

**SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
February 2, 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 except Senators Ellis and Grimes, excused. Quorum present.

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

Miller, Chairman

COMMUNICATIONS AND PETITIONS

Communication was received from the Memorial Committee asking for names and information on past members who have died in the interim, so their names can be included in the Memorial Service on April 11, 1999.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 2/2/1999
Correctly printed: SB 89, SB 113, SB 203, SB 215, SB 291, SB 358, SB 359, SB 360, SB 361, SB 362, SB 363, SB 364.
Correctly engrossed: SB 3, SB 27, SB 75, SB 90, SB 150, SB 163, SB 221, SB 246, SB 274, SB 288.

AGRICULTURE, LIVESTOCK AND IRRIGATION (Jabs, Chairman): 2/1/1999
HB 30, be concurred in. Report adopted.
HB 51, be concurred in. Report adopted.
HB 80, be concurred in. Report adopted.

BUSINESS AND INDUSTRY (Hertel, Chairman): 2/2/1999
SB 108, introduced bill, be amended as follows:

1. Title, page 1, line 11.

Strike: "CHARITABLE OR FREE CLINICS"

Insert: "UNIVERSITY CLINICS, CORRECTIONAL FACILITY CLINICS, COMMUNITY HEALTH CENTERS, MIGRANT HEALTH CARE CENTERS, OR PROGRAMS FOR HEALTH SERVICES FOR THE HOMELESS"

2. Title, page 1, line 18 through line 19.

Strike: "DELETING" on line 18 through "REGULATION;" on line 19

3. Title, page 1, line 23 through line 25.

Strike: "REPEALING" on line 23 through "MCA;" on line 25

4. Page 4, line 26.

Following: "(1)"

Strike: "A"

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

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

5. Page 5, following line 17.

Insert: "(4) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or in the opinion of the board has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with the Montana family practice residency program; and

(c) is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state."

6. Page 6, line 15.

Following: "with"

Insert: "or being employed by"

7. Page 6, line 18.

Strike: "governmental"

8. Page 6, line 20.

Following: "254b"

Strike: " 1 "

9. Page 6, line 21.

Strike: "254c, and 256"

10. Page 6, line 22 through line 24.

Strike: "The" on line 22 through "contrary." on line 24

Insert: "A clinic that employs or otherwise contracts with a dentist under subsection (6) may not:

(a) govern the clinical sufficiency, suitability, reliability, or efficacy of a particular service, product, process, or activity as it relates to the delivery of dental care; or

(b) preclude or otherwise restrict a dentist's ability to exercise independent professional judgment over all qualitative and quantitative aspects of the delivery of dental care."

11. Page 6, lines 25 through 27.

Strike: subsection (8) in its entirety

12. Page 15, line 30.

Strike: "Compliance"

Insert: "A licensed or certified real estate appraiser shall comply"

Following: "standards"

Strike: "is required"

13. Page 16, lines 10 through 12.

Strike: Section 23 in its entirety

Renumber: subsequent sections

14. Page 16, line 20.

Following: "11,"

Insert: "and"

Strike: ", and 24"

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

And, as amended, do pass. Report adopted.

SB 227, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "PROVIDER;"

Insert: "PROVIDING FOR RATE DECREASES AS WELL AS RATE INCREASES; PROVIDING FOR REGULATORY FLEXIBILITY UPON PETITION BY A SMALL TELECOMMUNICATIONS PROVIDER;"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "69-3-901,"

Insert: "69-3-903, 69-3-904, 69-3-906, AND 69-3-907,"

2. Page 1, following line 23.

Insert: "**Section 2.** Section 69-3-903, MCA, is amended to read:

"69-3-903. Notice of rate increase or decrease. (1) At least 60 days before the effective date of any rate increase or decrease proposed by a small telecommunications provider, the small telecommunications provider shall mail notice of the proposed rate increase or decrease to each affected subscriber, the commission, and the Montana consumer counsel.

