

**SENATE JOURNAL  
57<sup>TH</sup> LEGISLATURE  
SIXTY-SIXTH LEGISLATIVE DAY**

Helena, Montana  
March 23, 2001

Senate Chambers  
State Capitol

Senate convened at 12:30 p.m. President Beck presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Cole, Kitzenberg and Taylor, excused. Quorum present.

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

Miller, Chairman

**SPECIAL ORDERS OF THE DAY**

Thirteen students from the home school of the Evangelical Covenant Church, under the direction of Cathy Bischoff, signed the Pledge of Allegiance and America the Beautiful.

**Senators Cole and Taylor present at this time.**

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL** (Miller, Chairman): 3/23/2001  
Correctly printed: SB 176, SB 513, SB 514, SB 515, SR 21, HB 42, HB 408, HB 488, HB 497, HJR 24, HJR 29.  
Correctly engrossed: SB 289, SB 338, HB 214.  
Correctly enrolled: SB 56, SB 65, SB 81, SB 259, SB 285, SB 334, SJR 11.  
Signed by the President at 2:25 p.m., March 23, 2001: SB 10, SB 90, SB 168, SB 260, SB 421, SR 19.  
Examined by the sponsor and found to be correct: SB 56, SB 65, SB 81, SB 259, SB 285, SB 334, SJR 11.

**HIGHWAYS AND TRANSPORTATION** (Mohl, Chairman): 3/23/2001  
**HB 319**, be concurred in. Report adopted.  
**HB 403**, be amended as follows:

1. Page 1, line 18.

**Strike:** "two"

**Insert:** "three"

2. Page 2, line 10.

**Following:** "fine"

**Insert:** " -- no effect on insurance"

3. Page 2, line 14.

**Strike:** "\$500"

**Insert:** "\$100"

4. Page 2.

**Following:** line 24

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**Insert:** "(4) An insurance company may not hold a violation of [section 1] against the insured, and there may not be an increase in premiums due to a violation of [section 1]."

**Insert:** "NEW SECTION. Section 3. Secondary offense. A peace officer may not stop a motor vehicle to determine if the driver is in violation of [section 1] except upon reasonable cause to believe that the driver has violated another traffic regulation or that the vehicle is unsafe or not equipped as required by law."

**Renumber:** subsequent sections

5. Page 2, line 30.

**Following:** "course"

**Insert:** "that is"

6. Page 3, line 1.

**Following:** "instruction"

**Insert:** "and is available to any eligible person within the jurisdiction of the school district offering the course"

7. Page 6, line 8.

**Strike:** "and 2"

**Insert:** "through 3"

8. Page 6, line 10.

**Strike:** "and 2"

**Insert:** "through 3"

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

**HB 620**, be amended as follows:

1. Title, line 13.

**Strike:** "AND"

2. Title, line 14.

**Following:** "MCA"

**Insert:** "; AND PROVIDING A DELAYED EFFECTIVE DATE"

3. Page 10.

**Following:** line 25

**Insert:** "NEW SECTION. Section 7. Effective date. [This act] is effective January 1, 2002."

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

**LOCAL GOVERNMENT** (Mahlum, Chairman):

3/23/2001

**HB 190**, be concurred in. Report adopted.

**HB 334**, be amended as follows:

1. Page 2.

**Following:** line 14

**Insert:** "NEW SECTION. Section 2. Coordination instruction. If House Bill No. 159 and [this act] are both passed and approved, then House Bill No. 159 is void."

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**Renumber:** subsequent section

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

**HJR 31**, be amended as follows:

1. Title, line 6.

**Following:** "DRUGS"

**Insert:** "BOTH IN GENERAL AND"

**Following:** "WHILE"

**Insert:** "THE TEENAGER IS"

2. Page 1.

**Following:** line 29

**Insert:** "WHEREAS, the same study reports that in 1998, 15.4% or nearly \$256,000 of Montana's budget affecting justice and corrections, education, health, child and family assistance, mental health, public safety, and the state workforce was spent on substance abuse; and"

3. Page 2, line 1.

**Following:** "litter"

**Insert:** "; and

WHEREAS, the incidence of teenagers operating motor vehicles while using alcohol or drugs is evidence of the serious problem of teenage alcohol and drug use in general; and

WHEREAS, any investigation of in-vehicle teenage alcohol or drug use must also take into account the wider-ranging issue of substance abuse among teenagers, its causes and ramifications, and its cost to the state"

4. Page 2, line 7.

**Strike:** "in-vehicle"

**Following:** "use"

**Insert:** "both in general and while operating a motor vehicle"

5. Page 2, lines 13 and 14.

**Strike:** "teenage in-vehicle drinking and drug use"

**Insert:** "the problems articulated in this resolution"

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

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

3/23/2001

**HB 612**, be amended as follows:

1. Title, lines 12 and 13.

**Strike:** "RATHER THAN A POST-OFFICE ADDRESS"

**Insert:** ", POST-OFFICE ADDRESS, OR TELEPHONE NUMBER"

2. Title, line 13.

**Following:** "SHEETS"

**Insert:** "FOR THE PURPOSE OF SIGNATURE VERIFICATION AND PROVIDING THAT AN ADDRESS GIVEN

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ON A PETITION MAY NOT BE USED AS THE ONLY MEANS TO DISQUALIFY A SIGNATURE"

