

**HOUSE JOURNAL  
57<sup>TH</sup> LEGISLATURE  
SIXTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana  
March 26, 2001

House Chambers  
State Capitol

House convened at 11:30 a.m. Mr. Speaker in the Chair. Invocation by Representative Rice. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Representatives Erickson, Lindeen, and Steinbeisser, excused. Quorum present.

Mr. Speaker introduced the pages for the week:

Christopher Bauser, Billings  
Emily Waters, Billings  
Andrea Helling, Victor  
Nicole DeWeese, Gardiner  
Lindsay Banks, Darby  
Natalee Burnett, Billings  
Sara Oralls, Anaconda  
Cass Thompson, Helena  
Carla Kinney, Polson

**REPORTS OF STANDING COMMITTEES**

**BILLS** (Bookout-Reinicke, Chairman): 3/26/2001  
Correctly enrolled: **HB 451, HB 461, HB 477, HB 533, HB 537, HJR 16, HJR 21.**  
Signed by the Speaker at 1:15 p.m., March 26, 2001: **HB 292, HB 386.**  
Examined by the sponsor and found to be correct: **HB 292, HB 386, HB 451, HB 477, HB 533, HB 537, HJR 21, HJR 16.**

**NATURAL RESOURCES** (Younkin, Chairman): 3/26/2001  
**SB 167**, be amended as follows:

1. Page 2, lines 16 and 17.  
**Following:** "plat" on line 16  
**Strike:** "or certificate of survey"
2. Page 5, line 24.  
**Following:** "plat"  
**Strike:** "or certificate of survey"
3. Page 8, line 29.  
**Following:** "plat"  
**Strike:** "or certificate of survey"
4. Page 9, line 3.  
**Following:** "plat"

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**Strike:** "or certificate of survey"

5. Page 9, line 4.

**Following:** "plat"

**Strike:** "or certificate of survey"

6. Page 9, line 6.

**Following:** "plat"

**Strike:** "or certificate of survey"

7. Page 9, lines 8 and 9.

**Following:** "plat"

**Strike:** "or certificate of survey"

8. Page 9, lines 14 and 15.

**Following:** "plat"

**Strike:** "or certificate of survey"

9. Page 9, line 20.

**Following:** the first "plat" on line 20

**Strike:** "or certificate of survey"

10. Page 9, lines 20 and 21.

**Following:** the second "plat" on line 20

**Strike:** "or certificate of survey"

11. Page 11, line 8.

**Following:** "plat"

**Strike:** "or a certificate of survey"

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

**SB 375**, be concurred in. Report adopted.

**SB 376**, be concurred in. Report adopted.

**SB 378**, be amended as follows:

1. Page 4, line 19.

**Following:** "DISALLOW THE"

**Insert:** "associated"

**Following:** "DETERMINES"

**Insert:** ", based on the record,"

2. Page 4, line 20.

**Following:** the first "THE"

**Strike:** remainder of line 20

**Insert:** "liable person can show that the costs are not reasonable."

3. Page 4.

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**Following:** line 25

**Insert:** "NEW SECTION. Section 3. Saving clause. [This act] does not affect claims, rights, and duties that matured or proceedings that were begun before [the effective date of this act]."

**Renumber:** subsequent sections

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

**SB 379**, be concurred in. Report adopted.

**MESSAGES FROM THE SENATE**

Senate bills passed and transmitted to the House for concurrence: 3/24/2001

**SB 289**, introduced by Tester

**SB 322**, introduced by Shea

**SB 339**, introduced by Berry

**SB 350**, introduced by Ellingson

House amendments to Senate bills concurred in: 3/24/2001

**SB 38**, introduced by Grimes

**SB 159**, introduced by Grosfield

**SB 184**, introduced by Cobb

**SB 306**, introduced by Cocchiarella

House amendments to Senate joint resolution concurred in: 3/24/2001

**SJR 4**, introduced by Taylor

House bills concurred in and returned to the House: 3/24/2001

**HB 451**, introduced by Golie

**HB 461**, introduced by Shockley

**HB 477**, introduced by Kasten

**HB 533**, introduced by Vick

**HB 537**, introduced by Sliter

House joint resolutions concurred in and returned to the House: 3/24/2001

**HJR 16**, introduced by Haines

**HJR 21**, introduced by Laible

House bills concurred in as amended and returned to the House for concurrence in Senate amendments: 3/24/2001

**HB 33**, introduced by Younkin

**HB 41**, introduced by Witt

**HB 186**, introduced by Holden

**HB 279**, introduced by McKenney

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**HB 377**, introduced by Somerville  
**HB 502**, introduced by Story  
**HB 560**, introduced by Noennig