(2) Notice to the commission and consumer counsel must include:

(a) a summary of the justification for the proposed rate increase;

(b) a list of the number of affected subscribers in each category of rates proposed to be increased or decreased; and

(c) if requested by the commission, a list of the names of the affected subscribers.

(3) The notice to affected subscribers may be included with regular subscriber billings and must include:

(a) a schedule of the proposed rates;

(b) the effective date of the proposed rates; and

(c) a description of the petition procedure in 69-3-906 for seeking commission review and determination of the proposed rates. If the small telecommunications provider publishes the petition procedure in a telephone directory, a reference to the location of the procedure in the directory is adequate notice."

Insert: "**Section 3.** Section 69-3-904, MCA, is amended to read:

"69-3-904. Commission review and determination of rate increases or decreases. (1) When a small telecommunications provider proposes a rate increase or decrease, the commission shall review and determine the rates pursuant to the applicable procedures in this chapter if:

(a) the affected subscribers have successfully petitioned for commission review as described in 69-3-906;

(b) the small telecommunications provider requests the commission to review and determine the rates; or

(c) by the 60th day following notice of the proposed increase or decrease, the consumer counsel petitions the commission to review and determine the rates.

(2) An order of the commission issued under this section establishes the effective rate for the regulated telecommunications services covered by the order. Rates established by commission order may not be increased for a period of 6 months, except as ordered by the commission.

(3) The order of the commission is subject to review pursuant to part 4 of this chapter. "

Insert: "**Section 4.** Section 69-3-906, MCA, is amended to read:

"69-3-906. Petition for review of proposed rate increase or decrease. Subscribers affected by a proposed rate increase or decrease for regulated telecommunications services by a small telecommunications provider may petition the commission to review and determine the rates. The petition must identify the proposed rate increase or decrease and must be in writing and signed by a subscriber or the authorized person if the subscriber is a business account." "

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

Insert: "Section 5. Section 69-3-907, MCA, is amended to read:

"69-3-907. Proposed increase or decrease effective unless requisite petitions received by commission.

(1) If by the 60th day following notice to subscribers of a proposed rate increase or decrease the commission has not received petitions containing signatures from at least 10% of the affected subscribers in any rate category or a petition for review from the consumer counsel, the commission shall certify this fact to the small telecommunications provider and the proposed rate increase or decrease becomes effective as published in the notice of proposed increase or decrease.

(2) If by the 60th day following notice to subscribers of a proposed rate increase or decrease the commission has received petitions containing signatures from 10% or more of the affected subscribers in any rate category or a petition for review from the consumer counsel, the commission shall notify the small telecommunications provider of this fact and shall indicate that the proposed rate increase or decrease in that rate category will not take effect as noticed. The commission shall then review and determine the rates in that category pursuant to 69-3-904.

(3) In the case of a proposed increase or decrease in rates for access services provided to interexchange carriers, a valid petition for commission review and determination of rates consists of a signature of an authorized representative of any interexchange carrier that would be affected by the access rates that are proposed to be increased or decreased."

Insert: "NEW SECTION. Section 6. Regulatory flexibility upon petition by small telecommunications provider. (1) Upon application by a small telecommunications provider, the commission shall forebear from applying any regulation or any provision of this chapter to a small telecommunications provider in all or some of the small telecommunications provider's geographic markets, as stated in the application, if the commission determines that:

(a) enforcement of a regulation or provision is not necessary to ensure:

(i) that the charges, practices, or classifications are just and reasonable; or

(ii) that regulations by, for, or in connection with the small telecommunications provider are just and reasonable;

(b) enforcement of a regulation or provision is not necessary for the protection of consumers; or

(c) forbearance from regulation is consistent with the public interest.

(2) (a) A small telecommunications provider providing regulated telecommunications services may submit an application to the commission requesting that the commission exercise the authority granted in this section with respect to that small telecommunications provider or any service offered by that small telecommunications provider.

(b) A petition must be considered granted within 90 days if the commission does not deny the petition upon making specific findings under subsection (1).

(c) The commission may extend the initial 90-day period if the commission finds that the extension is necessary in order to make the findings required in subsection (1).