3. Title, line 18.

**Following:** "13-27-208,"

**Insert:** "13-27-302, 13-27-304,"

4. Page 7, line 18.

**Following:** "and"

**Insert:** "list the person's"

**Following:** "address"

**Insert:** "or telephone number"

5. Page 7, line 22.

**Following:** "signer."

**Insert:** "In place of a residence address, the signer may provide the signer's post-office address or the signer's home or business telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

6. Page 8, line 14.

**Following:** "and"

**Insert:** "list the person's"

**Following:** "address"

**Insert:** "or telephone number"

7. Page 8, line 18.

**Following:** "signer."

**Insert:** "In place of a residence address, the signer may provide the signer's post-office address or the signer's home or business telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

8. Page 9, line 13.

**Following:** "and"

**Insert:** "list the person's"

**Following:** "address"

**Insert:** "or telephone number"

9. Page 9, line 17.

**Following:** "signer."

**Insert:** "In place of a residence address, the signer may provide the signer's post-office address or the signer's home or business telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

10. Page 10, line 12.

**Following:** "and"

**Insert:** "list the person's"

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**Following:** "address"

**Insert:** "or telephone number"

11. Page 10, line 16.

**Following:** "signer."

**Insert:** "In place of a residence address, the signer may provide the signer's post-office address or the signer's home or business telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

12. Page 10.

**Following:** line 26

**Insert:** "**Section 12.** Section 13-27-302, MCA, is amended to read:

**"13-27-302. Certification of signatures.** An affidavit, in substantially the following form, must be attached to each sheet or section submitted to the county official:

I, (name of person who circulated this petition), swear that I circulated or assisted in circulating the petition to which this affidavit is attached, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number following ~~their~~ the person's signature, and that the signers knew the contents of the petition before signing the petition.

\$M \$M \$M \$M \$M .....  
\$M \$M \$M \$M \$M (Signature of petition circulator)  
\$M \$M \$M \$M \$M .....  
\$M \$M \$M \$M \$M \$M \$M (Address of petition circulator)  
Subscribed and sworn to before me this ... day of ....., 20...  
\$M \$M \$M \$M \$M \$M \$M .....  
Seal \$M \$M \$M \$M (Person authorized to take oaths)  
\$M \$M \$M \$M \$M \$M \$M .....  
\$M \$M \$M \$M \$M \$M \$M (Title or notarial information)"

**Insert:** "**Section 13.** Section 13-27-304, MCA, is amended to read:

**"13-27-304. County official to forward verified sheets.** The county official verifying the number of registered electors signing the petition shall forward it to the secretary of state by certified mail with a certificate in substantially the following form attached:

To the Honorable ....., Secretary of State of the state of Montana:

I, ....., .... (title) of the County of ....., certify that I have examined the attached (section containing .... sheets) or (.... sheets) of the petition for (referendum, initiative, constitutional convention, or constitutional amendment) No. .... in the manner prescribed by law; and I believe that .... (number) signatures in Legislative Representative District No. .... (repeat for each district included in sheet or section) are valid; and I further certify that the affidavit of the circulator of the (sheet) (section) of the petition is attached and the post-office address, residence address, or telephone number and legislative representative district number is completed for each valid signature.

Signed: ..... (Date) \$M \$M \$M \$M ..... (Signature)

Seal \$M \$M \$M \$M \$M \$M \$M \$M ..... (Title)"

**Renumber:** subsequent section

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

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**MESSAGES FROM THE GOVERNOR**

March 2001

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

Dear Senator Beck:

Please be informed that I have signed **Senate Bill 44** sponsored by Senator Bishop and **Senate Bill 122** sponsored by Senator Shea on March 21, 2001.

I have signed **Senate Bill 6** sponsored by Senator Cole, **Senate Bill 29** sponsored by Senator McNutt, **Senate Bill 58** sponsored by Senator Halligan, **Senate Bill 150** sponsored by Senator Hargrove, **Senate Bill 153** sponsored by Senator O'Neil, **Senate Bill 157** sponsored by Senator Cocchiarella, **Senate Bill 205** sponsored by Senator Cobb, and **Senate Bill 254** sponsored by Senator Halligan on March 22, 2001.

I have signed **Senate Bill 78** sponsored by Senator Hargrove, **Senate Bill 103** sponsored by Senator Zook, **Senate Bill 113** sponsored by Senator Nelson, and **Senate Bill 219** sponsored by Senator Waterman on March 23, 2001.  
Sincerely,

JUDY MARTZ  
Governor

**MESSAGES FROM THE OTHER HOUSE**

Senate bills concurred in and returned to the Senate: 3/22/2001

**SB 107**, introduced by Franklin  
**SB 146**, introduced by Keenan

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 3/22/2001

**SB 159**, introduced by Grosfield  
**SB 184**, introduced by Cobb  
**SB 306**, introduced by Cocchiarella

House bills passed and transmitted to the Senate for concurrence: 3/22/2001

**HB 3**, introduced by Fisher  
**HB 4**, introduced by Witt  
**HB 9**, introduced by Kasten  
**HB 348**, introduced by Shockley

**MOTIONS**

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**SB 495** - Senator Thomas moved that **SB 495** be taken from the second reading board and rereferred to the committee on Taxation. Motion carried.