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 289**, introduced by Tester, Callahan, Doherty, Ekegren, Franklin, Galvin-Halcro, Golie, Hargrove, Lee, Mangan, McKenney, Ripley, Roush, Ryan, Schmidt, Tropila, Whitaker, referred to State Administration.  
**SB 322**, introduced by Shea, Beck, Christiaens, Cocchiarella, Cole, Crismore, Dale, Doherty, Ellingson, Erickson, Facey, Gallus, Golie, Grimes, Halligan, Harrington, Laslovich, Lawson, Mahlum, Masolo, Matthews, McCarthy, McKenney, McNutt, Mood, Roush, Sprague, Tash, Tester, B. Thomas, Waterman, referred to Business and Labor.  
**SB 339**, introduced by Berry, referred to Business and Labor.  
**SB 350**, introduced by Ellingson, Bohlinger, Erickson, Franklin, Halligan, Pease, Toole, referred to Taxation.

**THIRD READING OF BILLS**

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

**SJR 18, as amended by the House**, concurred in as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, Brueggeman, Clancy, E. Clark, Curtiss, Dale, Davies, Dell, Devlin, Esp, Fisher, Forrester, Fuchs, Haines, Hedges, Himmelberger, Holden, Jackson, Kasten, Laible, Laszloffy, Lawson, Lehman, Lewis, Lindeen, Masolo, Matthews, McCann, McKenney, Mood, Olson, Pattison, A. Peterson, K. Peterson, Price, Rice, Ripley, Rome, Schrumph, Sliter, Smith, Somerville, Steinbeisser, Story, Thomas, Tropila, Vick, Waddill, Waitschies, Walters, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.  
Total 62

Noes: Bixby, Branae, R. Brown, Buzzas, Callahan, Carney, P. Clark, Cyr, Eggers, Erickson, Facey, Fritz, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Harris, Hurdle, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Laslovich, Lee, Lenhart, Mangan, Musgrove, Newman, Noennig, Raser, Schmidt, Shockley, Tramelli, Wanzenried.  
Total 38

Voted Absentee: Lindeen, Steinbeisser, Ayes; Erickson, No.

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

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

Representative R. Brown moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Younkin in the chair.

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

**HB 357** - Representative Fuchs moved consideration of **HB 357** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

**HB 534** - Representative Raser moved **HB 534** do pass. Motion failed as follows:

Ayes: Bixby, Bookout-Reinicke, Branae, Buzzas, Callahan, Carney, P. Clark, Cyr, Eggers, Erickson, Facey, Fritz, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Harris, Hurdle, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Laslovich, Lee, Lenhart, Lindeen, Mangan, Matthews, Musgrove, Newman, Raser, Schmidt, Smith, Steinbeisser, Thomas, Tramelli, Tropila, Waddill, Wanzenried.

Total 43

Noes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, D. Brown, R. Brown, Brueggeman, Clancy, E. Clark, Curtiss, Dale, Davies, Dell, Devlin, Esp, Fisher, Forrester, Fuchs, Haines, Hedges, Himmelberger, Holden, Jackson, Kasten, Laible, Laszloffy, Lawson, Lehman, Lewis, Masolo, McCann, McKenney, Mood, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Rice, Ripley, Rome, Schrupf, Shockley, Sliter, Somerville, Story, Vick, Waitschies, Walters, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 57

Voted Absentee: Erickson, Lindeen, Steinbeisser, Ayes.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 591** - Representative Sliter moved consideration of **HB 591** be passed for the day. Motion carried.

**HB 598** - Representative Brueggeman moved **HB 598** do pass.

Representative Adams moved for cloture. Motion requiring a two-thirds vote, failed as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, Clancy, E. Clark, Curtiss, Dale, Davies, Dell, Devlin, Esp, Fisher, Fuchs, Haines, Hedges, Himmelberger, Holden, Jackson, Jent, Kasten, Laible, Laszloffy, Lawson, Lehman, Lewis, Masolo, McKenney, Mood, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Rice, Ripley, Rome, Schrupf, Shockley, Sliter, Somerville, Story, Thomas, Vick, Waddill, Waitschies, Walters, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 59

Noes: Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cyr, Eggers, Forrester, Fritz, Gallik, Gallus, Galvin-Halcro, Golie, Gutsche, Harris, Hurdle, Jacobson, Jayne, Juneau, Kaufmann, Keane, Laslovich, Lee, Lenhart, Mangan, Matthews, McCann, Musgrove, Newman, Raser, Schmidt, Smith, Tramelli, Tropila, Wanzenried.

Total 36

Excused: Erickson, Lindeen, Steinbeisser.

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Total 3

Absent or not voting: Facey, Gillan.

