

**SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
March 11, 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 fifty-fourth legislative day, find the same to be correct.

Miller, Chairman

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 3/11/1999
Correctly printed: SB 441, SB 467, HB 168, HB 173, HB 210, HB 349, HB 360, HB 442, HB 476, HB 494, HB 514, HB 522.
Correctly engrossed: SB 454, SB 502, HB 98, HB 107, HB 132, HB 155, HB 192, HB 215, HB 379, HB 592.
Correctly enrolled: SB 1, SB 91, SB 95, SB 101, SB 115, SB 116, SB 120, SB 140, SB 155, SB 203, SB 347.
Examined by the sponsor and found to be correct: SB 1, SB 91, SB 95, SB 101, SB 115, SB 116, SB 120, SB 140, SB 155, SB 203, SB 347.
Signed by the President at 3:30 p.m., March 10, 1999: SB 88.
Signed by the Secretary of Senate at 9:55 a.m., March 11, 1999: SB 88.

AGRICULTURE, LIVESTOCK AND IRRIGATION (Jabs, Chairman): 3/11/1999
HB 444, be amended as follows:

1. Title, line 10.

Strike: "5"

Insert: "10"

2. Page 3, line 2.

Strike: "5"

Insert: "10"

3. Page 17, line 17 through line 19.

Strike: section 36 in its entirety

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

BUSINESS AND INDUSTRY (Hertel, Chairman): 3/11/1999
HB 526, be amended as follows:

1. Title, page 1, line 8.

Following: "1."

Insert: "AND"

2. Title, page 1, line 9.

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 11, 1999

Strike: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 4, line 30.

Strike: "and"

Following: "loss,"

Strike: "a reconciliation of surplus or net worth with the"

Insert: "and"

4. Page 5, line 1.

Strike: ", and the ratios of the profits to the assets reported"

5. Page 5, line 6.

Following: "minimum"

Strike: ", "

Insert: "and"

Following: "maximum"

Strike: ", and average dollar"

6. Page 5, line 15.

Strike: "payment"

Insert: "deposit"

7. Page 5, line 26.

Strike: "10"

Insert: "11"

8. Page 5, line 27.

Strike: "or schedule"

9. Page 5, line 28.

Following: "public"

Insert: "through the department"

10. Page 6, line 16.

Strike: "prior to the"

Insert: "upon"

11. Page 6, line 25.

Strike: "toll-free"

Insert: "telephone"

12. Page 6, line 28 through line 29.

Strike: ", whether" on line 28 through "complaints" on line 29

Insert: "and other legally available information"

13. Page 8, line 5.

Strike: "DISCLOSURE DOCUMENTS"

Insert: "loan agreement"

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 11, 1999

Strike: "REQUIRE"

Insert: "requires "

14. Page 8, line 14.

Strike: the second "payment"

Insert: "deposit"

15. Page 9, line 23.

Following: "in"

Insert: "the"

Strike: "documents "

Insert: "agreement"

Strike: "10"

Insert: "11"

16. Page 12, line 2 through line 7.

Strike: sections 19 and 20 in their entirety

And, as amended, be concurred in. Report adopted.

HB 615, be concurred in. Report adopted.

FINANCE AND CLAIMS (Swysgood, Chairman):

3/11/1999

HB 69, be amended as follows:

1. Title, line 11.

Following: "87-1-601,"

Insert: "90-4-103, 90-4-106, 90-4-109,"

2. Page 35, line 21.

Insert: "**Section 32.** Section 90-4-103, MCA, is amended to read:

"90-4-103. Alternative energy and energy conservation research development and demonstration account established program -- allocation of funds. (1) There is ~~within the state special revenue fund~~ an alternative energy and energy conservation research development and demonstration ~~account~~ program. Money ~~is paid into this account~~ from repayments of grants and loans previously awarded ~~from this account~~ must be deposited in the general fund. The state treasurer shall draw warrants payable from ~~this account~~ appropriations provided for the program upon order of the department.

