

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

Helena, Montana
March 20, 2001

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Pro Tempore McNutt presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Halligan, excused. Quorum present.

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

Miller, Chairman

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 3/20/2001
Correctly printed: SB 315, SB 466, SB 505, SB 506.
Correctly engrossed: HB 266, HB 292, HB 378, HB 386, HB 412, HB 455, HB 472, HB 517, HB 578, HJR 1, HJR 32.
Correctly enrolled: SB 8, SB 33, SB 52, SB 74, SB 164, SB 166, SB 194, SB 199, SB 228, SB 257, SB 268, SB 370, SR 16.
Examined by the sponsor and found to be correct: SB 8, SB 33, SB 52, SB 74, SB 164, SB 166, SB 194, SB 199, SB 228, SB 257, SB 268, SB 370, SR 16.
Signed by the President at 8:45 a.m., March 20, 2001: SB 175.
Signed by the President at 1:00 p.m., March 20, 2001: SB 23, SB 42.
Signed by the Speaker at 1:40 p.m., March 20, 2001: SB 20, SB 53, SB 55, SB 91, SB 161, SB 165, SB 209, SB 234, SB 252, SB 269.
Signed by the Speaker at 2:35 p.m., March 20, 2001: SB 175.

AGRICULTURE, LIVESTOCK AND IRRIGATION (Holden, Chairman): 3/20/2001
HB 33, be amended as follows:

1. Page 2, line 10.
Following: "shall"
Insert: ", 30 days prior to the use of the water,"
2. Page 2, line 11 through line 12.
Following: "diversion"
Strike: remainder of line 11 through "water" on line 12
3. Page 2, line 12.
Following: "OR"
Strike: "SHALL"

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

BUSINESS AND LABOR (Taylor, Chairman): 3/20/2001
HB 537, be concurred in. Report adopted.

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NATURAL RESOURCES (Crismore, Chairman): 3/20/2001
HB 477, be concurred in. Report adopted.
HJR 21, be concurred in. Report adopted.

STATE ADMINISTRATION (Hargrove, Chairman): 3/20/2001
SR 19, introduced resolution, be amended as follows:

1. Page 1, line 27 through line 28.

Strike: lines 27 and 28 in their entirety

Insert: "Mr. Ted Goodwin, appointed for a term ending July 1, 2001."

And, as amended, be adopted. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/19/2001

HB 2, introduced by Vick
HB 7, introduced by McCann
HB 10, introduced by Kasten
HB 12, introduced by Haines
HB 608, introduced by Haines
HB 610, introduced by Kasten
HB 615, introduced by Lewis
HB 620, introduced by Devlin

MOTIONS

Majority Leader Thomas moved that the Senate stand in recess until the hour of 1:10 p.m. this day for party caucuses.
Motion carried.

Senate recessed at 12:40 p.m.

Senate reconvened at 1:15 p.m.

Roll call: All members present except Senators, Mohl, Taylor and President Beck, excused.

Senator Taylor present at this time.

MOTIONS

SB 500 - Senator Thomas moved that **SB 500** be taken from the committee on Education and Cultural Resources and rereferred to the committee on Finance. After discussion, Senator Thomas withdrew his motion at this time.

FIRST READING AND COMMITMENT OF BILLS

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

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SB 507, introduced by Elliott, referred to Taxation.

SB 508, introduced by Cole, Matthews, Beck, Berry, Bohlinger, R. Brown, Curtiss, DePratu, Devlin, Ekegren, G. Forrester, Gillan, Golie, Hedges, Kitzenberg, Lenhart, Mahlum, McKenney, Olson, Roush, Smith, Tester, F. Thomas, Witt, Wolery, referred to Energy and Telecommunications.

SB 509, introduced by Doherty, referred to Energy and Telecommunications.

SB 510, introduced by Stapleton, Cole, Ekegren, F. Thomas, referred to Energy and Telecommunications.

The following House bills were introduced, read first time, and referred to committees:

HB 2, introduced by Vick (by request of the Office of Budget and Program Planning), referred to Finance.

HB 7, introduced by McCann (by request of the Department of Natural Resources and Conservation and the Office of Budget and Program Planning.), referred to Finance.

