

**SENATE JOURNAL
58TH LEGISLATURE
THIRTY-NINTH LEGISLATIVE DAY**

Helena, Montana
February 21, 2003

Senate Chambers
State Capitol

Senate convened at 12:02 p.m. President Keenan presiding. Invocation by Senator McGee. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-eighth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 442, SB 443, SB 444, SB 445, SB 446, SB 447, SB 448, SB 449, SB 450, SB 451, SB 452, SB 453, SJR 22, SJR 23.**

Correctly engrossed: **SB 184, SB 250, SB 253, SB 287, SB 304, SB 307, SB 331, SB 337, SB 339, SB 364, SB 380, SB 414, HB 299.**

Correctly enrolled: **SB 136.**

Examined by the sponsor: **SB 136.**

FINANCE AND CLAIMS (Zook, Chairman):
SB 115, introduced bill, be amended as follows:

2/20/2003

1. Title, page 1, line 8.

Following: the first "FOR"

Insert: "THE COOPERATIVE DEVELOPMENT CENTER, FOR"

2. Page 4, line 9.

Following: "17-7-502,"

Strike: "to the department of commerce"

3. Page 4, following line 10.

Insert: "(i) \$65,000 to the cooperative development center;
(ii) to the department of commerce:"

4. Page 4, line 11.

Strike: "(i)"

Insert: "(A)"

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):
SB 315, introduced bill, be amended as follows:

2/21/2003

1. Title, page 1, line 4.

Strike: "REQUIRING"

Insert: "PROVIDING FOR"

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

2. Page 1, line 25.

Following: "shall"

Insert: ", subject to subsection (3),"

3. Page 2, line 11.

Strike: "may pursue"

Insert: "shall secure"

4. Page 2, lines 11 and 12.

Strike: "assist" on line 11 through "covering" on line 12

Insert: "cover"

Following: "study." on line 12

Insert: "If funding is insufficient, the requirements for the study are void."

And, as amended, do pass. Report adopted.

SB 413, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):

2/20/2003

SB 363, introduced bill, be amended as follows:

1. Page 1, line 19.

Following: "million"

Insert: "or 3% of a defendant's net worth, whichever is less"

2. Page 1, line 19 through line 20.

Following: "₂" on line 19

Strike: remainder of line 19 through "worth." on line 20

And, as amended, do pass. Report adopted.

SB 389, introduced bill, be amended as follows:

2/21/2003

1. Page 1, line 23.

Strike: "4"

Insert: "3"

2. Page 2, line 5 through line 6.

Following: "out of the" on line 5

Strike: remainder of line 5 through "planning," on line 6

3. Page 2, line 6.

Following: "supervision,"

Strike: "inspection,"

4. Page 2, line 11.

Following: "with"

Insert: "contract specifications or"

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

5. Page 2, line 12.

Following: "means"

Strike: "an architect,"

Insert: "a"

Following: "contractor,"

Insert: "or"

Following: "subcontractor"

Strike: ", "

6. Page 2, line 13.

Following: line 12

Strike: "engineer, or inspector"

Following: "the"

Strike: "design, specification, surveying,"

7. Page 2, line 13 through line 14.

Following: "supervision" on line 13

Strike: remainder of line 13 through "observation" on line 14

8. Page 2, line 26 through line 29.

Strike: subsection (9) in its entirety

9. Page 3, line 8.

Following: line 7

Strike: "construction-related"

Insert: "construction defect"

10. Page 3, line 8 through line 9.

Following: "tolled" on line 8

Strike: remainder of line 8 through "barred" on line 9

11. Page 4, line 2 through line 3.

Following: "residence" on line 2

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

Insert: ", as agreed by the parties,"

12. Page 4, line 12.

Following: "statement"

Strike: "that"

Insert: "setting forth the reasons why"

13. Page 4, line 27.

Following: "(4)(b)(i)"

Insert: "or (4)(b)(iii)"

14. Page 5, line 5.

Strike: "4"

Insert: "3"

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

15. Page 5, line 10 through line 12.

Strike: subsection (8) in its entirety

Insert: "(8) This section may not be enforced unless the homeowner has been given written notice of the requirements of [sections 1 through 3]."

