

**SENATE JOURNAL  
57<sup>TH</sup> LEGISLATURE  
THIRTY-THIRD LEGISLATIVE DAY**

Helena, Montana  
February 9, 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 Ryan, excused. Quorum present.

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

Miller, Chairman

**SPECIAL ORDERS OF THE DAY**

Senators Cocchiarella and Grosfield introduced Miho and Roger Lloyd who demonstrated the old traditional martial art known as Shinto Muso Ryu jo in commemoration of the upcoming 20<sup>th</sup> anniversary of the Kumamoto and Montana sister-state relationship.

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL** (Miller, Chairman): 2/9/2001  
Correctly printed: SB 242, SB 427, SB 428, SJR 13.  
Correctly engrossed: SB 274.  
Correctly enrolled: SR 14, SR 15, SR 17.  
Examined by the sponsor and found to be correct: SR 14, SR 15, SR 17.

**BUSINESS AND LABOR** (Taylor, Chairman): 2/9/2001  
**SB 298**, introduced bill, be amended as follows:

1. Title, lines 4 through 7.

**Strike:** "REQUIRING" on line 4 through "PAID;" on line 7

2. Title, line 8.

**Following:** "CONTRACTOR"

**Insert:** "FOR A RESIDENTIAL PROJECT WITH A TOTAL COST OF LESS THAN \$200,000"

3. Title, line 8.

**Following:** ";"

**Insert:** "REMOVING THE EXEMPTION IN TITLE 28, CHAPTER 2, PART 21, FOR IMPROVEMENTS TO REAL PROPERTY INTENDED FOR RESIDENTIAL PURPOSES; REPEALING SECTION 28-2-2107, MCA;"

4. Page 1, lines 13 through 27.

**Strike:** section 1 in its entirety

**Renumber:** subsequent sections

5. Page 1, line 30.

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**Following:** "contracts"

**Insert:** "for residential projects with a total cost of less than \$200,000"

6. Page 2, following line 4.

**Insert:** "NEW SECTION. Section 2. Repealer. Section 28-2-2107, MCA, is repealed."

**Renumber:** subsequent sections

7. Page 2, line 6.

**Strike:** "[Sections 1 and 2] are"

**Insert:** "[Section 1] is"

8. Page 2, line 8.

**Strike:** "[sections 1 and 2]"

**Insert:** "[section 1]"

And, as amended, do pass. Report adopted.

**SB 321**, do pass. Report adopted.

**HB 145**, be concurred in. Report adopted.

**HB 154**, be amended as follows:

1. Page 1, line 26.

**Strike:** "BOTH"

2. Page 1, line 27.

**Following:** "SURVEY"

**Strike:** "AND"

**Insert:** ", "

3. Page 1, line 28.

**Following:** "USED"

**Insert:** ", and the type of equipment and methods used to perform the survey"

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

**ENERGY AND TELECOMMUNICATIONS** (Cole, Chairman):

2/9/2001

**SB 272**, introduced bill, be amended as follows:

1. Title, page 1, line 5.

**Strike:** "ELIMINATING"

**Insert:** "EXTENDING"

2. Title, page 1, line 6.

**Following:** "AN"

**Insert:** "IMMEDIATE"

3. Page 1, line 15.

**Strike:** "on [the effective date of this act], 3%"

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**Insert:** "January 1, 1999, a minimum of 2.4%"

4. Page 1, line 21.

**Following:** "~~2003~~."

**Insert:** "Except as provided in subsection (7), these universal system benefits charge rates must remain in effect until December 31, 2005."

5. Page 4, line 13.

**Strike:** "July 1, 2001"

**Insert:** "on passage and approval"

And, as amended, do pass. Report adopted.

**SB 398**, introduced bill, be amended as follows:

1. Page 1.

**Following:** line 6

**Insert:** "WHEREAS, the Legislature finds that it is necessary to meet Montana's constitutional mandate of a clean and healthful environment; and

WHEREAS, the Legislature finds it necessary to allow, in certain limited and controlled circumstances, temporary emergency operation of power generation units pending the completion of the state's air quality permitting process, as long as ambient air quality standards are not violated."

2. Page 3, line 26.

**Following:** "use"

**Insert:** "in Montana"

3. Page 4, line 3.

**Strike:** "receipt of a signed permit application"

**Insert:** "written notice that the application is considered filed pursuant to subsection (8)"

4. Page 4.

**Following:** line 6

**Insert:** "(iii) The operation of a permit applicant's temporary power generation unit or units described in subsection (12)(a) may not violate ambient air quality standards."