HB 10, introduced by Kasten (by request of the Office of Budget and Program Planning), referred to Finance.

HB 12, introduced by Haines (by request of the Department of Environmental Quality and the Office of Budget and Program Planning), referred to Finance.

HB 608, introduced by Haines (by request of the House Joint Appropriations Subcommittee on Natural Resources and Commerce), referred to Finance.

HB 610, introduced by Kasten (by request of the House Joint Appropriations Subcommittee on Long Range Planning), referred to Finance.

HB 615, introduced by Lewis (by request of the House Joint Appropriations Subcommittee on Health & Human Services), referred to Finance.

HB 620, introduced by Devlin, Gallus, Price (by request of the House Transportation Standing Committee), referred to Highways and Transportation.

**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 Christiaens in the chair.

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

HB 440 - Senator Bohlinger moved **HB 440**, be concurred in. Motion carried with Senator Ryan voting nay.

HB 87 - Senator Berry moved **HB 87** be concurred in. Motion carried with Senator Johnson voting nay.

SB 10 - House Amendments - Senator Stonington moved House amendments to **SB 10** be concurred in. Motion carried unanimously.

SB 90 - House Amendments - Senator Ekegren moved House amendments to **SB 90** be concurred in. Motion carried unanimously.

SB 260 - House Amendments - Senator Mahlum moved House amendments to **SB 260** be concurred in. Motion carried unanimously.

SB 421 - House Amendments - Senator F. Thomas moved House amendments to **SB 421** be concurred in. Motion carried unanimously.

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SJR 4 - House Amendments - Senator Taylor moved consideration of House amendments to **SJR 4** be moved to the bottom of the second reading board this day. Motion carried unanimously.

HB 473 - Senator Grosfield moved **HB 473** be concurred in. After discussion, the committee reverted to the body of the bill for amendment.

HB 473 - Senator Cobb moved **HB 473**, second reading copy, be amended as follows :

1. Page 3, line 26 through line 28.

Strike: line 26 through line 28 in their entirety

Renumber: subsequent subsections

Amendment **adopted** as follows:

Yeas: Bishop, Bohlinger, Christiaens, Cobb, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, Johnson, Kitzenberg, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Stonington, Taylor, Tester, Toole, Waterman.

Total 26

Nays: Berry, Butcher, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Keenan, Mahlum, McNutt, Miller, Sprague, Stapleton, Tash, Thomas, Wells, Zook.

Total 22

Absent or not voting: None.

Total 0

Excused: Mohl, Mr. President.

Total 2

Senator Mohl present at this time.

HB 473 - Senator Halligan moved **HB 473**, second reading copy, be further amended as follows :

1. Title, line 8.

Following: "REQUIREMENTS" on line 8

Insert: "OR CONSTITUTIONAL PROVISIONS"

2. Page 3, line 25.

Following: "requirement"

Insert: "or a violation of a provision of the Montana constitution"

Amendment **not** adopted as follows:

Yeas: Bishop, Bohlinger, Christiaens, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, McCarthy, Nelson, Pease, Roush, Ryan, Stonington, Tester, Toole, Waterman.

Total 20

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Nays: Berry, Butcher, Cobb, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, O'Neil, Shea, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook.

Total 29

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

HB 473 - Senator Bishop moved **HB 473**, second reading copy, be further amended as follows :

1. Title, line 8.

Following: "REQUIREMENTS"

Insert: "UNLESS ENDANGERMENT OF PUBLIC HEALTH, SAFETY, OR WELFARE OR A SIGNIFICANT IMPACT ON FISH OR WILDLIFE RESOURCES WOULD OCCUR"

2. Page 3, line 22.

Strike: "The"

Insert: "Except as provided in subsection (4)(d), the"

3. Page 4.

Following: line 3

Insert: "(d) An agency may impose a condition on a permit or other authority to act based on an environmental review if the agency determines that an endangerment of public health, safety, or welfare or a significant impact on fish or wildlife resources would occur unless a condition is imposed."

