

**SENATE JOURNAL
56TH LEGISLATURE / SPECIAL SESSION MAY 2000
FIRST LEGISLATIVE DAY**

Helena, Montana
May 8, 2000

Senate Chambers
Scott-Hart Auditorium

Senate convened at 9:00 a.m. President Crippen presiding at the second special session of the 56th Legislature.

MESSAGES FROM THE GOVERNOR

April 18, 2000

To: Members of the Montana Senate
Members of the Montana House of Representatives
Members of the Montana Supreme Court c/o Clerk of the Court Ed Smith
Secretary of State Mike Cooney

PROCLAMATION
Call to the 56th Legislature
for a Special Session

WHEREAS, Article V, section 6, of the Montana Constitution and section 5-3-101, MCA, provide that the Legislature may be convened in special session by the Governor; and

WHEREAS, Article VI, section 11, of the Montana Constitution provides that whenever the Governor considers it in the public interest, the Governor may convene the Legislature; and

WHEREAS, due to the recent Montana Supreme Court decision in Montanans for the Coal Trust v. State of Montana, the license tax of House Bill 260 was invalidated as unconstitutional in part as a violation of Article IX, section 5; and

WHEREAS, an invalidation of House Bill 260 has made its provisions inoperative, thereby making it virtually impossible to fund the programs established in the bill without legislative action; and

WHEREAS, it is in the public interest of all Montanans, that the programs funded by House Bill 260 be considered at a special session of the Legislature;

NOW, THEREFORE I, Marc Racicot, Governor of the State of Montana, pursuant to the authority vested in me by the Constitution and laws of the state of Montana do hereby call the Fifty-Sixth Legislature into Special Session in Helena, at the Capital Complex at the hour of 9:00 a.m., the 8th of May, 2000, and hereby direct the Special Session of the Fifty-Sixth Legislature to consider action on the following:

1. Legislation appropriating funds from the General Fund for the following programs which were established through the good-faith efforts of the Fifty-Sixth Montana Legislature in House Bill 260:

- a.) Treasure State Endowment Program funded with \$3,500,000;
- b.) Industrial Infrastructure Reimbursement funded with \$600,000;
- c.) Board of Research and Commercialization funded with \$6,600,000;
- d.) Cooperative Development Center funded with \$65,000;
- e.) Growth Through Agriculture funded with \$2,500,000 total: Department of Agriculture's

Marketing and Business Assistance and Grants and Loans funded with \$1,250,000; and Department of Commerce's Business Recruitment, Canadian/ Foreign Trade, Small Business Innovation Research and Development Center, Certified Communities funded with \$1,250,000;

2. Legislation for the purpose of clarifying the House Bill 555 bonding supporting aerospace, transportation and technology infrastructure projects.

3. Confirmation of gubernatorial judicial appointees subject to the provisions of Montana Code Annotated section 3-1-1013(1).

DATED this 18th day of April, 2000.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Montana to be affixed. DONE at the City of Helena, the Capitol, this 18th day of April, in the year of our Lord, two thousand.

MARC RACICOT, Governor

Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll call. All members present except Senator Bohlinger, excused. Quorum present.

MOTIONS

Senate Majority Leader Harp moved that the rules of the 56th Legislature, as amended by the Joint Senate/House Rules Committee and the Senate Rules Committee on April 28, 2000, be the rules of the second special session of the 56th Legislature. Motion carried.

TEMPORARY JOINT RULES FOR SPECIAL SESSION

10-150. Recording and publication of voting. (1) Every vote of each member on each substantive question in the Legislature, in any committee, or in Committee of the Whole must be recorded and made public. On final passage of any bill or joint resolution, the vote must be taken by ayes and noes and the names entered on the journal.

(2) (a) Roll call votes must be taken by ayes and noes and the names entered on the journal on adopting an adverse committee report and on those motions made in Committee of the Whole to:

- (i) amend;
- (ii) recommend passage or nonpassage;
- (iii) recommend concurrence or nonconcurrence; or
- (iv) indefinitely postpone.

(b) The text of all ~~proposed~~ adopted amendments must be recorded.

(3) A roll call vote must be taken on nonsubstantive questions on the request of two members who may, on any vote, request that the ayes and noes be spread upon the journal.

(4) Roll call votes and other votes that are to be made public but are not specifically required to be spread upon the journal must be entered in the minutes of the appropriate committee or of the appropriate house (Montana Constitution, Art. V, Sec. 11(2)). A copy of the minutes must be filed with the Montana Historical Society.