Total 2

Motion that **HB 598** do pass carried as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, Clancy, E. Clark, Curtiss, Dale, Davies, Dell, Devlin, Esp, Fisher, Forrester, Fuchs, Haines, Hedges, Himmelberger, Holden, Jackson, Jent, Kasten, Laible, Laszloffy, Lawson, Lehman, Lewis, Lindeen, Mangan, Masolo, Matthews, McCann, McKenney, Mood, Newman, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Rice, Ripley, Rome, Schrupf, Shockley, Sliter, Somerville, Steinbeisser, Story, Thomas, Tropila, Vick, Waddill, Waitschies, Walters, Wanzenried, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 68

Noes: Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cyr, Eggers, Erickson, Facey, Fritz, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Harris, Hurdle, Jacobson, Jayne, Juneau, Kaufmann, Keane, Laslovich, Lee, Lenhart, Musgrove, Raser, Schmidt, Smith, Tramelli.

Total 32

Voted Absentee: Lindeen, Steinbeisser, Ayes; Erickson, No.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 420** - Representative Shockley moved **HB 420** do pass.

**HB 420** - Representative Shockley moved **HB 420**, second reading copy, be amended as follows :

1. Title, page 1, line 4.

**Following:** "~~CONDEMNOR~~"

**Strike:** "PERSON"

**Insert:** "CONDEMNOR"

2. Title, page 1, line 5.

**Following:** "~~CONDEMNEE~~"

**Strike:** "PROPERTY OWNER"

**Insert:** "CONDEMNEE"

3. Title, page 1, line 6.

**Following:** "~~CONDEMNEE'S~~"

**Strike:** "PROPERTY OWNER'S"

**Insert:** "CONDEMNEE'S"

4. Title, page 1, line 9 and line 10.

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**Strike:** "EXPANDING" on line 9 through "ACCRUE;" on line 10

5. Title, page 1, line 11.

**Strike:** "SECTIONS"

**Insert:** "SECTION"

**Strike:** "70-30-305, AND 70-30-306,"

6. Page 1, line 17 through line 19.

**Following:** "~~action:~~"

**Strike:** "A PERSON" on line 17 through "OCCURS" on line 19

**Insert:** "The condemnor in an eminent domain action is required to provide the condemnee with a statement of the condemnee's rights in an eminent domain action"

7. Page 1, line 24 through line 25.

**Strike:** "(c)" through "located;" on line 25

**Renumber:** subsequent subsection

8. Page 1, line 28 and 29.

**Strike:** subsection (ii) in its entirety

**Renumber:** subsequent subsections

9. Page 2, line 5.

**Following:** "made until"

**Insert:** "30 days after"

**Following:** "rights has been"

**Strike:** "recorded for 30 days"

**Insert:** "provided to the condemnee"

10. Page 2, line 20 through page 3, line 22

**Strike:** sections 3 and 4 in their entirety

**Renumber:** subsequent sections

Amendment **adopted** as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Callahan, Carney, Clancy, E. Clark, Curtiss, Cyr, Davies, Dell, Devlin, Eggers, Esp, Facey, Fisher, Forrester, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Himmelberger, Holden, Jackson, Jacobson, Jent, Kasten, Kaufmann, Laible, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Masolo, McKenney, Mood, Musgrove, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Rice, Ripley, Rome, Schmidt, Schrupf, Shockley, Smith, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Wanzenried, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 81

Noes: Bixby, Buzzas, P. Clark, Dale, Hurdle, Jayne, Juneau, Keane, Lee, Mangan, Matthews, Newman, Raser.

Total 13

Excused: Erickson, Lindeen, Steinbeisser.

Total 3

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Absent or not voting: McCann, Sliter, Somerville.  
Total 3

Motion that **HB 420**, as amended, do pass carried as follows:

Ayes: Adams, Andersen, Balyeat, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, P. Clark, Curtiss, Cyr, Dale, Davies, Dell, Devlin, Eggers, Esp, Facey, Fisher, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Himmelberger, Holden, Hurdle, Jackson, Jacobson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Laszloffy, Lawson, Lee, Lehman, Lenhart, Lindeen, Mangan, Masolo, Matthews, McCann, McKenney, Musgrove, Newman, Noennig, Pattison, A. Peterson, Price, Raser, Rice, Ripley, Rome, Schmidt, Schruppf, Shockley, Smith, Steinbeisser, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Wanzenried, Whitaker, Witt, Wolery, Mr. Speaker.  
Total 86

Noes: Bales, Barrett, Clancy, Erickson, Forrester, Jayne, Kasten, Lewis, Mood, Olson, K. Peterson, Sliter, Younkin.  
Total 13

Voted Absentee: Lindeen, Steinbeisser, Ayes; Erickson, No.

