident hunters.

Under House Bill 478, the number of nonresident upland game bird licenses would be limited to 7,500 each year, and the price would double from $55 to $110. The bill received strong support in the House and is currently being debated in the Senate.

Senate Bill 338 would use money from the increased fees for nonresident upland game bird licenses to fund Block Management. It would also revise outfitter rules and cap the number of available land-based hunting outfitter licenses.

Meanwhile, sportsmen have won some of this session's access battles. Bruce Farling, executive director of Montana Trout Unlimited, said he was relieved that a bill aimed at closing down bridge access to fishermen was tabled in committee.

However, Farling and others, such as Sen. Jack Wells, R-Bozeman, predict the struggle for access will linger as tourism increases and Montana's population continues to grow.
"This can of worms has been opened, and it won't be closed easily," Wells says. "It's like we've pulled the pin on a hand grenade and we can't let it go or it will blow up big time."

Other major pieces of legislation being debated by the Legislature's fish and game committees this session include:

* House Bills 20 and 26, which would create a multispecies warm water fish hatchery at Fort Peck and establish a fish stamp to financially support the hatchery.

* House Bill 215, which would prohibit hunters from using motion-tracking devices.

* House Bill 315, which would designate certain fishing-access sites as primitive and limit development of those sites.

* House Bill 548, which would prohibit the introduction of new species in the state.

* House Joint Resolution 4, which opposes grizzly bear reintroduction in the Selway-Bitterroot wilderness.

* House Bill 647, which would create a bull trout recovery program.

* Senate Bill 241, which would revise rules governing disabled hunting licenses and the method by which FWP determines eligibility for those licenses.

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THE FOURTH STRIKE — More time behind bars is not always the answer for people convicted of multiple DUls, one Montana legislator argued last week.
Rep. Dan McGee, R-Laurel, is sponsoring legislation that would allow judges the option of sentencing Montanans convicted of a fourth DUI offense to a treatment or correctional program.

McGee said his House Bill 116 would not allow judges to defer DUI sentences but it would allow them to address chemical dependency and addiction. Most fourth-time offenders, said McGee, are not criminals out to rob banks but rather people in need of treatment.

Judges could choose to send convicts to either a pre-release camp or a state-approved public or private treatment center instead of jail.

The Senate Judiciary Committee heard the bill last week. It has passed the House.

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INTERNATIONAL TIES — Montana and the Guangxi Zhaung region of China are miles apart both physically and ideologically, but the Montana Legislature is working to bridge the distance.

House Joint Resolution 9, passed by both the House and the Senate, urges sister state relations with the Guangxi Zhaung autonomous region of China. Resolution sponsor Rep. Carley Tuss, D-Black Eagle, said the resolution would formalize the policy that has been in place since the early 1980s, when Montana began exchanging economic and cultural events with China.

She said the region resembles Montana in its dependence on agriculture, in its remote and rural character and in its economic
struggles. The two states could benefit from the exchange of ideas at all levels, supporters added.

Opponents, however, argued that HJ9 should be defeated because of China's poor track record concerning human rights.

The resolution will land on Gov. Racicot's desk this week.

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THE CLOCK IS TICKING — The year 2000 is nine months away, but one Montana legislator is already bracing for the Y2K bug.

Sen. Bob Keenan, R-Bigfork, is sponsoring Senate Bill 16, which would grant government agencies and health care facilities immunity from most lawsuits filed as a result of computer errors caused by the millennium change.

The bill, which needs the votes of 100 legislators to take effect, would protect those agencies from any civil damages arising from computer malfunctions or errors occurring before January 1, 2005. The bill would not protect those governments or hospitals from suits seeking damages for deaths or injuries caused by computer malfunctions.

The bill has already passed the Senate and was heard last week in a House committee.

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MONTANA ON-LINE — Some legislators are hoping the electronic age will make business and citizenship a bit easier for Montanans.

Three "electronic" bills passed through the House last month and landed in the Senate State Administration Committee last week.
The first, House Bill 188, would allow state and local governments to do more business online by authorizing electronic signatures, contracts and other electronic transactions.

Meanwhile, House Bill 241 would offer thousands of Montanans stationed overseas to vote and register to vote by e-mail. Sen. Brennan Ryan, D-Stockett, said soldiers who had difficulty voting during Desert Storm prompted the bill.

A related bill, House Bill 258, would allow the public to obtain online information about contributions to political candidates or ballot-issue campaigns. An appropriation of $50,000 would allow the commissioner of political practice to set up a web site.
LEGISLATORS AND PRISON OFFICIALS BATTLE FOR FUNDING

HELENA — It's a statistic that comes quickly to state prisons chief Rick Day whenever he's asked about his budget priorities this session:

For every 100 Montana convicts out on parole or probation, there is one state correction's official to watch them, he says. That's not a healthy ratio, says Day, who began the 1999 Legislature hoping to lower the figure to about 70 or 80 to one.

"We need to drive the caseload down in order to provide decent services," Day says. "Ten new officers over two years won't even keep up with the normal growth of caseloads."

Gov. Marc Racicot agrees and requested 43 more probation and parole officers in his budget. But so far lawmakers on the Joint Appropriations Subcommittee on Corrections have approved 10.

Legislators struggle every session to balance public safety concerns with their desire to channel funding into other programs such as education and health care. This year is no different, and the struggle over prison has been heated.

Despite a substantial boost in its state appropriation last session, Day's Department of Corrections had hoped in the upcoming biennium to devote more resources toward community correction issues, such as sexual offender treatment and supervision.

But the subcommittee's proposed budget, which was also approved
by the full House Appropriations Committee, falls about $9 million short than what the governor requested -- $2.1 million short in the area of probation and parole.

Although the DOC would receive a $27 million increase over the biennium, that's about 4 percent less than Racicot's "no-frills budget," Day says.

"Our budget is not full of fat," he adds. "It's what we need to get the job done."

But some lawmakers aren't so sure.

Sen. Chris Christiaens, who has worked on corrections issues since 1983, says there is a lot of fat in the DOC's budget.

"They have an adequate budget if they would manage it," he said. "The Legislature doesn't want to micromanage them -- we'll require them to start doing that."

The Great Falls Democrat said the DOC could cut down on the number of caseloads by simply dropping some of the people who report only once each year and have done so for many years. To force the issue, Christiaens sponsored an amendment to the DOC's budget, one that removed an additional 1 percent from the overall budget, or approximately $1.5 million over the biennium.

He said the cut would force the department to acknowledge where the fat is and make changes accordingly.
But committee member Rep. Joe Quilici, D-Butte, called it a "vindictive cut," one that would hurt everything from prerelease and juvenile centers to probation and parole.

"They just wanted to hit them with another cut," Quilici said.
"But indiscriminate cuts like that are not wise."

House Appropriations Committee Chairman Rep. Tom Zook, R-Miles City, agreed, saying that the 1 percent overall reduction is "a poor way to do budgets, in my opinion."

The funding pendulum swung toward adequate funding of corrections in 1997, said Quilici, but perhaps the pendulum flew too far and people believe they have given prisons too much money, money that some lawmakers would rather give to schools or back to taxpayers in the form of tax cuts.

Both Zook and Quilici admit that the Legislature's decreased confidence in the department stems from the DOC's difficulty in making hard and fast projections about prison populations and therefore its needs.

Mike Cronin, a DOC spokesman, defended the department's projections, saying that 100 percent accuracy is impossible.

"Historically we've done very well," Cronin said. "We adjust our projections regularly, but some legislators are unwilling to accept that projections are estimates."

Rep. Steve Vick, R-Belgrade, chairman of the appropriations subcommittee that scrutinized the prison budget, says the 1997
Legislature provided funding for 241 more beds than the DOC actually needed. The money for those 241 beds is still in the department's base budget, Vick says, yet officials are asking for even more money this year.

"I think they're well funded - they're not short at all," he adds. "At some point, enough is enough."

But prison officials say the commitment lawmakers made to improving prisons last session needs to be sustained.

Mike Mahoney, warden at the Montana State Prison, says the money spent on corrections amounts to about 3.4 percent of the state's budget. A 1 percent across-the-board cut, he adds, represents "a giant step backwards from the previous session" because in 1997 the DOC was just getting to a level of adequate staffing.

Both Day and Mahoney say their main concern remains in the area of staffing the probation and parole programs so that they can offer better supervision and guidance to those inmates released back into Montana's communities.

Heightening his staffing concern, says Day, is a projected increase in convicts heading toward Montana's correctional facilities, especially at the Montana Women's Prison in Billings.

"There is some level of belief that the public is not concerned about public safety, but I don't think that's the case," Day says. "We're hoping that the public will continue to be advocates for an adequate level of correctional funding."
The corrections budget is contained in House Bill 2, the major piece of funding legislation this session. The bill will reach the House floor for debate this week.

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SALES TAX BILLS EMERGE — Both Democrats and Republicans seem determined to cut taxes this session, but as the Legislature nears the end of its 11th week, there is a growing concern about just how much tax relief the state can afford.

So far, lawmakers are on track to slash the state's business equipment tax, abolish the livestock tax and gradually reduce the taxes Montanans pay on their vehicles.

Those tax cuts shouldn't make a big dent in the state's coffers, the Legislature's Republican leaders say, but if lawmakers hope to offer homeowners substantial cuts in property taxes, they'll have to make deep cuts in state spending or raise new taxes to replace the revenue state and local government would stand to lose.

Enter the sales tax.

Sen. Gerry Devlin, R-Terry and chairman of the powerful Senate Taxation Committee, has introduced a series of bills — House Bills 525 through 528 — that would place a sales tax on the ballot in the year 2000. Senate Bill 525 would allow Montanans to vote for or against a 4 percent statewide sales tax. Senate Bills 526-528 would abolish state property taxes for education, livestock, motor vehicles and business equipment. All four bills would have to be approved as a package.
Devlin's bills will be heard in committee this week, as will Gov. Marc Racicot's proposal for a 4 percent value-added, or consumption, tax.

Devlin's isn't the only sales tax bill. Senate Bill 143, heard in January, would establish a 4 percent statewide, general retail sales and use tax. The committee has taken no action on SB143.

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**KEEPING TAXES DOWN** — Although Montana's Supreme Court has rejected an initiative that would have put every tax or fee increase up for a public vote, Rep. Ernest Bergsagel isn't giving up the fight to make it harder for elected officials to raise taxes.

The Malta Republican introduced legislation last week that would ask Montana to change the constitution and require a supermajority, or a two-thirds vote, from local, county and state governments to raise taxes or increase spending.

Voters who approved CI-75 only to see the Supreme Court overrule them are frustrated and feel that government spending is out of control, he said.

Bergsagel, who said he has seen a $2 billion increase in state spending since he was elected into the Legislature in 1991, said his House Bill 653 would enforce some fiscal discipline at all levels of government.

