

**SENATE JOURNAL
57TH LEGISLATURE
FIFTY-THIRD LEGISLATIVE DAY**

Helena, Montana
March 8, 2001

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Beck presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Mr. President: We, your committee on Bills and Journal, having examined the daily journal for the forty-ninth legislative day, find the same to be correct.

Miller, Chairman

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 3/8/2001
Correctly printed: SB 462, SB 496, SR 20, HB 127, HB 143, HB 157, HB 263, HB 298, HB 329, HB 365, HB 391, HB 443, HJR 15.

Correctly engrossed: SB 220, SB 486, HB 108, HB 110, HB 114, HB 120, HB 126, HB 147, HB 179, HB 375.

Correctly enrolled: SB 29, SB 41, SB 59, SB 122, SB 142, SB 149, SB 180.

Delivered to the Secretary of State at 8:50 a.m., March 8, 2001: SJR 5.

Signed by the President at 1:30 p.m., March 7, 2001: SB 32, SB 45, SB 75.

Signed by the Speaker at 7:30 a.m., March 8, 2001: SB 32, SB 45, SB 75.

Signed by the President at 1:20 p.m., March 8, 2001: SB 180.

Signed by the Secretary of the Senate at 1:20 p.m., March 8, 2001: SB 32, SB 45, SB 75.

Signed by the Secretary of the Senate at 1:30 p.m., March 8, 2001: SB 180.

Examined by the sponsor and found to be correct: SB 180.

Delivered to the Governor for her approval at 3:30 p.m., March 7, 2001: SB 11, SB 30, SB 54, SB 61, SB 93, SB 112, SB 120, SB 133, SB 156, SB 172, SB 189, SB 192, SB 214, SB 235.

BUSINESS AND LABOR (Taylor, Chairman): 3/8/2001
HB 156, be amended as follows:

1. Page 1, lines 25 through 27.

Strike: "VEHICLE" on line 25 through "SALE" ON LINE 27

Insert: "primary purpose of displaying or parking the vehicle on the property is to promote or effect the sale of the vehicle"

2. Page 1, following line 27.

Insert: "(2) This section does not prohibit the display or parking of a vehicle offered or posted for sale when:

(a) the display or parking of the vehicle is incidental to actual operation and immediate use of the vehicle by the vehicle owner;

(b) the vehicle owner obtains the written consent of the real property owner, lessee, or agent of the owner or lessee on whose property the motor vehicle is displayed and posts the written consent or a copy of the written consent in the front or rear window of the motor vehicle; or

(c) unless otherwise prohibited by local ordinance, the motor vehicle is displayed on a public street that is adjacent to real property in which the person offering the vehicle for sale has a legal interest."

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Renumber: subsequent subsections

3. Page 1, line 28.

Following: "(1)"

Insert: ": (a)"

4. Page 1, line 29.

Strike: "CIVIL PENALTY in"

Insert: "written warning for the first violation; and

(b) for a second or subsequent violation, is guilty of a misdemeanor and upon conviction may be fined"

Strike: "of"

5. Page 1, line 30 through page 2, line 1.

Strike: "SUBJECT" on page 1, line 30 through "PENALTY" on page 2, line 1

Insert: "considered a separate offense"

6. Page 7, line 20.

Strike: "A"

Insert: "Except as provided in [section 1], a"

7. Page 7, line 27.

Strike: "A"

Insert: "Except as provided in [section 1], a"

And, as amended, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

3/8/2001

HB 134, be concurred in. Report adopted.

HB 249, be amended as follows:

1. Page 1, line 29.

Following: line 28

Insert: "(3) Upon final approval, the trustees shall deliver the adopted budget, including the amounts to be raised by tax levies, to the county superintendent of schools within 5 days."

And, as amended, be concurred in. Report adopted.

HB 267, be concurred in. Report adopted.

HB 349, be amended as follows:

1. Title, page 1, line 10.

Strike: "AND OTHER ECONOMIC DEVELOPMENT ACTIVITIES"

2. Title, page 1, line 12.

Strike: "OR ECONOMIC DEVELOPMENT ACTIVITY"

3. Page 1, line 20.

Strike: "of a proprietary nature"

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And, as amended, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Cole, Chairman): 3/7/2001
HJR 14, be concurred in. Report adopted.
HJR 22, be concurred in. Report adopted.

JUDICIARY (Grosfield, Chairman): 3/7/2001
HB 119, be amended as follows:

1. Page 1, line 23 through line 24.
Following: "designate" on line 23
Strike: remainder of line 23 through "its members," on line 24

2. Page 1, line 24.
Following: "its staff members"
Strike: "1"

3. Page 1, line 26.
Strike: "a majority"
Insert: "at least one member"

4. Page 2, line 3.
Following: line 2
Strike: "A MAJORITY OF THE BOARD'S MEMBERS"
Insert: "at least one member of the board"

5. Page 2, line 11.
Following: "BEFORE"
Strike: "A MAJORITY OF THE BOARD'S MEMBERS"
Insert: "at least one member of the board"

And, as amended, be concurred in. Report adopted.