Excused: None.  
Total 0

Absent or not voting: Somerville.  
Total 1

**HB 619** - Representative Harris moved **HB 619** do pass. Motion carried as follows:

Ayes: Bixby, Bookout-Reinicke, Branae, Buzzas, Callahan, Carney, P. Clark, Cyr, Dale, Eggers, Erickson, Facey, Forrester, Fritz, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Harris, Himmelberger, Hurdle, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Laslovich, Lawson, Lee, Lenhart, Lindeen, Mangan, Matthews, Mood, Musgrove, Newman, Noennig, A. Peterson, Raser, Rome, Schmidt, Schruppf, Shockley, Smith, Steinbeisser, Thomas, Tramelli, Tropila, Waddill, Waitschies, Wanzenried, Wolery.  
Total 55

Noes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, D. Brown, R. Brown, Brueggeman, Clancy, E. Clark, Curtiss, Davies, Dell, Devlin, Esp, Fisher, Fuchs, Haines, Hedges, Holden, Jackson, Kasten, Laible, Laszloffy, Lehman, Lewis, Masolo, McCann, McKenney, Olson, Pattison, K. Peterson, Price, Rice, Ripley, Sliter, Somerville, Story, Vick, Walters, Whitaker, Witt, Younkin, Mr. Speaker.  
Total 45

Voted Absentee: Erickson, Lindeen, Steinbeisser, Ayes.

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

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**HB 642** - Representative Story moved **HB 642** do pass. Motion carried as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, Clancy, E. Clark, P. Clark, Curtiss, Cyr, Dale, Davies, Dell, Devlin, Eggers, Erickson, Esp, Facey, Fisher, Forrester, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Himmelberger, Holden, Hurdle, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Laible, Laslovich, Laszloffy, Lawson, Lee, Lehman, Lenhart, Lewis, Lindeen, Mangan, Masolo, Matthews, McCann, McKenney, Mood, Musgrove, Newman, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Raser, Rice, Ripley, Rome, Schmidt, Schrupf, Shockley, Smith, Somerville, Steinbeisser, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Wanzenried, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 99

Noes: Sliter.

Total 1

Voted Absentee: Erickson, Lindeen, Steinbeisser, Ayes; Sliter, No.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 357** - Representative Fuchs moved **HB 357** do pass.

**HB 357** - Representative Fuchs moved **HB 357**, second reading copy, be amended as follows :

1. Title, line 5.

**Strike:** "APPROPRIATIONS"

**Insert:** "AN APPROPRIATION"

2. Title, line 9.

**Strike:** "SECTIONS"

**Insert:** "SECTION"

**Strike:** "15-35-108 AND"

3. Title, line 10.

**Following:** "AN"

**Insert:** "AN"

4. Title, line 11.

**Strike:** "DATES"

**Insert:** "DATE"

5. Page 2, line 3 through line 4.

**Strike:** "FUNDS" on line 3 through "AND" on line 4

6. Page 2, line 12.

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**Strike:** "15-35-108"

**Insert:** "[section 3]"

7. Page 2, line 21.

**Strike:** "15-35-108"

**Insert:** "[section 3]"

8. Page 4, line 3 through page 8, line 5.

**Strike:** section 2 in its entirety

**Renumber:** subsequent sections

9. Page 8, line 18.

**Strike:** "15-35-108"

**Insert:** "[section 3]"

10. Page 12, line 24 through line 26.

**Strike:** section 6 in its entirety

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

Amendment **adopted** as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, Callahan, Clancy, E. Clark, P. Clark, Curtiss, Dale, Davies, Devlin, Eggers, Esp, Facey, Forrester, Fuchs, Gallus, Gillan, Golie, Haines, Hedges, Himmelberger, Holden, Jackson, Jacobson, Jayne, Kasten, Laible, Laszloffy, Lawson, Lee, Lehman, Lewis, Mangan, Masolo, Matthews, McKenney, Mood, Newman, Noennig, Olson, Pattison, A. Peterson, Price, Raser, Rice, Ripley, Rome, Schrupf, Shockley, Sliter, Somerville, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 72

Noes: Bixby, Branae, Buzzas, Carney, Cyr, Dell, Fisher, Fritz, Gallik, Galvin-Halcro, Gutsche, Harris, Hurdle, Jent, Juneau, Kaufmann, Keane, Laslovich, Lenhart, Musgrove, K. Peterson, Schmidt, Smith, Wanzenried.

Total 24

Voted Absentee: Sliter, Aye.

Excused: Erickson, Lindeen, Steinbeisser.

Total 3

Absent or not voting: McCann.