"This is a measure that raises the bench by which we vote to take away money from our people and spend that money," Bergsagel said.
But Eric Feaver, speaking for the state's largest teachers union, argued that the idea would effectively destroy the time-honored notion of majority rule, giving minorities the power to decide the financial questions that governments face.

HB653 would give lawmakers a "Mount Everest" to climb in order to appropriate money, Feaver said.

If the bill passes the Legislature, a statewide vote on the constitutional change would be scheduled for November 2000.

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RETHINKING THE INITIATIVE PROCESS — Efforts to revise the way citizens can make law through the initiative process were in the limelight last week as lawmakers heard a proposal that would, among other things, make all initiatives pass legal muster before earning a spot on the statewide ballot.

House Bill 636, heard before the House State Administration Committee last week, would give initiative organizers more time to collect qualifying signatures, but it would also require that ballot issues undergo a series of public hearings, a period of public comment and legal review. Voters who fail to mark an initiative question on their ballots would be counted as voting against that measure.

Proponents, mostly business groups and the mining industry upset with last fall's passage of an initiative banning the expansion of cyanide heap-leach mining, argued that HB636 would provide a more responsible initiative process, resulting in better laws.
The opposition, which included environmentalists, Common Cause and Secretary of State Mike Cooney, argued that the bill would place an array of obstacles in the path of initiative organizers, obstacles aimed at making it more difficult for citizens to make law.

The bill is in addition to a package of six related initiative proposals sponsored by Sen. Lorents Grosfield, R-Big Timber. Those bills would increase the number of signatures required to qualify an initiative for the ballot, change the distribution of those signatures and require a super-majority to pass any constitutional amendment. Grosfield's bills have passed the Senate and will soon be heard by the House State Administration Committee.
HELENA — As Montana's managed mental-health care system crumbles, legislators and health care officials are left standing in the rubble, trying to determine how to serve the more than 20,000 low-income Montanans in need of help.

Under fire from lawmakers and providers alike, Magellan Health Services backed out of its state contract last month, leaving providers and patients to face the prospect of cuts in services.

Ensuring that patients continue to receive adequate care is the priority, said Laurie Ekanger, director of Montana's Department of Public Health and Human Services and the official chiefly responsible for cleaning up a mess that began just two years ago when Montana made its move toward privately managed mental-health care.

In 1996, the state began accepting bids for its mental-health contract. Montana Community Partners, a collaboration between the Care Coalition of Montana and CMG Health of Maryland, was ultimately awarded the $400 million, 5-year contract - the largest state contract in Montana's history.

The Care Coalition consists of Montana mental health professionals who control 45 percent of MCP. CMG Health held the other 55 percent.

Shortly after CMG signed the contract, they were bought out by
Merit Behavioral Corp. of New Jersey, who, in February of 1998, sold its 55 percent share to Atlanta-based Magellan, the largest U.S. managed care company specializing in mental health.

Now, one year later, Magellan has called it quits, saying the state system is underfunded and overly ambitious in terms of what it tries to accomplish. The state had decided to fire Magellan after determining that it was not doing its job, but the company quit before it could be fired.

Magellan says it lost more than $15 million during the past year and can no longer subsidize the state's mental care to the tune of an additional $1 million each month.

Complaints of late or missing payments and denial of care for the needy have plagued Magellan since its arrival in Montana, but the company maintains the problems are not their fault.

In an open letter to the citizens of Montana, Magellan said, "There has been an imbalance between the funds available and the expanded services offered by the program. Quite simply, the amount of money available for this program is not enough to serve everyone who needs to be served."

But Rep. Beverly Barnhart, one member of the newly formed select committee charged with overseeing the transition from Magellan Health Services to a new, not-yet-designed system, argued that Magellan knew exactly what it was getting into when it purchased the contract in 1998.

"They knew the amount of money available and the services they would be required to provide," the Bozeman Democrat said. "They've
mismanaged funds, they haven't told the truth, and we don't need to take that abuse from them."

Barnhart said Magellan's financial mismanagement resulted in the mess facing legislators today. She wants the company out of the state as soon as possible, even if it requires more state money.

"The general feeling now is that in order to maintain the level of service we have right now, it would take some increased funding," she said.

Sen. Mignon Waterman, D-Helena, agreed, saying Magellan is either going to severely cut services before it leaves, or the state will have to provide additional money to maintain services during the transition to a new system. As legislators are pulled by other priorities, such as tax relief and requests to spend more money on education, finding more money for mental-health care will not be easy, she admitted.

"Somebody's going to cut services," Waterman said. "But I think we need a balance. To give tax cuts to businesses at the cost of benefits to the most vulnerable population in the state is wrong - it's irresponsible."

Some Republican leaders say there's simply no more money for the program. Sen. Chuck Swysgood, R-Dillon and chairman of the Senate Finance and Claims Committee, said last week that he foresees no additional funding for the program and that services will have to be cut.

In fact, last week the House rejected amendments to House Bill 2, the main spending bill that would have added $16 million to the program.
"Why can't you come up with an option to work with the money that's available?" Swysgood asked Ekanger during a meeting last week in which she asked for more money for mental health. "As far as I'm concerned, this is not an option that's acceptable."

Ekanger assured Swysgood that the DPHHS was in the process of negotiating with Magellan and that nothing was final. She admitted that the program may have been overly ambitious in the past, but that people will have to be flexible in designing the new system.

The Health Department will be forced into making some changes if the Legislature fails to increase funding, Ekanger said.

"There may have to be some adjustments in services," Ekanger said. "That shouldn't come as any surprise."

Although Magellan has officially quit its contract, a big question remains: When will they be allowed to leave and what sort of program will Montana put in its place?

Magellan legally has to stay until the first of September, Waterman said, because the company must legally give 180 days' notice.

Most legislators and department officials agree that the company should be out of the picture as soon as possible, however, and they are scrambling to develop a regional system to replace Magellan.

Linda Hatch, executive director of Golden Triangle Community Mental Health Center in Great Falls, said the state's four mental health care centers could take over as early as April 1 and the health
department has given July 1 as the date it will be ready to assume liability for claims.

The system could be in worse chaos if Magellan stays around until September, Hatch said, and all Montanans should be concerned because mentally ill citizens going without treatment create community problems by living on the street or ending up in prisons and hospitals."

Ekanger said the state needs to be careful as it develops a new system to serve mentally ill Montanans who can't afford the cost of care.

"We just don't want to get into any system that's not ready," she said. "We don't plan to repeat our mistakes."

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BUDGET CLEARS THE HOUSE — The main spending measure of the 1999 legislative session passed the House last weekend along with a bill increasing state aid to Montana's K-12 schools.

House Bill 2, which contains the state's $4.9 billion budget and includes a 12.5 percent increase over the current biennium's level of spending, was approved 60-40.

The Department of Corrections lost $1.9 million in funding during debate last Wednesday as House members amended HB2 and moved inmate funding to education programs for gifted and talented students. The money was ultimately amended back into the general fund.

The House also approved the session's major education funding bill 83-17. Senate Bill 100 would provide an additional $34.7 million to the state's elementary and high schools. The bill provides for annual
increases in per-pupil state aid - 1 percent each year at the high school level and 3.5 percent in elementary schools. The bill also contains a $1.5 million increase in special education funding.

Both SB100 and HB2 now go to the Senate for consideration.

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**CYANIDE REVISITED** — Montana voters came one step closer to revisiting the cyanide heap-leach mining issue last week as the House Natural Resources Committee approved a bill that would send Initiative 137 back to the ballot in 2000.

Initiative 137, passed by voters last November, banned all new or expanded open-pit gold or silver mines using the cyanide heap-leach process.

Dillon Republican Sen. Chuck Swysgood is sponsoring Senate Bill 344, a measure that aims to send the mining issue back to the voters. The bill does not repeal the voters' decision, but it gives voters another chance to examine the issue.

The mining industry was not able to educate Montana about its opposition to the cyanide ban, said Swysgood, because state law prevented corporations from spending money in ballot-issue campaigns for most of the election cycle. That law was struck down just 11 days before the election.

Supporters of Swysgood's bill argue that both sides need to be given equal opportunity to educate the electorate, but opponents say the will of the voters should not be thrown aside.
The committee approved Swysgood's bill, but tabled Senate Bill 345, a measure that would have allowed individual counties to vote on the issue.

Both measures passed the Senate last month, but only SB344 will move on to the House.

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NEW TAX FOR MONTANA? — Having heard the last of three sales tax proposals last week, the Senate Taxation Committee must now decide which idea to send on to an electorate that has historically been unwilling to accept a sales tax.

Committee Chairman Sen. Gerry Devlin said his panel will examine all three proposals before deciding which bill - or combination of bills - to endorse. March 26 is the deadline by which his committee must send a proposal to the Senate floor for debate.

Here is how the three sales tax proposals stack up:

Senate Bill 143, introduced by Republican Sen. Mike Sprague of Billings, proposes a 4 percent general retail sales tax while eliminating statewide property taxes on schools and taxes on business equipment, livestock and motor vehicles.

Then there's Gov. Marc Racicot's value-added, or consumption, tax bill, sponsored by Sen. Mack Cole, R-Hysham and Sen. Alvin Ellis, R-Red Lodge. The bill would establish a 4 percent value-added tax, a type of sales tax that is added before the time of sale.
The bill, Senate Bill 518, would, among other things, eliminate the livestock tax, cut the motor vehicle tax in half, reduce income taxes and eliminate the inheritance tax.

The final sales tax package comes from Devlin, a Terry Republican who wants to create a 4 percent general retail sales tax. Senate Bills 525 through 528 would also eliminate business equipment and livestock taxes, replace the 2 percent vehicle tax with a $50 flat fee, eliminate statewide property taxes for schools and provide constitutional amendments that would prevent property taxes from returning.

All three proposals would be subject to voter approval.

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LOWER TAXES ON VEHICLES — Gov. Racicot is expected to sign legislation this week that would lower one of the state's most unpopular taxes - Montana's motor vehicle tax - by one-third.

Senate Bill 260 would be the first major tax cut of the 1999 Legislature. Under Senate Bill 260, property taxes on light trucks and cars would be lowered from 2 percent to 1.4 percent, saving Montana's taxpayers about $25 million in the next biennium.

Beginning in 2001, an indexing feature would kick in, making it possible for the amount of money collected each year by motor vehicle taxes to remain stable. The tax rate would decrease as the total value of the state's cars and trucks increases.
Opponents argue that SB260 would result in decreased revenue for school districts, and that local property owners would ultimately end up paying more to make up the difference.

The sales tax packages sitting in front of the Legislature also include decreased motor vehicle taxes, and House Bill 540 aims to replace the current system with a motor vehicle flat tax.
LEGISLATURE KILLS THE SALES TAX - AGAIN

HELENA — Unless key lawmakers have a sudden change of heart, the sales tax is dead. Again.