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 517**, introduced by Ryan, referred to Energy and Telecommunications.

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

**HB 3**, introduced by Fisher (by request of the Office of Budget and Program Planning), referred to Finance.

**HB 4**, introduced by Witt (by request of the Office of Budget and Program Planning), referred to Finance.

**HB 9**, introduced by Kasten (by request of the Office of Budget and Program Planning), referred to Finance.

**HB 348**, introduced by Shockley, Berry, Bookout-Reinicke, E. Clark, Cocchiarella, G. Forrester, Fuchs, Gillan, Golie, Matthews, Price, Roush, Schmidt, Shea, Story, J. Tropila, referred to Business and Labor.

**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 Shea in the chair.

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

**SJR 4 - House Amendments** - Senator Taylor moved House amendments to **SJR 4** be concurred in. Motion carried unanimously.

**Senator Kitzenberg present at this time.**

**HB 279** - Senator Cocchiarella moved **HB 279** be concurred in. Motion carried unanimously.

**Senator Jergeson expressed a conflict of interest when voting on HB 377.**

**Senators Butcher, McCarthy and Taylor excused at this time.**

**HB 377** - Senator Grosfield moved **HB 377** be concurred in. Motion carried as follows:

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

Total 42

Nays: Cobb, Doherty, Elliott, Keenan, Waterman.

Total 5

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Absent or not voting: None.  
Total 0

Excused: Butcher, McCarthy, Taylor.  
Total 3

**Senators Butcher and McCarthy present at this time.**

**SB 350** - Senator Ellingson requested **SB 350** be placed below SB 560 on the second reading board this legislative day.

**Senators Butcher and Cobb excused at this time.**

**HB 437** - Senator Roush moved **HB 437** be concurred in. Motion carried as follows:

Yeas: Berry, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Grimes, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Johnson, Kitzenberg, Mahlum, McCarthy, McNutt, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stonington, Tash, Tester, Toole, Waterman, Zook, Mr. President.  
Total 38

Nays: Bishop, DePratu, Glaser, Holden, Keenan, Miller, Stapleton, Thomas, Wells.  
Total 9

Absent or not voting: None.  
Total 0

Excused: Butcher, Cobb, Taylor.  
Total 3

**HB 451** - Senator Tester moved **HB 451** be concurred in. Motion carried unanimously.

**HB 461** - Senator Harrington moved **HB 461** be concurred in. Motion carried unanimously.

**HB 477** - Senator McCarthy moved **HB 477** be concurred in. Motion carried unanimously.

**HB 502** - Senator R. Holden moved **HB 502** be concurred in. Motion carried unanimously.

**Senators Butcher and Cobb present at this time.**

**HB 533** - Senator Jergeson moved **HB 533**, second reading copy, be amended as follows :

1. Title, line 9.

**Following:** "APPROPRIATION;"

**Insert:** "PROVIDING AN EXCEPTION FOR INCREASED UTILITY COSTS;"

2. Page 4, line 7.

**Following:** "appropriation."

**Insert:** "However, the legislature may not prohibit the transfer of funds to pay for increased utility costs."



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3. Page 4, line 19.

**Following:** "appropriation."

**Insert:** "However, the legislature may not prohibit the transfer of funds to pay for increased utility costs."

Amendment **not** adopted as follows:

Yeas: Christiaens, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Hargrove, Harrington, Jergeson, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.

Total 20

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

Total 29

Absent or not voting: None.

Total 0

Excused: Taylor.

Total 1

**HB 533** - Senator Keenan moved **HB 533** be concurred in. Motion carried unanimously.

**HB 537** - Senator F. Thomas moved **HB 537** be concurred in. Motion carried unanimously.

**HB 560** - Senator O'Neil moved **HB 560** be concurred in. Motion carried unanimously.

**SB 350** - Senator Ellingson moved **SB 350** do pass. Motion carried as follows:

Yeas: Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Kitzenberg, Mahlum, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Waterman, Mr. President.

Total 40

Nays: Butcher, Cobb, Johnson, Keenan, Miller, Mohl, O'Neil, Wells, Zook.

Total 9

Absent or not voting: None.

Total 0

Excused: Taylor.

Total 1

**Senator Cocchiarella assumed the chair.**

**HJR 16** - Senator Bishop moved **HJR 16** be concurred in. Motion passed as follows:

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Yeas: Berry, Bishop, Bohlinger, Christiaens, Cobb, Cocchiarella, Crismore, Doherty, Ellingson, Elliott, Ellis, Franklin, Grimes, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Johnson, Keenan, Kitzenberg, McCarthy, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Tester, Thomas, Waterman, Wells, Zook.  
Total 35

Nays: Butcher, Cole, DePratu, Glaser, Holden, Mahlum, McNutt, Mohl, O'Neil, Mr. President.  
Total 10

Absent or not voting: Ekegren, Miller, Nelson, Toole.  
Total 4

Excused: Taylor.  
Total 1

**HJR 21** - Senator Tash moved **HJR 21** be concurred in. Motion carried unanimously.

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

**SB 322** - Senator Nelson moved **SB 322**, second reading copy, be amended as follows :

1. Page 4, line 9.

**Strike:** "1 year"

**Insert:** "3 years in succession"

Amendment **adopted** unanimously.