Total 1

Motion that **HB 357**, as amended, do pass carried as follows:

Ayes: Andersen, Bales, Bitney, Bookout-Reinicke, D. Brown, Brueggeman, Callahan, Clancy, E. Clark, Curtiss, Dale, Davies, Devlin, Eggers, Facey, Forrester, Fuchs, Gallus, Galvin-Halcro, Haines, Hedges, Himmelberger, Holden, Jacobson, Jayne, Kasten, Laible, Laslovich, Lee, Lehman, Lewis, Mangan, Masolo, Matthews, McKenney, Mood, Newman, Noennig, Olson, Pattison, Price, Rice, Ripley, Rome, Schrupf, Shockley, Sliter, Story, Thomas, Tramelli, Tropila, Vick, Walters, Whitaker, Witt, Younkin, Mr. Speaker.

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Total 57

Noes: Adams, Balyeat, Barrett, Bixby, Branae, R. Brown, Buzzas, Carney, P. Clark, Cyr, Dell, Erickson, Esp, Fisher, Fritz, Gallik, Gillan, Golie, Gutsche, Harris, Hurdle, Jackson, Jent, Juneau, Kaufmann, Keane, Laszloffy, Lawson, Lenhart, Lindeen, McCann, Musgrove, A. Peterson, K. Peterson, Raser, Schmidt, Smith, Somerville, Steinbeisser, Waddill, Waitschies, Wanzenried, Wolery.

Total 43

Voted Absentee: Sliter, Aye; Erickson, Lindeen, Steinbeisser, Noes.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Representative R. Brown moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Younkin moved the Committee of the Whole report be adopted. Report adopted as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Callahan, Carney, Clancy, E. Clark, P. Clark, Curtiss, Cyr, Dale, Dell, Devlin, Eggers, Facey, Fisher, Forrester, Fuchs, Gallus, Haines, Harris, Hedges, Himmelberger, Holden, Hurdle, Jackson, Jacobson, Jayne, Jent, Kasten, Laible, Laszloffy, Lehman, Lenhart, Lewis, Mangan, Masolo, Matthews, McKenney, Newman, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Raser, Rice, Ripley, Rome, Schrupf, Shockley, Somerville, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 74

Noes: Bixby, Buzzas, Esp, Fritz, Gallik, Galvin-Halcro, Gillan, Golie, Gutsche, Juneau, Kaufmann, Keane, Laslovich, Lawson, Lee, Musgrove, Schmidt, Smith, Wanzenried.

Total 19

Excused: Erickson, Lindeen, Sliter, Steinbeisser.

Total 4

Absent or not voting: Davies, McCann, Mood.

Total 3

### MOTIONS

Representative Noennig requested on **SJR 18**, third reading today, that his vote be changed from yes to no. There being no objections, so ordered.

Representative Jackson requested on **HB 420**, second reading today, that his vote be shown as yes. There being no objections, so ordered.

Representative Kaufmann requested on **HB 619**, second reading today, that her vote be shown as yes. There being no objections, so ordered.

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Representative Shockley requested on **SJR 18**, third reading today, that his vote be changed from yes to no. There being no objections, so ordered.

Representative Lehman requested on **HB 357**, second reading today, that his vote be changed from no to yes. There being no objections, so ordered.

**REPORTS OF STANDING COMMITTEES**

**EDUCATION** (Masolo, Chairman):  
**SB 423**, be amended as follows:

3/26/2001

1. Title, line 5.

**Strike:** "10"

**Insert:** "15"

2. Page 3, line 4.

**Strike:** "10%"

**Insert:** "15%"

3. Page 3.

**Following:** line 24

**Insert:** "(11) When a trustee position becomes vacant in a single-member district, the position must be filled in accordance with the provisions of 20-3-309, except that the position must be filled by a person who resides within the single-member district."

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

**SB 436**, be amended as follows:

1. Title, line 7.

**Following:** "20-9-133"

**Strike:** "AND"

**Insert:** ", 20-9-201,"

**Following:** "20-9-208,"

**Insert:** "AND 20-9-443,"

**Following:** "MCA"

**Insert:** "; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE"

2. Page 1, line 15.

**Following:** "resulting budget"

**Insert:** ", including any budget authority transferred in from other budgeted funds in compliance with 20-9-208(2),"

3. Page 1.

**Following:** line 26

**Insert:** "**Section 2.** Section 20-9-201, MCA, is amended to read:

"**20-9-201. Definitions and application.** (1) As used in this title, unless the context clearly indicates otherwise, "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law or by the superintendent of public instruction under the provisions of subsection (2). Funds are classified as

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follows:

(a) A "budgeted fund" means any fund for which a budget must be adopted in order to expend money from the fund. The general fund, transportation fund, bus depreciation reserve fund, tuition fund, retirement fund, debt service fund, building reserve fund, adult education fund, nonoperating fund, and any other funds designated by the legislature are budgeted funds.