Unable to reach consensus and unwilling to spend more time on an issue Montana voters have historically opposed, the Senate Taxation Committee voted 6-3 Friday to table sales-tax legislation.

Committee members have wrestled with the issue since January when they heard the first of three proposals, Senate Bill 143, sponsored by Republican Sen. Mike Sprague of Billings, which would have established a 4 percent statewide, general retail sales and use tax.

Since then, they've also considered a package of bills by Sen. Gerry Devlin, who hoped to replace the state property taxes for livestock, motor vehicles, business equipment and schools with a 4 percent statewide sales tax. The other major proposal was Gov. Marc Racicot's plan for a 4 percent value-added, or consumption, tax.

Although the subcommittee eventually brought Devlin's package to the table, Sen. Bill Glaser, R-Huntley and a member of the committee, concluded that the idea had little chance of surviving the House and Senate.

Faced with a lack of support from Democrats and considering the issue's history with voters, Republican lawmakers in the Senate threw in the towel.
"My personal recommendation is that we cut our losses and get on to something we can get accomplished," Glaser said. "As long as we keep dinking around on these bills, we're wasting time."

Whitefish Republican Sen. Bob DePratu agreed. The governor has already signed into law motor-vehicle tax relief, he said, and the Legislature should now concentrate on business equipment, livestock and property taxes.

Debating the sales tax wasted time and energy and it's time to move on, said Rep. Hal Harper, D-Helena. The message from the voters who defeated sales-tax proposals in 1971 and 1993 was crystal clear, he said, and legislators were crazy to consider placing it on the ballot when they knew the public would never support it.

Voters might support a sales tax if they were educated as to what it could do to help them, said Devlin, R-Terry and chairman of the Senate's tax committee. Taxpayers would have to be shown that a sales tax would save them money on their tax returns, he added.

A sales tax -- one that takes a slice of the millions of tourist dollars flowing into Montana each year -- would significantly lower property taxes by eliminating the 95 mills levied statewide for K-12 education and the 6-mill levy used to fund Montana's University System, Devlin said.

But not all legislators were convinced the benefits would be enough to win voters' support.
House Taxation Committee Chairman Rep. Chase Hibbard, R-Helena, summed up the thoughts of many legislators when he was asked would it take to get a sales tax passed.

"A miracle," Hibbard said.

That miracle is unlikely unless Montanans are convinced a sales tax is more than an additional tax, he said. Although Montanans say they would consider a sales tax if it replaced another tax, the total elimination of either the income or property tax is not feasible, Hibbard said.

The Montana Constitution states that no sales tax can be higher than 4 percent, he said. To completely replace another tax - instead of simply reducing it - the sales tax would have to be close to 9 percent, he said.

Montanans are proud that they have no sales tax, Hibbard added, and given their rugged frontier individualism, they are unlikely to change their minds.

Democrats echoed the sentiment.

"You ain't gonna sell the voters a three-legged stool," said Sen. Barry "Spook" Stang, D-St. Regis. "People that will vote for it want the elimination of another tax."

Montanans would expect a sales tax to be revenue neutral, with money raised going to offset high property or income taxes, said Sen. Alvin Ellis, R-Red Lodge.
DePratu said that if a sales tax is ever going to pass in Montana, it will have to come from the people and voters will have to be convinced that it would help them financially.

Dennis Burr of the Montana Taxpayers Association concurred. "People will have to truly believe it's in their best interest," he said. "Montanans will have to be assured that reform of the tax system will make a difference in Montana's economy."

On that note, Democrats on the tax panel argued that the Republican proposals presented this session would not have provided sufficient tax relief for those who would pay the lion's share of a sales tax: homeowners.

"I don't think this provides the property-tax relief that homeowners are clamoring for," Stang said. "I doubt very seriously if the people of this state would vote for a proposal without increased property-tax relief, but I don't know that there's any statewide sales tax we could put out there that would be acceptable to the majority."

The committee, however, did approve Stang's Senate Bill 370, legislation aimed at allowing cities and town to impose voter-approved local sales taxes.

Communities would decide what is taxed, Stang said, and 100 percent of the money would be used locally.

"The Legislature seems unable to come up with tax reform to address the concerns of local government," he said. "So let the individual areas decide."
The full Senate will consider Stang's bill this week. A similar measure failed to pass the House last week.

Meanwhile, key lawmakers predict the sales tax is a dead issue for this session.

"Someday it'll come to this state, but I'm not going to waste time on this in committee or on the floor," Devlin said. "So with that, she's in the bone pile."

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INITIATIVE CHANGES — Efforts that would have made it harder for Montanans to put initiatives on the ballot or change their constitution were snuffed by lawmakers last week, although a bill subjecting ballot measures to more pre-election scrutiny remains alive.

Last week the House State Administration Committee tabled five bills aimed at revising the method by which citizens can make law. The committee rejected Senate Bills 493, 494, 495, 496 and 498. The tabled bills would have increased the number and distribution of signatures to qualify an initiative for the ballot. One of the bills, SB497, would have required a two-thirds majority to pass constitutional amendments.

The bills came in response to voter approval of two controversial ballot measures in November: CI-75 and I-137. CI-75, which would have required a public vote on any tax or fee increase, was rejected unanimously by the Montana Supreme Court. I-137, which banned the use of cyanide leaching in new or expanded gold mines, has sparked
legislation this session asking voters to reconsider the idea in November 2000.

Sen. Lorents Grosfield, R-Big Timber and sponsor of all six bills, said his aim was to tighten up the initiative process and make it possible for more people throughout the state to be involved in the passage of initiatives.

Opponents, however, argued vehemently that the bills would erode a citizen's right to participate directly in government.

The committee did keep one of Grosfield's bills alive for debate this week. Among other things, Senate Bill 497 would require that initiative organizers get more signatures from rural areas.

Another remaining bill dealing with the initiative process, House Bill 636, sponsored by Rep. Chase Hibbard, R-Helena, would give initiative organizers more time to collect signatures, develop the voter information pamphlet and hold public hearings.

It would also provide for a legal review of a ballot measure's language and require state officials to tell voters about any financial effects the measure might have.

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RACICOT SIGNS CUT IN VEHICLE TAXES — Gov. Marc Racicot signed legislation last Thursday that should save motoring Montanans more than $25 million in the next two years.
Senate Bill 260 lowers the rate of Montana's unpopular motor vehicle tax by one-third, from the current 2 percent to 1.4 percent on light trucks and cars.

Starting in 2001, an indexing feature will take effect, making it possible for the amount of money collected each year to remain stable. The motor vehicle tax rate will decrease as the total value of the state's cars and trucks increases.

Senate Bill 260 is the first major piece of tax legislation passed by the 1999 Legislature and signed by the governor.

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**A RAISE FOR SCHOOLS?** — Senate Bill 100, the session's major education spending measure, was approved 49-1 by the Senate last week. The bill proposes to add an additional $34.5 million over the biennium to the state's elementary and high schools. The bill also contains a $1.5 million increase in special education funding.

Senate Majority Leader John Harp, R-Kalispell, said he was pleased that the Legislature acted so quickly to ensure funding of the state's public schools. It is the earliest that any Legislature has ever acted on school funding, he said.

Because it boosts the state's share of school costs, backers say the measure also could reduce the portion that comes from local property taxes by almost $20 million statewide during the next two years.

However, some larger school districts say the money will merely make up for a lack of investment in schools by preceding legislatures.
The only senator voting against the measure was Sen. Jack Wells, R-Bozeman. The bill travels to the governor's office this week.

Meanwhile, House Bill 2, the session's major piece of funding legislation, passed the House and landed in a Senate committee last week. The bill contains the state's $4.9 billion budget, including funding for K-12 education, corrections, natural resources, highways, human services and higher education. The proposed budget represents a 12.5 percent increase over the current biennium's level of spending.

The Department of Corrections lost $1.9 million in inmate services funding.

The Senate Finance and Claims Committee heard testimony last week from the various departments, and the full Senate is expected to debate the bill this Wednesday.

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A STATUE FOR MANSFIELD — A resolution honoring former U.S. Sen. Mike Mansfield received unanimous support from the state Senate last week. Senate Joint Resolution 10 is now headed to the House.

The resolution calls for placing a statue of Mansfield in the Capitol in recognition of the Montana Democrat's service to the state and nation.

A former University of Montana professor, Mansfield served as majority leader of the U.S. Senate for 16 years, longer than anyone in history. Following his Senate career, he spent 12 years as ambassador to Japan.
Supporters said the timing, as Montana enters the 21st century, is perfect to honor a man who helped steer the state through the 20th century.

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CHANGING THE MAPS — The word "squaw" could soon be stricken from the names of at least 74 places in Montana.

House Bill 412, sponsored by Rep. Carol Juneau, D-Browning, has passed the Senate and House by large margins and should land on Gov. Racicot's desk this week.

The bill would require that state officials remove the word from the names of all state-controlled land holdings when maps are updated or when road signs or markers are replaced due to vandalism or wear. The bill would establish an advisory group responsible for choosing new names for the sites.

Squaw is an offensive word to some Native Americans who say it was a derogatory term used to describe female genitalia. The bill's proponents said removing the word from place names shows respect for Native American women and would strengthen the relationship between the different cultures in Montana.

Opponents argued that once the state begins to change offensive place names, the list would grow quickly to include names such as Drunken Irish Lane, Savage Mountain and Chinaman's Gulch.

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DEATH-PENALTY BILLS DWINDLE — Legislation aimed at abolishing Montana’s death penalty was tabled earlier this session, but the issue and the controversy surrounding it remains alive at the 1999 Legislature.

Of the six bills lawmakers introduced on the topic, three bills are still active.

House Bill 53, which would allow a coroner to pronounce the death of a defendant, passed both the House and Senate. The bill would also require that all witnesses to an execution be subject to the approval of the Department of Corrections.

House Bill 374, a measure that would abolish the death penalty for those offenders under the age of 16, also passed the House and awaits a decision by the Senate.

Senate Bill 503 would allow the judge in a jury trial to impose the death penalty only with the unanimous recommendation of the jury. The bill passed the Senate but has yet to be heard by the House.

Earlier this session, the House and Senate Judiciary committees tabled three bills dealing with execution in Montana.

House Bill 278 would have abolished the death penalty entirely, House Bill 279 would have eliminated the death penalty as a possible sentence for those convicted twice of sexual intercourse without consent, and

Senate Bill 363 would have placed a 5-year moratorium on the death penalty.
ABORTION BAN ADVANCES — A measure calling for a ban of one specific type of late-term abortion passed the Senate Judiciary Committee last week.

House Bill 530 would make it illegal for doctors to perform what bill sponsor Rep. Dan McGee, R-Laurel, calls partial-birth abortions, a procedure in which he said late-term viable fetuses are partially delivered and then killed.

Eighty percent of all partial birth abortions are performed on healthy fetuses, McGee said, and while he added that he would ultimately like to see all abortions outlawed, HB530 simply restricts the one procedure.

McGee's supporters said late-term abortions are particularly gruesome.

"I don't know who we're kidding here," said committee member Sen. Duane Grimes, R-Clancy. "This is nothing more than infanticide - a grisly, inhumane procedure."

Opponents of the measure said HB530 represents an erosion of the rights of Montana's women to choose the best procedure for them. "Politicians have no place in this debate," said Dr. Mark Miles of Great Falls. "Leave it to women, their families and their physicians."

The committee voted along party lines with all six Republicans supporting the measure and three Democrats in opposition.

The bill passed the House 70-28 last month and will be heard by the full Senate this week.
HELENA — The Montana Legislature has once again approved a ban on so-called "partial-birth abortions." The question is whether the courts will once again overturn it.

Following a solid victory in the House weeks earlier, legislation banning this specific type of abortion passed the Senate 41-9 last week and now awaits the governor's signature.

But the Legislature has traveled down this road before.

In 1997, legislation banning the procedure passed both houses and was signed by the governor, only to be overturned by a federal judge who ruled that the bill's language was unconstitutionally vague, resulting in the unintended ban on other abortion procedures.

In its ruling, the court wrote, "If the legislatures in various states want to ban the gruesome process with which they are concerned, they need to be more specific in their legislation."

Rep. Dan McGee, R-Laurel, says this session's version of the ban, House Bill 530, was custom tailored to meet the court's requirements.

McGee, who sponsored the bill overturned by the court two years ago and now the sponsor of HB530, says his bill specifically lists the steps involved in a partial-birth abortion, commonly referred to in the medical community as dilation and extraction, or D&X.

The procedure is akin to something left over from the days of Hitler, McGee said. He contends that healthy, viable fetuses are partially
delivered and then killed within inches of life.

"I believe that any procedure that takes a baby four-fifths out of
the mother's body and sucks its brains out should be outlawed," McGee
told the Senate Judiciary Committee.

If the bill is enacted, doctors found to be performing the procedure
will be guilty of a felony and subject to a fine, a minimum five-year
prison sentence and the permanent revocation of their medical licenses.

The bill also states that the "protection afforded to a person by
Montana's constitutional right of privacy is not absolute, but may be
infringed upon by a compelling state interest."

The state has a compelling interest in the protection of all viable
human life, McGee said, adding that he is "cautiously optimistic" that the
court will recognize Montana's compelling interest in the issue.

"I absolutely believe it will be challenged," McGee said of HB530.
"But I'm of the opinion that it will pass this time on the issue of
vagueness."

Opponents, including Democratic Sen. Jon Ellingson, a Missoula
attorney, said that McGee's bill may be less vague but still faces legal
problems.

Ellingson said the new bill may be so specific in its description of
the D&X abortion process that it may be difficult to prosecute doctors
whose performance of the procedure differs even slightly from the
description in the bill.
Another problem with the bill, Ellingson said, is that McGee dropped language that would have allowed a doctor to use the procedure in cases where the mother's health was at stake. Language was retained to protect the life of the mother, but McGee said he feared the health exception would have been too broadly interpreted.

Other legislators say HB530 would ultimately restrict abortions other than those performed on late-term fetuses.

"It is clear from the hearings that they intend to prohibit this procedure at all stages of pregnancy," said Sen. Sue Bartlett, D-Helena.

That's exactly right, McGee said.

"I am trying to limit a procedure, and I don't give a damn where the baby is in gestation," McGee said. "Why would we sanction this procedure being done to any baby?"

Montana law already prohibits abortions in the last trimester of pregnancy, Ellingson said, except when they are necessary to preserve the mother's health or life.

If HB530's intent is to regulate all abortions before a fetus is considered "viable," the court is unlikely to deviate from previous federal court rulings that have upheld a woman's right to choose.

"Until Roe V. Wade is overturned, this Court and the Legislature must recognize that the rights of nonviable fetal life cannot be constitutionally superior to a woman's rights to her health or her life," wrote the Montana First Judicial District Court in 1997.
Meanwhile, the ethical and sometimes religious legislative debate surrounding abortion has called into question the role of legislatures in determining medical procedures, Bartlett said.

"I am amazed at the extent to which this bill is like a stormtrooper marching in to the most private, difficult decisions of peoples' lives," she said. "To inject the Legislature into those decisions is unbelievable arrogance."

Christine Kaufmann of the National Abortion Rights Action League said that although she believes the Legislature has the right to determine overall abortion policies for the state, it is inappropriate for lawmakers to ban one specific medical procedure because they don't like it.

"Abortions after the point of viability aren't legal in Montana so there's no point in debating it," she said.

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THE BUSINESS TAX — The centerpiece of the 1999 Legislature's effort to cut business taxes faces a potential veto from Gov. Marc Racicot who warned lawmakers last week that the bill could take too big a bite out of the state's wallet.

Senate Bill 200, which would eliminate Montana business equipment and livestock taxes, received an amendatory veto last week from Gov. Racicot.

SB200 would reduce Montana's 6 percent tax rate on business equipment to 5 percent in 2001, 4 percent in 2002 and 3 percent in
2003. If Montana's wages and income increased by at least 2.85 percent over the previous year, the remaining 3 percent tax would be lifted.

The elimination of the livestock tax would take place in 2003. Worried that the state won't be able to balance its budget, Racicot asked lawmakers to come up $40 million in reserves or roll back other prospective tax cuts to keep the state from going into the red in the future.

Lawmakers made minor changes in the bill but sent it back to the governor without the extra money.

Heading into last week's Easter break, the Legislature's Republican leaders weren't backing down and neither was Racicot.

Proponents of cutting the business equipment tax argued that its elimination would stimulate the economy and create jobs, while opponents predicted it will do little to raise the income of most Montanans.

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NO CYANIDE VOTE — The House last week killed legislation that would have asked voters to reconsider their November decision to ban the use of the cyanide leaching process in new or expanding gold and silver mines.

The House voted 41-59 to kill Senate Bill 344, which would have sent the ban, also known as 1-137, back to voters in 2000. Montana's mining industry and its supporters contend they did not have adequate time to educate voters on the issue because state law banned
business and trade associations from spending on behalf of ballot-issue campaigns. The law was overturned just 11 days before the election.

Opponents of SB 344 argued that voters knew exactly what they were voting for in November and that their wishes should be respected.

Although there won't be another statewide vote on I-137, the House did approve Senate Bill 345, which would exempt from the ban those mines currently operating, such as the Golden Sunlight Mine in Whitehall.

An earlier version of that bill would have allowed individual counties to vote on whether to use the cyanide process, but that language was stricken. The amended bill will land back in the Senate this week.

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**GUNS AND THE LEGISLATURE** — A host of bills pertaining to Montanans and their firearms is rapidly making its way through the Legislature.

Senate Bill 186, sponsored by Sen. Jack Wells, R-Bozeman, expands the areas in which concealed weapons may be carried to include establishments serving alcohol. The bill would also allow law enforcement officers to administer breath tests to those persons suspected of carrying concealed weapons while under the influence of alcohol.

SB186 was returned to the Senate last week after the House voted 91-9 in favor of an amended version.
Meanwhile, a bill establishing concealed weapon reciprocity with other states is expected to pass both Houses. Under House Bill 459, sponsored by Rep. Bob Clark, R-Ryegate, nonresidents with out-of-state concealed weapon permits would be automatically allowed to carry concealed firearms in Montana.

In other gun-related legislation, House Bill 389 by Rep. Bob Davies, R-Bozeman, would help the Department of Fish, Wildlife and Parks establish and improve state shooting ranges. A Senate committee will consider that bill this week.

Meanwhile, the House is scheduled to consider Senate amendments to House Joint Resolution 5, which urges the U.S. Congress to repeal the 1994 Brady Law in Montana.

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LIMITING LEVY ELECTIONS — The state Senate amended and approved two measures last week that would limit local school boards to holding one mill levy election per year.

Supporters say the bills were prompted by voters frustrated by some school boards' repeated attempts to get their mill levies approved after being initially rejected at the polls.

School officials argued against the bills, saying funding is unpredictable and important enough to justify more than one election each year.
Under House Bill 71 and Senate Bill 460, school districts would be required to get voter approval for only that portion of their budgets that comes from local taxes.

House Bill 496, a similar measure that would also limit the number of school levy elections each year, has passed the House and awaits Senate action.

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SLASHING TAXES — Before heading home for last week's Easter break, Montana's lawmakers approved three measures that may soon lower Montanans' taxes.

Senate Bill 184, which would reduce residential property taxes for 74 percent of all residences in Montana, was approved 47-3 by the Senate and is set to be heard by the House Taxation Committee this Thursday.

The bill would provide relief to the owners of those homes whose 1997 reappraisal values increased by less than 55 percent. The measure received wide bipartisan support, as did House Bill 540, a motor-vehicle tax bill that would base the tax on a vehicle's age rather than on its value. HB540 would establish a flat tax of $6 on vehicles 10 years or older, $65 on vehicles 5-10 years old and a $195 annual flat tax on vehicles less than four years old.

The House approved HB540 98-1, and a Senate committee will hear the bill this week.
Earlier this session, the governor signed a measure that lowers motor-vehicle taxes by about one-third.

On another tax front, cities and counties could establish their own local-option sales taxes if Senate Bill 370 survives its trip through the House. The bill, which passed the Senate 28-22 and is set to be heard by a House committee Thursday, would allow voters to determine what and how much to tax.
A SESSION OF MISSED OPPORTUNITIES

HELENA — As lawmakers make their final push to the finish line, there is a growing sense among both current and former Montana leaders that the 1999 Legislature may be remembered not so much for its accomplishments, but for missed opportunities.

When all is said and done, Montana's legislators will scatter to all corners of the state, leaving a legacy of achievements and disappointments. Following the Legislature's traditional Easter break, some of Montana's most experienced political minds evaluated the 1999 legislative session, identifying what they believe to be this session's legacy.

"Education is the dominant theme this year," said Gov. Marc Racicot. "They embraced education with seriousness and enthusiasm - for both K-12 and higher education - and it's something this Legislature will be proud of ten years hence."

Racicot said that tax relief and tax reform are also dominant issues this year, but while there has been some relief provided to Montanans in the form of motor-vehicle and property taxes, he is disappointed that the Legislature tabled bills aimed at addressing broad, comprehensive tax reform such as the sales tax proposals.

"I honestly believe that we will look back and regret the day we didn't address the issue of comprehensive tax reform as early as possible," Racicot said. "The longer that issue goes unaddressed, the
longer we have to wait to become truly competitive."

Republican Tim Babcock, who was Montana's governor from 1962 until 1969, said the battle over taxes has been fought since before he took office.

"A general sales tax is the only way to go," Babcock said. "It's amazing to me that the Legislature doesn't understand that."

Montanans work hard at attracting tourism to the state, he said, but they don't take advantage of the money that could be raised with a sales tax.

"I'm disappointed that they didn't take the opportunity to act on the sales tax," Babcock said. "There's no question that a sales tax is the answer."

But former Democratic governor Ted Schwinden, who served from 1981 until 1989, said he is not convinced that a sales tax is the way for Montana to go. The mistake made by recent Legislatures, he said, is that they have overburdened and crippled the state's property tax system.

"I think there's political strategy behind this, and the GOP strategy seems to be to strap state and local governments until the demand for a sales tax is so overwhelming that it will overcome public opposition," Schwinden said. "There has been a trend over the last 10 years, an assault on the property tax, and that bothers me."

Both Schwinden and former Sen. Bob Brown, R-Whitefish and Senate President in 1995, point to the state's surplus funds as one of the defining characteristics in 1999.
"The last few years have been kind to state revenue coffers," Schwinden said. "But real management comes when you have difficult financial times, and those times will return."

Brown said the Legislature can afford significant tax relief this year.

"It's been a long time since the state's been in as good a fiscal condition, and the Republicans would like to have this session remembered as one in which they gave money back to the people of Montana," he said.

But Gov. Racicot may be concerned that the Legislature is giving too much back, Schwinden said, pointing Racicot's reluctance to sign legislation cutting the state's business-equipment tax because he feared it could create a future deficit.

Taxation and education are not the only defining issues this year, however. All three governors agree that the 1999 Legislature will be remembered for its largely unsuccessful efforts to revamp the initiative process.

"Montanans place high value on their ability to make government decisions," Schwinden said, adding that any change in the initiative process would have been a thumbing of the nose to Montanans. Babcock, on the other hand, regrets that the issue was not settled in 1999.

"The process on the books now is a sham," Babcock argued. "The initiative process should have been addressed this time because anyone
with an idea can get it on the ballot now. It should be more meaningful to get an issue placed on the ballot."

Whether the tempest over initiatives will reverberate beyond this session is doubtful, says Professor James Lopach, a political scientist at the University of Montana.

Although political activists were bothered by and will remember this Legislature's attempt to tinker with the initiative process, Lopach said the average Montanan is more likely to remember the session's more concrete achievements. So far, he said, those would include the establishment of a statewide speed limit, the cut in motor-vehicle taxes and the death of the sales tax.

But despite those efforts, Lopach said lawmakers have missed opportunities to fix some chronic problems, including a state revenue system that is overly dependent on the income tax and remains much too vulnerable to economic downturns.

"The revenue system has real problems in terms of balance and equity," Lopach said. "The public financial system in the state isn't very solid; it's based more on the perception of public opinion rather than on fiscal principles."

Legislative leadership just has not been there to tackle the issue, he said.

Another issue neglected by the 1999 Legislature is the reform of Montana's judicial system, which puts too much pressure on the state
Supreme Court, forcing justices to spend critical time handling routine matters, he said.

"The Montana Supreme Court is terribly overburdened," Lopach said.

Montana desperately needs an intermediate court of appeals, he said, but the Legislature tabled a measure aimed at creating such a court.

So far, Lopach said, the 1999 Legislature isn't likely to win any medals from voters for its performance this session.

"The Republicans missed their opportunity to cut government and return money to the people," he said.

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SUPER-MAJORITY RULE — In a 10-8 vote, legislation aimed at establishing a "super-majority" requirement for increasing taxes and fees made it through a key Senate committee last week.

Rep. Ernest Bergsagel's House Bill 653 would require a two-thirds majority before any tax or fee increase could be levied by any government body.

The Malta Republican said the bill attempts to answer concerns raised by voters last fall when they approved Constitutional Initiative 75, which would have made it tougher for government to raise taxes.

The Montana Supreme Court threw the initiative out in February because the ballot measure violated a constitutional ban on multiple amendments.
Proponents say HB653 will send a message to voters that the Legislature is concerned about government spending.

Opponents however, argue that a two-thirds vote makes true democratic government by the majority impossible because it gives more power to the minority faction to kill legislation.

If approved, the measure would be submitted to Montana voters in November 2000.

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COMPETING WITH GOVERNMENT — Government agencies should not compete against private Montana businesses, says one Montana legislator.

House Majority Leader Rep. Larry Grinde, R-Lewistown, presented his House Bill 515 to the Senate Business and Industry Committee last week, arguing that governmental encroachment on the private sector hurts average Montanans who are out there trying to make a living.

Government agencies can sell goods and services for lower prices because their overhead is so low, Grinde said, and small Montana businesses simply can't compete.

Grinde's measure is separated into two parts. The first calls for an interim study of the effects of competition, and the second prohibits retail sales by government entities.

Both proponents and opponents agree that a study of the issue is a good idea, but opponents argue that the measure would have an unlimited number of negative consequences on government departments
that provide inexpensive goods and services to both the public and other agencies.

Kathleen Martin of the Department of Public Health and Human Services said her agency would no longer be able to sell vaccines, medicines and surplus food.

Tim Reardon of the Department of Transportation worried that, under the bill, the DOT would no longer be able to provide inexpensive de-icer, gravel and surplus property to small counties and communities throughout Montana.

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**BARKING DOGS BEWARE** — Gov. Marc Racicot signed into law last week a bill that has been jokingly referred to as the "barking dog bill." House Bill 325, which aims to control noise in both rural and city residential neighborhoods, received strong support - and a generous dose of humor - in both houses before landing on the governor's desk. Legislators in both houses let out their own facetious howls and barks when HB325 was introduced and debated.

The measure is meant to control "persistent, homicidal barking," said sponsor Rep. Matt Brainard, R-Florence. As once-rural areas have become more populated, Brainard said, problems relating to dogs have increased, making it necessary to regulate barking dogs.

Under the law, individual counties would be able to adopt ordinances and set fines.
The bill would not pertain to any dog that is owned or kept as part of a business, licensed veterinary clinic, animal boarding facility or agricultural and livestock operation.
REIMBURSEMENT ISSUE AT CENTER OF TAX DEBATE

HELENA — Choteau Mayor Roger Kelly is acutely aware of the struggles required to balance the budget of a small Montana town.

In fact, Kelly has been managing tight budgets for the last six years, but the actions of this Legislature have left him and scores of other local government leaders across the state wondering how they will survive the next two years.

As the 1999 Legislature concludes its business this week, one of the most significant issues is whether state lawmakers will adequately reimburse local governments for revenue lost because of this session's tax cuts.

Tax relief totaling more than $142 million has been handed out by the 1999 Legislature. That means cities and counties will have fewer state dollars with which to operate their governments, and for many jurisdictions those losses could be significant.

The biggest cuts have come in the areas of motor-vehicle, business, livestock and property taxes, which together provide local governments with the majority of their revenue. To ease those losses, legislators propose reimbursing local governments approximately $85 million.

Choteau's city budget is far from extravagant, Kelly said, and actions taken in Helena this week will significantly affect the services in his community.
"The people in state government could take a lesson in thriftiness from us," Kelly said, pointing out that Choteau's workers make due with old equipment and low salaries. "We've done so well with so little."

Local governments, whose maximum mill levies have been frozen since 1986, may have few options available if the reimbursement isn't there.

"I don't know what our options are because this is not a fat budget," Kelly said. "While the state seems to be doing quite well, small governments are hurting, and we don't have anything extra right now."

Extra money is something that state government does have this year, said Evan Barrett of the Butte Local Development Corp.

"There's enough money so they won't stiff local governments," he said. "But the question remains: will it be 100 percent reimbursement?"

For the first time in more than a decade, Barrett said, the Legislature is not scraping for every penny, and has given those pennies back to Montanans in the form of tax relief.

But if the state doesn't adequately reimburse local government for lost revenue, Choteau's mayor will face a difficult choice: raise taxes or cut essential services.

And Choteau is not alone.

Sidney Mayor Harold Mercer said he is growing increasingly concerned about the promised tax relief and uncertain reimbursement.

"It makes me bitter to think that they'll pass the buck back to local governments," Mercer said. "Small communities are being hurt by this."
One problem, Mercer said, is that Helena politicians don't recognize that eastern Montana, unlike the booming growth centers in the western part of the state, is not growing. There are no increased property taxes because of new construction and development, he said.

Gordon Morris, executive director of the Montana Association of Counties, said most towns are "looking down the barrel of a gun and there's no growth to keep pace with inflation."

Montanans need to realize that a reduction in the business equipment tax comes at a price, Morris said, and that price may well be a direct shift in taxes from businesses to individuals.

Alec Hanson, executive director of the Montana League of Cities and Towns, is also concerned that the shift in taxes will hurt Montanans. "Don't transfer all the pain down to local commissioners, because our revenue stream is as flat as the Dead Sea," Hanson said.

He said he is optimistic that the Legislature will provide adequate reimbursement, however.

"The Legislature has concluded that there's a lot of government in Montana outside of Helena, and their decisions have broad consequences," he said.

Legislators do understand the consequences, said Rep. Bob Story, sponsor of House Bill 678, the session's major reimbursement mechanism.
"Any local government would be concerned because the tax structure has changed so much this session," the Park City Republican said. "The local governments quake when we're up here."

The intent of HB678, he said, is to reimburse local governments for all lost revenue from the business equipment and livestock tax, the motor vehicle tax and the utility taxes. Property tax reimbursement is not included in HB678.

Story said that most Montana taxpayers will see overall savings in their tax bill during the next biennium, but as figures are juggled at the end of the session it is difficult to predict exactly how much.

Speaker John Mercer, R-Polson, contends that the Legislature is taking the problem seriously, and said a study was recently approved to take a look at the long-term problem of local government finance.

"Local governments had other problems before this session ever convened with regards to reimbursement because some of the past reimbursement mechanisms were being phased out," Mercer said. "But in my opinion we are reimbursing everything except for some of the things that occur as a result of reappraisal."

Not everyone is convinced, however.

Legislators have not enacted comprehensive tax reform this session, argued Morris, and the Legislature should look at what members have done to set back tax reform for a long time to come.
"They are just moving band-aids on the dam, but the system is irreparable," he said. "This taxation system is on life support and won't take us into the 21st Century."

Taxpayers need to be aware that it is state legislators, not their local leaders, who are driving local tax increases, Morris said.

"I think if Montanans knew what was going on here they'd be disturbed, to say the least," Morris said. "All this talk about tax reform - it's bogus."

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**BUSINESS TAX CUT A REALITY** — Senate Bill 200, the centerpiece of the 1999 Legislature's Jobs and Income program, was signed by Gov. Marc Racicot last week.