And, as amended, do pass. Report adopted.

**HIGHWAYS AND TRANSPORTATION** (Mohl, Chairman):

2/9/2001

**SB 3**, introduced bill, be amended as follows:

1. Title, line 5.

**Following:** the first "HIGHWAY"

**Insert:** "GENERALLY"

2. Page 1, line 11.

**Following:** "2"

**Insert:** "-- planning -- funding"

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**Following:** "."

**Insert:** "(1)"

3. Page 1, line 12.

**Following:** the first "highway"

**Insert:** "generally"

4. Page 1, line 13.

**Following:** "Montana."

**Insert:** "Planning for the U.S. highway 2 project must be included in any future fiscal plan developed by the department.

(2) The department shall seek additional federal funding that does not require a state funding match for the U.S. highway 2 project.

(3) The department may not expend any resources on the U.S. highway 2 project that would jeopardize any future highway projects."

And, as amended, do pass. Report adopted.

**SB 300**, introduced bill, be amended as follows:

1. Page 1, line 12.

**Strike:** "or"

**Insert:** "and"

And, as amended, do pass. Report adopted.

**SB 318**, do pass. Report adopted.

**SB 320**, introduced bill, be amended as follows:

1. Title, line 4 through line 6.

**Strike:** ", " on line 4 through "PURCHASED" on line 6

**Insert:** "TO PURCHASE 10 VEHICLES THAT"

2. Title, line 8.

**Strike:** "REQUIRING THAT"

**Insert:** "ALLOWING"

3. Title, line 9.

**Following:** "GOVERNOR"

**Insert:** "TO"

4. Title, line 10.

**Following:** ";

**Insert:** "REQUIRING A REPORT TO THE LEGISLATURE;"

**Following:** "DATE"

**Insert:** "AND A TERMINATION DATE"

5. Page 2, line 2.

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**Following:** "fuels"  
**Insert:** "-- report to legislature"

6. Page 2, lines 3 and 4.  
**Following:** "required" on line 3  
**Strike:** ",," on line 3 through "purchased" on line 4  
**Insert:** "to purchase five vehicles"

7. Page 2, line 4.  
**Following:** "year"  
**Insert:** "that"  
**Following:** "fuels."  
**Insert:** "The vehicles must be assigned to the department of transportation's motor pool."

8. Page 2, line 9.  
**Strike:** "must"  
**Insert:** "may"

9. Page 2.  
**Following:** line 12  
**Insert:** "(5) The department of transportation shall report to the 58th legislature, as provided in 5-11-210, on the feasibility of using vehicles powered by renewable fuels."

10. Page 2.  
**Following:** line 17  
**Insert:** "NEW SECTION. **Section 4. Termination.** [This act] terminates June 30, 2003."

And, as amended, do pass. Report adopted.

**LOCAL GOVERNMENT** (Mahlum, Chairman):  
**SB 66**, introduced bill, be amended as follows:

2/9/2001

1. Title, line 4.  
**Strike:** "PROVIDING"  
**Insert:** "PHASING IN A REQUIREMENT"

2. Title, line 5.  
**Strike:** "95 PERCENT"  
**Insert:** "A PERCENTAGE"

3. Title, lines 7 and 8.  
**Following:** ";" on line 7  
**Insert:** "REVISING THE METHOD FOR CHANGING FROM A PART-TIME TO A FULL-TIME COUNTY ATTORNEY;"  
**Strike:** "7-4-2505,"  
**Insert:** "7-4-2706, AND"

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**Following:** "7-6-2426,"

**Strike:** remainder of line 7 through "46-18-236," on line 8

4. Page 1, line 19.

**Strike:** "from the state treasury upon the warrant of the state treasurer"

**Insert:** "as provided in 7-4-2503"

5. Page 3, line 3.

**Following:** "(a)"

**Insert:** "(i)"

6. Page 3, line 4.

**Strike:** "95%"

**Insert:** "the applicable percentage"

7. Page 3, line 5.

**Following:** "."

**Insert:** "The county attorney's salary is a percentage of the district court judge's salary as follows:

(A) 80% beginning July 1, 2002, with 50% of that amount paid by the state;

(B) 85% beginning July 1, 2003, with 60% of that amount paid by the state;

(C) 95% beginning July 1, 2004, with 95% of that amount paid by the state.