Renumber: subsequent subsection

Amendment **not** adopted as follows:

Yeas: Bishop, Bohlinger, Christiaens, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, McCarthy, Nelson, Pease, Roush, Ryan, Stonington, Tester, Toole, Waterman.

Total 20

Nays: Berry, Butcher, Cobb, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, O'Neil, Shea, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook.

Total 29

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

HB 473 - Senator Grosfield moved **HB 473**, as amended, be concurred in. Motion carried as follows:

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Yeas: Berry, Butcher, Cobb, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Johnson, Keenan, Kitzenberg, McNutt, Miller, Mohl, O'Neil, Roush, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook.

Total 28

Nays: Bishop, Bohlinger, Christiaens, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, Mahlum, McCarthy, Nelson, Pease, Ryan, Shea, Stonington, Tester, Toole, Waterman.

Total 21

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

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

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 168, as amended by the House, passed as follows:

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

Total 42

Nays: Cobb, Ellis, Holden, Keenan, Miller, Taylor, Zook.

Total 7

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

SB 315 passed as follows:

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

Total 43

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Nays: Grimes, Miller, Mohl, Stapleton, Taylor, Zook.
Total 6

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

SB 466 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.
Total 47

Nays: DePratu, Miller.
Total 2

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

HB 266, as amended by the Senate, concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellingson, Elliott, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.
Total 46

Nays: Doherty, Franklin, Ryan.
Total 3

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

HB 292 concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague,

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Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.
Total 47

Nays: Cobb, Keenan.
Total 2

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

HB 378 concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.
Total 46

Nays: Franklin, Roush, Ryan.
Total 3

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

HB 386 concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, DePratu, Doherty, Ekegren, Elliott, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Johnson, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, O'Neil, Pease, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Thomas, Toole, Wells, Zook.
Total 37

Nays: Cole, Crismore, Ellingson, Franklin, Jergeson, Keenan, Mohl, Nelson, Roush, Ryan, Tester, Waterman.
Total 12

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

HB 412, as amended by the Senate, concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren,

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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, Waterman, Wells, Zook.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

HB 455, 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, Waterman, Wells, Zook.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

HB 472, 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, Waterman, Wells, Zook.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

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HB 517, as amended by the Senate, concurred in as follows:

Yeas: Berry, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Waterman, Wells, Zook.
Total 45

Nays: Bishop, Elliott, O'Neil, Toole.
Total 4

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

HB 578, as amended by the Senate, concurred in as follows:

Yeas: Berry, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.
Total 46

Nays: Bishop, Elliott, O'Neil.
Total 3

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

HJR 1, 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, Waterman, Wells, Zook.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: Mr. President.
Total 1

HJR 32, 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, Waterman, Wells, Zook.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman): 3/20/2001
SB 500, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: first "ENTITLEMENTS"

Insert: "BY 2.44 PERCENT FOR SCHOOL FISCAL YEAR 2002 AND SUCCEEDING YEARS"

Following: "BY"

Strike: "1.3"

Insert: "2.43"

2. Title, page 1, lines 9 through 11.

Following: "YEARS;" on line 9

Strike: remainder of line 9 through "YEAR;" on line 11

Insert: "REQUIRING THAT A SCHOOL DISTRICT BASE ITS AVERAGE NUMBER BELONGING FOR THE ENSUING SCHOOL FISCAL YEAR ON A 2-YEAR AVERAGE OF THE DISTRICT'S AVERAGE NUMBER BELONGING;"

3. Title, page 1, line 12.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "20-9-306"

Insert: "AND 20-9-311"

4. Page 2, line 19.

Following: "funds."

Insert: "(1)"

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5. Page 2, line 22.

Following: "account"

Insert: ", including any interest earned on money allocated to the account,"

6. Page 2, line 25.

Following: line 24

Insert: "(2) In addition to funds allocated or appropriated to the school flexibility account by the 2001 legislature, all money saved by the state through the unexpected decrease in statewide enrollment for school fiscal year 2003 must be deposited in the school flexibility account and allocated pro rata to each school district for use by the district under [section 3]."

