

**SENATE JOURNAL  
FOURTEENTH LEGISLATIVE DAY**

Helena, Montana  
January 19, 1999

Senate Chambers  
State Capitol

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

Roll Call. All members present except Senators Beck and Crippen, excused. Quorum present.

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

Miller, Chairman

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL** (Miller, Chairman): 1/19/1999  
Correctly printed: SB 13, SB 21, SB 39, SB 54, SB 220, SB 221, SB 222, SB 223, SB 224, SB 225, SB 226, SB 227, SB 228, SB 229, SJR 4.  
Correctly engrossed: SB 168, SB 169, SB 170, SB 200.

**AGRICULTURE, LIVESTOCK AND IRRIGATION** (Jabs, Chairman): 1/19/1999  
**SB 196**, do pass. Report adopted.

**JUDICIARY** (Grosfield, Chairman): 1/19/1999  
**SB 190**, do pass. Report adopted.  
**SB 191**, do pass. Report adopted.  
**SB 201**, do pass. Report adopted.

**PUBLIC HEALTH, WELFARE AND SAFETY** (Bishop, Chairman): 1/19/1999  
**SB 36**, introduced bill, be amended as follows:

1. Title, line 5.

**Following:** "PRACTITIONERS"

**Insert:** "AND DENTAL HYGIENISTS"

2. Page 1, line 12.

**Strike:** "dentist or"

**Following:** "practitioner"

**Insert:** "or dental hygienist"

3. Page 1, lines 13 through 20.

**Strike:** "A" on line 13 through "practitioner." on line 20

**Insert:** "A medical practitioner, as defined in 37-2-101, or a dental hygienist licensed under Title 37, chapter 4, who renders, at any site, any health care within the scope of the provider's license, voluntarily and without compensation, except for reimbursement for supplies, to a patient of a clinic or referred by a clinic, is not liable to a person for civil damages for an act or omission resulting from the rendering of the care, unless the act or omission was the result of gross negligence or willful or wanton acts by the medical practitioner or dental hygienist.

(2) For the purposes of this section:

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- (a) "clinic" means a place for the provision of health care to patients organized in whole or in part for the delivery of health care without compensation, except for reimbursement for supplies;
- (b) "health care" has the meaning as provided in 50-16-504."

And, as amended, do pass. Report adopted.

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

1. Page 7, line 22.

**Following:** "hospitalization"

**Insert:** "and that may include observation beds"

2. Page 9, line 29.

**Following:** "services,"

**Insert:** "as defined in subsection (2)(a),"

And, as amended, do pass. Report adopted.

**REPORTS OF SELECT COMMITTEES**

**JOINT SELECT COMMITTEE ON JOBS AND INCOME**(DePratu, Chairman):

1/19/1999

**SB 167**, introduced bill, be amended as follows:

1. Page 2.

**Following:** line 14

**Insert:** "(2) Prior to the allocation of low-income housing tax credits to the owner, as provided in subsection (1)(b), the unit of local government where the proposed project is to be located shall give due notice, as defined in 76-15-103, and hold a public hearing to solicit comment on whether the proposed qualifying low-income rental housing property meets a community housing need. A record of the public hearing must be forwarded to the board of housing for consideration in granting the allocation of tax credits."

**Renumber:** subsequent subsection

And, as amended, do pass. Report adopted.

**SB 172**, introduced bill, be amended as follows:

1. Page 1, line 11.

**Strike:** everything after the enacting clause

**Insert:** NEW SECTION. Section 1. Advanced telecommunications infrastructure tax credit -- definitions. As used in [sections 1 through 3], the following definitions apply:

(1) "Advanced telecommunications infrastructure" means high-speed, dedicated or switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.

(2) "Department" means the department of commerce.

(3) "Telecommunications services provider" means a provider of telecommunications services that is registered with the state and owns or will construct advanced telecommunications infrastructure in this state.

**Insert:** NEW SECTION. Section 2. Advanced telecommunications infrastructure tax credit. (1) There is allowed a tax credit against the tax imposed by Title 15, chapter 53, for advanced telecommunications infrastructure improvements in the state made by a telecommunications services provider in an amount equal to 20% of the total

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amount of the infrastructure investment.

(2) The tax credit provided for in subsection (1) may not exceed a total of \$2 million for all qualified telecommunications services providers in any consecutive 12-month period.

(3) There is no carryback or carryforward of the credit allowed under this section, and the credit must be applied in the year the advanced telecommunications infrastructure improvements were made and may not be refunded if the taxpayer has no tax liability.

