

**SENATE JOURNAL  
FIFTEENTH LEGISLATIVE DAY**

Helena, Montana  
January 20, 1999

Senate Chambers  
State Capitol

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

Roll Call. All members present. Quorum present.

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

Miller, Chairman

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL** (Miller, Chairman): 1/20/1999  
Correctly printed: SB 57, SB 58, SB 59, SB 65, SB 87, SB 91, SB 112, SB 127, SB 131, SB 158, SB 179, SB 190, SB 191, SB 196, SB 201, SB 230, SB 231, SB 232, SB 233, SB 234, SB 235, SB 236, SB 237, SB 238, SB 239, SJR 5, SJR 6.  
Correctly engrossed: SB 60, SB 116, SB 167, SB 172.

**BUSINESS AND INDUSTRY** (Hertel, Chairman): 1/20/1999  
**SB 187**, do pass. Report adopted.

**JUDICIARY** (Grosfield, Chairman): 1/20/1999  
**SB 33**, introduced bill, be amended as follows:

1. Title, line 8 through line 9.

**Following:** "FACILITY;" on line 8

**Strike:** remainder of line 8 through "FACILITY;" on line 9

**Insert:** "CLARIFYING THE DEFINITION OF "REGIONAL CORRECTIONAL FACILITY"; CLARIFYING THAT PRIVATELY OPERATED OR PRIVATELY OWNED AND OPERATED REGIONAL CORRECTIONAL FACILITIES ARE SUBJECT TO DEPARTMENT AUTHORIZATION AND LICENSURE;"

2. Title, line 17.

**Following:** "53-30-503,"

**Insert:** "53-30-504, 53-30-507, 53-30-602,"

3. Page 11, line 4.

**Following:** "(iii)"

**Insert:** "a state correctional facility portion of"

4. Page 11, line 7.

**Strike:** "prison"

**Insert:** "correctional"

**Following:** "corrections"

**Insert:** "or a private correctional facility portion of a Montana regional correctional facility licensed by the

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department of corrections "

5. Page 14, line 30.

**Following:** "means a"

**Strike:** "correctional"

6. Page 14, line 30 through page 15, line 2.

**Following:** the second "facility" on page 14, line 30

**Strike:** remainder of line 30 through "~~53-30-403~~," on page 15, line 2

**Insert:** "for the housing of persons charged with or convicted of a criminal offense that is a joint detention center and correctional facility and that is"

7. Page 15, line 4.

**Strike:** "for the housing of convicted felons"

8. Page 15, line 5.

**Following:** line 4

"Section 19. Section 53-30-504, MCA, is amended to read:

**"53-30-504. Authority to enter into contracts -- terms -- financing.** (1) The department may contract with one or more local governmental entities or corporations for the housing of and provision of services to inmates sentenced to the department or the department's correctional institutions at a regional correctional facility designed, financed, constructed, or operated by a local governmental entity, a corporation, the department, or any combination of a local governmental entity, a corporation, and the department.

(2) The contract must be authorized and approved by the governor, the department, and the governing body of the local governmental entity or the corporation, whichever is party to the contract. The contract must set forth fully the purposes, powers, rights, and responsibilities of each party to the contract and address necessary and proper matters set forth in 7-11-105.

(3) A contract may include an agreement to jointly design, finance, construct, and operate a regional correctional facility.

(4) The department may not enter into a contract unless the department and the local governmental entity or corporation has the legal authority and the ability to finance its share of the costs under the contract.

(5) A regional correctional facility may be constructed on real property that is owned by the state of Montana, a local governmental entity, or a corporation or that is jointly owned.

(6) The proceeds of long-range building program general obligation bonds authorized to be issued in accordance with Title 17, chapter 5, part 8, may be used, in whole or in part, to construct a regional correctional facility that may be owned and operated by a local governmental entity, whether or not the facility or any part of it is to be owned and operated by the state. If the proceeds of long-range building program general obligation bonds or other state revenue is to be used in whole or in part to construct a regional correctional facility that is to be owned and operated by a local governmental entity, the department of administration is not required to procure the design, engineering, or construction services for the facility. The contract may provide that the local governmental entity shall procure the services, but must also provide that the department of administration must be involved in the development and approval of the plans and specifications for the facility prior to the time the facility is let to bid.

(7) The department shall use the proceeds of long-range building program bonds and other state revenue appropriated for regional correctional facilities to negotiate with local governmental entities, corporations, or private providers to obtain the greatest number of beds that is consistent with program objectives for the least cost to the state.

(8) An individual, corporation, partnership, association, or other private organization or entity may not construct a regional correctional facility, if privately operated or privately owned and operated, unless authorized by the department.

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(9) An individual, corporation, partnership, association, or other private organization or entity may not operate a regional correctional facility unless licensed by the department. A license is nontransferable.

(8)(10) A regional correctional facility may house persons who are charged or convicted in this state, another state, or federal court in the detention center portion of a regional correctional facility. A person charged or convicted in another state or charged or convicted in federal court may not be confined in the a state correctional facility portion of a regional correctional facility in this state unless the confinement is under and governed by Title 46, chapter 19, part 3 or 4, and the department authorizes the placement of the person in the state correctional facility portion of the regional correctional facility."

