

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

Helena, Montana  
February 5, 2001

Senate Chambers  
State Capitol

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

Roll Call. All members present except Senator Hargrove, excused. Quorum present.

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

Miller, Chairman

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL** (Miller, Chairman): 2/5/2001  
Correctly printed: SB 97, SB 280, SB 390, SB 393, SB 394, SB 398, SB 399.  
Correctly engrossed: HB 99, HB 132, HB 194.  
Correctly enrolled: SB 40.  
Examined by the sponsor and found to be correct: SB 40.

**AGRICULTURE, LIVESTOCK AND IRRIGATION** (Holden, Chairman): 2/5/2001  
**SB 81**, do pass. Report adopted.  
**SB 197**, introduced bill, be amended as follows:

1. Title, line 9.

**Following:** "VIOLATIONS;"

**Strike:** "AND"

**Following:** "PENALTIES"

**Insert:** "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 19.

**Following:** "recordkeeping"

**Insert:** ";"

**Following:** "and"

**Insert:** "(3)"

3. Page 1, line 25 through line 26.

**Following:** "harvest of" on line 25

**Strike:** remainder of line 25 through "(a)"

4. Page 1, line 27 through line 29.

**Following:** "profit" on line 27

**Strike:** remainder of line 27 through "year" on line 29

5. Page 5, line 14.

**Insert:** "NEW SECTION. **Section 10. Effective date.** [This act] is effective on passage and approval."

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And, as amended, do pass. Report adopted.

**JUDICIARY** (Grosfield, Chairman):

2/5/2001

**SB 17**, do pass. Report adopted.

**HB 184**, be amended as follows:

1. Title, line 10.

**Following:** "1979;"

**Insert:** "PERMITTING CRIMINAL JUSTICE AGENCIES TO PHOTOGRAPH AND FINGERPRINT A PERSON CHARGED WITH AN OFFENSE OF DRIVING A VEHICLE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS OR WITH AN ALCOHOL CONCENTRATION OF 0.10 OR MORE;"

**Following:** "AMENDING"

**Strike:** "SECTION"

**Insert:** "SECTIONS"

**Following:** "44-5-103"

**Insert:** "AND 44-5-202"

2. Page 4, line 29.

**Following:** line 28

**Insert:** "**Section 2.** Section 44-5-202, MCA, is amended to read:

**"44-5-202. Photographs and fingerprints.** (1) The following agencies may, if authorized by subsections (2) through (5), collect, process, and preserve photographs and fingerprints:

(a) any criminal justice agency performing, under law, the functions of a police department or a sheriff's office, or both;

(b) the department of corrections; and

(c) the department of justice.

(2) The department of corrections may photograph and fingerprint anyone under the jurisdiction of the division of corrections or its successor.

(3) A criminal justice agency described in subsection (1)(a) shall photograph and fingerprint a person who has been arrested or noticed or summoned to appear to answer an information or indictment if:

(a) the charge is the commission of a felony;

(b) the identification of an accused is in issue; ~~or~~

(c) it is required to do so by court order; or

(d) the charge is for the offense of driving a vehicle while under the influence of alcohol or drugs or of operation of a vehicle with an alcohol concentration of 0.10 or more.

(4) Whenever a person charged with the commission of a felony is not arrested, the person shall appear before the sheriff, chief of police, or other concerned law enforcement officer for fingerprinting at the time of initial appearance in court to answer the information or indictment against the person.

(5) A criminal justice agency described in subsection (1)(a) may photograph and fingerprint an accused if the accused has been arrested for the commission of a misdemeanor, except that an individual arrested for a traffic, regulatory, or fish and game offense, except an offense covered under subsection (3)(d), may not be photographed or fingerprinted unless the individual is incarcerated.

(6) Within 10 days, the originating agency shall send the state repository a copy of each fingerprint taken on a completed form provided by the state repository.

(7) The state repository shall compare the fingerprints received with those already on file in the state repository. If it is determined that the individual is wanted or is a fugitive from justice, the state repository shall at once inform the originating agency. If it is determined that the individual has a criminal record, the state repository shall

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send the originating agency a copy of the individual's complete criminal history record.

(8) Photographs and fingerprints taken must be returned by the state repository to the originating agency, which shall return all copies to the individual from whom they were taken, in the following circumstances:

(a) upon order of the court that had jurisdiction; or

(b) upon the request of the individual when the individual was released without the filing of charges or when the charges did not result in a conviction.""

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

**HB 195**, be concurred in. Report adopted.

**LEGISLATIVE ADMINISTRATION** (Grimes, Chairman):

2/5/2001

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 11:00 a.m., Saturday, February 3, 2001:

TITLE

NAME

Pages:

Chad Ekegren, Chaska, MN  
Gavin Holden, Glendive, MT  
Megan Marlatt, Yuma, AZ  
Alexandra Cannon, Tacna, AZ  
David Martin, Helena, MT  
Brynn Molloy, Missoula, MT  
Alex Redfern, Missoula, MT  
Trisha Smith, Cut Bank, MT

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 5, 2001:

TITLE

NAME

Pages:

Colleen McMilin, Laurel, MT  
Justin Horton, Colstrip, MT  
Kelly McGowan, Helena, MT  
Maria Marchi, Martinsdale, MT  
Morgan Gabse, Boulder, MT  
Callie Reisig, Anaconda, MT  
Shara Bushman, Wibeaux, MT  
Lindsay Johnson, Kalispell, MT

Report Adopted.

**NATURAL RESOURCES** (Crismore, Chairman):

2/5/2001

**HB 22**, be concurred in. Report adopted.

**HB 40**, be amended as follows:

1. Title, line 7 through line 8.

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**Strike:** "STOPPING" on line 7 through "2016;" on line 8

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

**HB 93**, be concurred in. Report adopted.

**PUBLIC HEALTH, WELFARE AND SAFETY** (Bishop, Chairman): 2/2/2001

**SB 290**, do pass. Report adopted.

**SJR 8**, be adopted. Report adopted.

**HB 50**, be concurred in. Report adopted.

**HB 180**, be concurred in. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

Senate bill concurred in and returned to the Senate: 2/3/2001

**SB 40**, introduced by Christiaens

House bills passed and transmitted to the Senate for concurrence: 2/3/2001

**HB 73**, introduced by R. Brown

**HB 258**, introduced by Vick

**HB 266**, introduced by Clancy

**HB 272**, introduced by Olson

**HB 286**, introduced by B. Thomas

**HB 326**, introduced by Galvin-Halcro

**HB 336**, introduced by Gutsche

**HB 365**, introduced by J. Whitaker

**HB 369**, introduced by Laslovich

**HB 386**, introduced by Fuchs

**FIRST READING AND COMMITMENT OF BILLS**

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

**HB 46**, introduced by Dale (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

**HB 95**, introduced by Matthews (by request of the Department of Commerce), referred to Business and Labor.

**HB 147**, introduced by Dale (by request of the Department of Environmental Quality), referred to Natural Resources.

**HB 224**, introduced by Hurdle, Bixby, Buzzas, Christiaens, Clancy, Eggers, Facey, Gutsche, Harris, Juneau, Kaufmann, Masolo, referred to Judiciary.

**HB 238**, introduced by B. Thomas, referred to Judiciary.

**HB 325**, introduced by Laible, referred to Fish and Game.

**HB 329**, introduced by Somerville, referred to Judiciary.

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

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**HJR 1**, introduced by McCann (by request of the Legislative Finance Committee), referred to Public Health, Welfare and Safety.

**MOTIONS**

Majority Leader Thomas moved that the Senate stand in recess until the hour of 2:00 p.m. this legislative day for the purpose of party caucuses. Motion carried. The Senate recessed at 1:11 p.m.

Senate reconvened at 2:00 p.m. Roll Call. All members present except Senators Cocchiarella, Hargrove and Taylor, excused. Quorum present.

**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 McCarthy in the chair.

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

**SB 248** - Senator Grimes moved SB 248 do pass. Motion carried with Senators Doherty, Ellingson, Elliott, and O'Neil voting nay.