16. Page 5, line 14 through line 22.

Strike: section 3 in its entirety

Renumber: subsequent sections

17. Page 5, line 24.

Strike: "Residential construction"

Insert: "Construction defect"

Following: "--"

Strike: "limitation on"

18. Page 6, line 1.

Following: "due to"

Strike: "structural failure"

Insert: "a construction defect"

19. Page 6, line 2.

Following: "reasonable"

Insert: "costs"

Following: "and"

Strike: "necessary"

20. Page 6, line 3 through page 7, line 13.

Strike: subsections (2) through (5) in their entirety

Renumber: subsequent subsection

21. Page 7, line 14.

Strike: "4"

Insert: "3"

22. Page 8, line 7.

Strike: "4"

Insert: "3"

23. Page 8, line 9.

Strike: "4"

Insert: "3"

And, as amended, do pass. Report adopted.

SB 434, introduced bill, be amended as follows:

1. Title, line 7.

Following: line 6

Insert: "REMOVING GOVERNMENTAL IMMUNITY FOR BAD FAITH;"

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

2. Page 1, line 16.

Strike: "The"

Insert: "Except for willful misconduct or gross negligence, the"

3. Page 1, line 23.

Following: "private"

Insert: "emergency"

4. Page 1, line 24.

Following: "authority"

Insert: "for emergency response activities"

5. Page 1, line 25 through line 26.

Following: "(f)"

Strike: "except for willful misconduct, gross negligence, or bad faith."

And, as amended, do pass. Report adopted.

SB 438, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

2/20/2003

SB 401, introduced bill, be amended as follows:

1. Title, page 1, line 20.

Following: "10-2-603,"

Insert: "15-1-122,"

2. Page 4, line 18.

Following: "2-18-503."

Insert: "Compensation for the legislator who represents the state administration and veterans' affairs interim committee must be paid from the board of veterans' affairs budget."

3. Page 6, line 18.

Following: "Money"

Strike: "collected" through "61-3-321,"

Insert: "transferred pursuant to 15-1-122(3)(g)"

4. Page 6, line 23.

Following: "services"

Insert: "federal account in the"

5. Page 6, line 24.

Strike: "and known" through "federal account"

6. Page 7, line 19.

Following: "in the"

Insert: "veterans' services"

Strike: "special revenue"

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

7. Page 7, line 23.

Strike: "state special revenue"

8. Page 8, line 22.

Strike: "special revenue"

9. Page 8, line 24.

Following: "5]"

Insert: "unless the amount is included as a deduction under 15-30-121(1)(a)"

10. Page 9, line 5.

Insert: "**Section 12.** Section 15-1-122, MCA, is amended to read:

"15-1-122. Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, \$36,764 for fiscal year 2003. Beginning with fiscal year 2004, the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) There is transferred from the state general fund to the department of transportation state special revenue nonrestricted account the following amounts:

(a) \$75,000 in fiscal year 2003;

(b) \$2,960,715 in fiscal year 2004; and

(c) in each succeeding fiscal year, the amount in subsection (2)(b), increased by 1.5% in each succeeding fiscal year.

(3) For fiscal year 2002 and for each succeeding fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5:

(i) \$2 for each new application for a motor vehicle title and for each transfer of a motor vehicle title for which a fee is paid pursuant to 61-3-203; and

(ii) \$1 for each passenger car or truck under 8,001 pounds GVW registered for licensing pursuant to Title 61, chapter 3, part 3. Fifteen cents of each dollar must be used for the purpose of reimbursing the hired removal of abandoned vehicles during the calendar year following the calendar year in which the fee was paid. Any portion of the 15 cents not used for abandoned vehicle removal reimbursement during the calendar year following its payment must be used as provided in 75-10-532;

(b) to the noxious weed state special revenue account provided for in 80-7-816:

(i) \$1 for each off-highway vehicle subject to payment of the fee in lieu of tax, as provided for in 23-2-803; and

(ii) \$1.50 for each light vehicle, truck or bus weighing less than 1 ton, logging truck, vehicles weighing more than 1 ton, motorcycle, quadricycle, and motor home subject to registration or reregistration pursuant to 61-3-321;

(c) to the department of fish, wildlife, and parks:

(i) \$2.50 for each motorboat, sailboat, or personal watercraft receiving a certificate of number under 23-2-512, with 20% of the amount received to be used to acquire and maintain pumpout equipment and other boat facilities;

(ii) \$5 for each snowmobile registered under 23-2-616, with \$2.50 to be used for enforcing the purposes of 23-2-601 through 23-2-644 and \$2.50 designated for use in the development, maintenance, and operation of snowmobile facilities;