(3) The commission may not forbear from applying the requirements of 69-3-831 through 69-3-840."

Insert: "NEW SECTION. Section 7. Codification instruction. [Section 6] is intended to be codified as an integral part of Title 69, chapter 3, part 9, and the provisions of Title 69, chapter 3, part 9, apply to [section 6]."

And, as amended, do pass. Report adopted.

SB 234, do pass. Report adopted.

SB 272, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "JURISDICTIONS;"

Insert: "PROVIDING FOR AN ENDORSEMENT FOR EXPORTERS OF ILLEGAL GAMBLING DEVICES OR

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

ASSOCIATED EQUIPMENT; PROVIDING PENALTIES RELATING TO THE ENDORSEMENT;"

2. Page 2, line 8 and line 10.

Following: "who"

Insert: ", subject to the provisions of subsection (11),"

3. Page 2, following line 11.

Insert: "(11) "Exporter of illegal gambling devices or associated equipment endorsement" means an endorsement issued by the department to a distributor licensed under this chapter authorizing the distributor to import, store, demonstrate, and export for sale illegal gambling devices and associated equipment as provided in 23-5-614(4) and [section 4]."

Renumber: subsequent subsections

4. Page 8, line 5.

Following: "(4)"

Insert: "(a)"

5. Page 8, line 15.

Following: "that"

Insert: ", subject to the provisions of [section 4],"

6. Page 8, line 16.

Following: "jurisdictions."

Insert: "(b) For the purposes of this subsection (4), "licensed distributor" means a licensed distributor that has obtained an exporter of illegal gambling devices or associated equipment endorsement."

7. Page 8, following line 16.

Insert: "NEW SECTION. Section 4. Exporter of illegal gambling devices or associated equipment -- application for endorsement -- requirements -- criminal penalties. (1)(a) A person licensed as a distributor on the [effective date of this act] that desires to obtain an exporter of illegal gambling devices or associated equipment endorsement shall apply to the department for the endorsement within 1 year of the [effective date of this act]. A person licensed as a distributor after the [effective date of this act] shall apply for the endorsement within 1 year of being licensed as a distributor.

(b) A distributor that does not obtain an endorsement under this section and that engages in any activity subject to the provisions of 23-5-614(4) or this section is subject to the penalty provisions of 23-5-162.

(2) With respect to the purchase, demonstration, transportation, and sale outside of this state of illegal gambling devices or associated equipment, a distributor obtaining an endorsement under this section shall comply with all applicable local, tribal, state, federal, or other laws of the other jurisdiction.

(3) A distributor with an endorsement subject to the provisions of this section may possess and demonstrate illegal gambling devices or associated equipment in this state only on premises approved by the department.

(4) Prior to importing or exporting any illegal gambling device or associated equipment, a distributor with an endorsement shall notify the department of the terms of the sale, the identities of the seller, purchaser, and person to whom the shipment is to be made, the type and number of illegal gambling devices or associated equipment to be sold, the method of shipment, and confirmation of the approval of the jurisdiction where the goods are to be delivered in the case of a sale.

(5) A person convicted of purposely or knowingly violating this section shall be punished as provided in 23-5-162."

Insert: "NEW SECTION. Section 5. Codification instruction. [Section 4] is intended to be codified as an

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

integral part of Title 23, chapter 5, part 6, and the provisions of Title 23, chapter 5, part 6, apply to [section 4]."

And, as amended, do pass. Report adopted.

JUDICIARY (Grosfield, Chairman):
SB 232, introduced bill, be amended as follows:

2/1/1999

1. Page 2, line 14.

Following: the first "deposit"

Insert: "or share"

Following: the second "deposit"

Insert: "or share"

2. Page 2, line 15.

Following: "enforce a"

Strike: "banker's"

Insert: "financial institution's statutory"

And, as amended, do pass. Report adopted.

SB 236, introduced bill, be amended as follows:

1. Page 1, line 16.

Insert: "(1) "Criminal incitement" means the advocacy of crime, malicious damage or injury to property, or violence."

