

**HOUSE JOURNAL  
57<sup>TH</sup> LEGISLATURE  
EIGHTY-FIFTH LEGISLATIVE DAY**

Helena, Montana  
April 16, 2001

House Chambers  
State Capitol

House convened at 4:00 p.m. Mr. Speaker in the Chair. Invocation by Representative Holden. Boy Scout Troop 7 from Laurel, Montana posted the colors. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Representatives Erickson, Galvin-Halcro, A. Peterson, Smith, and Somerville, excused. Quorum present.

Representative Holden led the House in singing Happy Birthday to Representatives Bitney and Steinbeisser.

**REPORTS OF STANDING COMMITTEES**

**BILLS** (Bookout-Reinicke, Chairman): 4/16/2001  
Correctly enrolled: **HB 42, HB 144, HB 254, HB 295, HB 313, HB 319, HB 340, HB 345, HB 473, HB 560, HB 563, HB 569, HB 578, HB 620, HJR 1, HJR 13, HJR 31.**  
Examined by the sponsor and found to be correct: **HB 33, HB 63, HB 87, HB 94, HB 186, HB 201, HB 218, HB 239, HB 249, HB 265, HB 279, HB 331, HB 353, HB 362, HB 368, HB 375, HB 381, HB 387, HB 390, HB 401, HB 405, HB 406, HB 412, HB 430, HB 455, HB 469, HB 472, HB 498, HB 510, HB 564, HB 596.**

**REPORTS OF SELECT COMMITTEES**

CONFERENCE COMMITTEE  
on House Amendments to Senate Bill 514  
Report No. 1, April 13, 2001

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 514** (reference copy – salmon) and recommend this Conference Committee report be adopted.

And, recommend that House amendments to **Senate Bill 514** (reference copy – salmon) be accepted by the Senate.

For the Senate:

Berry, Chairman  
Cocchiarella  
Grosfield

For the House:

Laible  
Wanzenried

April 13, 2001

The Honorable Dan McGee  
Speaker of the House  
State Capitol  
Helena, Montana 59620

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Dear Representative McGee:

Please be informed that I have signed **House Bill 7** sponsored by Representative McCann, **House Bill 190** sponsored by Representative Witt, and **House Bill 599** sponsored by Representative Haines on April 13, 2001.

Sincerely,

JUDY MARTZ  
Governor

April 13, 2001

The Honorable Dan McGee  
Speaker of the House  
State Capitol  
Helena, MT 59620

The Honorable Tom Beck  
President of the Senate  
State Capitol  
Helena, MT 59620

Dear Speaker McGee and President Beck:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 456, "**AN ACT PROVIDING ELIGIBILITY FOR MEDICAID FOR INDIVIDUALS WHO HAVE PARTICIPATED IN THE MONTANA BREAST AND CERVICAL HEALTH PROGRAM AND WHO REQUIRE TREATMENT FOR BREAST OR CERVICAL CANCER, OR BOTH; PROVIDING AN APPROPRIATION FROM THE GENERAL FUND AND REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO INCLUDE FUNDING FOR THE 2005 BIENNIUM EXECUTIVE BUDGET REQUEST FROM THE INCOME ON THE TOBACCO SETTLEMENT TRUST FUND; AMENDING SECTION 53-6-131, MCA; AND PROVIDING AN EFFECTIVE DATE,**" for the following reasons.

I have no objection to the substantive provisions and intent of HB 456. I do, however, object to that portion of the bill "requiring" the Department of Public Health and Human Services to include funding for the program in its executive budget request for the 2005 biennium from the income generated by the tobacco settlement trust fund. I would recommend that Section 2 of the bill be amended to reflect instead a request that the Department consider the inclusion of the program in its 2005 biennium executive budget request. I have attached my amendments to that effect.

Section 2 of HB 456 appropriates approximately \$387,000 from the general fund over the next biennium for purposes of Medicaid match for the treatment of breast and cervical cancer as contemplated by Section 1 of the bill. I have no objection to that portion of the legislation. I do, however, object to that portion of Section 2 that ostensibly mandates specific actions on the part of the executive branch during the executive budget process for the next biennium.