(b) A "nonbudgeted fund" means any fund for which a budget is not required in order to expend money on deposit in the fund. The school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, interlocal cooperative fund, internal service fund, impact aid fund, enterprise fund, agency fund, extracurricular fund, metal mines tax reserve fund, endowment fund, litigation reserve fund, and any other funds designated by the legislature are nonbudgeted funds.

(2) The school financial administration provisions of this title apply to all money of any elementary or high school district. Elementary and high school districts shall record the receipt and disbursement of all money in accordance with generally accepted accounting principles. The superintendent of public instruction has general supervisory authority as prescribed by law over the school financial administration provisions, as they relate to elementary and high school districts. The superintendent of public instruction shall adopt rules necessary to secure compliance with the law.

(3) Except as otherwise provided by law, whenever the trustees of a district determine that a fund is inactive and will no longer be used, the trustees shall close the fund by transferring all cash and other account balances to ~~the general fund~~ any fund considered appropriate by the trustees if the fund does not have a cash or fund balance deficit. ""

**Renumber:** subsequent sections

4. Page 2, line 4.

**Strike:** "Transfers"

**Insert:** "Unless otherwise restricted by a specific provision in this title, transfers"

5. Page 2, line 12.

**Following:** "voters"

**Insert:** "or with funds raised by a nonvoted levy"

**Following:** "within"

**Insert:** "or directly related to"

**Strike:** "voter-approved"

6. Page 2, line 13.

**Strike:** "originally approved"

**Insert:** "raised"

**Following:** "₂"

**Insert:** "Before a transfer can occur, the trustees shall hold a properly noticed hearing to accept public comment on the transfer."

7. Page 2, line 14.

**Strike:** "Transfers"

**Insert:** "Unless otherwise authorized by a specific provision in this title, transfers"

8. Page 2, lines 14 and 15.

**Strike:** "OR" on line 14 through "LEVIES" on line 15

9. Page 2, lines 15 and 16.

**Strike:** "₂" on line 15 through "20-9-512" on line 16

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10. Page 2, line 20.

**Following:** "law."

**Insert:** "Before a transfer can occur, the trustees shall hold a properly noticed hearing to accept public comment on the transfer."

11. Page 2.

**Following:** line 21

**Insert:** "Section 4. Section 20-9-443, MCA, is amended to read:

**"20-9-443. Disposition of remaining debt service fund.** When all of the bonds and bond interest of any school district have been fully paid, all money remaining in the debt service fund for ~~such the~~ school district and all ~~moneys which~~ money that may come into ~~such the~~ debt service fund from the payment of the delinquent taxes ~~shall~~ must be transferred by the county treasurer to the building reserve levy fund, the technology acquisition fund, or the general fund of such as designated by the school district, provided that the subsequent use of the funds by the school district is limited to constructing, equipping, or enlarging school buildings or purchasing land needed for school purposes in the district."

**Insert:** "NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective July 1, 2001, and applies to transfers during the school fiscal year beginning on or after July 1, 2001."

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

**FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS** (Curtiss, Chairman): 3/26/2001  
**HB 474**, be amended as follows:

1. Title, line 5.

**Strike:** "INCREASING THE WHOLESALE ENERGY TRANSACTION TAX;"

**Insert:** "CREATING A WINDFALL PROFITS TAX;"

2. Title, lines 6 and 7.

**Strike:** "INCREASED" on line 6

**Following:** "ASSISTANCE;" on line 6

**Strike:** remainder of line 6 through ";" on line 7

3. Title, lines 11 and 12.

**Following:** "REMARKETED;" on line 11

**Strike:** remainder of line 11 through ";" on line 12

**Insert:** "AUTHORIZING THE PUBLIC SERVICE COMMISSION TO USE THE PROCEEDS OF THE WINDFALL PROFITS TAX TO CONTRACT FOR THE PURCHASE OF ELECTRICAL ENERGY FOR SALE TO MONTANA CUSTOMERS ON BEHALF OF THE DEFAULT SUPPLIER; AUTHORIZING THE BOARD OF INVESTMENTS TO INVEST IN NEW GENERATION PROJECTS THAT MEET CERTAIN CRITERIA; PROVIDING ELIGIBILITY CRITERIA FOR THE PROJECTS, INCLUDING LONG-TERM CONTRACTS WITH THE DEFAULT SUPPLIER FOR THE PURCHASE OF THE ELECTRICAL ENERGY GENERATED BY THE PROJECTS; REQUIRING A PLEDGE OF THE CONTRACT PROCEEDS AS A REPAYMENT OPTION FOR THE INVESTMENTS; MAKING THE STATE A PARTY TO THE CONTRACT IN THE EVENT OF DEFAULT IN PAYMENT BY DEFAULT SUPPLIER;"

4. Title, line 13.

**Strike:** "SECTIONS 15-72-104, 15-72-106,"

**Insert:** "SECTION"

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**Strike:** "69-8-211, AND 69-8-403,"

5. Title, line 14.

**Strike:** "AND A TERMINATION DATE"

6. Page 1, line 18 through page 4, line 5.

**Strike:** sections 1 through 3 in their entirety

**Insert:** "NEW SECTION. Section 1. Windfall profits tax. (1) There is a tax imposed on the windfall profits derived from the sale of electrical energy generated in Montana. The tax rate is equal to 90% of the windfall profits.