Renumber: subsequent subsections

2. Page 1, line 24.

Following: "producing"

Insert: "that"

Following: "unlawful"

Insert: ", criminal"

3. Page 1, line 25.

Following: "produce"

Insert: "that"

Following: "unlawful"

Insert: ", criminal"

4. Page 1, line 26.

Following: "means"

Strike: "highly predictable"

Insert: "immediate in time, impending, or on the verge of happening"

And, as amended, do pass. Report adopted.

SB 257, do pass. Report adopted.
LOCAL GOVERNMENT (Sprague, Chairman):

2/1/1999

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

SB 74, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "PROHIBITING"

Insert: "ESTABLISHING REQUIREMENTS THAT MUST BE MET BEFORE"

2. Title, line 5.

Strike: "FROM REQUIRING"

Insert: "MAY REQUIRE"

3. Title, line 7.

Strike: "RENTER"

Insert: "TENANT"

4. Title, line 8.

Following: "SECTIONS"

Insert: "7-13-2201,"

5. Page 1.

Following: line 10

Insert: "**Section 1.** Section 7-13-2201, MCA, is amended to read:

7-13-2201. Definitions. (1) The word "board" and the words "boards of directors" apply to the board of directors of the district.

(2) The term "county" means one or more counties and includes a city and county.

(3) The word "district", unless otherwise expressed or used, applies to a district formed under the provisions of ~~this part and part 23~~ and this part. A district is a unit of local government separate and distinct from a municipality, but a district may be treated as a municipality when applying for a grant, a loan, or other financial assistance from the state.

(4) The term "municipality", as used in ~~this part and part 23~~ and this part, includes a consolidated city and county, city, or town and includes all corporations organized for municipal purposes within the districts.

(5) As used in part 23 and this part, "tenant" has the meaning provided in 70-24-103."

Renumber: subsequent sections

6. Page 2, line 23 through line 27

Strike: subsection (5) in its entirety

Insert: " (5) When arrearages are the result of delinquent charges, interest, penalties, or deposits that have been incurred by a tenant of the real property and not the owner of the real property, the district may collect unpaid arrearages as a tax against real property and the board may require that all arrearages be paid by the owner of the property before restoration of service to that property only if:

(a) the district has provided notice to the property owner when the amount owed has become delinquent;

(b) prior to the provision of water or sewer service to the tenant, the district has collected a deposit from the tenant that is equivalent to the average charges for the services provided for a period of 2 months; and

(c) water service, if provided, has been discontinued to the property within 15 days after the amount owed has become delinquent."

7. Page 3, line 21.

Strike: "not"

8. Page 3, line 22.

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

Strike: "renter"

Insert: "tenant, as defined in 70-24-103,"

9. Page 3, line 23.

Following: "property"

Insert: "only if:

- (a) the district has provided notice to the property owner when the amount owed has become delinquent;
- (b) prior to the provision of water or sewer service to the tenant, the district has collected a deposit from the tenant that is equivalent to the average charges for the services provided for a period of 2 months; and
- (c) water service, if provided, has been discontinued to the property within 15 days after the amount owed has become delinquent"

10. Page 4, line 23 through 25.

Strike: subsection (5) in its entirety

Insert: " (5) When arrearages are the result of delinquent charges, interest, penalties, or deposits that have been incurred by a tenant, as defined in 70-24-103, of the real property and not the owner of the real property, the city or town may collect unpaid arrearages as a tax against real property only if:

- (a) the city or town has provided notice to the property owner when the amount owed has become delinquent;
- (b) prior to the provision of water or sewer service to the tenant, the city or town has collected a deposit from the tenant that is equivalent to the average charge for the services provided for a period of 2 months; and
- (c) water service, if provided, has been discontinued to the property within 15 days after the amount owed has become delinquent."