~~————— 30-50. Committee consideration of appropriation bills. (1) All bills providing for an appropriation of public money may first be considered by a joint committee composed of the members of the Senate Committee~~

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

~~on Finance and Claims and the House Committee on Appropriations, and then by each separately.~~

~~——— (2) Meetings of the joint committee must be held upon call of the chair of the House Committee on Appropriations, who is chair of the joint committee.~~

~~——— (3) The committee chair of the Senate Committee on Finance and Claims or of the House Committee on Appropriations may be a voting member in the joint subcommittees if:~~

~~——— (a) either house has fewer members on the joint subcommittees;~~

~~——— (b) the chair represents the house with fewer members on the subcommittees; and~~

~~——— (c) the chair is present for the vote.~~

40-40. Bill requests and introduction -- limits and procedures. (1) ~~Prior to a regular~~ the special session, a person entitled to serve in that session, hereafter referred to as a "member", is entitled to request bill drafting services from the Legislative Services Division, ~~subject to the following limits:~~

~~——— (a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and resolutions to be prepared by the Legislative Services Division for introduction in the regular session.~~

~~——— (b) (i) Except as provided in subsection (1)(b)(ii), after 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Services Division. At least five of the seven bills or resolutions must be requested before the regular session convenes.~~

~~——— (ii) For the 56th legislative session, after 11 a.m. on December 18, a member may request no more than four bills or resolutions to be prepared by the Legislative Services Division. At least two of the four bills or resolutions must be requested before the regular session convenes. A bill or resolution requested between 5 p.m. on December 5 and 11 a.m. on December 18 is exempt from this subsection (1)(b)(ii).~~

~~——— (c) After December 5, a member, in the member's discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator.~~

~~——— (d) These limitations on bill and resolution requests do not apply to:~~

~~——— (i) Code Commissioner bills;~~

~~——— (ii) a bill or resolution requested by a standing committee; and~~

~~——— (iii) a bill or resolution requested by a member at the request of a newly elected state official if so designated.~~

~~(2) The staff of the Legislative Services Division shall work on bill draft requests in the order received. After a member has requested the drafting of five bills, the sixth bill request and all subsequent bill requests of that member must receive a lower drafting priority than all other bills of members not in excess of five per member. A bill requested pursuant to subsection (5) must receive a lower drafting priority than all bills requested by members, unless the requesting member assigns that request to the member's five request priority. A legislator draft must receive priority at each step of the drafting process. A legislator draft must be delivered to the Legislative Services Division by the 20th legislative day or the request is canceled. The Speaker of the House, the minority leader of the House, the President of the Senate, and the minority leader of the Senate may each direct the staff of the Legislative Services Division to assign a higher priority to 10 draft requests. The staff of the Legislative Services Division shall assign a higher priority to any bill draft request when jointly directed by:~~

~~——— (a) the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House; or~~

~~——— (b) the House and the Senate.~~

~~(3) Bills and resolutions must be reviewed by the staff of the Legislative Services Division prior to introduction for proper format, style, and legal form. The staff of the Legislative Services Division shall store bills on the automated bill drafting equipment and shall print and deliver them in duplicate to the requesting members. The original bill cover must be signed to indicate review by the Legislative Services Division. A bill~~

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

may not be introduced unless it is so signed.

~~———— (4) During a session, a bill may be introduced by endorsing it with the name of a member and presenting it in duplicate to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name appears first on the bill is a member. The chief joint sponsor's name must appear immediately to the right of the first sponsor's name. In each session of the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.~~

~~———— (5) (a) Any bill proposed by an interim or statutory legislative committee or introduced by request of an administrative or executive agency or department must be so indicated by placing after the names of the sponsors the phrase "By Request of the..... (Name of committee or agency)". The phrase may not be added to an introduced bill and may not be placed on a bill whose subject matter was requested by an agency or statutory or interim committee prior to the convening of the session. A bill draft request submitted at the request of an agency or committee prior to December 23 must be requested by an individual member by December 23 or the request is placed on hold. After December 23, an agency or committee bill must be requested by an individual member. Except as provided in subsection (5)(b), an agency or committee bill request must be preintroduced or the request is canceled. Preintroduction must occur no later than 5 p.m. on the fifth working day prior to the convening of a legislative session. Preintroduction is accomplished when the Legislative Services Division receives a signed preintroduction form.~~

~~———— (b) The preintroduction requirement does not apply to an office held by an elected official during the official's first year in that office or to bills requested by a joint select or joint special committee appointed prior to the convening of the legislative session to address a specific issue.~~
for bills within the call of the special session.

(6) (2) Bills may be preintroduced, numbered, and reproduced prior to a legislative session by the staff of the Legislative Services Division. Actual signatures of persons entitled to serve as members in the ensuing session may appear on the face of the preintroduced bill, or signatures may be obtained on a consent form from the Legislative Services Division and the sponsor's name printed on the bill. Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Services Division to be included on the face of the bill following standing committee approval.