**SB 285** - Senator McNutt moved SB 285 do pass. Motion carried with Senators Cobb, Miller and Wells voting nay.

**SB 296** - Senator Doherty moved SB 296, second reading copy, be amended as follows :

1. Title, line 4.

**Following:** "CANDIDATE'S"

**Insert:** "AND A CANDIDATE'S OPPONENT'S"

2. Title, line 7.

**Following:** "CANDIDATE'S"

**Insert:** "AND A CANDIDATE'S OPPONENT'S"

3. Page 1, line 15.

**Following:** "the candidate"

**Insert:** "and the candidate's opponent"

**Following:** "The candidate"

**Insert:** "and the candidate's opponent"

4. Page 1, line 18.

**Following:** "candidate"

**Insert:** "or the candidate's opponent"

5. Page 1, line 19.

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**Following:** the first "candidate"

**Insert:** "or the candidate's opponent"

**Following:** "the candidate"

**Insert:** "or the candidate's opponent"

6. Page 1, line 20.

**Following:** "candidate's"

**Insert:** "and the candidate's opponent's"

Amendment **adopted** as follows:

Yeas: Bishop, Bohlinger, Christiaens, Cobb, DePratu, Doherty, Ekegren, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, Johnson, Kitzenberg, McCarthy, Mohl, Nelson, Pease, Roush, Ryan, Shea, Sprague, Stonington, Tester, Toole, Waterman.

Total 27

Nays: Berry, Butcher, Cole, Crismore, Ellis, Glaser, Grimes, Grosfield, Holden, Keenan, Mahlum, McNutt, Miller, O'Neil, Stapleton, Tash, Thomas, Wells, Zook, Mr. President.

Total 20

Absent or not voting: None.

Total 0

Excused: Cocchiarella, Hargrove, Taylor.

Total 3

**SB 296** - Senator Doherty moved SB 296, as amended, do pass. Motion **failed** as follows:

Yeas: Bishop, Bohlinger, Christiaens, Cobb, Doherty, Ekegren, Ellingson, Elliott, Franklin, Harrington, Jergeson, Johnson, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.

Total 23

Nays: Berry, Butcher, Cole, Crismore, DePratu, Ellis, Glaser, Grimes, Grosfield, Halligan, Holden, Keenan, Mahlum, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Thomas, Wells, Zook, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: Cocchiarella, Hargrove, Taylor.

Total 3

**SB 296** - Senator Beck moved that SB 296 be **indefinitely postponed**. Motion carried as follows:

Yeas: Berry, Butcher, Cobb, Cole, Crismore, DePratu, Ellis, Glaser, Grimes, Grosfield, Holden, Keenan, Mahlum, McNutt, Miller, Mohl, O'Neil, Pease, Sprague, Stapleton, Tash, Thomas, Wells, Zook, Mr. President.

Total 25

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Nays: Bishop, Bohlinger, Christiaens, Doherty, Ekegren, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, Johnson, Kitzenberg, McCarthy, Nelson, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.  
Total 22

Absent or not voting: None.  
Total 0

Excused: Cocchiarella, Hargrove, Taylor.  
Total 3

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

**Senator Taylor present at this time.**

**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 97** passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Cocchiarella, Hargrove.  
Total 2

**SB 280** passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.  
Total 48

Nays: None.  
Total 0

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Absent or not voting: None.  
Total 0

Excused: Cocchiarella, Hargrove.  
Total 2

**HB 99** concurred in as follows:

Yeas: Berry, Bohlinger, Butcher, Christiaens, Cobb, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.  
Total 47

Nays: Bishop.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Cocchiarella, Hargrove.  
Total 2

**HB 132, as amended by the Senate**, concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Franklin, Glaser, Grimes, Grosfield, Halligan, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.  
Total 47

Nays: Ellis.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Cocchiarella, Hargrove.  
Total 2

**HB 194** concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.  
Total 48



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Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Cocchiarella, Hargrove.  
Total 2

**MOTIONS**

**SB 370** - Senator Halligan moved that Ellingson, Franklin and Grosfield be added as sponsors to **SB 370**. Motion carried.

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, February 6, 2001. Motion carried.

Senate adjourned at 3:27 p.m.

ROSANA SKELTON  
Secretary of Senate

TOM BECK  
President of the Senate