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Crismore, Chairman):

2/2/1999

SB 276, introduced bill, be amended as follows:

1. Title, line 5 and line 6.

Following: "USING"

Strike: "GLOBAL POSITIONING SYSTEM TECHNOLOGY"

Insert: "DATA COLLECTED THROUGH THE USE OF ALTERNATIVE SURVEY METHODS"

2. Page 1, line 22 and line 23.

Following: "(3)"

Strike: "The" through "technology." on line 23

3. Page 1, line 23 and line 24.

Following: "must"

Strike: "specify" through "must" on line 24

4. Page 1, line 25.

Strike: "instrument"

Insert: "methodology"

5. Page 1, line 26 and line 27.

Following: "corner"

Insert: "or 1/4 corner"

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

Following: "request"

Strike: "additional" through "method" on line 27

Insert: "greater accuracy"

Strike: "accurately" on line 27

Insert: "adequately"

6. Page 2, line 3.

Following: "plat."

Insert: "The accuracy requirements of subsection (3) must be met."

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Bishop, Chairman): 2/2/1999
SB 290, do pass. Report adopted.

STATE ADMINISTRATION (Cole, Chairman): 2/2/1999
SB 295, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 2/1/1999

HB 20, introduced by S. Kitzenberg
HB 26, introduced by S. Kitzenberg
HB 106, introduced by L. McCulloch
HB 110, introduced by R. Johnson
HB 111, introduced by M. Guggenheim
HB 126, introduced by R. Johnson
HB 137, introduced by S. Anderson
HB 149, introduced by B. Davies
HB 221, introduced by C. Trexler
HB 232, introduced by S. Rose
HB 304, introduced by M. Noennig
HB 308, introduced by T. Hagener

House joint resolution passed and transmitted to the Senate for concurrence: 2/2/1999

HJR 4, introduced by A. Walters

MOTIONS

SB 302 - Senator Crismore moved that SB 302 be taken from the committee on Natural Resources and rereferred to the committee on Finance and Claims. Motion carried.

SB 338 - Senator Mesaros moved that C. Hibbard be added as sponsor to SB 338. Motion carried.

SB 339 - Senator Mesaros moved that C. Hibbard be added as sponsor to SB 339. Motion carried.

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

SB 340 - Senator Mesaros moved that C. Hibbard be added as sponsor to SB 340. Motion carried.

SB 341 - Senator Mesaros moved that C. Hibbard be added as sponsor to SB 341. Motion carried.

SB 270 - Senator Devlin moved consideration of SB 270, on second reading this legislative day, be passed for the day. Motion carried.

SB 36 - Senator Bishop moved that the Senate adopt the clerical correction that removes the amendment contained in the Standing Committee Report from the Committee on Public Health, Welfare and Safety for SB 36, dated January 19, 1999, the 14th legislative day. Motion carried.

Senator Harp moved that the Joint Rules be temporarily suspended to provide that a single bill draft request is sufficient to authorize the drafting and introduction of the number of bills that may be required by CI-75 in order to implement the single bill draft request. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Ellis.
Total 1

Senators Ellis and Grimes present at this time.

FIRST READING AND COMMITMENT OF BILLS

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

SB 365, introduced by A. Mohl, referred to Labor and Employment Relations.

SB 366, introduced by S. Bartlett, referred to Local Government.

SB 367, introduced by F. Thomas, S. Anderson, J. Bohlinger, R. Clark, M. Cole, S. Doherty, D. Grimes, L. Grinde, M. Halligan, D. Harrington, J. Hertel, G. Jergeson, J. Lynch, B. McCarthy, L. Nelson, K. Ohs, B. Pavlovich, G. Roush, D. Shea, P. Sliter, B. Stang, L. Taylor, J. Tester, referred to Business and Industry.

SB 368, introduced by B. DePratu, referred to Finance and Claims.

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

HB 20, introduced by S. Kitzenberg, referred to Fish and Game.

HB 26, introduced by S. Kitzenberg, referred to Fish and Game.

HB 106, introduced by L. McCulloch (by request of the Department of Justice), referred to Judiciary.

HB 110, introduced by R. Johnson (by request of the Department of Natural Resources and Conservation), referred

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

to Finance and Claims.