Article VI, Section 9 of the Montana Constitution provides that "[t]he governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail for all operating funds the proposed

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expenditures and estimated revenue of the state." Under the Constitution, the executive branch is vested with the power and authority to prepare and submit a proposed budget to the legislative branch. Likewise, Article III, Section 1 prohibits the exercise of powers properly belonging to one branch by either of the remaining branches.

In light of our constitutional structure, I believe that the language in Section 2 providing an express directive to the executive branch to include funding for a specific program from a specific source constitutes an infringement by the legislative branch on powers specifically reserved to the executive branch. The authority to establish and submit a proposed budget is vested in the executive branch. The legislative branch, in turn, has full authority to modify that proposed budget as it sees fit through the legislative process, subject only to executive branch veto powers. The legislative branch does not, however, have authority to specifically direct the executive branch as to how it prepares the executive budget proposal.

I am therefore recommending an amendment that would change the current "directive" structure of the language in Section 2 to a "request" by the legislative branch that the executive branch consider this program, as funded by income from the tobacco settlement trust, for inclusion in its budget proposal to the 2003 Legislature. I have no objections to the legislative branch expressing its desire that the program be included in the next executive budget proposal by making a request to that effect in HB 456.

My objections to the current structure of Section 2 should in no way be construed as a lack of support for the program contemplated by HB 456 or as any indication of a lack of present intention to include it in my proposed budget to the 2003 Legislature. I believe that the program is one of great merit and I would certainly hope that it will be proposed for continuation as a part of my next budget. I firmly believe, however, that any decisions as to the program's inclusion in my next budget proposal or the potential funding sources for the program are constitutionally placed in the discretion of the executive branch. My objections in this case are based solely on my desire to respect the integrity of our multi-branch form of government and to maintain the clear lines of authority drawn between our respective branches.

Representative Gutsche, the sponsor of the bill, has been advised of my recommendations.

Sincerely,

JUDY MARTZ  
Governor

GOVERNOR'S AMENDMENTS  
TO HOUSE BILL 456

1. Title, line 7

**Following:** first "AND"

**Strike:** "REQUIRING"

**Insert:** "REQUESTING"

2. Title, line 8

**Following:** "TO"

**Strike:** "INCLUDE"

**Insert:** "CONSIDER THE INCLUSION OF"

3. Page 4, line 18

**Following:** "Department"

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**Strike:** "shall include"

**Insert:** "is requested to consider for inclusion"

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The Honorable Dan McGee  
Speaker of the House  
State Capitol  
Helena, MT 59620

The Honorable Tom Beck  
President of the Senate  
State Capitol  
Helena, MT 59620

Dear Speaker McGee and President Beck:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 609, "**AN ACT ALLOWING THE AGRICULTURAL LANDS ADVISORY COMMITTEE MORE DISCRETION IN DETERMINING THE UNDERLYING BASIS FOR ITS RECOMMENDATIONS FOR AGRICULTURAL PRODUCTIVE LAND VALUES FOR PROPERTY TAX PURPOSES; AND AMENDING SECTION 15-7-201, MCA**" for the following reasons.

I am in full agreement with the objectives of HB 609 and with its specific measures. I recommend, however, that the bill be amended to replace the maximum allowable water costs for irrigated land, albeit at a higher level than current law. I have enclosed my recommended amendment to that effect.

As you know, agricultural costs are deducted from gross income in valuing irrigated land for tax purposes. The reduction for water costs allows the irrigated land sector to receive assessment reductions that other agricultural sectors (i.e., grazing, hayland, dryland farming) do not receive. Moreover, irrigated land uses alfalfa as the base crop for valuation. Therefore, irrigated land assessments do not necessarily provide an accurate reflection of high income grossing crops such as irrigated beets and potatoes. These crops can incur higher water costs than irrigated alfalfa (the base crop) and still produce a positive net income.

Farmers would not irrigate their land if they could produce greater net income from dryland farming. To assess irrigated land at the same rate as a neighbor's non-irrigated farmland with comparable productivity would be inequitable. Thus, while I am in full agreement that an increase in the amount of allowable water costs is warranted, I do not believe that an entire removal of the limit is appropriate. Such a removal could potentially lead to the situation referenced above where irrigated land values would be lower than non-irrigated land with comparable productivity. Accordingly, I recommend that the limit on allowable water costs be reinstated in the law, albeit at \$40 instead of the current \$35.

Representative Story, the sponsor of the bill, is aware of and agrees with my recommendation.