(iii) \$1 for each duplicate snowmobile decal issued under 23-2-617;

(iv) \$5 for each off-highway vehicle decal issued under 23-2-804 and each off-highway vehicle duplicate decal issued under 23-2-809, with 40% of the money used to enforce the provisions of 23-2-804 and 60% of the money used to develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use;

(v) to the state special revenue fund established in 23-1-105, \$3.50 for each recreational vehicle, camper, motor home, and travel trailer registered or reregistered and subject to the fee in 61-3-321 or 61-3-524; and

(vi) an amount equal to 20% of the funds collected pursuant to 23-2-518 to be deposited in the motorboat account to be used as provided in 23-2-533;

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

(d) to the state veterans' cemetery account, provided for in 10-2-603, \$10 for each veteran's license plate issued pursuant to 61-3-332(10)(a)(ii), (10)(f), and (10)(h);

(e) to the supplemental benefits for highway patrol officers' retirement account provided for in 19-6-709, 25 cents for each motor vehicle registered, other than trailers or semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and

(f) 25 cents a year for each vehicle subject to the fee in 61-3-321(6) for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112.

(g) 50 cents a year for each vehicle subject to the fee in 61-3-321(7) for deposit in the state special revenue fund to the credit of the veterans' services account provided for in [section 3(1)].

(4) For fiscal year 2002, there is transferred from the state general fund to the state special revenue fund to be used for purposes of state funding of district court expenses, as provided in 3-5-901, \$5,742,983 in lieu of the amount deposited by the state treasurer under 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001.

(5) For each fiscal year, beginning with fiscal year 2002, the department of justice shall provide to the department of revenue a count of the vehicles required for the calculations in subsection (3). Transfer amounts for fiscal year 2002 must be based on vehicle counts for calendar year 2000. Transfer amounts in each succeeding fiscal year must be based on vehicle counts in the most recent calendar year for which vehicle information is available.

(6) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes."

Renumber: subsequent sections

11. Page 10, lines 15 and 16.

Following: "collected"

Strike: "for deposit" on line 15 through "[section 3(1)]" on line 16

12. Page 10, line 17.

Strike: "account"

Insert: "general fund"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/20/2003

HB 458, introduced by Musgrove

HB 532, introduced by Stoker

HB 548, introduced by Jent

HB 552, introduced by B. Ryan

HB 562, introduced by Ballantyne

HB 580, introduced by Bitney

House joint resolutions passed and transmitted to the Senate for concurrence:

2/20/2003

HJR 16, introduced by Mendenhall

HJR 22, introduced by Ripley

MOTIONS

SB 356 - Senator Grimes moved the Senate reconsider its action in not passing **SB 356** on third reading, the thirty-eighth legislative day. Motion carried as follows:

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Perry, Ryan, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Wheat, Zook, Mr. President.

Total 31

Nays: Cocchiarella, Cooney, Ellingson, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Schmidt, Squires, Tester, Toole, Tropila.

Total 17

Absent or not voting: Curtiss.

Total 1

Excused: Stonington.

Total 1

SB 356 - Senator Grimes moved **SB 356** be taken from third reading and rereferred to the committee on Judiciary. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 454, introduced by Story, referred to Education and Cultural Resources.

SB 455, introduced by Cooney, referred to State Administration.

SB 456, introduced by Esp, referred to Natural Resources.

SB 457, introduced by Cooney, Barkus, Brueggeman, Laible, Lindeen, Sinrud, referred to Business and Labor.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 24, introduced by O'Neil, Barkus, Black, Butcher, Curtiss, Jackson, Juneau, Kitzenberg, Pease, Roush, referred to State Administration.

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 295 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 31

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 19

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 400 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 11 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 14 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 18 adopted as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Bales, Barkus, Esp, Johnson, Stapleton.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 181 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Esp, Gebhardt, Stapleton.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 311 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 12:45 p.m. this day for party caucuses.
Motion carried.

Senate recessed at 12:18 p.m.
Senate reconvened at 12:45 p.m.

Roll Call. All members present. Quorum present. Invocation by Pastor Jim Fiedler from the First Presbyterian Church.