~~———— **40-50. Schedules for drafting requests and bill introduction.** The following schedules must be followed for submission of drafting requests and introduction of bills and resolutions:~~

	Request Deadline
	5:00 P.M.
	Legislative Day
• General Bills and Resolutions	10
• Revenue Bills	17
• Committee Bills and Resolutions	36
• Committee Revenue Bills	62
• Committee Bills implementing provisions of a general appropriation act	75
• Bills and Resolutions must be introduced within 2 legislative days after delivery:	
• Appropriation Bills	No Deadline
• Interim study resolutions	75
• Resolutions to express confirmation of appointments	No Deadline

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

- Bills repealing or directing the amendment No Deadline
or adoption of administrative rules and
joint resolutions advising or requesting
the repeal, amendment, or adoption of
administrative rules

40-100. Fiscal notes. (1) As provided in Title 5, chapter 4, part 2, MCA, all bills reported out of a committee of the Legislature having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect. The Legislative Services Division staff shall indicate at the top of each bill prepared for introduction that a fiscal note may be necessary under this rule. Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.

———— (2) Unless the chief sponsor directs otherwise, the Legislative Services Division shall make available an electronic copy of any bill for which it has been determined a fiscal note may be necessary to the Budget Director immediately after the bill has been prepared for introduction and delivered to the requesting member. The Budget Director may proceed with the preparation of a fiscal note in anticipation of a subsequent formal request. A bill with financial implications for a local government or school district must comply with subsection (4).

———— (3) The Budget Director, in cooperation with the governmental entity or entities affected by the bill, is responsible for the preparation of the fiscal note. Except as provided in subsection (4), the Budget Director shall return the fiscal note within 6 days unless further time is granted by the presiding officer or committee making the request, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the note.

———— (4) (a) A bill that may require a local government or school district to perform an activity or provide a service or facility that requires the direct expenditure of additional funds without a specific means to finance the activity, service, or facility in violation of section 1-2-112 or 1-2-113, MCA, must be accompanied, at the time that the bill is presented for introduction, by an estimate of all direct and indirect fiscal impacts on the local government or school district. The estimate of the fiscal impacts must be prepared by the Budget Director in cooperation with a local government or school district affected by the bill.

———— (b) The Budget Director has 8 days to prepare the estimate unless further time is granted by the presiding officer, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the estimate. Upon completion of the estimate, the Budget Director shall submit it to the presiding officer and the chief sponsor of the bill.

———— (5) A completed fiscal note must be submitted by the Budget Director to the presiding officer who requested it. The presiding officer shall notify the bill's chief sponsor of the completed fiscal note and request the chief sponsor's signature. The chief sponsor has 1 legislative day after delivery to review the fiscal note and to discuss the findings with the Budget Director, if necessary. After the legislative day has elapsed, all fiscal notes must be reproduced and placed on the members' desks, either with or without the chief sponsor's signature.

———— (6) A fiscal note must, if possible, show in dollar amounts:

———— (a) the estimated increase or decrease in revenues or expenditures;

———— (b) costs that may be absorbed without additional funds; and

———— (c) long-range financial implications.

———— (7) The fiscal note may not include any comment or opinion relative to merits of the bill. However, technical or mechanical defects in the bill may be noted.

———— (8) A fiscal note also may be requested, through the presiding officer, on a bill and on an amended bill by:

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

- ~~_____ (a) a committee considering the bill;~~
~~_____ (b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or~~
~~_____ (c) the chief sponsor~~
~~_____ (9) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.~~
~~_____ (10) If a bill requires a fiscal note, the bill may not be reported from a committee for every effort will be made to obtain a fiscal note before second reading unless the bill is accompanied by the fiscal note.~~
40-140. Second reading -- bill reproduction. (1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill must be reproduced on yellow paper with all amendments incorporated into the copies.
~~_____ (2) If a bill has been returned from a committee without amendments, only the first sheet must be reproduced on yellow paper, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.~~
~~_____ (3) A bill requested by and heard by a joint select or joint special committee, as provided in 40-40(5)(b), may be referred directly to second reading. If the bill is passed by the house of origin, the bill must be transmitted to the other house, and if the bill was not amended, it may be placed on second reading without the need for referral to a committee.~~
~~_____ 40-150. Engrossing. (1) When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed. Committee of the Whole amendments must be included in the engrossed bill. The bill must be placed on the calendar for third reading on the legislative day after receipt.~~
~~_____ (2) Copies of the engrossed bill to be distributed to members are reproduced on blue paper. If a bill is unamended by the Committee of the Whole and contains no clerical errors, it is not required to be reprinted. Only the first sheet must be reproduced on blue paper, with the remainder of the text incorporated by reference to the preceding version of the entire bill.~~
~~_____ (3) If a bill is amended by a standing committee in the second house, the amendments must be included in a tan-colored bill and distributed in the second house for second reading consideration. If the bill is amended in Committee of the Whole, the amendments must be included in a salmon-colored reference bill and distributed in the second house for third reading. If the bill passes on third reading, copies of the reference bill must be distributed in the original house. The original house may request from the second house a specified number of copies of the amendments to be printed.~~