(ii)"

8. Page 3, line 11.

**Following:** line 10

**Insert:** "(b) The salary of a county attorney holding office on June 30, 2002, may not be reduced under subsection (3)(a), but future longevity increments may not be added to the salary. If a county attorney's salary is in excess of the amount provided for in subsection (3)(a), the county attorney must continue to receive that salary and the state shall pay the state's percentage of that salary for the applicable fiscal year. The county is responsible for the payment of health insurance benefits for county attorneys."

**Renumber:** subsequent subsections

9. Page 5, line 11.

**Following:** "(a)"

**Insert:** "(i)"

10. Page 5, line 12.

**Strike:** "95%"

**Insert:** "the applicable percentage"

11. Page 5, line 13.

**Following:** "."

**Insert:** "The county attorney's salary is a percentage of the district court judge's salary as follows:

(A) 80% beginning July 1, 2002, with 50% of that amount paid by the state;

(B) 85% beginning July 1, 2003, with 60% of that amount paid by the state;

(C) 95% beginning July 1, 2004, with 95% of that amount paid by the state.

(ii)"

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12. Page 5, line 19.

**Following:** line 18

**Insert:** "(b) The salary of a county attorney holding office on June 30, 2002, may not be reduced under subsection (3)(a), but future longevity increments may not be added to the salary. If a county attorney's salary is in excess of the amount provided for in subsection (3)(a), the county attorney must continue to receive that salary and the state shall pay the state's percentage of that salary for the applicable fiscal year. The county is responsible for the payment of health insurance benefits for county attorneys."

**Renumber:** subsequent subsections

13. Page 7, line 11.

**Strike:** "(c)(i)"

**Insert:** "(d)(i)"

14. Page 7, line 18 through page 8, line 3.

**Strike:** section 4 in its entirety

**Insert:** "**Section 4.** Section 7-4-2706, MCA, is amended to read:

**"7-4-2706. County attorney to be full or part time -- resolution -- salary.** (1) In any county with a population of less than 30,000, the county commissioners may, upon the consent of the county attorney and the approval of the attorney general, on July 1 of any year by resolution establish the office of county attorney as a full-time position subject to the provisions of 7-4-2701 and 7-4-2704. The salary for this position is the salary provided by 7-4-2503 for the office of county attorney in a county with a population in excess of 30,000.

(2) In any county in which the office of county attorney has been established as a full-time position under subsection (1), the county commissioners may, by resolution and upon the consent of the county attorney, establish the office as a part-time position on July 1 of any year.""

15. Page 8, line 8.

**Following:** "and"

**Insert:** "the appropriate percentage of the salary of the county attorney and"

16. Page 8, line 23 through page 11, line 21.

**Strike:** section 6 in its entirety

**Renumber:** subsequent section

And, as amended, do pass. Report adopted.

**SB 144**, introduced bill, be amended as follows:

1. Title, line 11.

**Strike:** "2-7-503, 2-7-516,"

2. Page 1, line 21 through page 3, line 7.

**Strike:** sections 1 and 2 in their entirety

**Renumber:** subsequent sections

And, as amended, do pass. Report adopted.

**SB 187**, introduced bill, be amended as follows:

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1. Title, lines 6 and 7.

**Strike:** "ALLOWING" through "PUBLICATION;"

2. Page 1, line 30.

**Strike:** "second-class"

**Insert:** "periodicals"

3. Page 2, lines 16 through 20.

**Strike:** ";" on line 16

**Strike:** "(a)" on line 17

**Strike:** ";" on line 18 through "unit" on line 20

4. Page 4, line 26.

**Strike:** "second-class"

**Insert:** "periodicals"

5. Page 5, lines 12 through 16.

**Strike:** ";" on line 12

**Strike:** "(a)" on line 13

**Strike:** ";" on line 14 through "municipality" on line 16

And, as amended, do pass. Report adopted.

**SB 190**, introduced bill, be amended as follows:

1. Page 2, line 8.

**Following:** "managed"

**Insert:** "by the program"

And, as amended, do pass. Report adopted.

**SB 210**, do pass. Report adopted.

**SB 241**, introduced bill, be amended as follows:

1. Page 2, line 1.

**Strike:** "residents of the"

**Insert:** "citizen members, each of whom resides in a"

2. Page 2, line 14.

**Strike:** "(1)"

3. Page 2, line 18.

**Strike:** "(a)"

**Insert:** "(1)"

**Renumber:** subsequent subsections

4. Page 2, lines 23 and 24.

**Strike:** subsection (2) in its entirety



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And, as amended, do pass. Report adopted.

**SB 249**, introduced bill, be amended as follows:

1. Page 1, line 17.

**Following:** "administration"

**Insert:** "and the agency in need of office space"

2. Page 1, line 23.

**Following:** "(4)"

**Insert:** "(a)"

3. Page 1.

**Following:** line 25

**Insert:** "(b) in the case of space that will be leased, costs associated with the improvements listed in subsection (4)(a) that will be incurred by the building's owner and passed on to the state through rental rates;"

4. Page 1, line 29 through page 2, line 11.

**Strike:** section 4 in its entirety

**Insert:** "NEW SECTION. Section 4. Reporting. The department shall annually compile and publish a report of space leased in the state. The report must include a listing of new leases for 10,000 square feet of space or more, the leases that were located in downtown areas, and the leases that were not located in downtown areas, including the reasons why they were located elsewhere."

5. Page 3, line 17.

**Following:** "justice"

**Insert:** ", the department of transportation, the department of fish, wildlife, and parks, and the department of corrections"

And, as amended, do pass. Report adopted.

**SB 265**, do pass. Report adopted.

**STATE ADMINISTRATION** (Hargrove, Chairman):

2/8/2001

**SR 11**, be adopted. Report adopted.

**SR 12**, be adopted. Report adopted.

**HJR 7**, be adopted. Report adopted.

**TAXATION** (DePratu, Chairman):

2/9/2001

**SB 268**, introduced bill, be amended as follows:

1. Title, line 8.

**Strike:** "IMMEDIATE"

2. Page 5, line 23.

**Strike:** "on passage and approval"

**Insert:** "July 1, 2001"

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And, as amended, do pass. Report adopted.

**SB 325**, introduced bill, be amended as follows:

1. Title, line 8.

**Following:** "PROVISIONS;"

**Insert:** "PROVIDING THAT POLE ATTACHMENT MATTERS ARE GOVERNED BY FEDERAL LAW IN CERTAIN MUNICIPAL AREAS;"

2. Title, line 9.

**Following:** "35-18-102,"

**Insert:** "35-18-104,"

3. Page 1, line 25.

**Strike:** "and"

**Insert:** "or"

4. Page 3.

**Following:** line 13

**Insert:** "Section 3. Section 35-18-104, MCA, is amended to read:

**"35-18-104. Exemption from jurisdiction of the public service commission -- federal pole regulation.**

Cooperatives and foreign corporations transacting business in this state pursuant to this chapter:

(1) ~~shall be~~ are exempt in all respects from the jurisdiction and control of the public service commission of this state; and

(2) if they operate in a rural area described in 35-18-102(6)(c) or (6)(d), must comply with the provisions of 47 U.S.C. 224 with respect to any matters pertaining to rates, terms, or conditions of any pole attachment agreement between themselves and any pole tenant or lessee."

"

**Renumber:** subsequent sections

And, as amended, do pass. Report adopted.

**HB 192**, be concurred in. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

House bill passed and transmitted to the Senate for concurrence:

2/8/2001

**HB 382**, introduced by J. Whitaker

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

2/8/2001

**HJR 11**, introduced by J. Tropila

**MOTIONS**

**HB 47** - Senator Taylor moved that **HB 47** be taken from the committee on State Administration and rereferred to the committee on Business and Labor. Motion carried.

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**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 429**, introduced by Sprague, Bishop, Bohlinger, Branae, R. Brown, G. Forrester, Fuchs, Gillan, Glaser, Hargrove, McGee, K. Miller, referred to State Administration.

**SB 430**, introduced by Ellis, Glaser, Keenan, Shea, Waterman, referred to Education and Cultural Resources.

**SB 431**, introduced by Stonington, Bishop, P. Clark, referred to Fish and Game.

**SB 432**, introduced by Taylor, DePratu, Laszloffy, Mahlum, F. Thomas, referred to Business and Labor.

**SB 433**, introduced by Elliott, Bohlinger, Christiaens, Grimes, Hargrove, Mahlum, Stonington (by request of the Senate Local Government Standing Committee), referred to Local Government.

**SB 434**, introduced by Berry, referred to Public Health, Welfare and Safety.

**SB 435**, introduced by Berry, referred to State Administration.

**SB 436**, introduced by Ellis, Branae, Grimes, Musgrove, Olson, Ryan, Wolery, referred to Education and Cultural Resources.

**SB 437**, introduced by Cole, Adams, Andersen, Bales, Berry, Brueggeman, Butcher, E. Clark, Crismore, Hedges, Kitzenberg, Masolo, McCarthy, Pattison, Ripley, Steinbeisser, F. Thomas, referred to Agriculture, Livestock and Irrigation.