HB 111, introduced by M. Guggenheim (by request of the State Auditor), referred to Judiciary.

HB 126, introduced by R. Johnson (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.

HB 137, introduced by S. Anderson (by request of the Department of Revenue), referred to Taxation.

HB 149, introduced by B. Davies, referred to Judiciary.

HB 221, introduced by C. Trexler, referred to Agriculture, Livestock and Irrigation.

HB 232, introduced by S. Rose, referred to Agriculture, Livestock and Irrigation.

HB 304, introduced by M. Noennig, S. Anderson, M. Cole, B. DePratu, S. Doherty, A. Ellis, K. Gillan, B. Lawson, D. Mahlum, G. Masolo, L. McCulloch, referred to Education and Cultural Resources.

HB 308, introduced by T. Hagener, referred to Judiciary.

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

HJR 4, introduced by A. Walters, referred to Fish and Game.

**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 Wells in the chair.

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

SB 205 - Senator S. Doherty moved SB 205, second reading copy, be amended as follows:

1. Title, line 8.

Following: "PROJECTS;"

Insert: "INCREASING BY 1 CENT THE CREDIT OR REFUND THAT A REFINERY OR DISTRIBUTOR SELLING CERTAIN TYPES OF JET FUEL TO A FEDERAL DEFENSE FUEL SUPPLY CENTER IS ENTITLED TO RECEIVE;"

Following: "15-70-205,"

Insert: "15-70-221,"

2. Page 4, line 19.

Insert: "**Section 3.** Section 15-70-221, MCA, is amended to read:

"15-70-221. (Temporary) Refund or credit authorized. (1) A person who purchases and uses any gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol, for operating or propelling stationary gasoline engines or tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state is allowed a refund of the amount of tax paid directly or indirectly on the gasoline. The refund may not exceed the tax paid or to be paid to the state. Except as provided in subsection (5) or (6), a refund is not allowed for the tax per gallon upon aviation fuel allocated to the department of transportation by 67-1-301.

(2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or refund of the amount of tax paid.

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor may not have declared the

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

accounts of the purchaser worthless more than once during a 3-year period, and the distributor must have claimed those accounts as bad debts for federal income tax purposes.

(b) If a credit has been granted under this subsection (3), any amount collected on the accounts that were declared worthless must be reported to the department and the tax due must be prorated on the collected amount and must be paid to the department.

(c) The department may require a distributor to submit periodic reports listing accounts that are delinquent for 90 days or more.

(4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid unless the person is not licensed and is not paying the tax to the state the fuel is destined for. The credit or refund will be made upon completion of the information reports required under 15-70-209 and presentation to the department of proof of delivery outside Montana as it may by rule require.

(5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has been paid.

(6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel supply center is entitled to a credit or refund of ~~2~~ 3 cents a gallon for each gallon that is sold to the supply center and on which the gasoline license tax has been paid. (Terminates on occurrence of contingency--sec. 17, Ch. 642, L. 1993.)

15-70-221. (Effective on occurrence of contingency) Refund or credit authorized. (1) A person who purchases and uses any gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol, for operating or propelling stationary gasoline engines or tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state is allowed a refund of the amount of tax paid directly or indirectly on the gasoline. The refund may not exceed the tax paid or to be paid to the state. Except as provided in subsection (5) or (6), a refund is not allowed for the tax per gallon upon aviation fuel allocated to the department of transportation by 67-1-301.

(2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or refund of the amount of tax ~~so~~ paid.

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor may not have declared the accounts of the purchaser worthless more than once during a 3-year period, and the distributor must have claimed those accounts as bad debts for federal income tax purposes.

(b) If a credit has been granted under this subsection (3), any amount collected on the accounts that were declared worthless must be reported to the department and the tax due must be prorated on the collected amount and must be paid to the department.

(c) The department may require a distributor to submit periodic reports listing accounts that are delinquent for 90 days or more.

(4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid unless the person is not licensed and is not paying the tax to the state the fuel is destined for. The credit or refund will be made upon completion of the information reports required under 15-70-209 and presentation to the department of proof of delivery outside Montana as it may by rule require.