TEMPORARY SENATE RULES FOR SPECIAL SESSION

- S40-40. Reading limitations.** (1) Every bill shall be read three times prior to passage, either by title or by summary of title as provided in these rules.
(2) ~~No~~ A bill or resolution shall may have more than one reading on the same day ~~except the last legislative day.~~
(3) No amendment may be offered on third reading.
- S40-60. Scheduling for second reading.** (1) All bills and resolutions that have been reported by a committee, accepted by the Senate, and reproduced shall be scheduled for consideration by Committee of the Whole.
(2) ~~Until the 50th legislative day, 1 day must elapse between receiving the legislation from printing and scheduling for second reading for consideration by Committee of the Whole.~~
~~_____ (3) Legislation shall be arranged on the agenda in numerical order unless bills are grouped as companion bills or are placed in order otherwise by the Senate or Committee of the Whole.~~
- S50-90. Reconsideration.** (1) Any Senator may, on the day the vote was taken or on the next day the Senate is in session, move to reconsider the question. A motion to reconsider is a debatable motion, but the

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

debate is limited to the motion. The debate on a motion to reconsider may not address the substance of the matter for which reconsideration is sought.

(2) A motion to reconsider may not be withdrawn after such next legislative day without the unanimous consent of the Senate, and thereafter any Senator may call it up for consideration; however, a motion to reconsider ~~made after the 54th day of the session~~ shall be disposed of when made.

(3) A motion to recall a bill from the House of Representatives constitutes notice to reconsider and shall be acted on as a motion to reconsider. A motion to reconsider or to recall a bill from the House of Representatives may be made only under Order of Business No. 6 and, under that order of business, takes precedence over all motions except motions to recess or adjourn.

(4) When a motion to reconsider is laid on the table, a two-thirds majority is required to take it from the table. When a motion to reconsider fails, the question is finally and conclusively settled.

(5) If a motion to reconsider third reading action is carried, there ~~shall~~ may be ~~no~~ further action ~~until~~ the succeeding on that legislative day.

S50-170. Third reading procedure. (1) All legislation passing second reading shall be placed on third reading ~~the day following the receipt of the engrossing or other appropriate printing report.~~

(2) On Order of Business No. 9 the Secretary shall read the title and the President shall state the question as follows: "Senate bill number (or other appropriate identification)..... having been read three several times, the question is, shall the bill (or other appropriate identification) pass the Senate?"

(3) If an electronic voting system is used, the President shall state "Those in favor vote yes and those opposed vote no" and the Secretary will sound the signal and open the board for voting. After a reasonable pause the presiding officer asks "Has every member voted?" (reasonable pause), "Does any member wish to change his or her vote?" (reasonable pause), "The Secretary will record the vote."

Senate Majority Leader Harp moved to further amend Senate Rule S50-190 as follows:

S50-190. Pairs - absentee voting. (1) Two senators may pair on a question that will be determined by a majority vote. On a question requiring a two-thirds vote for adoption, three Senators may pair, with two Senators for the question and one Senator against. Pairing is permitted only when one of the paired Senators is excused when the vote is taken.

(2) An agreement to pair must be in writing and dated and signed by the Senators agreeing to be bound, and must specify the duration of the pair. When an agreement to pair is filed with the Secretary of the Senate, it shall bind the Senators signing until the expiration of time for which it was signed, unless the paired Senators sooner appear and ask that the agreement be cancelled.

(3) Pairs in Committee of the Whole are prohibited.

(4) The Committee of the Whole may by a majority vote authorize Senators to vote in absentia. Authorization for voting in absentia must be reflected in the journal.

Motion carried.

REPORTS OF STANDING COMMITTEES

LEGISLATIVE ADMINISTRATION (Tom Beck, Chairman):

5/8/2000

Mr. President:

We, your Committee on Legislative Administration recommend employment of the following attaches of the Senate be employed as of 8:00 a.m., Monday, May 8, 2000, for the second special session:

TITLE

NAME

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

Secretary of the Senate	Rosana Skelton
Assistant Secretary of the Senate	Susan Anderson
Sergeant-at-Arms	Chuckie Cramer
Assistant to Sergeant at Arms	Bev Donaldson
Senate Chaplain	Rev. Keith Johnson
Security	Tom Harris
Secretary to President	Lynn Staley
Journal Clerk	Janean Meacham
Committee Secretaries	Sandy Barnes
	Jodi Pauley
	Judy Feland
	Mary Gay Wells
Secretary to Minority Leader	Adam Schafer
Pages	Eileen Flynn
	Burt Hurwitz
	Alisha Downs

MOTIONS

Majority Leader Harp moved that the President appoint a select committee to notify his Excellency, The Governor, that the Senate is organized and ready for business and to escort the Governor into the Senate to deliver his address. Motion carried. The President appointed Senator Devlin, Chairman, Senator Bartlett and Senator Mesaros.