7. Page 4, line 3 through line 5.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

8. Page 4, line 7.

Strike: "adjusted"

9. Page 4, line 9.

Following: "expended"

Insert: "per full-time equivalent student"

10. Page 4, line 12.

Following: "dividing"

Insert: "90% of"

11. Page 4, line 13.

Strike: "adjusted"

12. Page 4, line 15 through line 18.

Strike: subsection (6) in its entirety

Insert: "(5) "Resident student count" means the actual full-time equivalent resident student enrollment at a campus for the last completed fiscal year."

13. Page 5, lines 2 and 3.

Following: "(iv)"

Strike: remainder of line 2 through "regents" on line 3

Insert: "provide the interim education committee with a summary report on the process for, input on, and final outcomes of the distribution of campus entitlements"

14. Page 5, line 10 through line 14.

Following: "spent"

Strike: remainder of line 10 through line 14

Insert: "by consultation with student government, campus advisory committees that include student representatives selected by the student body, or student referenda on the respective campuses. Individual campus entitlements must be distributed with 90% of the funding awarded based on the number of resident students in accordance with [section 5]. These funds must be used to improve services and support for services. The remaining 10% must be used to fund innovations that are likely to reduce the costs of educational delivery. Priority in this

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latter category must go to initiatives that promote new uses of technology to improve instructional effectiveness, that increase learning in large class sections, or that result in reduced instructional costs."

15. Page 5, lines 21 and 22.

Strike: " " on line 21 through " " on line 22

16. Page 6, line 8.

Strike: "\$208,678"

Insert: "\$211,026"

17. Page 6, line 9.

Strike: "\$18,781"

Insert: "\$18,992"

18. Page 6, line 13.

Strike: "\$18,781"

Insert: "\$18,992"

19. Page 6, line 15.

Strike: "\$208,678"

Insert: "\$211,026"

20. Page 6, line 24.

Strike: "(a)"

21. Page 6, line 26.

Strike: "(i)" through " "

Insert: "(a)"

22. Page 6, line 27.

Strike: "\$5,080"

Insert: "\$5,137"

23. Page 6, line 30.

Strike: "(ii)" through " "

Insert: "(b)"

24. Page 7, line 2.

Strike: "\$3,812"

Insert: "\$3,855"

25. Page 7, line 5.

Strike: "(iii)" through " "

Insert: "(c)"

26. Page 7, line 7.

Strike: "(A)"

Insert: "(i)"

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Strike: "\$3,812"

Insert: "\$3,855"

27. Page 7, line 10.

Strike: "(B)"

Insert: "(ii)"

Strike: "\$5,080"

Insert: "\$5,137"

28. Page 7, line 13 through line 18.

Strike: subsections (b) and (c) in their entirety

29. Page 7, lines 25 and 26.

Strike: "½" on line 25 through "½" on line 26

30. Page 8, line 12.

Strike: "\$211,391"

Insert: "\$216,175"

31. Page 8, line 13.

Strike: "\$19,025"

Insert: "\$19,455"

32. Page 8, line 17.

Strike: "\$19,025"

Insert: "\$19,455"

33. Page 8, line 19.

Strike: "\$211,391"

Insert: "\$216,175"

34. Page 8, line 28.

Strike: "(a)"

35. Page 8, line 30.

Strike: "(i)" through "½"

Insert: "(a)"

36. Page 9, line 1.

Strike: "\$5,146"

Insert: "\$5,262"

37. Page 9, line 4.

Strike: "(ii)" through "½"

Insert: "(b)"

38. Page 9, line 6.

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Strike: "\$3,862"
Insert: "\$3,949"

39. Page 9, line 9.
Strike: "(iii)" through "1"
Insert: "(c)"

40. Page 9, line 11.
Strike: "(A)"
Insert: "(i)"
Strike: "\$3,862"
Insert: "\$3,949"

41. Page 9, line 14.
Strike: "(B)"
Insert: "(ii)"
Strike: "\$5,146"
Insert: "\$5,262"

42. Page 9, line 17 through line 22.
Strike: subsections (b) and (c) in their entirety

43. Page 9, line 23.
Following: line 22
Insert: "**Section 9.** Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB). (1) Average number belonging (ANB) must be computed as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than 180 school days under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be counted as enrollment for one-half day.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

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(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more elementary districts consolidate or annex under the provisions of 20-6-203, 20-6-205, or 20-6-208; two or more high school districts consolidate or annex under the provisions of 20-6-315 or 20-6-317; or two or more K-12 districts consolidate or annex under Title 20, chapter 6, part 4, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation;

(b) a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) In establishing the ANB for the ensuing school fiscal year, the ensuing year's calculation must be averaged with the ANB from the current school fiscal year to determine the ANB for the ensuing school fiscal year."

Renumber: subsequent sections

44. Page 9, line 30 through page 10, line 1.

Strike: "subsection" on page 9, line 30 through "(2)" on page 10, line 1

Insert: "subsections (2) and (3)"

45. Page 10, line 5.

Following: line 4

Insert: "(3) [Section 12 and this section] are effective on passage and approval."

Insert: "NEW SECTION. Section 12. Contingent voidness. (1) If a minimum of \$20 million is not appropriated, dedicated, or transferred to the school flexibility account to pay for support of the school flexibility program, then [sections 1 through 4 of this act] are void.

(2) If a minimum of \$7 million is not appropriated, dedicated, or transferred to the resident student funding bonus account to pay for campus entitlements, then [sections 5 and 6 of this act] are void."

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Renumber: subsequent section

And, as amended, do pass. Report adopted.

FINANCE (Keenan, Chairman):
SB 339, introduced bill, be amended as follows:

3/20/2001

1. Page 40.

Following: line 14

Insert: "NEW SECTION. Section 45. Coordination instruction. If House Bill No. 124 is passed and approved and if it includes sections amending or repealing 41-3-1122, 52-1-110, 53-2-207, 53-2-304, and 53-2-322, then [sections 9, 11, 14, 16, and 18 of this act], amending 41-3-1122, 52-1-110, 53-2-207, 53-2-304, and 53-2-322, are void."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

HB 41, be amended as follows:

1. Title, page 1, line 8 through line 11.

Strike: "PROVIDING" on line 8 through "FUND;" on line 11

Insert: "PROVIDING FOR THE DEPOSIT OF STATE SCHOOL FUND REVENUE IN THE STATE SPECIAL REVENUE FUND; STATUTORILY APPROPRIATING TIMBER HARVEST FUNDS TO SCHOOLS FOR TECHNOLOGY ACQUISITION;"

2. Title, page 1, line 12.

Strike: "81-5-110, 81-5-111, AND 82-4-311"

Insert: "17-7-502, 20-9-342, 20-9-343, AND 20-9-534"

3. Page 3, line 23 through page 4, line 28.

Strike: section 1 through section 3 in their entirety

4. Page 5.

Following: line 6

Insert: "**Section 1.** Section 17-7-502, MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206;

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44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005.)"

Insert: "Section 2. Section 20-9-342, MCA, is amended to read:

"20-9-342. Deposit of interest and income money by state board of land commissioners. The state board of land commissioners shall annually deposit the interest and income money for each calendar year into the state ~~general~~ special revenue fund for state equalization aid by the last business day of February following the calendar year in which the money was received."

Insert: "Section 3. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means revenue as required in this section for:

(a) distribution to the public schools for the purposes of payment of systems development and other related costs resulting from the enactment of legislation that requires changes to the automated system used to administer the BASE funding program, guaranteed tax base aid, BASE aid, state reimbursement for school facilities, matching funds for the systemic initiative for Montana mathematics and science grant, and grants for school technology purchases;

(b) negotiated payments authorized under 20-7-420(3) up to \$500,000 ~~per a~~ biennium; and

(c) the Montana educational telecommunications network as provided in 20-32-101.

(2) The superintendent of public instruction may spend throughout the biennium funds appropriated for the purposes of systems development and other related costs resulting from the enactment of legislation that requires changes to the automated system used to administer the BASE funding program, guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for school facilities, negotiated payments authorized under 20-7-420(3), the Montana educational telecommunications network, and school technology purchases.