(5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund of 1 cent on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has been paid.

(6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel supply center is entitled to a credit or refund of 1 cent a gallon for each gallon that is sold to the supply center and on which the gasoline license tax has been paid."

Renumber: subsequent sections

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

Amendment **adopted** as follows:

Yeas: Bartlett, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Franklin, Grimes, Grosfield, Halligan, Harp, Jergeson, Keating, McCarthy, Mesaros, Mohl, Roush, Shea, Sprague, Swysgood, Taylor, Thomas, Waterman, Wells, Wilson, Mr. President.

Total 33

Nays: Beck, Bohlinger, Ellis, Glaser, Hargrove, Hertel, Holden, Jabs, Keenan, Lynch, Mahlum, McNutt, Miller, Nelson, Stang, Tester, Toews.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 205 - Senator W. McNutt moved SB 205, as amended, do pass. Motion carried unanimously.

SB 206 - Senator W. McNutt moved SB 206 do pass. Motion carried unanimously.

SB 210 - Senator J. Lynch moved SB 210 do pass. Motion carried with Senators Taylor, Toews, Swysgood and Wells voting nay.

SB 214 - Senator S. Bartlett moved SB 214 do pass. Motion carried unanimously.

SB 219 - Senator D. Grimes moved SB 219, second reading copy, be amended as follows:

1. Title, line 12.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 6, line 3.

Following: line 2

Insert: "NEW SECTION. **Section 10. Termination.** [This act] terminates December 31, 2003."

Amendment **failed** as follows:

Yeas: Beck, Berry, Cole, Crismore, Devlin, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keenan, McNutt, Mesaros, Miller, Mohl, Sprague, Swysgood, Thomas, Toews, Wells, Mr. President.

Total 24

Nays: Bartlett, Bishop, Bohlinger, Christiaens, Cocchiarella, DePratu, Doherty, Eck, Ekegren, Ellingson, Franklin, Halligan, Jergeson, Keating, Lynch, Mahlum, McCarthy, Nelson, Roush, Shea, Stang, Taylor, Tester, Waterman, Wilson.

Total 25

Absent or not voting: Ellis.

Total 1

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

Excused: None.
Total 0

SB 219 - Senator M. Waterman moved SB 219 do pass.

SB 219 - After discussion, Senator R. Holden made a substitute motion that consideration of SB 219 be passed for the day. Motion **failed** as follows:

Yeas: Ellis, Holden, Miller, Mohl, Toews.
Total 5

Nays: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Waterman, Wells, Wilson, Mr. President.
Total 45

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 219 - Senator M. Waterman's motion that SB 219 do pass carried 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, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Waterman, Wells, Wilson, Mr. President.
Total 48

Nays: Holden, Toews.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 225 - Senator J. Hertel moved SB 225 do pass. After discussion, Senator J. Hertel made a substitute motion that consideration of SB 225 be passed for the day. Motion carried with Senator Sprague voting nay.

SB 226 - Senator J. Hertel moved SB 226 do pass. Motion carried as follows:

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

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

Total 46

Nays: Devlin, Ekegren, Holden, Mesaros.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SR 2 - Senator J. Harp moved SR 2 be adopted. Motion carried 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

Senator Harp moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Crippen in the chair. Chairman Wells 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 27 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

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 56, as amended by the House, 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 89 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, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays: Toews.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 90 passed as follows:

Yeas: Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, 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, Waterman, Wells, Wilson, Mr. President.
Total 47

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 1999

Nays: Bartlett, Grimes, Toews.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 113 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Mohl, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Thomas, Waterman, Wells, Wilson, Mr. President.
Total 43

Nays: Christiaens, Glaser, Keenan, Miller, Nelson, Tester, Toews.
Total 7

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., Wednesday, February 3, 1999. Motion carried.

Senate adjourned at 2:59 p.m.

ROSANA SKELTON
Secretary of Senate

BRUCE CRIPPEN
President of the Senate