(2) In order to calculate windfall profits, each entity selling electrical energy generated in Montana shall report to the department the total income from sales of electrical energy generated in Montana. The department shall subtract from the total income the total kilowatt hours generated times the base year price. The amount determined is the tax base for the windfall profits tax. The tax base times the tax rate is the amount of windfall profits tax due to the state.

(3) The base year price is calculated as 5 cents per kilowatt hour. The department shall adjust the base year price to account for inflation by multiplying the base year price by the inflation factor for the prior year. For purposes of this subsection, "inflation factor" has the meaning provided in 15-30-101.

(4) The proceeds of the windfall profits tax must be deposited in the state special revenue account provided for in [section 2].

(5) The department may request assistance from the public service commission in analyzing data necessary to calculate the windfall profits tax."

**Insert:** "NEW SECTION. Section 2. Windfall profits tax account -- use. (1) There is a windfall profits tax account in the state special revenue fund. The proceeds of the tax collected pursuant to [section 1] must be deposited in the account.

(2) The money in the account may be used by the public service commission to contract for electrical energy for distribution to Montana customers on behalf of the default supplier provided for in 69-8-416 and to fund the low-income energy assistance program provided for in 69-8-412."

**Insert:** "NEW SECTION. Section 3. Purpose. The purposes of [sections 3 through 7] are to:

(1) create up to 250 megawatts of electrical energy from new generation projects in Montana; and

(2) permit the purchase of up to 120 megawatts of electrical energy from existing qualified facilities that are located in Montana for the purpose of providing consumers with low-cost, reliable electrical energy."

**Insert:** "NEW SECTION. Section 4. Definitions. As used in [sections 3 through 7], the following definitions apply:

(1) "Default supplier" has the meaning provided in 69-8-103.

(2) "Qualified facility" means an electrical generation facility owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a."

**Insert:** "NEW SECTION. Section 5. Qualification date. In order to participate in [sections 3 through 7], a new generation

project must commence or have completed construction by July 1, 2003, or be an existing qualified facility choosing to participate in the contract portion of the program provided for in [section 7]."

**Insert:** "NEW SECTION. Section 6. Investment criteria. (1) The board of investments shall review applications from proposed new electrical generation facilities and existing qualified facilities for in-state investments pursuant to Title 17, chapter 6, part 3. In order to make an investment in a new electrical generation facility or an existing qualified facility, the board shall determine that:

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(a) the project promotes economic development in Montana and creates or maintains employment opportunities in Montana;

(b) the construction of the project will provide stable electrical energy rates for Montanans who rely on the default supplier for electrical energy;

(c) the project will maintain environmental quality consistent with state and federal standards; and

(d) the project possesses long-term economic prospects consistent with the obligation to provide electrical energy generation capacity and electrical energy for the term of the contracts as required in [section 7].

(2) A project selected by the board must be collateralized by payments for the sale of the electricity produced by the project to the default supplier at rates not in excess of 5 cents per kilowatt hour plus annual escalations equal to the inflation rate. A payment may be made from the assets of the state if the default supplier or its assignee fails to pay the approved project for energy delivered in order to maintain the supply of energy to Montana. The state must be a party to the contract and may bring a cause of action against the default supplier for nonpayment."

**"NEW SECTION. Section 7. Term of contract -- pledge.** (1) A project is not eligible for an investment under [section

6] unless the applicant has signed an assignable electrical energy sales agreement with the default supplier or its successor in interest for a term of not less than 15 years or more than 25 years.

(2) The proceeds of the contract must be pledged as security for the repayment of the investment.

**Renumber:** subsequent sections

7. Page 5, line 1.

**Strike:** "must"

**Insert:** "shall"

8. Page 5, line 20 through page 9, line 28.

**Strike:** sections 5 and 6 in their entirety

**Renumber:** subsequent sections

9. Page 9, line 30.

**Following:** "instruction."

**Insert:** "(1)"

**Strike:** "3"

**Insert:** "1"

10. Page 10, line 2.

**Strike:** "3"

**Insert:** "1"

11. Page 10, line 3.

**Insert:** "(2) [Section 2] is intended to be codified as an integral part of Title 69, chapter 8, and the provisions of Title 69, chapter 8, apply to [section 2].