**Insert: NEW SECTION. Section 3. Application to department -- competitive grants -- rulemaking.** (1) In order to receive a tax credit against the tax imposed by Title 15, chapter 53, a telecommunications services provider shall apply to the department for consideration through a competitive grant program and certify that the proposed advanced telecommunications infrastructure project provides for improved telecommunications services access to a majority of customers in an unserved or underserved service area and meets other requirements as established by the department.

(2) The application to the department must include:

(a) a description of the advanced telecommunications infrastructure improvement project, including:

(i) expected costs and timelines for completing the project;

(ii) partnerships, consortiums, and interconnection agreements, if necessary, to complete the project; and

(iii) the area in which the advanced telecommunications infrastructure improvements are to be installed and the customers who will be served; and

(b) verification that the advanced telecommunications infrastructure improvements will contribute to greater access to advanced telecommunications services and enhance existing telecommunications infrastructure.

(3) The department shall adopt rules establishing a policy for granting telecommunications services providers an infrastructure tax credit. The rules must consider whether the advanced telecommunications infrastructure improvements:

(a) significantly enhance individual and business access to advanced telecommunications services at an economically reasonable cost;

(b) promote the development and transition to a fully competitive telecommunications marketplace;

(c) improve public and private K-12, university, and library access to advanced telecommunications services;

(d) are required to improve connections between communities in the state; and

(e) increase Montana health care systems' access to interactive telecommunications services.

(4) When the department has determined which telecommunications services providers qualify under the rules established in subsection (3), it shall notify the department of revenue of the telecommunications services providers that are eligible to receive the tax credit pursuant to [section 2].

**Insert: NEW SECTION. Section 4. Coordination instruction.** If House Bill No. 128, House Bill No. 191, and this bill are all passed and approved, [sections 2 and 3] must read as follows:

**NEW SECTION. Section 2. Advanced telecommunications infrastructure tax credit.** (1) There is allowed a tax credit against the tax imposed by [sections 1 through 19 of House Bill No. 128] for advanced telecommunications infrastructure improvements in the state made by a telecommunications services provider in an amount equal to 20% of the total amount of the infrastructure investment.

(2) The tax credit provided for in subsection (1) may not exceed a total of \$2 million for all qualified telecommunications services providers in any consecutive 12-month period.

(3) There is no carryback or carryforward of the credit allowed under this section, and the credit must be applied in the year the advanced telecommunications infrastructure improvements were made and may not be refunded if the taxpayer has no tax liability.

**NEW SECTION. Section 3. Application to department -- competitive grants -- rulemaking.** (1) In order to receive a credit against the tax imposed by [sections 1 through 19 of House Bill No. 128], a telecommunications services provider shall apply to the department for consideration through a competitive grant program and certify that the proposed advanced telecommunications infrastructure project provides for improved telecommunications services access to a majority of customers in an unserved or underserved area and meets other requirements as established by the department.

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- (2) The application to the department must include:
- (a) a description of the advanced telecommunications infrastructure improvement project, including:
    - (i) expected costs and timelines for completing the project;
    - (ii) partnerships, consortiums, and interconnection agreements, if necessary, to complete the project; and
    - (iii) the area in which the advanced telecommunications infrastructure improvements are to be installed and the customers who will be served; and
  - (b) verification that the advanced telecommunications infrastructure improvements will contribute to greater access to advanced telecommunications services and enhance existing telecommunications infrastructure.
- (3) The department shall adopt rules establishing a policy for granting telecommunications services providers an infrastructure tax credit. The rules must consider whether the advanced telecommunications infrastructure improvements:
- (a) significantly enhance individual and business access to advanced telecommunications services at an economically reasonable cost;
  - (b) promote the development and transition to a fully competitive telecommunications marketplace;
  - (c) improve public and private K-12, university, and library access to advanced telecommunications services;
  - (d) are required to improve connections between communities in the state; and
  - (e) increase Montana health care systems' access to interactive telecommunications services.
- (4) When the department has determined which telecommunications services providers qualify under the rules established in subsection (3), it shall notify the department of revenue of the telecommunications services providers that are eligible to receive the tax credit pursuant to [section 2]."