REPORTS OF STANDING COMMITTEES

BUSINESS AND LABOR (Mahlum, Chairman):
SB 282, introduced bill, be amended as follows:

2/21/2003

1. Title, page 1, line 5.

Strike: "40"

Insert: "32"

Strike: "5"

Insert: "4"

2. Title, page 1, line 6.

Strike: "6"

Insert: "5"

3. Page 1, lines 13 and 14.

Following: "Compensation" on line 13

Strike: remainder of line 13 through "compensation" on line 14

Insert: "Compensation"

Strike: "40" on line 14

Insert: "32"

Strike: "5"

Insert: "4"

4. Page 1, line 16.

Strike: "6th"

Insert: "5th"

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

5. Page 1, lines 18 and 19.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

6. Page 1, line 20.

Strike: "(4)"

Insert: "(3)"

7. Page 1, line 22.

Strike: "5-day"

Insert: "4-day"

And, as amended, do pass. Report adopted.

SJR 17, be adopted. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

2/21/2003

SJR 13, introduced joint resolution, be amended as follows:

1. Title, page 1, line 6.

Following: "LAWS"

Insert: "AND OTHER ENERGY EFFICIENCY AND CONSERVATION PRACTICES"

2. Page 2, line 1.

Strike: "and"

3. Page 2, line 2.

Following: "Montana"

Insert: "; and

(3) investigate and evaluate other options for improving energy efficiency and conservation practices"

And, as amended, be adopted. Report adopted.

FISH AND GAME (Sprague, Chairman):

2/21/2003

SB 221, do pass. Report adopted.

SB 336, do pass. Report adopted.

SJR 16, introduced joint resolution, be amended as follows:

1. Title, line 8.

Following: "ENDANGERED"

Insert: "OR THREATENED"

2. Page 1, line 13.

Following: "endangered"

Insert: "or threatened"

3. Page 1, line 15.

Following: "endangered"

Insert: "or threatened"

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

4. Page 1, line 25.

Following: "kills"

Strike: "a"

Insert: "an endangered or"

5. Page 1, line 26.

Following: "endangered"

Insert: "or threatened"

6. Page 2, line 3.

Following: "endangered"

Insert: "or threatened"

7. Page 2, line 7.

Following: "endangered"

Insert: "or threatened"

8. Page 2, line 16.

Following: "endangered"

Insert: "or threatened"

9. Page 2, line 19.

Following: "endangered"

Insert: "or threatened"

Following: line 19

Insert: "BE IT FURTHER RESOLVED, that the Montana Department of Fish, Wildlife, and Parks continue its efforts to encourage the U.S. Fish and Wildlife Service to interpret "normal behavioral patterns" in a way that does not include behavior that threatens livestock, pets, or humans."

And, as amended, be adopted. Report adopted.

JUDICIARY (Grimes, Chairman):
SB 439, introduced bill, be amended as follows:

2/21/2003

1. Title, line 5.

Strike: "INGESTION"

Insert: "CONSUMPTION"

Following: "METHAMPHETAMINE"

Insert: "BY ANY MEANS"

2. Title, line 6 through line 7.

Following: "DRUG;" on line 6

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

3. Title, line 8.

Following: "METHAMPHETAMINE"

Strike: "IN ANY KIND OF MOTOR VEHICLE"

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

4. Page 1, line 17.

Following: "includes"

Strike: "ingestion"

Insert: "consumption by any means"

5. Page 2, line 2.

Following: "or"

Insert: "or"

Following: "(4)"

Strike: ", or (6)"

6. Page 2, line 4 through line 6.

Strike: subsection (6) in its entirety

Renumber: subsequent subsections

7. Page 2, line 16.

Following: "methamphetamine"

Strike: "in any kind of motor vehicle, as defined in 61-1-102"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):
SB 293, introduced bill, be amended as follows:

2/21/2003

1. Title, line 4.

Strike: "AND REQUIRE"

2. Title, lines 6 and 7.

Strike: ""FAST-GROWING" on line 6 through the first "AND" on line 7

3. Title, line 7 through line 9.

Strike: "REQUIRING" on line 7 through "POLICY;" on line 9

4. Title, line 10.

Strike: "PLANNING BOARD"

Insert: "CITY COUNCIL, BOARD OF COUNTY COMMISSIONERS,"

Strike: the second "BY"

5. Page 1, lines 22 and 23.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

6. Page 2, lines 6 and 7.

Strike: subsection (11) in its entirety

Renumber: subsequent subsections

7. Page 3, lines 16 and 17.

Strike: subsection (2)(f) in its entirety

Renumber: subsequent subsections

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

8. Page 4, line 18.

Strike: "planning board"