(3) The following money must be ~~paid into the state general fund~~ deposited in the state special revenue fund for the public schools of the state as indicated:

(a) (i) subject to subsection (3)(a)(ii), interest and income money described in 20-9-341 and 20-9-342 must be paid into the state equalization aid account; and

(ii) an amount of money equal to the income money attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year ~~to be~~ must be paid into the school technology account, which is statutorily appropriated, pursuant to 20-9-534, to be used for the purposes of 20-9-533;

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342 must be paid into the state equalization aid account."

Insert: "Section 4. Section 20-9-534, MCA, is amended to read:

"20-9-534. School technology purchases. By September 1, the superintendent of public instruction shall allocate the annual amount ~~appropriated~~ for grants for school technology purchases to each district based on the ratio that each district's BASE budget bears to the statewide BASE budget amount for all school districts multiplied by the amount of money provided in 20-9-343(3)(a)(ii) in the ~~current school~~ prior fiscal year. The grants for school technology purchases are statutorily appropriated, as provided in 17-7 502."

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Renumber: subsequent section

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

HB 186, be amended as follows:

1. Title, page 1, line 4.

Following: "GENERAL"

Insert: "LICENSE"

Following: "FUND"

Insert: "OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS"

2. Page 1, line 15.

Following: "general"

Insert: "license"

Following: "fund"

Insert: "of the department of fish, wildlife, and parks"

3. Page 1, line 17.

Following: the first "appropriation"

Insert: "is to be biennial, restricted, and one time only and"

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

TAXATION (DePratu, Chairman):

3/20/2001

SB 493, do pass. Report adopted.

SB 495, introduced bill, be amended as follows:

1. Title, line 6.

Following: "MINERAL"

Insert: "PRODUCTION"

2. Title, line 7.

Following: "MINERAL"

Insert: "PRODUCTION"

3. Title, line 8.

Following: "ACCOUNT;"

Insert: "LOANING MONEY FROM THE COAL SEVERANCE TAX PERMANENT FUND TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR THE PURCHASE OF THE MINERAL PRODUCTION RIGHTS; REQUIRING REPAYMENT OF THE EXPENDED AMOUNTS FROM MINERAL ROYALTY PROCEEDS; AMENDING SECTIONS 77-2-303 AND 77-2-304, MCA;"

4. Page 1, line 26.

Following: "account."

Insert: "(1)"

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5. Page 1, line 29.

Strike: "The"

Insert: "Except as provided in subsection (2), the"

6. Page 1, line 30.

Strike: "as provided by law"

Insert: "through the basic and per-ANB entitlements"

7. Page 1.

Following: line 30

Insert: "(2) As long as a portion of the coal severance tax loan authorized in [section 7] is outstanding, the department shall annually transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is outstanding in the prior year."

8. Page 2, line 2.

Strike: "board of investments"

Insert: "department of natural resources and conservation"

9. Page 2, line 3.

Following: "mineral"

Insert: "production"

10. Page 2, line 4.

Strike: "board of investments"

Insert: "department of natural resources and conservation"

Following: "mineral"

Insert: "production"

11. Page 2, line 5.

Following: "reimburse the"

Insert: "coal severance tax trust"

Following: "fund"

Insert: "for the loan used for"

Following: "mineral"

Insert: "production"

12. Page 2, line 7.

Insert: "**Section 5.** Section 77-2-303, MCA, is amended to read:

"77-2-303. Restrictions on land available for sale. (1) ~~Lands~~ Subject to purchase by the department pursuant to [section 4], land that in the judgment of the ~~board~~ department ~~is~~ likely to contain valuable deposits of coal, oil, oil shale, phosphate, metals, sodium, or other valuable mineral deposits ~~are~~ is not subject to sale of either the surface land or any of the mineral deposits. However, this subsection does not prohibit the sale of lands containing sand, gravel, building stone, brick clay, or similar materials.

(2) (a) There is reserved from sale from all state ~~lands~~ land bordering on navigable lakes, nonnavigable meandered lakes, and navigable streams, that the board considers in the best interests of the state, a strip of land that includes all the land lying between low-water mark and high-water mark and that extends in width landward from the line of high-water mark of the lake or stream the full width of the 40-acre tract or government lot abutting the line of

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high-water mark. If the width of the abutting government lot at its narrowest point is less than 100 feet, then the strip reserved must extend to and include the next adjoining 40-acre tract or government lot. The land reserved from sale by this subsection is subject to the granting of easements the same as other state lands.