**Insert: NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 3].

**Insert: NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 2000.

**Insert: NEW SECTION. Section 7. Applicability.** [This act] applies to tax years beginning after December 31, 1999.

**Insert: NEW SECTION. Section 8. Termination.** [This act] terminates July 1, 2004.

And, as amended, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

House bills passed and transmitted to the Senate for concurrence:

1/18/1999

**HB 44**, introduced by R. Johnson

**HB 65**, introduced by C. Ahner

**HB 71**, introduced by S. Rose

**HB 76**, introduced by R. Somerville

**HB 82**, introduced by H. Harper

**HB 94**, introduced by J. Cobb

**HB 109**, introduced by J. Mercer

**MOTIONS**

**SB 22** - Senator Mohl moved the Senate reconsider its action in failing to pass SB 22 on second reading the previous legislative day, January 18, 1999. Motion carried as follows:

Yeas: Bartlett, Berry, Bohlinger, 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,

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Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson.  
Total 47

Nays: None.  
Total 0

Absent or not voting: Bishop.  
Total 1

Excused: Beck, Mr. President.  
Total 2

**SB 22** - Senator Harp moved that SB 22 be placed on the second reading board the sixteenth legislative day, January 21, 1999. Motion carried.

**SB 200** - Senator Harp moved that SB 200 be taken from second reading and rereferred to the Taxation Committee. Motion carried.

**SB 12** - Senator Harp moved that the rules be suspended for the purpose of directly rereferring SB 12, which concerns SR 30-1-40, to the Ethics Committee. Motion carried as follows:

Yeas: Bartlett, Berry, Bishop, Bohlinger, 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.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Beck, Mr. President.  
Total 2

**SB 122** - Senator Harp moved to pass consideration for the day on SB 122 because of Senator Beck's absence. Motion carried.

**SB 124** - Senator Harp moved to pass consideration for the day on SB 124 because of Senator Beck's absence. Motion carried.

**SB 81** - Senator Harp moved that Swanson, Nelson, McCulloch, Kitzenberg, Glaser, Waterman, Krenzler, Bohlinger, Stovall, Halligan, Hurdle, Wyatt, Menahan, Peck, Quilici, Harper, Squires, Gallus, Schmidt, Johnson, Raney, Lindeen, Rose, Lawson and Somerville be added as sponsors to SB 81. Motion carried.

**FIRST READING AND COMMITMENT OF BILLS**

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

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**SB 230**, introduced by D. Grimes (by request of Senate Judiciary Standing Committee), referred to Judiciary.  
**SB 231**, introduced by R. Jabs (by request of Senate Judiciary Standing Committee), referred to Judiciary.  
**SB 232**, introduced by B. DePratu, S. Anderson, S. Kitzenberg and W. McNutt, referred to Judiciary.  
**SB 233**, introduced by J. Bohlinger, referred to Local Government.  
**SB 234**, introduced by F. Thomas and J. Mercer, referred to Business and Industry.  
**SB 235**, introduced by J. Wells, G. Beck, T. Beck, D. Haines, B. McCarthy, R. Menahan, E. Swanson, C. Swysgood and C. Younkin, referred to Natural Resources.  
**SB 236**, introduced by S. Doherty, L. Grosfield and M. Halligan, referred to Judiciary.  
**SB 237**, introduced by M. Waterman, referred to Judiciary.  
**SB 238**, introduced by D. Toews and M. Waterman, referred to Education and Cultural Resources.  
**SB 239**, introduced by G. Roush, E. Clark, W. Crismore, P. Ekegren, D. Grimes, J. Holden, C. Juneau, A. Mohl, S. Rose, S. Stang, C. Swysgood, J. Tester and D. Toews, referred to Local Government.

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

**SJR 5**, introduced by J. Tester, B. Barnhart, E. Clark, D. Eck and S. Kitzenberg, referred to Public Health, Welfare and Safety.  
**SJR 6**, introduced by S. Doherty, S. Bartlett, A. Bishop, R. Buzzas, C. Christiaens, V. Cocchiarella, T. Dell, D. Eck, R. Erickson, D. Ewer, E. Franklin, K. Gillan, B. Glaser, G. Golie, T. Hagener, M. Halligan, H. Harper, D. Harrington, G. Jergeson, C. Juneau, S. Kitzenberg, R. Lenhart, M. Lindeen, J. Lynch, J. Mangan, B. McCarthy, L. McCulloch, R. Menahan, L. Nelson, B. Pavlovich, J. Quilici, B. Raney, G. Roush, B. Ryan, D. Shea, B. Simon, C. Squires, S. Stang, E. Swanson, J. Tester, C. Williams and B. Wilson, referred to Labor and Employment Relations.