Majority Leader Harp moved that the President appoint a select committee to notify the Chief Justice and members of the Supreme Court that the Senate is organized and ready for the transaction of business and to invite the Chief Justice and Associate Members of the Supreme Court to hear the Governor's message. Motion carried. The President appointed Senator Grosfield, Chairman, Senator Bishop and Senator Halligan.

Majority Leader Harp moved that the President appoint a select committee to notify the House of Representatives that the Senate is organized and ready for business and that the Senate wishes them success in their deliberations. Motion carried. The President appointed Senator Hertel, Chairman, Senator Toews and Senator Lynch.

Select committees were dismissed to attend their duties.

Majority Leader Harp moved that the accredited members of the press, radio and television be granted the privilege of the Senate floor subject to the rules. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

- SB 1**, introduced by Grosfield, referred to Select Committee on Taxation.
- SB 2**, introduced by Sprague, referred to Select Committee on Taxation.
- SB 3**, introduced by Doherty, referred to Select Committee on Taxation.
- SB 4**, introduced by M. Taylor, referred to Select Committee on Taxation.
- SB 5**, introduced by Ellis, referred to Select Committee on Taxation.

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

SB 6, introduced by McNutt, referred to Finance and Claims.

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

SR 1, introduced by Halligan, referred to Judiciary.

SR 2, introduced by Keenan, referred to Judiciary.

SR 3, introduced by Jabs, referred to Judiciary.

MESSAGES FROM THE OTHER HOUSE

Representatives Hibbard, R. Johnson, Menahan and Williams reported to the Senate that the House had convened in special session, is ready to do business, and wished the Senate best wishes in their deliberations.

REPORTS OF SELECT COMMITTEES

The committee appointed to notify the Chief Justice and the associate members of the Supreme Court that the Senate was organized and ready for business reported that the Supreme Court had been notified. The message was acknowledged and the committee dismissed. The committee escorted Chief Justice Turnage into the chamber for the Governor's address.

The committee appointed to notify the House of Representatives that the Senate was organized and ready for business reported that the House had been notified. The message was acknowledged and the committee dismissed.

The Sergeant-at-Arms escorted His Excellency, the Governor, and the escort committee to the well of the Senate. President Crippen thanked the committee, and introduced the Governor to the Senate. Governor Racicot presented the following address:

Mr. President and distinguished members of the 56th Legislature.

Thank you for the privilege of speaking with you briefly this morning as you begin your deliberations during this special legislative session. And please accept my gratitude for your public service, especially under these very challenging circumstances.

As you know, the narrow call to a special session was issued to deal with some unfinished business that was initiated during the regularly scheduled gathering of this assembly in 1999. It is my great hope and strong recommendation that you collectively and individually confine the exercise of your discretion to those issues contained within the call, or to subjects that are inextricably interwoven therewith, and to those issues that are required to be considered by law each and every time the Legislature is convened.

I do not need to repeat for you the statistics and rankings that provide the urgent requirement for us in both the legislative and executive branches to act without delay. You will recall, I am certain, that the economic development proposals considered and passed by substantial numbers in the regular session were the product of 18 months of study, public hearings, debate and legislative action. This body passed on the efficacy of those proposals and funded them at levels even higher than those I have presently requested. It is a matter of great misfortune that the funding source selected by the Legislature did not find favor in every venue. It would be a matter of even greater misfortune, however, if you did not find it within your pleasure to breathe new life into

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

those programs you have previously approved. They are, after all, the result of the hard labor, good sense and honest purpose of countless Montanans who provided an extraordinary measure of diligence, sound judgment, incisive analysis and unselfish commitment to their efforts.

I sincerely request that you approve our economic development proposals at the requested levels and without delay. Insofar as their implementation is delayed, the possibilities for your success and that of your fellow citizens will be denied. Just as importantly, a solemn duty not performed will haunt us all.

I also strongly urge you not to stray from what I believe should be our obvious and intended purpose. I can understand and appreciate the desire of some members to reach as far as one can to enhance the public good.

However, now is not the time, in my humble judgment, to take on a larger burden than our shoulders can bear with certainty and confidence.

Accordingly, I recommend that you do not attempt to enact tax reduction proposals before their time. Our financial analysis indicates that we can not yet reliably predict the possibilities for tax reductions that would typically be and ought to be reserved for consideration by the 57th legislative assembly. Although I am aware of possible disagreement, I have a steadfast belief that to proceed in that fashion at this early time would be a mistake and holds the potential to compromise all that so many of you have worked so hard to accomplish.