Sincerely,

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JUDY MARTZ  
Governor

GOVERNOR'S AMENDMENTS  
TO HOUSE BILL 609

1. Page 2, line 14

**Following:** "land."

**Insert:** "Total allowable water costs may not exceed \$40 for each acre of irrigated land."

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

Representative Sliter moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Ripley in the chair.

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

**HB 495 - Senate Amendments** - Representative Olson moved Senate amendments to **HB 495** be concurred in. Motion carried as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, Clancy, E. Clark, P. Clark, Curtiss, Cyr, Dale, Davies, Dell, Devlin, Eggers, Erickson, Esp, Facey, Fisher, Forrester, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Himmelberger, Holden, Hurdle, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Laible, Laslovich, Laszloffy, Lawson, Lee, Lehman, Lenhart, Lewis, Lindeen, Mangan, Masolo, Matthews, McCann, McKenney, Mood, Musgrove, Newman, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Raser, Rice, Ripley, Rome, Schmidt, Schrupf, Shockley, Sliter, Smith, Somerville, Steinbeisser, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Wanzenried, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.  
Total 99

Noes: None.  
Total 0

Voted Absentee: Erickson, Galvin-Halcro, A. Peterson, Smith, Somerville, Ayes.

Excused: None.  
Total 0

Absent or not voting: Price.  
Total 1

Representative Price excused at this time.

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**HB 521 - Senate Amendments** - Representative Newman moved Senate amendments to **HB 521** be concurred in. Motion carried as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, Clancy, E. Clark, P. Clark, Curtiss, Cyr, Dale, Davies, Dell, Devlin, Eggers, Erickson, Esp, Facey, Fisher, Forrester, Fritz, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Himmelberger, Holden, Hurdle, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Laible, Laslovich, Laszloffy, Lawson, Lee, Lehman, Lenhart, Lewis, Lindeen, Mangan, Masolo, Matthews, McCann, McKenney, Mood, Musgrove, Newman, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Raser, Rice, Ripley, Rome, Schmidt, Schrumpf, Shockley, Sliter, Smith, Somerville, Steinbeisser, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Wanzenried, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 99

Noes: Fuchs.

Total 1

Voted Absentee: Erickson, Galvin-Halcro, A. Peterson, Price, Smith, Somerville, Ayes.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 531 - Senate Amendments** - Representative Waitschies moved Senate amendments to **HB 531** be concurred in. Motion carried as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bixby, Branae, D. Brown, R. Brown, Brueggeman, Callahan, Carney, Clancy, E. Clark, P. Clark, Curtiss, Cyr, Dale, Davies, Dell, Devlin, Eggers, Erickson, Esp, Facey, Fisher, Forrester, Fuchs, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Haines, Harris, Hedges, Himmelberger, Holden, Jackson, Jacobson, Jayne, Jent, Kasten, Keane, Laible, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Masolo, Matthews, McCann, McKenney, Mood, Musgrove, Newman, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Raser, Rice, Ripley, Rome, Schmidt, Schrumpf, Shockley, Sliter, Smith, Somerville, Steinbeisser, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 89

Noes: Buzzas, Fritz, Gutsche, Hurdle, Juneau, Kaufmann, Laslovich, Lee, Mangan, Wanzenried.

Total 10

Voted Absentee: Erickson, Galvin-Halcro, A. Peterson, Price, Smith, Somerville, Ayes.

Excused: None.

Total 0

Absent or not voting: Bookout-Reinicke.

Total 1

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**HB 583 - Senate Amendments** - Representative Esp moved Senate amendments to **HB 583** be concurred in.  
Motion carried as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, Clancy, E. Clark, P. Clark, Curtiss, Cyr, Dale, Davies, Dell, Devlin, Eggers, Erickson, Esp, Facey, Fisher, Forrester, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Himmelberger, Holden, Hurdle, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Laible, Laslovich, Laszloffy, Lawson, Lee, Lehman, Lenhart, Lewis, Lindeen, Mangan, Masolo, Matthews, McCann, McKenney, Mood, Musgrove, Newman, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Raser, Rice, Ripley, Rome, Schmidt, Schrupf, Shockley, Sliter, Smith, Somerville, Steinbeisser, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Wanzenried, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 100

Noes: None.