Montana businesses are set to receive up to $60 million in tax relief over the next two years. The measure, which eliminates the livestock tax by 2003, calls for a decrease in the tax rate on business equipment from 6 percent to 3 percent in 2000. Businesses with less than $5,000 in equipment are exempt from the tax.

Republicans argue that the tax cut will stimulate Montana's economy, attract jobs and businesses to the state and help pull Montana out of last place nationwide in average personal income.

Democrats, however, fear that SB200 is nothing more than corporate welfare in a state where homeowner tax relief should be the priority.
The Legislature also approved two pieces of legislation aimed at offering specific business tax exemptions. Senate Bill 532 eliminates the personal property and livestock tax for a proposed industrial dairy in eastern Montana, while House Bill 274 exempts personal property used to build and launch space vehicles. Montana hopes to attract the VentureStar space project to one of three proposed sites.

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**SPECIAL SESSION MAY BE CALLED IN JUNE** — A long-standing dispute between the state and the Crow Tribe may finally be resolved, but it might take a special session to do it.

Gov. Marc Racicot tentatively approved last week a one-day special session for June 16.

The House and Senate would take action not only on a decades-old lawsuit involving coal severance taxes, but also on the recently negotiated water rights compact between the state, federal and tribal governments.

Before the two bills reach lawmakers, Racicot said he wanted to provide adequate time for public hearings and debate.

There is not enough time left in the current session to properly deal with the issues, he said, and no one wants to delay action until the next Legislature convenes in 2001.

The tribe recently arrived at an agreement with the state regarding water use on the reservation, and the Legislature needs to approve the water rights compact.
Between 1976 and 1983, the tribe received no compensation for coal severance taxes collected on coal mined on Crow land. A proposed bill would appropriate $15 million over the next decade to the Crow Tribe.

Racicot said that in late May he would reach a final decision regarding the special session, one that is expected to cost the state about $70,000.

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PUBLIC BREASTFEEDING PROTECTED — Mothers wishing to nurse their children in public are now protected under a new law signed last week by Gov. Marc Racicot.

Senate Bill 398 prohibits local governments from passing ordinances that ban nursing in public areas, and the act of breastfeeding may not be considered a nuisance, indecent exposure, sexual conduct or obscenity.

Senate Bill 398 states that "the Montana Legislature finds that breastfeeding a baby is an important and basic act of nurturing that must be protected in the interests of maternal and child health and family values."

Proponents of the measure point to the health benefits for both the baby and mother, the decreased food and medical expenses and the positive effects on child development as the major reasons for the new law.
1999 LEGISLATURE LEAVES MIXED LEGACY

HELENA — The 56th Montana Legislature entered the history books last week after returning more than $139 million to businesses and homeowners in tax relief and approving the largest budget in state history.

During the final hours of the session, legislators grappled not only with the $4.9 billion budget and tax relief, but bid farewell to many veteran lawmakers whose careers have been ended by term-limits legislation.

Members of the Republican majority labeled the 1999 Legislature an overall success.

"This was the most productive session possibly in the history of Montana," said Speaker John Mercer, R-Polson. "It was not a single-topic session. This whole session has been about making differences for people globally."

Mercer, one of several leaders serving his final term, pointed to tax relief as the major accomplishment of the 87-day session, arguing that cuts in property taxes on business equipment, motor vehicles, homes and utilities will improve Montana's economy and the lives of its people.

"We've done it all, but we'll always be subject to criticism by those who want to do more," Mercer said.

Tax relief stole the spotlight, but lawmakers also enacted a statewide speed limit, a children's health insurance program and a plan
to revamp the state's managed mental health care system. School funding increased by more than $34 million and the state's prison system received an additional $23 million.

Senate President Bruce Crippen, R-Billings, joined Mercer in praising the work of the legislators but expressed regret that lawmakers did not buttress the state's tax structure by enacting a sales tax.

"This session was a success even though we didn't do all we wanted," he said.

Lawmakers, he added, struggle every session with the same problem: Montana's economy is not strong enough to rely solely on income and property taxes. He said it was unfortunate that lawmakers rejected several sales tax proposals.

"We're trying to do too much for too many with too little," Crippen said. "We should all express some disappointment today because we had the opportunity to accomplish comprehensive tax relief and it slipped by. But at least this is a start."

Senate Majority Leader John Harp, R-Kalispell, said the major thrust behind every action of the 56th Legislature was to improve the income of all Montanans.

"It's all been about people," he said. "When all is said and done, there is no question that this has been landmark legislation that will change the direction that Montana is going. That's this session's legacy."

But Democrats begged to differ. The legacy of the 1999 Legislature, argued House Minority Leader Emily Swanson, is one of tax breaks to
big, wealthy, out-of-state corporations. Homeowners received disappointingly small tax breaks, the Bozeman Democrat said.

Rep. Hal Harper, D-Helena, said the Republican leaders left homeowner tax relief until the last minute, addressing the issue only after they gave businesses more than $60 million in tax breaks. He also argued that in their rush to hand out property-tax breaks, lawmakers may be forcing local governments - the chief beneficiaries of property taxes -- to raise local levies.

"The state moved away from comprehensive tax reform and may well have created a mess," Harper said. "The legacy of this session is full of fiscal black holes and increased local property taxes."

However, Democrats did point to increased funding of public education as one bright star in the legislative sky.

Senate Minority Leader Steve Doherty, D-Great Falls, said legislation giving Montana's public schools a $34.7 million increase over the next two years is one of the session's greatest. But he also expressed concern that lawmakers' failure to fully reimburse local governments for losses in tax revenues may have negate those benefits.

"We're shifting taxes from one pocket to another," Doherty said. "In the end, I'm not sure we did much at all except increase tax breaks to big business."

But helping Montana's businesses helps all Montanans, argued Dennis Burr of the Montana Taxpayer Association. Republican legislation lowering Montana's business equipment tax from 6 percent to
3 percent by the year 2000 and eliminating the livestock tax by 2003 will help Montana compete with neighboring states, he said.

"This Legislature did as much as it could in one session," Burr said. "They've done enough so that it'll make a difference."

This year's tax legislation has made it clear that Montana is willing to have businesses locate here, he said, and Montana is now in the game to compete.

But Swanson and other Democrats cautioned Montanans not to expect much economic improvement as a result of the Legislature's tax cuts for businesses. It's a myth that if one cuts taxes, businesses will come, Swanson said.

Sen. Eve Franklin, D- Great Falls, said the tax changes this session won't affect the average Montanan much at all. If anything, she added, the Legislature's actions may shift more of the tax burden to homeowners and individual Montanans.

"The most productive session in history?" asked Franklin. "That's a Republican delusion. I guess they need to believe that."
MAJOR BILLS OF THE 1999 MONTANA STATE LEGISLATURE

HELENA — The following is a list of the major pieces of legislation approved or killed by the 56th Montana Legislature.

STATE SPENDING

Passed:

* A $4.9 billion budget for the next two years, $17 million less than requested by Gov. Marc Racicot.
* A 3 percent raise for Montana's state employees.
* An $8 million health insurance program to cover children of Montana's poor.
* $152 million for the state's beleaguered managed mental health care system.
* A plan to reimburse local governments for property taxes returned to citizens and businesses in tax relief.

Killed:

* A plan to use the tobacco settlement money to establish a dinosaur museum at Fort Peck.
* Legislation aimed at abolishing the Montana Arts Council.
EDUCATION

Passed:
* A $34.7 million increase in state aid to schools.
* A 2.5 percent, or $1.5 million, increase in special education funding.
* $13.7 million for university construction and renovation projects.
* $3 million for the Montana Tuition Assistance Program.
* A 1.5 percent annual increase in teacher retirement benefits.
* Background checks for certain school employees.

Killed:
* A bill aimed at clarifying school discipline statutes.
* A plan to offer stipends to teachers receiving national certification.
* A plan to use coal trust money to fund K-12 education.
* New money for K-12 gifted and talented programs.

CORRECTIONS

Passed:
* A $185.6 million budget for Montana's prison system for the next two years, an increase of more than $23 million.
* A $5.3 million program - $1.3 million of which comes from the state - for the National Guard Youth Challenge Program, a boot camp for high school dropouts with no criminal records.
* A plan to require a coroner or deputy to pronounce death at an execution.
Killed:
* A plan to expand the state's probation and parole program.
* A $1.4 million request for 23 additional full-time employees at Montana State Prison.

CRIME
Passed:
* A bill creating the criminal offense of assault with a bodily fluid.
* Legislation outlawing sexual contact with an incarcerated person.

Killed:
* A plan to revise the laws governing possession of weapons on school property.
* Stiffer sentences for crimes involving discrimination.

GAMBLING
Passed:
* Legislation allowing the Department of Justice to establish an automated accounting and reporting system for video gambling.

Killed:
* A plan to establish statewide treatment programs for gambling addicts.
* Legislation aimed at funding certain educational programs with lottery money.
AGRICULTURE

Passed:
* A $1 million Agricultural Heritage Program designed to help preserve Montana's agricultural land.
* A plan to enable Montana agricultural groups to adopt commodity check-off programs.
* A resolution urging the legal cultivation of industrial hemp as an agricultural product.

Killed:
* A plan to preserve agricultural land and open space by revising the rules for cluster developments.

ENVIRONMENT/FISH AND GAME

Passed:
* A plan to prohibit hunters' use of motion-tracking devices.
* A plan to ensure continued access across public land to private and public land.
* A moratorium on the harvesting of medicinal plants on state land.
* Funding for the establishment and improvement of shooting ranges.
* Money for streamside corridor and riparian management.
* Legislation requiring that all hunters get landowner permission before hunting on private land.
Killed:

* Legislation aimed at repealing the cyanide mining prohibition (I-137) and sending the issue back to voters in 2000.

ELECTIONS

Passed:

* A plan to revise the voter information pamphlet by clarifying ballot-measure content.

* A revision of the initiative signature requirements.

Killed:

* A proposal requiring that candidates' statements about their own voting records be true.

* A number of bills that would have made it more difficult to qualify initiatives for the ballot.

BUSINESS

Passed:

* A permanent funding source for research and development projects.

* Legislation aimed at protecting Montana's senior citizens from unscrupulous and fraudulent telemarketers.

Killed:

* Right-to-work legislation.

* A plan to increase the minimum wage.

* A bill guaranteeing Montanans a "livable wage".
TAXES

Passed:

* A plan to cut the statewide business equipment tax to 3 percent in 2000 and to eliminate the livestock tax by 2003. The measure will cut taxes by more than $60 million over the next two years.
* A $40 million motor vehicle tax cut, representing a 30 percent reduction in the tax rate.
* $33.6 million in tax relief for homeowners.
* An exemption of personal property used to build and launch space vehicles.
* An exemption of personal property tax and livestock tax for a proposed industrial dairy in eastern Montana.