(b) Strips of land bordering on meandering lakes or on navigable streams, except the strip lying between low-water and high-water mark, whether surveyed and platted into blocks and lots or not, may be leased as provided in this title for the leasing of other state lands."

"Section 6. Section 77-2-304, MCA, is amended to read:

"77-2-304. Mineral reservations in state lands land. All coal, oil, oil shale, gas, phosphate, sodium, and other mineral deposits in state ~~lands land~~, except sand, gravel, building stone, and brick clay, which were not reserved by the United States before July 1, 1927, are reserved to the state. ~~All~~ Subject to [section 4], those deposits are reserved from sale except upon a rental and royalty basis as provided by law. A purchaser of state ~~lands land~~ acquires no right, title, or interest in or to any of those deposits. The state also reserves for itself and its lessees the right to enter upon ~~these lands state land~~ to prospect for, develop, mine, and remove ~~those mineral~~ deposits and to occupy and use so much of the surface of the ~~lands land~~ as may be required for all purposes reasonably extending to the exploring for, mining, and removal of the deposits ~~therefrom from the land~~, but the lessee shall make just payment to the purchaser for all damage done by reason of ~~such~~ entry upon the land and the use and occupancy of the surface ~~thereof of the land~~."

Insert: "NEW SECTION. Section 7. Coal severance tax loan -- rate of interest. (1) There is loaned to the department of natural resources and conservation from the coal severance tax permanent fund an amount not to exceed \$75 million for the biennium ending June 30, 2003, for the purpose of purchasing mineral production rights as provided in [section 4]. The department shall deposit the loan proceeds in the guarantee account provided for in [section 3].

(2) The interest to be paid on the loan authorized under subsection (1) must be at the long-term investment rate. The interest is payable as of the date of the transfer of the loan proceeds from the coal severance tax permanent fund to the department."

Insert: "NEW SECTION. Section 8. Loan agreement. (1) In order to make the loan authorized in [section 7], the board of investments shall enter into a contract with the department of natural resources and conservation pledging the percentage of mineral royalties to the repayment of the loan over a period of 30 years. The loan agreement may not require a payment on the loan until fiscal year 2004. In fiscal years 2004 and 2005, 20% of the mineral royalties deposited in the guarantee account provided for in [section 3] must be pledged to the loan repayment. In fiscal years 2006 through 2011, not less than 25% of the mineral royalties deposited in the guarantee account must be pledged to the loan repayment, and in succeeding fiscal years, not less than 34% of the mineral royalties deposited in the guarantee account must be pledged to the loan repayment until the loan is fully paid.

(2) The contract must provide that the loan repayment proceeds be deposited in the coal severance tax permanent fund. To the extent possible, the board of investments shall make the loan from the portion of the coal severance tax permanent fund invested in the short-term pool. The loan authorized in [section 7] may not be made until the contract required by this section has become effective."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

March 20, 2001

The Honorable Tom Beck
President of the Senate
State Capitol
Helena, Montana 59620

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Dear Senator Beck:

Please be informed that I have signed **Senate Bill 41** sponsored by Senator Roush, **Senate Bill 59** sponsored by Senator Nelson, **Senate Bill 142** sponsored by Senator Sprague, **Senate Bill 148** sponsored by Senator Tester, and **Senate Bill 149** sponsored by Senator Grosfield on March 20, 2001.

Sincerely,

JUDY MARTZ
Governor

MOTIONS

SB 500 - Senator Thomas moved that **SB 500** be taken from second reading and rereferred to the committee on Finance. Motion carried as follows:

Yeas: Berry, Bishop, Butcher, Cobb, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Johnson, Keenan, Mahlum, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook.

Total 28

Nays: Bohlinger, Christiaens, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.

Total 21

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 12:30 p.m., Wednesday, March 21, 2001. Motion carried.

Senate adjourned at 4:17 p.m.

ROSANA SKELTON
Secretary of Senate

WALT MCNUTT
President Pro Tempore of the Senate