Insert: "city council within its planning jurisdiction or a board of county commissioners within its planning jurisdiction"

9. Page 4, line 23.

Following: "located"

Insert: "in the designation of quality growth areas immediately adjacent to that city"

10. Page 4, line 27.

Following: "a"

Insert: "net"

Following: "acre"

Insert: "or at a net density equaling the net density of the nearest unincorporated developed area or municipality, whichever is closest"

11. Page 5, line 1.

Strike: "must"

Insert: "may"

12. Page 5, line 22.

Strike: "a higher"

Insert: "the"

Following: "priority"

Insert: "provided in 90-6-710"

13. Page 6, lines 12 and 13.

Strike: subsection (3)(b) in its entirety

Renumber: subsequent subsections

14. Page 6, lines 19 and 20.

Strike: subsection (3)(f) in its entirety

Renumber: subsequent subsections

15. Page 6, line 25.

Strike: "and"

Insert: "(g) projects that serve a quality growth area jointly designated by any combination of more than one city, town, or county in a quality growth plan pursuant to [section 3] and projects that serve a quality growth area designated solely by a city, town, or county in a quality growth plan pursuant to [section 3]; and"

Renumber: subsequent subsection

16. Page 7, lines 12 and 13.

Strike: subsection (2)(b) in its entirety

Renumber: subsequent subsections

17. Page 7, lines 19 and 20.

Strike: subsection (2)(f) in its entirety

Renumber: subsequent subsections

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

18. Page 7, line 25.

Strike: "and"

Insert: "(g) projects that serve a quality growth area jointly designated by any combination of more than one city, town, or county in a quality growth plan pursuant to [section 3] and projects that serve a quality growth area designated solely by a city, town, or county in a quality growth plan pursuant to [section 3]; and"

Renumber: subsequent subsection

And, as amended, do pass. Report adopted.

SB 399, introduced bill, be amended as follows:

1. Page 1, line 22.

Following: "49 U.S.C. 20153(c)."

Insert: "In developing the petition, the governing body of the municipality or the board of county commissioners shall consult with the railroad corporations that operate the rail lines through crossings that are within the proposed quiet zone."

And, as amended, do pass. Report adopted.

SB 406, introduced bill, be amended as follows:

1. Page 2, line 23.

Following: "sewer."

Insert: "A subsequent change in the use of the land to a residential use is subject to the requirements of this chapter."

And, as amended, do pass. Report adopted.

SB 426, do pass. Report adopted.

**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 Barkus in the chair.

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

SB 254 - Senator Cooney moved **SB 254** do pass. Motion carried with Senators DePratu, Glaser and O'Neil voting nay. Senator DePratu declared a conflict of interest pertaining to **SB 254**, because he owns a small rental car agency.

SB 275 - Senator Laible moved **SB 275** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 31

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, McCarthy, Pease, Roush, Ryan, Schmidt,

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 355 - Senator McGee declared a potential conflict of interest pertaining to **SB 355** because he is a registered land surveyor.

SB 355 - Senator McGee moved **SB 355** do pass. Motion carried unanimously.

SB 306 - Senator D. Ryan moved **SB 306** do pass. Motion carried with Senators Esp and O'Neil voting nay.

SB 308 - Senator Taylor moved **SB 308** do pass. Motion carried unanimously.

SB 345 - Senator Elliott moved **SB 345** do pass. Motion carried unanimously.

SB 384 - Senator Mangan moved **SB 384** do pass. Motion carried with Senators Esp, Johnson and Laible voting nay.

SB 393 - Senator Kitzenberg moved **SB 393** do pass. Motion carried unanimously.

SB 270 - Senator Harrington moved **SB 270** do pass. After discussion, Senator Harrington made a **substitute motion** that consideration of **SB 270** be moved to the bottom of the second reading board. Motion carried .

SJR 15 - Senator Nelson moved **SJR 15** be adopted. Motion carried with Senator Butcher voting nay.

SB 408 - Senator Nelson moved **SB 408** do pass. Motion carried unanimously.

Senator Pease excused at this time.

SB 326 - Senator McGee moved **SB 326** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 21, 2003

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

MOTIONS

SB 404 - Senator Toole moved **SB 404** be taken from the committee on Business and Labor and rereferred to the State Administration committee. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Saturday, February 22, 2003. Motion carried.

Senate adjourned at 3:17 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate