

**SENATE JOURNAL  
57<sup>TH</sup> LEGISLATURE  
TWENTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana  
February 2, 2001

Senate Chambers  
State Capitol

Senate convened at 1:00 a.m. President Pro Tempore McNutt presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Beck, Doherty, McCarthy, Stonington and Tash, excused. Quorum present.

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

Miller, Chairman

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL** (Miller, Chairman): 2/2/2001  
Correctly printed: SB 78, SB 237, SB 283, SB 296, SB 328, SB 370, SB 371, SB 372, SB 373, SB 374, SB 375, SB 376, SB 377, SB 378, SB 379, SB 380, SB 381, SB 382, SB 383, SB 384, SB 385, SJR 11, SR 6, SR 8, SR 10.

Correctly engrossed: SB 107, SB 128, SB 129, SB 169, SB 171, SB 219, SB 248, SB 253, HB 19, HB 26.

Signed by the President at 9:00 a.m., February 1, 2001: SB 87, SR 3.

Signed by the Secretary of Senate at 11:50 a.m., February 2, 2001: SR 3.

Delivered to the Secretary of State at 2:40 p.m., February 2, 2001: SR 3.

Signed by the Speaker at 3:05 p.m., February 2, 2001: SB 87.

Delivered to the Governor at 3:30 p.m., February 2, 2001: SB 87

**BUSINESS AND LABOR** (Taylor, Chairman): 2/2/2001  
**SB 96**, introduced bill, be amended as follows:

1. Title, line 6.

**Strike:** "3"

**Insert:** "5"

2. Title, lines 6 through 8.

**Strike:** "AND" on line 6 through "DAYS" on line 8

3. Page 1, lines 14 and 15.

**Strike:** "Except" on line 14 through "compensation" on line 15

**Insert:** "Compensation"

4. Page 1, line 15.

**Strike:** "24"

**Insert:** "40"

**Strike:** "3"

**Insert:** "5"

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5. Page 1, line 17.

**Strike:** "4th"

**Insert:** "6th"

6. Page 1, lines 18 and 19.

**Strike:** subsection (b) in its entirety

**Renumber:** subsequent subsection

7. Page 1, line 24.

**Strike:** "3-day"

**Insert:** "5-day"

And, as amended, do pass. Report adopted.

**SB 97**, introduced bill, be amended as follows:

1. Page 2, lines 3 and 4.

**Strike:** "Unless" on line 3 through "the" on line 4

**Insert:** "The"

2. Page 2, line 5.

**Strike:** "50"

**Insert:** "100"

3. Page 2, line 8.

**Following:** "resides"

**Insert:** ", unless the travel is requested by the insurer"

4. Page 2.

**Following:** line 9

**Insert:** "(iii) An insurer is not liable for any injuries or aggravation of existing injuries or conditions that a claimant suffers while engaged in travel or treatment under this subsection (1)(d)."

And, as amended, do pass. Report adopted.

**HB 194**, be concurred in. Report adopted.

**FISH AND GAME** (Sprague, Chairman):

2/2/2001

**SB 285**, introduced bill, be amended as follows:

1. Title, line 8.

**Following:** "LANDS"

**Insert:** "THROUGH VOLUNTARY PROGRAMS"

2. Page 2, line 13.

**Strike:** "subsection (1)"

**Insert:** "this section"

**Following:** "voluntary."

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**Insert:** "A lease, acquisition, or other arrangement for public access across private property that is initiated through  
a

program established under this part must be negotiated on a cooperative basis and may only be initiated with the voluntary participation of private landowners. (4)"

And, as amended, do pass. Report adopted.

**HB 99**, be concurred in. Report adopted.

**HB 132**, be amended as follows:

1. Page 2.

**Following:** line 24

**Insert:** "(c) The department shall conduct a survey of the payors of the fee in lieu of tax imposed under 23-2-516 periodically but at least once every 2 years to determine where the majority of the payors' boating activities take place."

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

**JUDICIARY** (Grosfield, Chairman): 2/2/2001  
**SB 25**, do pass. Report adopted.

**TAXATION** (DePratu, Chairman): 2/2/2001  
**SB 280**, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

House bill passed and transmitted to the Senate for concurrence: 2/1/2001

**HB 42**, introduced by Masolo

**MOTIONS**

**Majority Leader Thomas** discussed the rules concerning motions about changing votes, and stated that the body would allow Senators twenty-four hours to change their vote on a bill, but they would not be allowed to go beyond the twenty-four hour period.

**SB 321** - Senator Mahlum moved that **SB 321** be taken from the committee on Public Health and Welfare and rereferred to the committee on Business and Labor. Motion carried.

**SB 140** - Senator Wells moved that **SB 140** be placed on second reading the thirtieth legislative day, February 6, 2001. Motion carried.

**SB 370** - Senator Grosfield moved that **SB 370** be taken from the committee on Judiciary and referred to the committee on State Administration. Motion carried.

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 386**, introduced by Waterman, referred to Judiciary.

**SB 387**, introduced by Ellingson, referred to Energy and Telecommunications.

**SB 388**, introduced by Ellingson, referred to Taxation.

**SB 389**, introduced by Cobb, referred to Agriculture, Livestock and Irrigation.

**SB 390**, introduced by Cobb referred to Education and Cultural Resources.

**SB 391**, introduced by Grosfield, Christiaens, Crismore, Cyr, Doherty, Ellingson, R. Erickson, Facey, Fritz, Gutsche, Halligan, Harrington, Harris, Jergeson, Laslovich, Lenhart, D. Mood, Newman, Wanzenried, referred to Business and Labor.

**SB 392**, introduced by Cobb (by request of the State Auditor), referred to Judiciary.

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

**HB 42**, introduced by Masolo (by request of the Office of Public Instruction and the Governor), referred to Education and Cultural Resources.

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

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

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

**HB 104** - Senator Halligan moved consideration of **HB 104** be placed below SB 328 on the second reading board. Motion carried.

**SB 78** - Senator Hargrove moved SB 78 do pass. Motion carried unanimously.

**SB 107** - Senator Franklin moved SB 107 do pass. Motion carried unanimously.

**SB 129** - Senator Berry moved SB 129 do pass. Motion carried with Senator K. Miller voting nay.

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

**SB 171** - Senator Glaser moved SB 171 do pass. Motion carried with Senator Butcher voting nay.

**SB 219** - Senator Waterman moved SB 219 do pass. Motion carried with Senator Cobb voting nay.

**SB 253** - Senator Cocchiarella moved SB 253 do pass. Motion carried unanimously.

**SB 328** - Senator Wells moved SB 328 do pass. Motion carried unanimously.

**HB 104** - Senator Halligan moved HB 104, second reading copy, be amended as follows :

1. Title, line 14.

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**Following:** "EFFECTIVE DATE AND"

**Strike:** "A RETROACTIVE"

**Insert:** "AN"

2. Page 2, line 1.

**Following:** "PRESENT"

**Insert:** "or elects to proceed pursuant to 46-18-115"

3. Page 2, line 19.

**Strike:** "**Retroactive applicability**"

**Insert:** "Applicability"

4. Page 2, line 19 through line 25.

**Following:** "applies" on line 19

**Strike:** remainder of line 19 through "judgment" on line 25

**Insert:** "to all cases currently pending on direct review or that are not yet final"

Amendment **adopted** unanimously.

**HB 104** - Senator Halligan moved HB 104, as amended, be concurred in. Motion carried unanimously.

**HB 19** - Senator DePratu moved HB 19 be concurred in. Motion carried unanimously.

**HB 24** - Senator Harrington moved HB 24 be concurred in. Motion carried unanimously.

**HB 51** - Senator Cocchiarella moved HB 51 be concurred in. Motion carried unanimously.

**HB 91** - Senator Bohlinger moved HB 91 be concurred in. Motion carried unanimously.

**HB 115** - Senator O'Neil moved HB 115 be concurred in. Motion carried unanimously.

**HB 117** - Senator Pease moved HB 117 be concurred in. Motion carried as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, O'Neil, Pease, Roush, Shea, Sprague, Stapleton, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.

Total 41

Nays: Christiaens, Cobb, Nelson, Ryan.

Total 4

Absent or not voting: None.

Total 0

Excused: Doherty, McCarthy, Stonington, Tash, Mr. President.

Total 5

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Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Pro Tempore McNutt in the chair. Chairman Elliott moved the Committee of the Whole report be adopted. Report adopted unanimously.

**THIRD READING OF BILLS**

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

**SB 128** passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.  
Total 45

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Doherty, McCarthy, Stonington, Tash, Mr. President.  
Total 5

**SB 237** passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.  
Total 45

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Doherty, McCarthy, Stonington, Tash, Mr. President.  
Total 5

**SB 283** passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Johnson,

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Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.  
Total 44

Nays: Holden.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Doherty, McCarthy, Stonington, Tash, Mr. President.  
Total 5

**HB 26** concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.  
Total 45

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Doherty, McCarthy, Stonington, Tash, Mr. President.  
Total 5

**SPECIAL ORDERS OF THE DAY**

**SR 6** - Senator Butcher moved that **SR 6**, concurring in, confirming, and consenting to the nomination of appointment made by the Governor and submitted to the Senate, of **Mr. Ralph Peck** as Director of the Department of Agriculture, be adopted and that the yeas and nays be spread upon the journal. Motion adopted as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.  
Total 45

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

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Excused: Doherty, McCarthy, Stonington, Tash, Mr. President.  
Total 5

**SR 8** - Senator Toole moved that **SR 8**, concurring in, confirming, and consenting to the nomination of appointment made by the Governor and submitted to the Senate, of **Ms. Gail Gray** as Director of the Department of Public Health and Human Services be adopted and that the yeas and nays be spread upon the journal. Motion adopted as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.  
Total 45

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Doherty, McCarthy, Stonington, Tash, Mr. President.  
Total 5

**SR 10** - Senator Hargrove moved that **SR 10**, concurring in, confirming and consenting to the nomination of appointment made by the Governor and submitted to the Senate, of **Major General John Prendergast** as Director of the Department of Military Affairs be adopted and that the yeas and nays be spread upon the journal. Motion adopted as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook.  
Total 45

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Doherty, McCarthy, Stonington, Tash, Mr. President.  
Total 5

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Saturday, February 3, 2001. Motion carried.



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Senate adjourned at 2:34 p.m.

ROSANA SKELTON  
Secretary of Senate

WALT MCNUTT  
President Pro Tempore of the Senate