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

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

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

Senator Halligan assumed the chair.

**SB 57** - Senator Stang moved SB 57 do pass. Motion carried unanimously.

Senator Stang assumed the chair.

**SB 59** - Senator Wells moved SB 59 do pass. Motion carried unanimously.

**SB 58** - Senator Wells moved SB 58 do pass. Motion carried unanimously.

**SB 60** - Senator Halligan moved SB 60, second reading copy, be amended as follows :

1. Title, page 1, line 6.

**Following:** "COUNTIES;"

**Strike:** "SUPERSEDING THE UNFUNDED MANDATE LAWS;"

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2. Page 3, line 25 through page 3, line 26.

**Strike:** Section 5 in its entirety

**Renumber:** subsequent sections

Amendment **adopted** unanimously.

**SB 60** - Senator Halligan moved SB 60, as amended, do pass. Motion carried with Senators Holden and Taylor voting nay.

**SB 65** - Senator Toews moved SB 65, second reading copy, be amended as follows:

1. Page 1, line 21.

**Strike:** "advance"

Amendment **failed** as follows:

Yeas: Crismore, DePratu, Devlin, Glaser, Grimes, Hargrove, Hertel, Holden, Jabs, Keating, Mesaros, Miller, Mohl, Swysgood, Taylor, Thomas, Toews, Wells.

Total 18

Nays: Bartlett, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Doherty, Eck, Ekegren, Ellingson, Franklin, Grosfield, Halligan, Harp, Jergeson, Lynch, Mahlum, McCarthy, McNutt, Nelson, Roush, Shea, Sprague, Stang, Tester, Waterman, Wilson.

Total 28

Absent or not voting: Ellis, Keenan.

Total 2

Excused: Beck, Mr. President.

Total 2

Senator Beck present at this time.

**SB 65** - Senator Shea moved SB 65 do pass. Motion carried as follows:

Yeas: Bartlett, Beck, Bishop, Bohlinger, Christiaens, Cocchiarella, Crismore, Doherty, Eck, Ekegren, Ellingson, Franklin, Grosfield, Halligan, Harp, Jabs, Jergeson, Keating, Lynch, Mahlum, McCarthy, Miller, Nelson, Roush, Shea, Sprague, Stang, Tester, Thomas, Waterman, Wilson.

Total 31

Nays: Berry, Cole, DePratu, Devlin, Ellis, Glaser, Grimes, Hargrove, Hertel, Holden, Keenan, McNutt, Mesaros, Mohl, Swysgood, Taylor, Toews, Wells.

Total 18

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

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**SB 87** - Senator Hargrove moved SB 87 do pass. Motion carried unanimously.

**SB 91** - Senator Swysgood moved SB 91 do pass. Motion carried unanimously.

**SB 112** - Senator Franklin moved SB 112 do pass. Motion carried unanimously.

Senator Halligan resumed the chair.

**SB 127** - Senator Waterman moved SB 127 do pass. Motion carried with Senators Cocchiarella and Stang voting nay.

**SB 131** - Senator Swysgood moved SB 131 do pass. Motion carried unanimously.

**SB 158** - Senator Glaser moved SB 158 do pass. Motion carried unanimously.

**SB 179** - Senator R. Holden moved SB 179 do pass. Motion carried unanimously.

Senator Harp moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Pro Tempore Beck in the chair. Chairman Stang 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 21** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Mr. President.  
Total 1

**SB 39** failed as follows:

Yeas: None.  
Total 0

Nays: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin,



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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.  
Total 49

Absent or not voting: None.  
Total 0

Excused: Mr. President.  
Total 1

**SB 54** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Mr. President.  
Total 1

**MOTIONS**

**SB 39** - Senator Halligan moved that he be allowed to change his vote on SB 39, third reading, from aye to nay.  
Motion carried.

**SB 39** - Senator Devlin moved that he be allowed to change his vote on SB 39, third reading, from aye to nay.  
Motion carried.

**SB 39** - Senator Tester moved that he be allowed to change his vote on SB 39, third reading, from aye to nay.  
Motion carried.

**SB 36** - Senator Bishop moved that SB 36 be taken from second reading and rereferred to the Judiciary Committee.  
Motion carried.

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Harp moved that the Senate adjourn until 1:00 p.m., Wednesday, January 20, 1999. Motion carried.

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Senate adjourned at 2:27 p.m.

ROSANA SKELTON  
Secretary of Senate

BRUCE CRIPPEN  
President of the Senate