**SB 322** - Senator Shea moved **SB 322**, second reading copy, be further amended as follows :

1. Title, page 1, line 8.

**Following:** "WORKERS"

**Strike:** "PERMANENTLY"

2. Title, page 1, line 9.

**Following:** "UNEMPLOYED"

**Insert:** "DUE TO A CLOSURE OR A PERMANENT REDUCTION IN FORCE"

**Strike:** "1995"

**Insert:** "1998"

3. Title, page 1, line 10.

**Following:** "PROGRAM"

**Insert:** "FOR A MAXIMUM OF 2 YEARS"

4. Title, page 1, line 12.

**Strike:** "AMENDING SECTION 15-38-106, MCA;"

5. Title, page 1, line 13.

**Following:** "A"

**Insert:** "A"

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**Strike:** "DATES"

**Insert:** "DATE"

6. Page 2, line 1.

**Strike:** "6"

**Insert:** "5"

7. Page 2, line 12.

**Strike:** "6"

**Insert:** "5"

8. Page 2, line 19.

**Following:** "mining,"

**Insert:** "smelting,"

9. Page 2, line 20.

**Following:** "mining,"

**Insert:** "smelting,"

10. Page 3, line 1.

**Strike:** the second "and"

11. Page 3, lines 3 and 4.

**Following:** "scholarships" on line 3

**Strike:** remainder of line 3 through "6]" on line 4

12. Page 3, line 5.

**Following:** "individuals"

**Insert:** "; and

(c) procedures to limit the training available to each eligible individual to a maximum of 2 years"

13. Page 3, line 9.

**Strike:** "from the natural resource workers' tuition scholarship account"

14. Page 3, line 27.

**Following:** "any"

**Insert:** "training, certificate, or"

15. Page 4, lines 10 and 11.

**Following:** "unemployed" on line 10

**Strike:** "BY A NATURAL RESOURCE EMPLOYER"

**Following:** "since"

**Insert:** "due to a closure or a permanent reduction in force occurring on or after January 1, 1998, by an employer in a natural resource industry"

**Following:** "MONTANA" on line 11

**Strike:** remainder of line 11 through "1995"

**Following:** "."

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**Insert:** "A worker who has been affected only by a temporary or seasonal layoff is not eligible for a tuition scholarship."

16. Page 6, line 7 through page 8, line 8.

**Strike:** sections 6 and 7 in their entirety

**Renumber:** subsequent sections

17. Page 8, line 10.

**Strike:** "6"

**Insert:** "5"

18. Page 8, line 11.

**Strike:** "6"

**Insert:** "5"

19. Page 8, line 13.

**Following:** line 12

**"NEW SECTION. Section 7. Contingent voidness.** If state or federal funds are not appropriated or reserved to the department of labor and industry in House Bill No. 2 for each of the fiscal years 2002 and 2003, or if private funds are not pledged to the department of labor and industry to pay for the natural resource workers' education program in [sections 1 through 5], then [this act] is void."

20. Page 8, lines 14 through 16.

**Following:** "July 1"

**Strike:** remainder of line 14 through "year" on line 16

**Insert:** ", 2001"

21. Page 8, line 19 through line 22.

**Following:** "~~terminates~~" on line 19

**Strike:** remainder of line 19 through "9(1)" on line 22

**Insert:** "[This act] terminates June 30, 2006"

Amendment **adopted** unanimously.

**SB 322** - Senator Shea moved **SB 322**, as amended, do pass. Motion carried with Senators Johnson, Mohl and O'Neil voting nay.

**SB 339** - Senator Berry moved **SB 339** do pass. After discussion, consideration of **SB 339** was moved to the bottom of the second reading board.

**HB 33** - Senator R. Holden moved **HB 33** be concurred in. Motion carried unanimously.

**HB 41** - Senator Ellis moved **HB 41** be concurred in. Motion carried as follows:

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

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Total 48

Nays: Grosfield.

Total 1

Absent or not voting: None.

Total 0

Excused: Taylor.

Total 1

**Senator Shea reassumed the chair.**

**HB 186** - Senator R. Holden moved **HB 186**, second reading copy, be amended as follows :

1. Title, page 1, line 5.

**Strike:** "TO"

**Insert:** "FOR"

2. Page 1, line 10.

**Following:** "Montana"

**Insert:** "wildlife and"

3. Page 1, line 12.

**Following:** "state's"

**Insert:** "wildlife and"

4. Page 1, line 16.

**Following:** "appropriated"

**Insert:** "\$50,000"

5. Page 1, line 17.

**Following:** "PARKS"

**Strike:** "to" through "to"

**Insert:** "for the department of fish, wildlife, and parks to conduct enhanced predator control in Montana for wildlife management purposes in cooperation with the department of livestock and"

6. Page 1, line 18.

**Strike:** "\$50,000" through "Montana"

Amendment **adopted** unanimously.