(2) Each fiscal year the department shall allocate the funds appropriated ~~from~~ for the alternative energy and energy conservation research development and demonstration ~~account~~ program for the following:

(a) grants under 90-4-104 and 90-4-106;

(b) loans under 90-4-104 and 90-4-106;

(c) grants to state governmental units under 90-4-109;

(d) program administration; and

(e) matching federal energy programs and petroleum violation escrow account money if consistent with the purposes of this chapter.

(3) To ~~assure~~ ensure that the program offers the greatest possible benefits during the fiscal year, the department may reallocate funds among the categories specified in this section based on the availability of funds or the applications it receives and the department's evaluation of the relative merits of each project."

Insert: "**Section 33.** Section 90-4-106, MCA, is amended to read:

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 11, 1999

"90-4-106. Criteria for grant or loan awards. The department may award grants or loans to applicants under 90-4-105 in accordance with the following criteria:

(1) A grant may cover a period exceeding 1 year, provided that all funds for the grant must be encumbered or accrued from the program appropriation for the year the grant is authorized.

(2) The department may give preference to projects ~~which~~ that are also supported by funding from the federal government or other persons, provided the projects are consistent with the other objectives of the department. The purpose of this preference is to use the alternative energy and energy conservation research development and demonstration ~~account~~ appropriations for matching ~~moneys~~ funds in order to support more substantial research or commercialization.

(3) The department may give preference to research centers unattached to existing educational institutions where several investigators can share supporting services. However, this ~~shall~~ may not be interpreted to prohibit the department from awarding grants or loans to existing educational institutions.

(4) The department may give preference to research centers ~~which~~ that make information available to individuals, small businesses, and small communities seeking the use of renewable energy sources and energy conservation in their homes, plants, places of business, and small communities.

(5) All information resulting from such research ~~shall~~ must be made available to the public.

(6) The department may expend or commit available alternative energy and energy conservation research development and demonstration funds. The department may commit funds for demonstration purposes only when in its judgment ~~such~~ the expenditures or commitments have good potential for producing savings of nonrenewable energy sources. The department may not commit funds for demonstration purposes when any of the following conditions are present:

(a) previous commitments of a similar nature were not productive;

(b) a similar demonstration has been conducted within close geographic proximity of the geographic location of the proposed demonstration project, other than a project proposed for funding under 90-4-109;

(c) the proposed demonstration project would not further the purpose of this part."

"

"Section 34. Section 90-4-109, MCA, is amended to read:

"90-4-109. State governmental unit grants. (1) (a) The department may award grants from the alternative energy and energy conservation research development and demonstration ~~account~~ appropriations to state governmental units. These grants must be used to further the purposes of this part by providing money for state governmental units for energy conservation measures.

(b) State governmental units ~~must~~ shall apply to the department for grants.

(c) The department shall prescribe the form for applications and develop criteria for awarding grants under this section, including provisions requiring matching funds or repayment of grant funds to the ~~alternative energy and energy conservation research development and demonstration account~~ general fund.

(d) Each agency awarded a grant shall either repay the grant or reduce its budget commensurate with the documented energy savings resulting from the grant.

(2) All grants awarded under this section must be administered by the department of administration according to Title 18, chapter 2."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 404, be concurred in. Report adopted.

HB 495, be concurred in. Report adopted.

JUDICIARY (Grosfield, Chairman):

3/11/1999

HB 371, be concurred in. Report adopted.

HB 492, be concurred in. Report adopted.

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 11, 1999

NATURAL RESOURCES (Crismore, Chairman): 3/11/1999
HB 58, be amended as follows:

1. Page 5, line 2.

Following: "undertaken"

Strike: "continuously"

Insert: ", in accordance with a corrective action plan approved by the department,"

2. Page 5, line 7.

Following: "railroad"

Insert: ", except for a tank that was operated by a lessee of a railroad in the course of nonrailroad operations"

And, as amended, be concurred in. Report adopted.

HB 142, be concurred in. Report adopted.

HB 331, be concurred in. Report adopted.

STATE ADMINISTRATION (Cole, Chairman): 3/10/1999

HB 468, be concurred in. Report adopted.

HB 474, be concurred in. Report adopted.

TAXATION (Devlin, Chairman): 3/11/1999

HB 418, be concurred in. Report adopted.

HB 479, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on Senate Bill 79
Report No. 1, March 11, 1999

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 79** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 79** (reference copy -- salmon) be amended as follows:

1. Title, page 1, lines 11 through 13.

Following: "SYSTEM;" on line 11.

Strike: remainder of line 11 through "CONSTITUTION;" on line 12

Following: "PROVIDING" on line 12

Insert: "AN IMMEDIATE"

Following: "EFFECTIVE" on line 12

Strike: "DATES_"

Insert: "DATE, A"

Strike: "DATES" on line 13

Insert: "DATE"

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 11, 1999

Following: "AND" on line 13

Insert: "A "

Strike: "DATES"

Insert: "DATE"

2. Page 1, lines 17 and 18.

Strike: "Subject to the provisions of 20-25-423, there"

Insert: "There"

3. Page 1, line 29 through page 2, line 1.

Strike: section 3 in its entirety

Renumber: subsequent sections

4. Page 2, lines 3 and 4.

Following: "If"

Strike: remainder of line 3 through "act]" on line 4

Insert: "[this act] is passed and approved, then Senate Bill No. 56"

5. Page 2, line 6 through line 16.

Strike: section 5 in its entirety

Insert: "NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval."

6. Page 2, line 21 through line 23.

Following: "Termination." on line 21

Strike: remainder of line 21 through "section 1]" on line 23

Insert: "[Section 1]"

For the Senate:

Swysgood, Chairman
McCarthy
Toews

For the House:

Johnson, Chairman
Haines
Swanson

Senator Ellis present at this time.

MESSAGES FROM THE GOVERNOR

July 10, 1999

The Honorable Bruce Crippen
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Crippen:

Please be informed that I have signed **Senate Bill 171** sponsored by Senator Mesaros et al on March 10, 1999.

Sincerely,

STATE INTERNET/BBS COPY

813

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 11, 1999

MARC RACICOT
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate: 3/10/1999

SB 48, introduced by C. Swysgood

SB 49, introduced by C. Swysgood

SB 162, introduced by Crismore

SB 191, introduced by Jabs

SB 201, introduced by McNutt

SB 231, introduced by Jabs

SB 246, introduced by Mahlum

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/10/1999

SB 187, introduced by Tester

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 260, as amended by the Governor, passed as follows:

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

Total 40

Nays: Bartlett, Christiaens, Doherty, Eck, Ellingson, Franklin, Halligan, Jergeson, Stang, Waterman.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 441 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Eck, Ekegren, 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, Swysgood, Taylor, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 46

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 11, 1999

Nays: Doherty, Ellingson, Stang, Tester.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 467 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grosfield, Halligan, Harp, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Tester, Waterman, Wilson, Mr. President.
Total 35

Nays: DePratu, Devlin, Grimes, Hargrove, Hertel, Holden, Jabs, Keenan, Mesaros, Miller, Mohl, Taylor, Thomas, Toews, Wells.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 155 concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jergeson, Keenan, Lynch, McCarthy, Mesaros, Miller, Nelson, Roush, Shea, Sprague, Stang, Taylor, Tester, Thomas, Waterman, Wells, Wilson, Mr. President.
Total 42

Nays: Crismore, Jabs, Keating, Mahlum, McNutt, Mohl, Swysgood, Toews.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 168 concurred in 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, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 11, 1999

Total 49

Nays: Stang.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**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 Cocchiarella in the chair.

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

HB 52 - Senator D. Hargrove moved HB 52 be concurred in. Motion carried unanimously.

HB 64 - Senator M. Taylor moved HB 64 be concurred in. Motion carried as follows:

Yeas: Beck, Berry, Bishop, Bohlinger, Cocchiarella, Cole, Crismore, DePratu, Devlin, Ekegren, Glaser, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Sprague, Swysgood, Taylor, Thomas, Wells, Wilson, Mr. President.
Total 31

Nays: Bartlett, Christiaens, Doherty, Eck, Ellingson, Franklin, Grimes, Halligan, Jergeson, Lynch, McCarthy, Nelson, Roush, Shea, Stang, Tester, Toews, Waterman.
Total 18

Absent or not voting: Ellis.
Total 1

Excused: None.
Total 0

HB 130 - Senator G. Jergeson moved HB 130 be concurred in. Motion carried unanimously.

HB 154 - Senator D. Berry moved HB 154 be concurred in. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bohlinger, Christiaens, Cocchiarella, Crismore, DePratu, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keenan, Lynch, Mahlum, McCarthy, McNutt, Miller, Nelson, Roush, Shea, Sprague, Stang, Taylor, Tester, Thomas, Waterman, Wells, Wilson, Mr. President.
Total 42

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 11, 1999

Nays: Bishop, Cole, Devlin, Keating, Mesaros, Mohl, Swysgood, Toews.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 232 - Senator J. Hertel moved HB 232 be concurred in. Motion carried unanimously.

HB 282 - Senator W. McNutt moved HB 282 be concurred in. Motion carried unanimously.

HB 352 - Senator M. Taylor moved HB 352 be concurred in. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Halligan, Hargrove, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Miller, Roush, Shea, Sprague, Stang, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 43

Nays: Devlin, Grosfield, Harp, Mesaros, Mohl, Nelson, Swysgood.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 531 - Senator L. Nelson moved HB 531 be concurred in. Motion carried unanimously.

HJR 23 - Senator M. Cole moved HJR 23 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 Cocchiarella moved the Committee of the Whole report be adopted. Report adopted.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Harp moved that the Senate proceed to the House of Representatives for the purpose of receiving the Thomas Jeffers presentation and further, upon adjournment of the Joint Session, the Senate be adjourned until the hour of 1:00 p.m., Friday, March 12, 1999. Motion carried.

SPECIAL ORDERS OF THE DAY

Sergeant-at-arms Nancy Meuli escorted the Senate into the House Chamber.

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 11, 1999

Speaker Mercer introduced President Crippen and yielded the chair to him.

Majority Leader Harp moved that the body resolve itself into a Joint Session for the purpose of receiving the Lewis & Clark Bicentennial program featuring Clay Jenkinson as President Thomas Jefferson. Motion carried.

Majority Leader Harp moved that the president be authorized to appoint a committee of four to notify President Thomas Jefferson that we are in Joint Session and ready to receive his presentation. Motion carried.

President Crippen appointed Senator Keating, Senator Eck, Representative Jore and Representative Gutsche and discharged them to escort President Jefferson into the House Chamber.

The committee escorted President Thomas Jefferson into the chambers.

President Crippen introduced the third president of the United States and the man responsible for the Lewis & Clark Corp. of Discovery, President Thomas Jefferson.

President Jefferson gave a narrative describing his association with Mr. Lewis and the great discoveries made by Lewis and Clark, including, among others, different species of plants, animals and Indian tribes. He also gave insights into his presidency and the fact that his death occurred on the 50th anniversary of the Declaration of Independence.

President Crippen thanked President Jefferson for his presentation.

The committee escorted President Jefferson from the House chambers.

Senators Berry, Cocchiarella, Stang, Swysgood and Tester made a presentation to the House basketball team in honor of the House's 41-31 win over the Senate-House basketball game the previous evening. Remarks were also made by the Speaker of the House to the Senate team.

Majority Leader Harp moved that the Joint Session of the fifty-sixth legislature, convened to receive the Thomas Jefferson presentation, be adjourned. Motion carried.

Joint session adjourned at 3:08 p.m.

ROSANA SKELTON
Secretary of Senate

BRUCE CRIPPEN
President of the Senate