In addition, there are important needs that we must retain the discretion to address. If they are dismissed, they are dismissed at our peril and the peril of Montana. For instance, although it is not the only instance, the teacher shortage and the needs of education are real, especially in rural Montana. There is no contrivance to those facts. If we expect to continue to prepare our young people in a world class education system and keep our rural communities alive, we will have to address the dynamics that can potentially steal away our ability to do that. And, my remembrance is, that insofar as we properly invest in education at the state level, we preclude property tax increases at the local level.

For me to support any new proposal here, I must first be convinced that we will leave the next legislature with a balanced budget and the ability to fulfill those obligations we already have an obligation to meet. That means obligations for those things we cherish must come first. We will do our duty if we leave the next administration and legislature with positive options for the future.

My prayer for all of us is that we will all do what is right as we gain the insight through hard work and collaboration to know what is right. If we do that, and leave consequences to take care of themselves, we will accomplish what the people we serve have a right to expect of us. Thank you and God bless you in your deliberations.

The committee escorted the Governor, Chief Justice and other dignitaries from the Senate.

MOTIONS

Majority Leader Harp moved that the President be authorized to appoint a select committee on Taxation for the second special session. Motion carried. The President appointed Senators Cole, Grosfield, McNutt, Cocchiarella and the current members of the Senate Taxation Committee to the Select Committee.

Majority Leader Harp moved that the President be authorized to appoint a Select Committee on Agriculture for the second special session. Motion carried. The President appointed Senators Hertel, Sprague, Bartlett and the

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

members of the Senate Agriculture Committee to the Select Committee.

Majority Leader Harp moved that the President be authorized to appoint a Select Committee on Natural Resources for the second special session. Motion carried. The President appointed Senators Berry, Wells and the Senate Natural Resources Committee to the Select Committee.

ANNOUNCEMENTS

President Crippen reminded the Senators that they are elected for a specified period of time - not a day longer nor a day less; that we are sworn to uphold the laws and the Constitution of this state during that period of time; that the phrase "lame duck" appears nowhere in the Montana State Constitution; that we are here to do a job - to serve the people of this state in the manner and method we think best; that our thoughts on how to perform this job may differ on an individual basis - but the fact remains that we are Senators, equal in all respects regardless of when our term of office expires; and that any talk or rhetoric referring to a member of this body as a lame duck will not be tolerated.

Committee chairmen announced committee meetings.

Majority Leader Harp moved that the Senate stand in recess until the hour of 1:30 p.m. this legislative day. Motion carried.

Senate recessed at 9:45 a.m.

Senate reconvened at 1:30 p.m.

Roll Call. All members present except Senator Bohlinger, excused.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Swysgood, Chairman):
SB 6, introduced bill, be amended as follows:

5/8/2000

1. Title, line 5.

Strike: "LOCALLY OWNED"

Insert: "BUSINESS"

2. Page 1, line 11.

Following: "institutions"

Insert: "-- rulemaking"

3. Page 1, line 14.

Following: "basis;"

Insert: "or"

4. Page 1, line 16.

Strike: "; or"

Insert: "."

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

5. Page 1, line 17.
Strike: line 17

6. Page 1.
Following: line 19

Insert: "(c) A loan made pursuant to this section does not qualify for a job credit interest rate reduction under 17-6-318."

7. Page 1, line 20.
Strike: "\$15 million"
Insert: "1% of the coal severance tax permanent fund"

8. Page 1, line 23.
Strike: "20% "
Insert: "25% "

9. Page 1, line 25.
Strike: "20% "
Insert: "25% "

10. Page 1, line 27.
Following: "exposure"
Insert: ", but this does not preclude federal guarantees"

11. Page 1, line 28.
Strike: "may"
Insert: "shall"
Strike: "up to"

12. Page 2, line 11.
Following: line 10
Insert: "(g) The loan agreement must contain provisions providing for pro rata lien priority and pro rata liquidation provisions based upon the loan percentage of the board and each participating private lender."

13. Page 2, line 16.
Strike: "may not exceed"
Insert: "must be"

14. Page 2, line 20.
Insert: "(6) The board may adopt rules that it considers necessary to implement this section."

And, as amended, do pass. Report adopted.

SELECT COMMITTEE ON TAXATION (Devlin, Chairman):
SB 2, do pass. Report adopted.

5/8/2000

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

SB 4, introduced bill, be amended as follows:

1. Page 2, line 3.

Following: "created."

Insert: "at a fair value, taking into consideration job creation and overall tax revenue generated by the project. For the purposes of this section, state and local governments may not provide telecommunications services in competition with private telecommunications providers unless private telecommunications providers cannot provide the services."