**HB 186** - Senator R. Holden moved **HB 186**, as amended, be concurred in. Motion carried unanimously.

**SB 38 - House Amendments** - Senator Grimes moved House amendments to **SB 38** be concurred in. Motion carried unanimously.

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**SB 159 - House Amendments** - Senator Grosfield moved House amendments to **SB 159** be concurred in. Motion carried unanimously.

**SB 184 - House Amendments** - Senator Cobb moved House amendments to **SB 184** be concurred in. Motion carried unanimously.

**SB 306 - House Amendments** - Senator Cocchiarella moved House amendments to **SB 306** be concurred in. Motion carried unanimously.

**Senators Grimes and Waterman excused at this time.**

**SB 339** - Senator Berry moved **SB 339** do pass. Motion carried as follows:

Yeas: Berry, Bishop, Bohlinger, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grosfield, Halligan, Harrington, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Zook, Mr. President.

Total 39

Nays: Butcher, Hargrove, Holden, Miller, Mohl, Wells.

Total 6

Absent or not voting: None.

Total 0

Excused: Christiaens, Elliott, Grimes, Taylor, Waterman.

Total 5

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Beck in the chair. Chairman Shea moved the Committee of the Whole report be adopted. Senator Keenan made a **substitute motion** that **HB 437** be **segregated** from the Committee of the Whole report and that the remainder of the Committee Report be adopted. Motion carried.

**REPORTS OF STANDING COMMITTEES**

**FINANCE** (Keenan, Chairman): 3/23/2001  
**SB 483**, do pass. Report adopted.

**JUDICIARY** (Grosfield, Chairman): 3/23/2001  
**HB 195**, be concurred in. Report adopted.  
**HB 208**, be amended as follows:

1. Page 2, line 21.

**Following:** "contempt"

**Strike:** "only"

**Following:** "under"

**Insert:** "3-1-511 or"

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2. Page 2, line 22.

**Following:** "required"

**Strike:** ", and the"

**Insert:** ". The"

**Following:** "apply"

**Insert:** "only to criminal contempt prosecutions under 45-7-309"

3. Page 2, line 27 through line 28.

**Following:** "order to" on line 27

**Strike:** remainder of line 27 through "the court" on line 28

**Insert:** "restore order, maintain the dignity or authority of the court, or prevent delay"

4. Page 3, line 3.

**Following:** "may"

**Strike:** "not"

**Following:** "section"

**Insert:** "by a fine in an amount not to exceed \$500 or by imprisonment for a term not to exceed 30 days, or both, and by any other reasonable conditions or restrictions that the court may consider appropriate under the circumstances"

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

**HB 219**, be concurred in. Report adopted.

**HB 254**, be amended as follows:

1. Page 2, line 19.

**Following:** "TO"

**Strike:** "ALL PAY PERIODS BEGINNING"

**Insert:** "earnings due"

**Following:** "ON"

**Insert:** "or after"

2. Page 2, line 21.

**Following:** "MARK"

**Strike:** "THE DATE AND TIME OF SERVICE AND"

3. Page 2, line 23 through line 28.

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

**Renumber:** subsequent subsections

4. Page 2, line 29.

**Following:** "UNDER"

**Insert:** "this"

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

**HB 563**, be amended as follows:

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1. Page 1, line 14.

**Strike:** "15" in two places

**Insert:** "10"

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

**TAXATION** (DePratu, Chairman):

3/23/2001

**SB 213**, introduced bill, be amended as follows:

1. Title, lines 10 through 12.

**Following:** "EFFECT" on line 10

**Strike:** remainder of line 10 through "TAX" on line 11

**Following:** "SECTIONS" on line 11

**Strike:** remainder of line 11 through "7-6-1507," on line 12

**Strike:** "7-6-1509, 7-6-1531, 7-6-1542,"

**Insert:** "7-6-1532,"

**Following:** "7-7-4424,"

**Insert:** "AND"

2. Title, line 13.

**Strike:** "16-4-420, AND 20-9-501,"

3. Page 1, line 17 through page 19, line 8.

**Strike:** everything after the enacting clause

**Insert:** "NEW SECTION. Section 1. Local option sales tax -- definitions. As used in [sections 1 through 9], the following definitions apply:

(1) (a) "Luxury goods and services" means any gift item, luxury item, or other item or any service normally sold to the public and to transient visitors or tourists, including but not limited to the following:

(i) lodging facilities and campgrounds as defined in 15-65-101;

(ii) meals prepared either for onsite consumption or to take out;

(iii) alcoholic beverages sold by the drink;

(iv) rentals of automobiles, boats, snowmobiles, off-road vehicles, and other vehicles used for travel or recreation;

(v) rentals of camping, hunting, fishing, or other recreational equipment;

(vi) ski lift tickets at destination resorts, hunting and fishing guide services, guided tours, trail rides, and other recreational services and facilities;

(vii) admissions for movies, theatrical presentations, exhibits, and sporting events other than school-related events or nonprofit events;

(viii) daily fees at golf courses that are not owned by a governmental entity;

(ix) admissions for water slides, amusement parks, or hot springs or other resorts; and

(x) souvenir items.

(b) The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, clothing other than souvenirs, household bedding and furnishings, or any necessities of life.

(2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

(3) "Medicine" means substances sold for curative or remedial properties, including both physician-prescribed and



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over-the-counter medications."

**Insert: "NEW SECTION. Section 2. Local option taxing authority -- specific delegation.** As required by 7-1-112, [sections 1 through 9] specifically delegate to the electors of each respective municipality or county the power to authorize their municipality or county to impose a local option sales tax within the county or within the corporate boundary of the municipality."

**Insert: "NEW SECTION. Section 3. Limit on local option sales tax rate -- luxury goods and services subject to tax.** (1) The rate of the local option sales tax must be established by the election petition or resolution provided for in 7-6-1504, but the rate may not exceed 4%. The tax rate must be applied uniformly to all luxury goods and services subject to the tax.

(2) (a) The local option sales tax is a tax on the retail value of all luxury goods and services sold as provided in the petition or resolution, except for goods and services sold for resale, within the municipality or county.

(b) Establishments that sell luxury goods or services, or both, shall collect the sales tax on luxury goods and services subject to the tax."

**Insert: "NEW SECTION. Section 4. Local option sales tax -- election required -- procedure -- notice.** (1) A municipality or county may not impose or, except as provided in [section 5], amend or repeal a local option sales tax unless the local option sales tax question has been submitted to the electorate of the municipality or county and approved by a majority of the electors voting on the question.

(2) The local option sales tax question may be presented to the electors of:

(a) a municipality by a petition of the electors, as provided by 7-1-4130 and 7-5-131 through 7-5-137, or by a resolution of the governing body of the municipality; or

(b) a county by a resolution of the board of county commissioners or by a petition of electors as provided in 7-1-4130 and 7-5-131 through 7-5-137.

(3) The petition or resolution referring the taxing question must state:

(a) the luxury goods and services subject to the local option sales tax;

(b) the rate of the local option sales tax;

(c) the duration of the local option sales tax;

(d) the date when the tax becomes effective, which may not be earlier than 35 days after the election; and

(e) the purposes that may be funded by the local option sales tax revenue.

(4) Upon receipt of an adequate petition, the governing body may:

(a) call a special election on the local option sales tax question; or

(b) have the local option sales tax question placed on the ballot at the next regularly scheduled election.

(5) (a) Before the local option sales tax question is submitted to the electorate of a municipality or county, the governing body of the municipality or the board of county commissioners in the county, as applicable, shall publish notice of the goods and services subject to the local option sales tax in a newspaper that meets the qualifications of subsection (5)(b). The notice must be published twice, with at least 6 days separating publications. The first publication must be no more than 30 days prior to the election and the last no less than 3 days prior to the election.

(b) The newspaper must be:

(i) of general, paid circulation with a second-class mailing permit;

(ii) published at least once a week; and

(iii) published in the county where the election will take place.

(6) The question of the imposition of a local option sales tax may not be placed before the electors more than once in any fiscal year."

**Insert: "NEW SECTION. Section 5. Local option sales tax administration.** (1) In this section, "governing body" means:

(a) the governing body of a municipality; or

(b) if the local option sales tax has been approved by the electors of a county, the board of county commissioners.

(2) Not less than 30 days prior to the date that the local option sales tax becomes effective, the governing body shall

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enact an administrative ordinance governing the collection and reporting of the local option sales tax. This administrative ordinance may be amended at any time as may be necessary to effectively administer the local option sales tax.

(3) The administrative ordinance must specify:

(a) the times that taxes collected by businesses are to be remitted to the governing body;

(b) the office, officer, or employee of the governing body responsible for receiving and accounting for the local option sales tax receipts;

(c) the office, officer, or employee of the governing body responsible for enforcing the collection of the local option sales tax and the methods and procedures to be used in enforcing the collection of local option sales taxes due; and

(d) the penalties for failure to report local option sales taxes due, failure to remit taxes due, and violations of the administrative ordinance. The penalties may include:

(i) criminal penalties not to exceed a fine of \$1,000 or 6 months' imprisonment, or both;

(ii) civil penalties if the governing body prevails in a suit for the collection of local option sales taxes, not to exceed 50% of the taxes found due plus the costs and attorney fees incurred by the governing body in the action;

(iii) revocation of a county or municipal business license held by the offender; and

(iv) any other penalties that may be applicable for violation of an ordinance.

(4) The administrative ordinance may include:

(a) further clarification and specificity in the categories of luxury goods and services that are subject to the local option sales tax consistent with [section 3];

(b) authorization for business administration and prepayment discounts. The discount authorization must allow each

vendor and commercial establishment to withhold 5% of the local option sales tax collected to defray its costs for the administration of the tax collection.

(c) other administrative details necessary for the efficient and effective administration of the tax."

**Insert: "NEW SECTION. Section 6. Use of local option sales tax revenue -- bond issue -- pledge.** (1) Unless otherwise restricted by the voter-approved tax authorization provided for in [section 4], a municipality or county may appropriate and expend revenues derived from a local option sales tax for any activity, undertaking, or administrative service that the municipality or county is authorized by law to perform, including costs resulting from the imposition of the tax.