HB 317, be amended as follows:

1. Title, line 8.
Following: "OATH;"
Strike: "AND"

2. Title, line 9.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 1, line 31.
Following: line 30
Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

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HB 390, be amended as follows:

1. Page 1, line 18.

Following: "(4)"

Strike: "A person who prevails on"

Insert: "The prevailing party in an action in which"

Following: "defense"

Insert: "is"

And, as amended, be concurred in. Report adopted.

HB 393, be concurred in. Report adopted.

HB 405, be amended as follows:

1. Title, line 12.

Following: "CHARGE;"

Strike: "AND"

2. Title, line 13.

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 6, line 14.

Following: "program"

Insert: ", including a program operated by a private, nonprofit organization,"

4. Page 6, line 23.

Following: line 22

Insert: "NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2001."

And, as amended, be concurred in. Report adopted.

NATURAL RESOURCES (Crismore, Chairman):

3/8/2001

HB 46, be amended as follows:

1. Page 2, line 13.

Strike: "provisions" through "contracts"

Insert: "department may contract"

2. Page 2, line 14.

Strike: "that do"

Insert: "by direct negotiation when the cost of professional services covered by the contract does"

Following: "\$15,000."

Insert: "The department may not separate service contracts or split or break projects for the purpose of circumventing the provisions of Title 18, chapter 8, part 2."

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And, as amended, be concurred in. Report adopted.

HB 125, be amended as follows:

1. Title, line 7 through line 8.

Strike: "TO" on line 7 through "ACHIEVABLE" on line 8

2. Page 1, line 26 through line 27.

Strike: "TO" on line 26 through "ACHIEVABLE" on line 27

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Hargrove, Chairman):

3/6/2001

HB 294, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in:

3/5/2001

HB 19, introduced by Lenhart

HB 40, introduced by Witt

HB 132, introduced by Brueggeman

Senate amendments to House bills concurred in:

3/6/2001

HB 18, introduced by Somerville

HB 111, introduced by Lawson

HB 112, introduced by Brueggeman

House bill passed and transmitted to the Senate for concurrence:

3/7/2001

HB 525, introduced by Kasten

HB 154 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** conference committee to meet with a like committee from the Senate to confer on **HB 154**:

3/7/2001

Representative McGee, Chairman

Representative Sliter

Representative Gillan

Senate bills concurred in and returned to the Senate:

3/7/2001

SB 29, introduced by McNutt

SB 41, introduced by Roush

SB 122, introduced by Shea

SB 142, introduced by Sprague

SB 149, introduced by Grosfield

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

3/7/2001

SB 4, introduced by Grimes

MOTIONS

HB 295 - Senator Keenan moved that **HB 295** be taken from the committee on Finance and rereferred to the committee on Judiciary. Motion carried.

HB 154 - Senator Thomas moved that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House on **HB 154**. Motion carried. The President appointed the following members:

Senator Grosfield, Chairman
Senator Thomas
Senator Halligan

FIRST READING AND COMMITMENT OF BILLS

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

SB 497, introduced by Kitzenberg, referred to Finance.

SB 498, introduced by Ryan, Cocchiarella, Ekegren, Halligan, Sprague, Stonington, Waterman, referred to Taxation.

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

HB 525, introduced by Kasten, Beck, Brueggeman, Cobb, Davies, G. Forrester, Keenan, Lewis, McCann, McGee, D. Mood, Pattison, Sliter, B. Thomas, Vick, J. Wells, Witt, referred to Finance.

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

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

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

HB 166 - Senator Cocchiarella moved **HB 166** be concurred in. Motion carried with Johnson and Miller voting nay.

HB 175 - Senator Franklin moved **HB 175** be concurred in. Motion carried unanimously.

HB 210 - Senator Jergeson moved **HB 210** be concurred in. After discussion, Senator Ellis made a **substitute motion** that **HB 210** be moved to the bottom of the board for purpose of amendment. Motion carried unanimously.

HB 238 - Senator Halligan moved **HB 238** be concurred in. Motion carried unanimously.

HB 268 - Senator Cobb moved **HB 268** be concurred in. Motion carried unanimously.

Senators Cobb, Harrington and Mohl excused at this time.

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HB 358 - Senator Zook moved **HB 358** be concurred in. Motion carried as follows:

Yeas: Berry, Bohlinger, Butcher, Christiaens, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Holden, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, O'Neil, Pease, Shea, Sprague, Stapleton, Tash, Taylor, Tester, Thomas, Toole, Waterman, Zook, Mr. President.
Total 33

Nays: Bishop, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Jergeson, McCarthy, Miller, Nelson, Roush, Ryan, Stonington, Wells.
Total 14

Absent or not voting: None.
Total 0

Excused: Cobb, Harrington, Mohl.
Total 3

Senator Waterman excused at this time.
Senators Harrington and Mohl present at this time.

HB 458 - Senator Christiaens moved **HB 458** be concurred in. Motion carried with Senators Cocchiarella, Franklin, Grimes and O'Neil voting nay.