2. Page 2, line 5.

Strike: "increased taxes paid to the state"

Insert: "totality of the taxes generated"

3. Page 2, line 6.

Following: "projects"

Insert: "to be calculated by an economic impact analysis of the projects on state tax revenue"

And, as amended, do pass. Report adopted.

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

Session I

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

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

SB 2 - Senator Sprague moved SB 2 do pass. Motion carried with Senators Doherty, Franklin and Jergeson voting nay.

SB 4 - Senator M. Taylor moved SB 4 do pass. Motion carried unanimously.

SB 6 - Senator McNutt moved SB 6 do pass. After discussion, Senator Doherty made a substitute motion to revert to the body of the bill for purpose of amendment. Motion carried.

SB 6 - Senator Doherty moved SB 6, second reading copy, be amended as follows :

1. Page 1, line 14.

Strike: "or" on committee report

2. Page 1, line 16.

Following: "basis"

Insert: "; and

(iii) pay salaries, wages, and benefits above the prevailing salaries, wages, and benefits in the state as determined by the department of labor and industry"

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

After discussion, and for clarification, Senator Doherty suggested that the committee vote only on amendment 2 of his amendment.

Amendment **failed** as follows:

Yeas: Bartlett, Bishop, Christiaens, Cocchiarella, Doherty, Eck, Ellingson, Franklin, Halligan, Jergeson, Lynch, McCarthy, Roush, Shea, Stang, Tester, Waterman, Wilson.
Total 18

Nays: Beck, Berry, Cole, Crismore, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Nelson, Sprague, Swysgood, Taylor, Thomas, Toews, Wells, Mr. President.
Total 31

Excused: Bohlinger
Total 1

SB 6 - Senator McNutt moved SB 6 do pass. Motion carried unanimously.

Senator Harp moved the committee rise and report and beg leave to sit again. Motion carried. Committee arose. Senate resumed. Senator Thomas moved the Committee of the Whole report be adopted. Report adopted.

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 2 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Eck, Ekegren, Ellingson, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 46

Nays: Doherty, Franklin, Jergeson.
Total 3

Excused: Bohlinger
Total 1

SB 4 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson,

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

Mr. President.
Total 49

Nays:
Total 0

Excused: Bohlinger
Total 1

SB 6 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays:
Total 0

Excused: Bohlinger
Total 1

REPORTS OF STANDING COMMITTEES

JUDICIARY (Grosfield, Chairman):

5/8/2000

SR 1, be adopted. Report adopted.

SR 2, be adopted. Report adopted.

SR 3, be adopted. Report adopted.

SPECIAL ORDERS OF THE DAY

SR 1 - Senator Halligan moved that SR 1 concurring in, confirming, and consenting to the nomination and appointment made by the Governor and submitted to the Senate of Honorable Michael Olen McCarter as Workers' Compensation Judge be adopted and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays:
Total 0

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

Excused: Bohlinger
Total 1

SR 2 - Senator Keenan moved that SR 2, concurring in, confirming, and consenting to the nomination and appointment made by the Governor and submitted to the Senate of Honorable Stewart Evans Stadler as District Judge, Eleventh Judicial District, Flathead County, Montana, be adopted and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays:
Total 0

Excused: Bohlinger
Total 1

SR 3 - Senator Jabs moved that SR 3, concurring in, confirming, and consenting to the nomination and appointment made by the Governor and submitted to the Senate of the Honorable Willis Blair Jones as District Judge, Twenty-second Judicial District, Still water, Carbon, and Big Horn Counties, Montana, be adopted and that the yeas and nays be spread upon the journal. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays:
Total 0

Excused: Bohlinger
Total 1

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

5/8/2000

HB 1, introduced by Ohs
HB 2, introduced by Zook

FIRST READING AND COMMITMENT OF BILLS

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

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

SB 7, introduced by Hertel, referred to Select Committee on Agriculture, Livestock and Irrigation.
SB 8, introduced by Doherty, referred to Select Committee on Taxation.
SB 9, introduced by Swysgood, Quilici, Lynch, Grimes, Gallus, Shea, T. Beck, McCarthy, Crismore, Pavlovich, Tash and Devlin, referred to Select Committee on Natural Resources..

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

HB 1, introduced by Ohs, referred to Finance and Claims.
HB 2, introduced by Zook, referred to Finance and Claims.

ANNOUNCEMENTS

Committee meetings were announced by the Chairmen.

Majority Leader Harp moved that the Senate stand in recess until the hour of 6:30 p.m. this legislative day.
Motion carried.

Senate recessed at 3:10 p.m.

Senate reconvened at 6:30 p.m.