**Insert:** "Section 20. Section 53-30-507, MCA, is amended to read:

**"53-30-507. Rulemaking authority.** The department may adopt rules to implement this part, including rules for the determination of how sites are to be chosen for regional correctional facilities. The rules must provide that in selecting a site, the department shall consider the need for a regional correctional facility in the area, the ability and willingness of a local governmental entity or a corporation to enter into a long-term contract with the department, and the availability of rehabilitative services to inmates. The rules must require that a corporation respond to a request for proposals prepared by the department for a regional correctional facility before a contract may be entered with that corporation. The department shall adopt rules that include the minimum applicable standards for the construction, operation, and physical condition of a state correctional facility portion of a regional correctional facility and for the security, safety, health, treatment, and discipline of persons confined in a state correctional facility portion of a regional correctional facility. The rules must require that a privately operated or privately owned and operated state correctional facility portion of a regional correctional facility conform to applicable American correctional association and national commission on correctional health care standards."

**Insert:** "Section 21. Section 53-30-602, MCA, is amended to read:

**"53-30-602. Definitions.** As used in this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) (a) "Private correctional facility" means a correctional facility that is either privately operated or privately owned and operated. ~~The term includes a regional correctional facility, as defined in 53-30-503, if privately operated or privately owned and operated.~~

(b) The term does not include a private detention center or a regional jail governed by Title 7, chapter 32, part 22."

**Renumber:** subsequent sections

9. Page 15, line 16.

**Strike:** "prison"

**Insert:** "correctional"

10. Page 16, line 2.

**Insert:** "NEW SECTION. Section 24. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

**Renumber:** subsequent sections

And, as amended, do pass. Report adopted.

**STATE ADMINISTRATION** (Cole, Chairman):

1/19/1999

**SB 140**, introduced bill, be amended as follows:

1. Page 2, line 12.

**Following:** "ineapacity."

**Insert:** "However, a qualified elector who is prevented from voting at the polls as a result of illness or health emergency occurring between 5 p.m. of the Friday preceding the election and noon on election day may

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request to vote by absentee ballot."

And, as amended, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

House bills passed and transmitted to the Senate for concurrence:

1/20/1999

**HB 99**, introduced by T. Hagener

**HB 210**, introduced by R. Johnson

**MOTIONS**

Senator Harp moved that the Senate stand in recess until the hour of 1:34 p.m. for party caucuses. Motion carried.

Senate recessed at 1:04 p.m.

Senate reconvened at 1:42 p.m.

Roll call. All members present. Quorum present.

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 240**, introduced by D. Grimes, referred to Business and Industry.

**SB 241**, introduced by S. Doherty, K. Galvin-Halcro, G. Golie, B. Ryan, referred to Fish and Game.

**SB 242**, introduced by K. Miller, Stovall, referred to Labor and Employment Relations.

**SB 243**, introduced by F. Thomas, referred to Judiciary.

**SB 244**, introduced by J. Tester, S. Kitzenberg, referred to Taxation.

**SB 245**, introduced by M. Waterman, referred to Labor and Employment Relations.

**SB 246**, introduced by D. Mahlum, J. Hertel, M. McCann, R. Peck, S. Rose, F. Thomas, referred to Education and Cultural Resources.

**MOTIONS**

**SB 170** - Senator M. Taylor moved that SB 170 be taken from the second reading board this legislative day and rereferred to the Committee on Finance and Claims. Motion carried.

**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 Keenan in the chair.

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

**SB 122** - Senator T. Beck moved SB 122 do pass. Motion carried unanimously.

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**SB 124** - Senator T. Beck moved SB 124 do pass. Motion carried unanimously.

**SB 13** - Senator McNutt moved SB 13 do pass. Motion carried unanimously.

**SB 116** - Senator Glaser moved SB 116 do pass. Motion carried unanimously.

**SB 168** - Senator Grosfield moved SB 168 do pass. Motion carried unanimously.

**SB 169** - Senator M. Taylor moved SB 169 do pass. Motion carried unanimously.

**SB 167** - Senator Tester moved SB 167 do pass. Motion carried with Senators Keating and Wells voting nay.

**SB 172** - Senator Waterman moved SB 172 be passed for the day due to a printing error on the bill. Motion carried

**SB 190** - Senator Halligan moved SB 190 do pass. Motion carried unanimously.

**SB 191** - Senator Jabs moved SB 191 do pass. Motion carried with Senators Beck and Mahlum voting nay.

**SB 196** - Senator Mesaros moved SB 196 do pass. Motion carried unanimously.

**SB 201** - Senator McNutt moved SB 201 do pass. Motion carried unanimously.

Senator Harp moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Crippen in the chair. Chairman Keenan 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 57** 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, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 58** passed as follows:

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Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Waterman, Wells, Wilson, Mr. President.  
Total 47

Nays: Grosfield, Miller, Toews.  
Total 3

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 59** 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, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.  
Total 49

Nays: Miller.  
Total 1

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 60** 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, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

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**SB 65** passed as follows:

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

Total 29

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

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 87** 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, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 91** 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, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.  
Total 0

**SB 112** 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, Mr. President.

Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 127** passed as follows:

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

Total 44

Nays: Cocchiarella, Holden, Keenan, Nelson, Stang, Swysgood.  
Total 6

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 131** 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, Mr. President.

Total 50

Nays: None.  
Total 0



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Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 158** 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, 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: Keenan.  
Total 1

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 179** 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, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Harp moved that the Senate adjourn until 1:00 p.m., Thursday, January 21, 1999. Motion carried.

Senate adjourned at 2:42 p.m.

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ROSANA SKELTON  
Secretary of Senate

BRUCE CRIPPEN  
President of the Senate