Killed:

* Legislation aimed at allowing cities and counties to enact voter-approved local sales taxes.
* Legislation aimed at imposing a statewide sales/consumption tax.
* A plan to increase the cigarette tax to fund children’s health insurance.
* Legislation that would have eliminated the state inheritance tax.

ABORTION, SEXUALITY and HUMAN RIGHTS

Passed:

* A ban on one type of late-term abortions, so-called "partial birth" abortions.
* Protection for the rights of mothers who wish to nurse their children in public.

**Killed:**

* A plan to abolish the death penalty.
* A plan to abolish the deviate sexual conduct law.
* Stiffer penalties for those who commit crimes motivated by hatred of a victim's sexual orientation.
* A plan to prohibit discrimination based on sexual orientation.

**MISCELLANEOUS**

**Passed:**

* A statewide speed limit to take effect on May 28.
* A bill that establishes a multispecies fish hatchery near Fort Peck Dam.
* The "barking dog bill" that allows the regulation of barking dogs in residential neighborhoods by county ordinance.
* A plan to remove the word "squaw" from the names of places on state lands.

**Killed:**

* A bill prohibiting state government from using phone-menu systems.
* A plan to limit Internet access to obscene material.
* A plan to revise license plate numbers to reflect current population.
* A plan to keep Montana on Mountain daylight time year-round.
SAM KITZENBERG: DREAMING OF DINOSAURS AND WALLEYE

HELENA — Sam Kitzenberg’s Tyrannosaurus-sized dreams to promote eastern Montana have made him the butt of more than a few jokes in Helena these days.

“Sometimes I feel like the loneliest guy in Helena,” Kitzenberg said. “I am discouraged at times, but one of the problems is that when you shoot for the moon, the drop has a psychological effect on you. What’s most frustrating to me is all the effort and then not being taken seriously.”

But Kitzenberg allows neither the jokes nor his sense of loneliness to stop him in his quest to bring economic development to his corner of Montana.

The Republican from Glasgow proudly wears his heart on his sleeve. Well, at least on his lapel. Not only do the decorations on his desk reflect his proposed legislation, but he is a walking billboard of sorts, complete with dinosaur tie, hatchery buttons and a gold fish pin.

Most Montanans have, no doubt, heard about Kitzenberg’s dream of a dinosaur museum growing out of the ashes of the tobacco settlement, but there is much more to the man than simply his dream to showcase prehistoric creatures at Fort Peck.

Little did Kitzenberg know that dinosaurs would be on his agenda when his life in politics began when he was a legislative page in 1963. But he has always dreamed on a large scale.
He participated in Boys' State and Boys' Nation in 1964, as well as serving as student body president and senior class president during his years at Plentywood High School.

"I've always had an interest in politics," Kitzenberg said. "You somehow feel you can make a difference."

Since 1995, Kitzenberg has tried to do just that.

Representing Daniels County, Glasgow and part of Valley County, Kitzenberg dreams of transforming northeastern Montana into a destination, a place where tourists and their dollars will land. He said that his motivation to help stems from the fact that the economic conditions in Glasgow and neighboring counties is so poor.

"When you see how economically deprived the area is, you start to take it personally," he said.

Kitzenberg said his dinosaur bill, House Bill 226, is the best economic development idea presented so far this session, and he invites those who think he is crazy to step up and place a better idea on the table.

"If we made a substantial investment in Montana, we would receive it back three-fold," he said. "Maybe I'm crazy, but I think there are others who are crazier."

Kitzenberg said the governor and Speaker John Mercer would be crazy to either put the money in a trust fund or hand it back to Montanans in the form of small tax rebates.
"If we invest it wisely, it would tremendously improve the economy of Montana," Kitzenberg argued.

The argument is a lonely one for the representative, however. House Bill 226 was tabled by the House Appropriations Committee almost two weeks ago, never reaching the floor of the House for debate. His House Bill 225, calling for the creation of a Living Stream exhibit at Fort Peck, met the same fate.

Kitzenberg admitted that there are times when he would like to pack it in and head back to his family and English students at Glasgow High School. But his desire to help the residents of his district keeps him in Helena, he said, where he has been disappointed to see that many legislators are "not trying to focus in on the real needs of this state."

He might get momentarily discouraged, but his fellow legislators would hardly know it.

Blessed with an incredible grin and infectious laugh, Kitzenberg always looks to be having a good time at the Capitol.

"He has a wonderful laugh and is fun to be around," said seatmate Loren Soft, R-Billings. "Sam's a very personable guy."

Kitzenberg is known for more than his personality, however. He is genuinely respected for his diligence and hard work.

"I believe Sam is one of the more diligent workers," said Soft. "He goes all out to bring about good legislation, and people know it."

Soft also stressed that Kitzenberg knows exactly why he is in Helena — to represent the interests of his district.
“He reaches for the big things,” said Soft. “Not many are willing to reach that far and risk it.”

Respect comes not only from his fellow representatives, but also from Montana’s highest office.

“Sam works very hard and takes his responsibility seriously,” Gov. Racicot said. “He has a deep affection for and loyalty to his community, and he seeks to represent the best interests of his constituents every day.”

While the governor said that the dinosaur museum would be a wonderful asset for Montana, he said there are competing issues that make finding the funding a difficult task. Racicot said Kitzenberg’s work is commendable because the results he seeks are obviously positive ones for his region of Montana.

Although Kitzenberg may not be able to bring the dinosaurs back to life in eastern Montana, there are two pieces of legislation that he hopes to keep alive.

He is the sponsor of House Bill 224, legislation aimed at creating a state park at the Rock Creek Campground.

“I think this one will happen because it’s a matter of justice,” Kitzenberg said, pointing out that of the seven Fish & Game regions in Montana, his is the only one with no state park.

Kitzenberg’s priority during the 1999 session is, however, House Bills 20 and 26, legislation geared toward the creation and support of a multi-species warm water fish hatchery at Fort Peck. He hooked a small
victory last week when the House Fish, Wildlife and Parks Committee amended and passed the bills, sending them to the floor of the House for debate.

Kitzenberg said support for the hatchery has been overwhelming. In fact, he said, other legislators were surprised at how many supporters had come to Helena to testify.

“This is the number one priority in my district,” he said. “I think if I can get it out of committee, I can get it passed through the House and Senate.”

He knows that much work lies ahead, however, as the hatchery bills have only just passed the first of many tests.

Regardless of whether the bills pass, one thing is certain. Sam Kitzenberg will remain in Helena working for the economic well-being of eastern Montanans.

“I think eastern Montana is under-represented,” he said. “The water flows east and the money flows west, and I’m always swimming uphill,” said Kitzenberg.

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KITZENBERG’S INTRODUCED BILLS:

House Bill 20: Create a multi-species warm water fish hatchery at Fort Peck

House Bill 22: Revise Montana’s speed limit

House Bill 23: Ethanol use in the state vehicle fleet

House Bill 26: Create a stamp to support the fish hatchery
House Bill 40: Require Fish & Game commissioner to be elected

House Bill 224: Create a state park at Rock Creek Campground

House Bill 225: Create a Living Stream exhibit at Fort Peck

House Bill 226: Use tobacco settlement to fund a dinosaur museum at Fort Peck

* HB225 and HB226 were tabled in committee and did not make it to the House floor
WALTER MCNUTT: STANDING UP FOR EASTERN MONTANA

HELENA — It’s 5 a.m., and Sen. Walter McNutt’s legislative day is just beginning. He arrives at the Capitol and starts to prepare for the day’s floor session and his morning and afternoon committee hearings.

But this Wyoming cowboy, who has lived in Montana for more than four decades, wasn’t always interested in politics. As an implement dealer in eastern Montana, the Sidney Republican said he became familiar with the economic struggles facing Montana’s farmers, and he said the message he kept getting was that something had to be done about the state’s tax base and economy. Encouraged by the support he received, McNutt ran for the state Senate, was elected and attended his first session in 1997.

"I thought I could start in some small way to change the image, the thought process and the things we do in Montana that in my opinion are not conducive to increasing business in the state," he said.

The overwhelming theme to this year’s legislative session, he said, is tax relief — homeowner, automobile and business. The centerpiece of the Jobs and Income package, Senate Bill 200, would provide business equipment tax relief and eliminate the livestock tax. McNutt said he enthusiastically supports SB200 because the problem in eastern Montana lies just across the border.

"If we’re going to attract business to this state, we can’t have the barrier that we’ve got," McNutt said. "We have to be on an even playing
field with North Dakota, just 15 miles east."

Building that playing field involves putting in place tax policies that will allow eastern Montana to attract businesses originally headed for the neighboring state. McNutt's fellow legislators tease him about a project that has been dubbed VentureCow — a take-off on VentureStar, the space vehicle project that many Montanans hope to attract to Montana by eliminating property taxes for the company.

A large industrial dairy project hopes to set up shop in eastern Montana, but before that can happen, McNutt says, the state must offer some incentive in terms of a tax break, reducing liability for the company by about $114,000 and placing Montana on that even playing field with North Dakota.

VentureCow's tax relief is only one of many goals the senator has for the 1999 legislative session.

Tax reform in general is imperative, he said, because the state has to entice people to move here, create jobs and stay.

There are three major sales tax proposals on the Legislature's agenda. McNutt said he would support a sales tax if there were proper exclusions.

"It's going to be a tough sell in this state," he said. Voters would be more willing to accept a sales tax, he said, if they were guaranteed tax cuts in other areas.

There's more than taxes on McNutt's agenda this year. He voted against the speed limit bill, which was signed by Gov. Racicot last
month. He originally supported the bill, he said, but when the House amended and lowered the truck speed, he withdrew his support.

As a member of the Senate Judiciary Committee, McNutt voted against including sexual orientation in the state's hate-crimes statute. Calling it a tough issue, he argued that he would rather see all citizens equally protected rather than protecting specific groups of people.

Another one of the more contentious issues, he said, is that of safeguarding and examining the initiative process. He said he supports legislation geared toward restructuring the way in which initiatives are qualified for the ballot and passed in Montana.

"The people in eastern Montana are totally neglected in the initiative process," McNutt said. "They're just not involved in the process."

Expanding the boundaries for collecting signatures and developing an education program to teach people about initiatives would be positive steps, he said, and not necessarily steps that would take any power away from voters.

There is a problem, he said, when three counties — Yellowstone, Cascade and Missoula — can pass any initiative. He would like to see all areas of the state involved in the process of collecting signatures and generating support for initiatives.

McNutt said the Legislature is trying to protect voters' rights while following the Montana constitution and establishing fairness in the initiative process.
He said he has no problem with the initiative process if it is done in a fair manner.

Fairness is at the center of the debate over Initiative 137, he said. Initiative 137, which bans any new or expanded open pit gold or silver mines using the cyanide heap-leach process, was passed by voters last November. Senate Bill 344 aims to take the issue back to the voters in 2000.