(3) [Sections 3 through 7] are intended to be codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to [sections 3 through 7]."

12. Page 10, line 6.

**Strike:** section 9 in its entirety

And, as amended, do pass. Report adopted.

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**SJR 9**, be concurred in. Report adopted.  
**SJR 16**, be concurred in. Report adopted.

**HUMAN SERVICES** (Thomas, Chairman):  
**SB 28**, be amended as follows:

3/26/2001

1. Page 12.

**Following:** line 5

**Insert:** "(3) If, in the absence of a certified mail return receipt showing the date of service, a person requests a hearing or appears at an administrative review, any financial information ordered produced pursuant to subsection (2) must be provided to the department no later than the 20th day after the person requests the hearing or appears at the administrative review, unless the person requesting the hearing or attending the administrative review waives that date in writing. A person who waives that date in writing shall provide the financial information by the date provided in subsection (2) or by another date established by order of the department."

2. Page 15, line 4.

**Following:** "be present."

**Insert:** "A party may appear in person at the administrative review session at the party's own expense. The personal appearance of a party at an administrative review session does not require the personal appearance of any other party or witness at the review session."

3. Page 15, line 25.

**Strike:** "mailed to"

**Insert:** "served on"

**Strike:** "."

**Insert:** "personally or by certified mail. If service on the party is by certified mail, the 10-day period for a request of an administrative hearing begins to run the day after the certified mail return receipt is signed."

4. Page 16, line 7.

**Following:** "by the"

**Insert:** "parties or the"

5. Page 17, line 17.

**Following:** "court"

**Insert:** "or a court or administrative agency of another jurisdiction"

6. Page 17, line 18.

**Strike:** "."

**Insert:** ", if that order was entered by a Montana district court. If the order was entered by a court or administrative agency of another jurisdiction, the order must be filed with and approved by a Montana district court that is an appropriate court under the Montana laws or rules of court governing jurisdiction and venue in civil proceedings."

**Following:** "file the"

**Insert:** "proposed"

7. Page 17, line 19.

**Strike:** "Montana"

**Insert:** "appropriate"

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**Strike:** "that issued the support order"

**Insert:** "under the Montana laws or rules of court governing jurisdiction and venue in civil proceedings"

**Strike:** "by mailing copies to"

**Insert:** "on"

**Strike:** "."

**Insert:** "and their counsel of record in the administrative and court proceedings personally or by certified mail, return receipt requested. Service is complete upon signing of the return receipt."

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

**SB 116**, be amended as follows:

1. Page 9, line 13.

**Following:** "shall"

**Insert:** "promptly"

2. Page 9, line 16.

**Following:** "~~promptly~~"

**Insert:** "promptly"

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

**SB 440**, be concurred in. Report adopted.

**SB 442**, be amended as follows:

1. Page 2, line 5.

**Strike:** "may"

**Insert:** "shall"

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

**SJR 8**, be concurred in. Report adopted.

**JUDICIARY** (Shockley, Chairman):

3/26/2001

**HJR 39**, introduced joint resolution, be amended as follows:

1. Page 2, line 4.

**Following:** "strikes,"

**Insert:** "sentences for violations of 61-8-401 and 61-8-406,"

2. Page 2, line 18.

**Following:** "state"

**Insert:** "and that are necessary or advisable to address recidivism and the growth of the populations in secure facilities"

And, as amended, be adopted. Report adopted.

**TAXATION** (Story, Chairman):

3/26/2001

**HB 646**, introduced bill, be amended as follows:

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1. Page 1, line 24.

**Strike:** "reasonable"

**Following:** "return"

**Insert:** "not to exceed 12% "

2. Page 1, line 30.

**Following:** "sales"

**Insert:** "of surplus capacity"

3. Page 2, line 7.

**Strike:** "the failure of reasonably maintained"

**Following:** "equipment"

**Insert:** "failure"

4. Page 2.

**Following:** line 10

**Insert:** "(a) "Average megawatt" means the annual net output of electricity in megawatt hours divided by hours in a year."

**Renumber:** subsequent subsections

5. Page 2, line 13.

**Strike:** "5"

**Insert:** "3"

And, as amended, do pass. Report adopted.

**TRANSPORTATION** (Somerville, Chairman):

3/26/2001

**HJR 36**, introduced joint resolution, be amended as follows:

1. Page 1, line 22 through line 29.

**Strike:** "WHEREAS" on line 22 through "; and" on line 29

And, as amended, be adopted. Report adopted.

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Sliter moved that the House adjourn until 12:00 p.m., Tuesday, March 27, 2001. Motion carried.

House adjourned at 2:40 p.m.

MARILYN MILLER  
Chief Clerk of the House

DAN MCGEE  
Speaker of the House