(2) A municipality or county may issue bonds to provide, install, or construct any of the public facilities, improvements, or undertakings authorized under 7-7-4101, 7-7-4404, and 7-12-4102. Bonds issued under this section must be authorized by a resolution of the governing body, stating the terms, conditions, and covenants of the municipality or county that the governing body considers appropriate. The bonds may be sold at a discount at a public or private sale.

(3) A municipality or county may pledge for repayment of bonds issued under this section the revenue derived from a local option sales tax, special assessments levied for and revenue collected from the facilities, improvements, or undertakings for which the bonds are issued, and any other source of revenue authorized by the legislature to be imposed or collected by the municipality or county. The bonds do not constitute debt for purposes of any statutory debt limitation, provided that in the resolution authorizing the issuance of the bonds, the municipality or county determines that the local option sales tax revenue, special assessments levied for and revenue from the facilities, improvements, or undertakings, or other sources of revenue, if any, pledged to the payment of the bonds will be sufficient in each year to pay the principal and interest of the bonds when due. Bonds may not be issued pledging proceeds of the local option sales tax for repayment unless the municipality or county in the resolution authorizing issuance of the bonds determines that in any fiscal year the annual revenue expected to be derived from the local option sales tax will pay the amount of the principal and interest payable on the bonds and any other outstanding bonds payable from the local option sales tax except any bonds to be refunded upon the issuance of the proposed bonds even if the county in which a municipality is located or other municipalities within a county enact a

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local option sales tax."

**"NEW SECTION. Section 7. Local option sales tax -- property tax relief.** At least 10% of the annually anticipated receipts from the local option sales tax received by a municipality or by a county must be applied to reduce the municipal or county property taxes."

**Insert: "NEW SECTION. Section 8. Distribution of local option sales tax proceeds.** (1)(a) Local option sales tax revenue must be must be allocated as follows:

- (i) 70% must be allocated to the entity imposing the tax;
- (ii) 20% must be allocated to the region in which the entity imposing the tax is located; and
- (iii) 10% must be allocated to the subregion in which the entity imposing the tax is located.

(b) Local option sales tax revenue received by region or subregion must be distributed, at least quarterly, to the eligible municipalities and counties and within the region or subregion on a per capita basis. For purposes of distributing the revenue, individuals residing within a municipality are not considered county residents.

(2) A local option sales tax imposed by the county must be levied countywide. Unless otherwise provided by agreement with municipalities, the county shall, at least quarterly, distribute local option sales tax revenue to the municipalities in the following manner:

(a) 50% of the amount of local option sales tax revenue retained by the county must be distributed based on population by calculating the ratio of the population of each municipality in the county to the population of the county as derived from the most recent estimates by the U.S. bureau of the census or, if estimates are not available, derived from the most recent federal decennial census; and

(b) the remaining 50% of the amount retained by the county is distributed based on the point of origin of the local option sales tax revenue.

(3) For purposes of revenue distribution under this section, a resort community, resort area, or resort area district that has imposed a tax pursuant to Title 7, chapter 6, part 15 must be excluded from the revenue distribution and population calculations.

(4) For the purposes of this section:

(a) Region 1 consists of the following subregions:

- (i) Flathead and Lincoln Counties; and
- (ii) Granite, Lake, Mineral, Missoula, Ravalli, and Sanders Counties.

(b) Region 2 consists of the following subregions:

- (i) Broadwater, Jefferson, Lewis and Clark, and Meagher Counties;
- (ii) Beaverhead, Deer Lodge, Powell, and Silver Bow Counties; and
- (iii) Gallatin, Madison, and Park Counties.

(c) Region 3 consists of the following subregions:

- (i) Cascade, Choteau, Fergus, Glacier, Judith Basin, Pondera, Teton, and Toole Counties; and
- (ii) Blaine, Hill, Liberty, and Phillips Counties.

(d) Region 4 consists of the following subregions:

(i) Big Horn, Carbon, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Sweet Grass, Treasure, Wheatland, and Yellowstone Counties;

(ii) Daniels, Garfield, McCone, Roosevelt, Sheridan, and Valley Counties; and

(iii) Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, and Wibaux Counties."

**"NEW SECTION. Section 9. Double taxation prohibited.** (1) Except as provided in subsection (2), a local option sales tax may not be imposed on the same goods or services by more than one local government, including a resort community, resort area, or resort area district imposing a tax under Title 7, chapter 6, part 15.

(2) (a) If both a county and municipality adopt a local option sales tax the combined rate may not exceed 4%. The second entity to adopt the tax is limited to imposing a tax rate that is equal to or less than the difference between the amount of the existing rate and 4%. If a county adopts a 4% sales tax no municipality within the county may impose a local option sales tax and any municipality that imposes a local option sales tax shall repeal the tax without a vote

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of the electorate.

(b) A county or a municipality that adopts a local option sales tax in an area where a local option sales tax has already been adopted is limited to taxing the same goods and services as are taxed by the first entity to adopt a local option sales tax.

(c) To coordinate two local option taxes imposed within the same area, the rate of the local option tax, the goods and services to be taxed, the duration of the tax, if any, and restrictions on the use of tax revenue may be changed by submitting the question to the electorate of the local government that has an existing local option tax. The ballot question may be submitted contingent upon adoption of a local option tax by another entity. The governing bodies of the municipality and county may, by agreement, establish common administrative procedures for the administration and collection of the tax.

(3) A county local option sales tax may not be imposed in an existing resort community, resort area, or resort area district.

**Insert: "Section 10.** Section 7-6-1508, MCA, is amended to read:

**"7-6-1508. Establishment of a resort area -- taxing authority -- approval by electorate.** (1)(a) ~~The Subject to subsection (1)(b),~~ the establishment of a resort area for the purpose of imposing a resort tax may be initiated by a written petition to the board of county commissioners of the county in which the area is located. The petition must contain a description of the proposed resort area and must be signed by at least 15% of the electors residing in the proposed area.

(b) A resort area may not be created in a county that has imposed a local option sales tax as provided in [sections 1 through 9].

(2) The petition must include a proposal to impose a resort tax within the proposed resort area, including the rate, duration, effective date, and purpose of the tax as provided in 7-6-1504.

(3) Upon receiving a petition to establish a resort area, the board of county commissioners shall present the question to the electors residing in the proposed resort area as provided in 7-6-1504."

**Insert: "Section 11.** Section 7-6-1532, MCA, is amended to read:

**"7-6-1532. Resort area district authorized.** (1) ~~Electors~~ Except as provided in subsection (2), the electors residing within the boundaries of a resort area may create a resort area district by proceeding under the provisions of 7-6-1531 through 7-6-1550.

(2) A resort area district may not be created in a county if the county has imposed a local option sales tax as provided in [sections 1 through 9]."

**"Section 12.** Section 7-7-4424, MCA, is amended to read:

**"7-7-4424. Undertakings to be self-supporting.** (1) The governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall revise the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains self-supporting. The property taxes specifically authorized to be levied for the general purpose served by an undertaking, ~~or~~ resort taxes approved, levied, and appropriated to an undertaking in compliance with 7-6-1501 through 7-6-1509, and local option sales taxes approved, levied, and appropriated to an undertaking in compliance with [sections 1 through 9] constitute revenue of the undertaking and may not result in an undertaking being considered not self-supporting.

(2) The rates, fees, or charges prescribed, along with any appropriated property or resort tax collections, must produce revenue at least sufficient to:

(a) pay when due all bonds and interest on the bonds, the payment of which the revenue has been pledged, charged, or otherwise encumbered, including reserves for the bonds; and

(b) provide for all expenses of operation and maintenance of the undertaking, including reserves."

**Insert: "Section 13.** Section 7-7-4428, MCA, is amended to read:

**"7-7-4428. Covenants in resolution authorizing issuance of bonds.** Any resolution or resolutions authorizing the issuance of bonds under this part may contain covenants as to:

(1) the purpose or purposes to which the proceeds of sale of the bonds may be applied and the disposition of

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the proceeds;

(2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued, including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion of the property and resort tax revenue referred to in 7-7-4424 or local option sales tax revenue referred to in [section 6];

(3) the transfer, from the general fund of the municipality to the account or accounts of the undertaking, of an amount equal to the cost of furnishing the municipality or any of its departments, boards, or agencies with the services, facilities, or commodities of the undertaking;

(4) the issuance of other or additional bonds payable from the revenue of the undertaking;

(5) the operation and maintenance of the undertaking;

(6) the insurance to be carried on the undertaking and the use and disposition of insurance money;

(7) books of account and the inspection and audit of the books; and

(8) the terms and conditions upon which the holders or trustees of the bonds or any proportion of the bonds are entitled to the appointment of a receiver by the district court having jurisdiction. The receiver may:

(a) enter and take possession of the undertaking;

(b) operate and maintain the undertaking;

(c) prescribe rates, fees, or charges, subject to the approval of the public service commission; and

(d) collect, receive, and apply all revenue thereafter arising from the undertaking in the same manner as the municipality itself might do."

**Insert:** "NEW SECTION. Section 14. Codification instruction. [Sections 1 through 9] are intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1 through 9]."

**Insert:** "NEW SECTION. Section 15. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

**Insert:** "NEW SECTION. Section 16. Effective date. [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

**MOTIONS**

**SB 511** - Senator Thomas moved that "by the request of the Senate Taxation Standing Committee" be added to **SB 511** as it was inadvertently left off the bill. Motion carried.

**HB 437** - Senator Keenan moved that **HB 437** be taken from second reading and rereferred to the committee on Finance. Motion carried.

**Senator Waterman present at this time.**

**SPECIAL ORDERS OF THE DAY**

**SR 21** - Senator Bishop moved that SR 21, concurring in, confirming and consenting to the nomination and appointment made by the Governor and submitted to the Senate of **Gregory R. Todd** as District Judge of the Thirteenth Judicial District, be adopted and that the ayes and nays be spread upon the journal. Motion carried as follows:

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

Total 46

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Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Christiaens, Elliott, Grimes, Taylor.  
Total 4

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Saturday, March 24, 2001. Motion carried.

Senate adjourned at 3:27 p.m.

ROSANA SKELTON  
Secretary of Senate

TOM BECK  
President of the Senate