McNutt said he voted for SB344 because he felt the mining industry didn’t have the opportunity to share their side of the story. Initiative 125 prohibited the mining corporations from spending money on I-137 until 11 days before the election, he said, and the public was prevented from receiving information.

"The initiative process is flawed," McNutt said. "What would it hurt to look at the issue again?"

The Montana Supreme Court’s unanimous decision regarding CI-75 has to be examined carefully, he said, but the Legislature needs to deal with the facts. The voters' message was loud and clear, McNutt said, but unfortunately the bill was drafted "very badly and the Supreme Court judged it on the merits of its constitutionality."

The Legislature does need to get serious about the method by which they impose taxes, McNutt said, and he supports legislation geared toward making it more difficult for state and local government to spend taxpayer money.
After the 1999 session wraps up next month, McNutt said he hopes the public's perception will be that legislators listened to the message of CI-75 and tried to address the voters' concerns.

And while McNutt may not be one of the bigger players in the Montana Senate, carrying only a handful of bills, fellow senators say he knows the issues and is a great source of information.

McNutt is one of the more studious members of the Senate, said seatmate Sen. Bob DePratu, R-Whitefish.

"He delves into the issues, looking at both sides," he said. "He breaks bills apart to find out what they really do."

McNutt is a thinker, said DePratu, and he is always fair-minded and willing to examine opposing viewpoints — something that may be his strongest attribute.

DePratu is not alone in his admiration of McNutt's commitment and integrity.

Sen. Mike Taylor, R-Proctor, has shared an office with McNutt since the two arrived as freshmen together in 1997. The two don't necessarily agree on every issue, said Taylor, but they get along and help one another understand issues from various committees.

Laughing, Taylor described his friend's dry sense of humor.

"You never know if he is serious or if he's pulling your leg a little bit," Taylor said. "And you know, he can't talk without using his hands. Someone should hold the microphone so he could really get into it."
Taylor said he admired McNutt's ability — even on long, difficult days — to listen to everyone, retain his sense of humor and remain focused on the issue at hand.

"Bombs could be going off and he'd be focused," he added.

DePratu and Taylor agree that McNutt is an asset to both the Senate and his constituents in eastern Montana.

"His goal is to represent his district to the best of his ability, and he does," DePratu said. "He's as straightforward and honest a guy as you can find. In fact, he's one of those guys that's squeaky clean — seriously."

Members of the Democratic party also say they are impressed with McNutt's performance.

"For the issues in this area, he's representing us very well," said John Redmond, head of Sidney's Democratic party. "We'll offer him competition in the future, but we admire him for what he's doing for this area."

The Democrats will offer competition, and McNutt said he is ready.

"Oh, there's no doubt about it. I fully intend to run again," McNutt said. "There's unfinished business to do."

Returning in 2001 would, he said, offer him the opportunity to be even more effective because he will know some of the history behind past decisions.

"It's a tremendous learning process and a pleasant experience to be around what I think is a great group of people who work hard to give
the people of this state their money's worth," he said. "It's great to be a part of that."

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**MCNUTT'S 1999 LEGISLATION:**

**Senate Bill 9:** Removes the requirement that large reserves of water appropriated for in-state Ag or municipality use be approved by the Legislature. Signed by the Gov. Racicot.

**Senate Bill 13:** Extends the pilot project that was created in 1997 that allows the electronic filing of and searching for vehicle liens. Passed through the Senate unanimously and will be heard by the House on March 22.

**Senate Bill 201:** A Senate Judiciary Committee bill that clarifies the language concerning criminal jeopardy. Has passed both houses and has been transmitted to Gov. Racicot.

**Senate Bill 205:** Raises the aviation fuel tax from 3 cents to 4 cents and provides that 50 percent of the money collected from the 1-cent increase be used for airport pavement preservation projects. Passed the Senate unanimously and is in the House Taxation Committee.

**Senate Bill 404:** Clarifies that the assets of an individual retirement account are exempt from execution of judgment. Passed unanimously out of the Senate and was heard by the House Judiciary Committee last week.
**Senate Bill 532:** Eliminates personal property tax and livestock tax for industrial dairies. Passed the Senate Business and Industry Committee and is headed to the Senate for debate.

**House Joint Resolution 27** (co-sponsor): A joint resolution of the Senate and House, requesting that Congress, the Bureau of Reclamation and the Western Area Power Administration be encouraged to keep energy rates stable for Montana’s Missouri River Basin Irrigation Power and Development projects.

**House Bill 20 and 26** (will carry in the Senate): Legislation that would create a warm water multi-species fish hatchery at Fort Peck and create a stamp to pay for the project. McNutt will carry the bills for sponsor Rep. Sam Kitzenberg, R-Glascow, when they reach the Senate floor.
PARTY CAUCUSES OPEN UP TO THE MEDIA

HELENA — More than 30 pairs of Republican eyes suspiciously glanced in my direction as I crept quietly into Montana's first open caucus last January.

Wishing more than anything to be simply a fly on the wall, I nervously made my way through a sea of suits until I found an empty chair at the back of the room. I plopped down, grabbed my notebook and waited to see what would happen.

To be honest, every legislative reporter — experienced Capitol bureau chiefs, daily reporters and naive students like myself — waited to see what would happen on that first day. After all, the past four years had been spent in a battle to open Montana's party caucuses, and now that the day had finally arrived, no one, including the Senate Republicans surrounding me, knew what to expect.

While reporters were free to pass through the doors of the legislative caucuses at the Montana Capitol this year, things were not always so easy for the media.

The battle to open the meeting doors began back in 1995, when 22 news organizations sued to open up the legislative caucuses, claiming that Montana's open meetings law pertained to all political meetings, including those historically held behind closed doors.

The court had previously ruled that the statutorily required pre-session caucuses were to be open, but at stake in 1995 were the party
meetings held during the legislative session.

The closed caucuses violated the public's right to know as guaranteed in the Montana Constitution, argued the news organizations. They also said the caucuses, held in the public-owned Capitol by both the Democrat and Republican parties, were sessions in which strategy and political maneuvering were planned.

Legislators, however, said the closed-door meetings offered the only time during which they could openly discuss party strategy and get away from the influence of lobbyists and the scrutiny of the media.

In June 1998, after three years of debate, the court ruled that while caucuses are not official meetings of the Legislature, they are indeed part of the process — places where public policy is discussed and strategy is planned.

District Court Judge Thomas Honzel of Helena ruled that party caucuses are meetings at which legislators discuss public business, thus making them subject to Montana's open-meetings law. He ruled that they must be open to the public and the media.

The court concluded by saying that party caucuses are public bodies and are subject to Article II, section 9, which states:

No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in the cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.
Although Montana's modern Constitution — including the open meetings law — was adopted in 1972, the debate surrounding open vs. closed caucuses was not an issue until just recently, said former Sen. Bob Brown, R-Whitefish and 1995 Senate President.

Caucuses were rare when he first arrived in Helena in 1971, Brown said, but through the years the two parties began relying heavily on the closed-door meetings.

"We would never have got to this point if we had just continued to have an occasional caucus," he said. "The public and the press would have understood the need for that, but because it was overused it became misused."

The most important debate of the session was taking place behind closed doors, and the media were justifiably frustrated, he said. While Brown thinks the opening of the meetings is ultimately a good thing, there is a down side.

"There isn't anything dishonest or wrong about it, but sometimes to make up your mind you need to speak frankly and privately to clear the air," he said. "Provided it's not abused, closed caucuses are reasonable."

There are those who claim the opening of party caucuses in 1999 made little difference.

House Minority Leader Emily Swanson, D-Bozeman, said open caucuses are simply a new way of doing business, and that the
Legislature is adapting to it. She said it was a healthy change because the public deserves to be part of the process.

Swanson and Senate Majority Whip Fred Thomas, R-Stevensville, both claim that opening the caucuses this year resulted in stronger leadership.

"The result of open caucuses is more open communication in the Senate," Thomas said. "It's actually made the role of the whips more important. It's our job to keep members up to date on what's going on."

But the purpose of caucusing is no longer clear, argued Sen. Vicki Cocchiarella, D-Missoula. In many ways, she said, the role of the party caucus has shifted from being a private strategy session to one resembling an open bulletin board.

"Caucuses used to be a time for us to be together and share our feelings," she said. "But they aren't that way anymore. They are now informational and sterile."

Caucuses are now no more than glorified press conferences, she said, and Montana's lawmakers hesitate to speak freely in fear of being quoted in the morning papers.

"I don't think anyone's benefited," Cocchiarella said. "The press isn't getting what they wanted, which was the nitty-gritty ground level of how we create strategy."

The media were not under the illusion that opening the meetings would drastically change things, said Lee Enterprises Capitol Bureau
Chief Chuck Johnson, who has been covering the Montana Legislature for well over two decades.

Johnson and others realize that the two parties continued to shape strategy in private.

"It hasn't been as great as we thought or as bad as they thought it would be," Johnson said. "Even though it isn't perfect, I think it was worth it."

Johnson admits that reporters probably didn't get any great stories out of the caucuses, but that they were able to see how things worked.

"It's the principle of the thing," said Lee reporter Kathleen McLaughlin. "They shouldn't be able to have secret meetings in public buildings, and this allows them one less avenue to do things in secret."

McLaughlin said she was surprised at how honest the discussions were.

"I thought they'd put on a complete show, but they haven't," she said.

Fear of retaliation was on every reporter's mind at the beginning of the session, added Johnson.

"I was afraid they'd throw us off the floor," he said. "They could have made life miserable for us, but they've been good sports."

The question of whether reporters are getting what they wanted is still up for debate.

Following that first historic caucus back in January and throughout four months of open-door meetings, I quickly came to
understand that I was not going to get any secret, privileged information. The legislators were definitely aware of the media presence.


According to Molnar, the court's 1998 ruling made this year's caucuses shallow and much less productive.

"It's diluted because it's perceived as a press opportunity," Molnar said. "The public is less served by having everything be a photo opportunity."

The 1995 lawsuit was based upon false assumptions, Molnar said, explaining that party strategy was never an integral part of the meetings. Instead, caucuses used to offer lawmakers a safe place to kick up their feet and speak honestly.

"I think we should be able to talk about party politics and campaign strategy," he said. "I don't think that has any right to be made public."

But now that the caucuses are open, the media should march over to the Supreme Court to open their deliberations as well, Molnar said.

"If the people that filed that suit really believe in open meetings, then they'll head over to the Supreme Court next."

"We've explored the possibility," Johnson said, explaining that the news organizations don't feel so strongly about opening the courts because the Legislature is the people's branch.
"It's a worthy idea to look at at some point, but we decided to do one at a time," Johnson said.

This year it was the caucuses, and although most reporters would argue that opening the doors made little difference, I felt fortunate to be able to watch firsthand the politics, struggles and disagreements of both parties. In the end, I used very little caucus information in my weekly articles, but the insight was priceless.