Total 0

Voted Absentee: Erickson, Galvin-Halcro, A. Peterson, Price, Smith, Somerville, Ayes.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 589 - Senate Amendments** - Representative Facey moved Senate amendments to **HB 589** be concurred in.  
Motion carried as follows:

Ayes: Andersen, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, Clancy, E. Clark, P. Clark, Curtiss, Cyr, Dale, Dell, Devlin, Eggers, Erickson, Esp, Facey, Fisher, Forrester, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Himmelberger, Holden, Hurdle, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Laslovich, Laszloffy, Lawson, Lee, Lehman, Lenhart, Lewis, Lindeen, Mangan, Masolo, Matthews, McCann, McKenney, Mood, Musgrove, Newman, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Raser, Rice, Ripley, Schmidt, Schrupf, Shockley, Sliter, Smith, Somerville, Steinbeisser, Story, Thomas, Tramelli, Tropila, Waddill, Waitschies, Wanzenried, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 90

Noes: Adams, Bales, Balyeat, Barrett, Davies, Jackson, Laible, Rome, Vick, Walters.

Total 10

Voted Absentee: Erickson, Galvin-Halcro, A. Peterson, Price, Smith, Somerville, Ayes.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

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Representative Sliter moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Ripley moved the Committee of the Whole report be adopted. Report adopted as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, Clancy, E. Clark, P. Clark, Curtiss, Cyr, Dale, Davies, Dell, Devlin, Eggers, Esp, Facey, Fisher, Forrester, Fuchs, Gallus, Golie, Gutsche, Haines, Harris, Hedges, Himmelberger, Holden, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Laible, Laslovich, Laszloffy, Lawson, Lee, Lehman, Lenhart, Lewis, Lindeen, Mangan, Masolo, Matthews, McCann, McKenney, Mood, Musgrove, Newman, Noennig, Olson, Pattison, K. Peterson, Raser, Rice, Ripley, Rome, Schmidt, Schruppf, Shockley, Steinbeisser, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.  
Total 87

Noes: Gillan, Hurdle, Wanzenried.  
Total 3

Excused: Erickson, Galvin-Halcro, A. Peterson, Price, Smith, Somerville.  
Total 6

Absent or not voting: Fritz, Gallik, Sliter, Story.  
Total 4

**MOTIONS**

Representative Holden requested on **SB 390**, third reading Legislative Day 84, that her vote be changed from no to yes. There being no objections, so ordered.

Representative Sliter moved that the conference committee on **HB 600** be dissolved and that the Speaker be authorized to appoint a free conference committee to meet with a like committee in the Senate on **HB 600**. Motion carried.

The Speaker appointed the following members:

Representative Story, Chairman  
Representative Devlin  
Representative Forrester

Representative Golie moved that the House reconsider its action on the conference committee report of **HB 293** and that it be placed on third reading today. Motion failed as follows:

Ayes: Bixby, Branae, Buzzas, Callahan, Carney, Cyr, Dell, Eggers, Facey, Forrester, Fritz, Gallik, Gallus, Gillan, Golie, Gutsche, Harris, Hurdle, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Laslovich, Lee, Lenhart, Lindeen, Mangan, Matthews, McCann, Musgrove, Newman, Noennig, Raser, Schmidt, Tramelli, Tropila, Waddill, Wanzenried.  
Total 40

Noes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman,



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Clancy, E. Clark, Curtiss, Dale, Davies, Devlin, Esp, Fisher, Fuchs, Haines, Hedges, Himmelberger, Holden, Jackson, Kasten, Laible, Laszloffy, Lawson, Lehman, Lewis, Masolo, McKenney, Mood, Olson, Pattison, A. Peterson, K. Peterson, Price, Rice, Ripley, Rome, Schruppf, Shockley, Sliter, Somerville, Steinbeisser, Story, Thomas, Vick, Waitschies, Walters, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.  
Total 56

Voted Absentee: A. Peterson, Price, Somerville, Noes.

Excused: Erickson, Galvin-Halcro, Smith.  
Total 3

Absent or not voting: P. Clark.  
Total 1

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Sliter moved that the House adjourn until 11:00 a.m., Tuesday, April 17, 2001. Motion carried.

House adjourned at 4:35 p.m.

MARILYN MILLER  
Chief Clerk of the House

DAN MCGEE  
Speaker of the House