**SB 438**, introduced by Christiaens, Gillan, Halligan, R. Holden, referred to Business and Labor.

**SB 439**, introduced by Grosfield, Bohlinger, Christiaens, Crismore, Jent, Stonington, Witt, referred to Taxation.

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

**HB 382**, introduced by J. Whitaker, Berry, Bitney, Christiaens, G. Forrester, Mahlum, McNutt, K. Miller, Sliter, referred to Local Government.

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

**HJR 11**, introduced by J. Tropila, Bixby, Christiaens, Cyr, Eggers, Gallus, Galvin-Halcro, Golie, Jayne, Juneau, Newman, Pease, Roush, Schmidt, Schrupf, Waterman, J. Whitaker, Witt, referred to State Administration.

**MOTIONS**

Majority Leader Thomas moved that the Senate stand in recess until the hour of 2:00 p.m. for purpose of party caucus. Motion carried.

**Senate recessed at 1:25 p.m.**

**Senate reconvened at 2:10 p.m.**

Roll Call. All Senators present except Senator Ryan, excused.

**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 Stonington in the chair.

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

**SJR 9** - Senator Cocchiarella moved SJR 9 be adopted. Motion carried unanimously.

**SB 80** - Senator Mahlum moved SB 80, second reading copy, be amended as follows :

1. Page 3, line 29.

**Following:** "legislature."

**Insert:** "(c) It is the intent of the 57th legislature that no general fund money be provided for the operation and maintenance of Virginia City and Nevada City beyond what has been appropriated by the 55th legislature."

Amendment **adopted** unanimously.

**SB 80** - Senator Mahlum moved SB 80, as amended, do pass. Motion carried as follows:

Yeas: Berry, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Johnson, Kitzenberg, Mahlum, McCarthy, McNutt, Mohl, Pease, Roush, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Thomas, Toole, Waterman, Mr. President.

Total 37

Nays: Bishop, Elliott, Ellis, Holden, Jergeson, Keenan, Miller, Nelson, O'Neil, Tester, Wells, Zook.

Total 12

Absent or not voting: None.

Total 0

Excused: Ryan.

Total 1

**SB 260** - Senator Mahlum moved SB 260, second reading copy, be amended as follows :

1. Title, page 1, line 15.

**Strike:** "20-3-205, 20-9-212,"

**Following:** "20-9-213"

**Strike:** ","

2. Page 3, line 2 through page 7, line 11.

**Strike:** section 2 through section 3 in their entirety

**Renumber:** subsequent sections

Amendment **adopted** unanimously.

**SB 260** - Senator Mahlum moved SB 260, as amended, do pass. Motion carried unanimously.

**SB 289** - Senator Tester moved SB 289 do pass. Motion carried unanimously.

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**SB 293** - Senator Doherty moved SB 293 do pass. Motion carried unanimously.

**SB 337** - Senator Berry moved SB 337 do pass. Motion carried unanimously.

**SB 342** - Senator Berry moved SB 342 do pass. Motion carried with Senators Doherty and Ellingson voting nay.

**SJR 10** - Senator Kitzenberg moved SJR 10 be adopted. Motion carried unanimously.

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

**THIRD READING OF BILLS**

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

**SB 242** passed as follows:

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

Total 45

Nays: Bishop, Christiaens, Johnson, Waterman.

Total 4

Absent or not voting: None.

Total 0

Excused: Ryan.

Total 1

**MOTIONS**

**SB 427** - Senator Johnson moved that **SB 427** be taken from the committee on Local Government and rereferred to the committee on Taxation. Motion carried.

**SB 289** - Senator Keenan moved that **SB 289** be taken from third reading and rereferred to the committee on Finance. Motion carried.

**SB 293** - Senator Keenan moved that **SB 293** be taken from third reading and rereferred to the committee on Finance. Motion carried.

**HB 155** - Senator Sprague moved that consideration of **HB 155** be postponed until Monday, February 12, 2001, the thirty-fifth legislative day. Motion carried.

**HB 235** - Senator Sprague moved that consideration of **HB 235** be postponed until Monday, February 12, 2001, the thirty-fifth legislative day. Motion carried.

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**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Saturday, February 10, 2001. Motion carried.

Senate adjourned at 3:10 p.m.

ROSANA SKELTON  
Secretary of Senate

TOM BECK  
President of the Senate