HB 462 - Senator Tash moved **HB 462** be concurred in. Motion carried unanimously.

HJR 9 - Senator Stonington moved **HJR 9** be concurred in. Motion carried unanimously.

Senator Cobb present at this time.

HJR 11 - Senator Pease moved **HJR 11** be concurred in. Motion carried as follows:

Yeas: Berry, Bishop, Bohlinger, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Wells, Zook, Mr. President.
Total 44

Nays: Butcher, Ellis, Holden, Miller.
Total 4

Absent or not voting: None.
Total 0

Excused: Mohl, Waterman.
Total 2

SB 106 - House Amendments - Senator Sprague moved House amendments to **SB 106** be concurred in. Motion carried unanimously.

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SB 134 - Senator F. Thomas moved consideration of **SB 134** be placed at the bottom of the second reading board. Motion carried.

HB 216 - Senator O'Neil moved **HB 216** be concurred in. After discussion, Senator O'Neil made a **substitute motion** that **HB 216** be placed below HB 286 on the second reading board. Motion carried.

HB 281 - Senator Elliott moved **HB 281** be concurred in. Motion carried unanimously.

HB 286 - Senator Halligan moved **HB 286** be concurred in. Motion carried unanimously.

HB 216 - Senator O'Neil moved **HB 216**, second reading copy, be amended as follows :

1. Title, line 9.

Following: "PRODUCTS;"

Insert: "EXEMPTING FROM LIABILITY MINORS ASSISTING IN ENFORCEMENT OF THE YOUTH ACCESS TO TOBACCO PRODUCTS CONTROL ACT;"

Following: "16-3-301,"

Insert: "16-11-310,"

2. Page 2, line 13.

Following: line 12

Insert: "**Section 2.** Section 16-11-310, MCA, is amended to read:

"**16-11-310. Minors not liable for possession or attempt to purchase.** An individual under 18 years of age assisting in the enforcement of this part is not liable under a civil or criminal law for the possession of or the attempt to purchase a tobacco product ~~possessed~~ for the purposes of enforcing this part.""

Renumber: subsequent sections

Amendment **not adopted** as follows:

Yeas: Bishop, Butcher, Crismore, DePratu, Doherty, Glaser, Grimes, Grosfield, Hargrove, Johnson, Roush, Taylor, Wells.

Total 13

Nays: Berry, Bohlinger, Christiaens, Cocchiarella, Cole, Ekegren, Ellingson, Elliott, Ellis, Franklin, Harrington, Holden, Jergeson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Nelson, O'Neil, Pease, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Zook, Mr. President.

Total 33

Absent or not voting: Cobb, Halligan.

Total 2

Excused: Mohl, Waterman.

Total 2

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Beck in the chair. Chairman Bohlinger moved the Committee of the Whole report be adopted. Report adopted unanimously.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 462 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Wells, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Waterman.
Total 1

HB 118, as amended by the Senate, concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Wells, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Waterman.
Total 1

HB 108 concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Wells, Zook, Mr. President.
Total 49

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: Waterman.

Total 1

HB 110 concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Wells, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Waterman.

Total 1

HB 114 concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Wells, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Waterman.

Total 1

HB 126 concurred in as follows:

Yeas: Berry, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Wells, Zook, Mr. President.

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Total 48

Nays: Bishop.

Total 1

Absent or not voting: None.

Total 0

Excused: Waterman.

Total 1

HB 147 concurred in as follows:

Yeas: Berry, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Wells, Zook, Mr. President.

Total 48

Nays: Bishop.

Total 1

Absent or not voting: None.

Total 0

Excused: Waterman.

Total 1

ANNOUNCEMENTS

Senator Stonington presented the following Petition signed by 2,000 concerned citizens:

PETITION IN SUPPORT OF INCREASED FUNDING OF MONTANA PUBLIC SCHOOLS

TO: Governor Judy Martz and All Members of the Montana Legislature

We, the undersigned voters, believe that the adequate funding of public schools must have the highest priority in the allocation of Montana's public resources.

Over the last five years, the State's share of funding for elementary and high school general funds has decreased substantially, and the local taxpayer's share has increased substantially.

Current state law prohibits many districts from increasing local tax revenues because they have reached their "budget cap" as mandated by state law.

In order for school districts throughout the state to deliver the level of educational services and programs currently provided, state funding must be increased.

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WHEREFORE, we hereby register our commitment to public education in Montana, our belief that adequate funding for it should enjoy the highest priority in the allocation or raising of funds at the state level, and our commitment, as voters, to support those public officials who acknowledge and embrace these goals. In addition, we hereby call upon the Governor and all elected representatives to increase the funding for public education, the "Per Average Number Belonging" funding for all Montana school districts, by 4% per year for elementary districts and 4% per year for high school districts.

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, March 9, 2001. Motion carried.

Senate adjourned at 3:05 p.m.

ROSANA SKELTON
Secretary of Senate

TOM BECK
President of the Senate