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

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Jabs, Chairman): 5/8/2000
SB 7, introduced bill, be amended as follows:

1. Page 1, line 15.

Following: "an"

Insert: "initial"

2. Page 2, line 17.

Strike: "proceedings"

Insert: "applications"

Strike: "begun"

Insert: "submitted"

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Swysgood, Chairman): 5/8/2000
HB 2, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

The motion of Representative Hibbard to expand the special session to consider legislation to extend the one

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

cent aviation fuel tax increase and to use the increase for the purposes provided for in Chapter 585, Laws of 1999, received the following vote:

Yea 68
No 26

The motion of representative Ewer to expand the special session to include the Montana Power Company sale issue received the following vote:

Yea 45
No 53

The motion of Representative Harper to expand the special session to consider legislation to eliminate the requirement that social security numbers be required on applications for hunting and fishing licenses and allow them to be replaced with a different form of identification received the following vote:

Yea 76
No 20

House bill passed and transmitted to the Senate for concurrence: 5/8/2000

HB 4, introduced by Story

House joint resolution passed and transmitted to the Senate for concurrence: 5/8/2000

HJR 1, introduced by Story

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

Session II

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

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

HB 2 - Senator Swysgood moved HB 2 be concurred in. Motion carried unanimously.

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

THIRD READING OF BILLS

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

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

following manner:

HB 2 concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 49

Nays:

Total 0

Excused: Bohlinger

Total 1

MOTIONS

Senator McNutt moved that the Legislature convene itself into a special session concurrent with the special session beginning May 8, 2000, to consider legislation to extend the one cent aviation fuel tax increase imposed by Chapter 585, Laws of 1999 and to use the increase for the same purposes provided for in that Chapter. Motion received the following vote:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cole, Crismore, DePratu, Devlin, Eck, Ekegren, Ellingson, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 46

Nays: Cocchiarella, Doherty, Franklin.

Total 3

Excused: Bohlinger

Total 1

Senator Keenan moved to call a special session concurrent with this special session for the purpose of drafting a constitutional amendment to be submitted to the electorate that would create a special fund for the deposit of tobacco litigation settlement money to fund the Montana medicaid program. After discussion, **Senator Keenan withdrew** his motion in order to work on another motion to cover two separate programs.

Senator Bishop moved that the Legislature convene itself into a special session to run concurrently with the special session beginning May 8, 2000, to consider legislation to clarify existing jurisdiction and provide the Public Service Commission with jurisdiction concerning public utility asset transfers, including transfers accomplished by means of stock acquisitions or transfers. Motion received the following vote:

Yeas: Bartlett, Bishop, Christiaens, Doherty, Eck, Ellingson, Franklin, Halligan, Jabs, Jergeson, Lynch, Nelson, Stang, Tester, Waterman, Wilson.

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

Total 16

Nays: Beck, Berry, Cocchiarella, Cole, Crismore, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Keating, Keenan, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Roush, Shea, Sprague, Swysgood, Taylor, Thomas, Toews, Wells, Mr. President.

Total 33

Excused: Bohlinger

Total 1

Senator Keenan moved to call a special session concurrent with this special session for the purpose of drafting a constitutional amendment to be submitted to the electorate to create a tobacco settlement trust fund from not less than two-fifths of tobacco settlement proceeds, to be used to supplement tobacco disease prevention programs and health care needs of the people of Montana. Motion received the following vote:

Yeas: Beck, Berry, Bishop, Christiaens, Cole, Crismore, DePratu, Eck, Ekegren, Ellingson, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Hertel, Holden, Jabs, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Mohl, Nelson, Roush, Shea, Sprague, Stang, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 40

Nays: Bartlett, Cocchiarella, Devlin, Doherty, Ellis, Harp, Jergeson, Miller, Swysgood.

Total 9

Excused: Bohlinger

Total 1

Senator Keenan moved to call a special session concurrent with this special session for the purpose of drafting a constitutional amendment to be submitted to the electorate that would create a special fund for the deposit of tobacco litigation settlement money to fund the montana medicaid program. Motion received the following vote:

Yeas: Beck, Berry, Bishop, Christiaens, Cole, Crismore, DePratu, Devlin, Ekegren, Ellingson, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 41

Nays: Bartlett, Cocchiarella, Doherty, Eck, Franklin, Jergeson, Lynch, McCarthy.

Total 8

Excused: Bohlinger

Total 1

FIRST READING AND COMMITMENT OF BILLS

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

SENATE JOURNAL
FIRST LEGISLATIVE DAY - MAY 8, 2000

HB 4, introduced by Story, referred to Select Committee on Taxation.

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

HJR 1, introduced by Story, referred to Select Committee on Taxation.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Harp moved that the Senate adjourn until 9:00 a.m., Tuesday, May 9, 2000. Motion carried.

Senate adjourned at 8:15 p.m.

ROSANA SKELTON
Secretary of the Senate

BRUCE CRIPPEN
President of the Senate