

**SENATE JOURNAL
57TH LEGISLATURE
FIFTY-FIRST LEGISLATIVE DAY**

Helena, Montana
March 6, 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 Senators Cobb, Doherty and McCarthy, excused. Quorum present.

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

Miller, Chairman

Senator Cobb present at this time.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 3/5/2001
Correctly printed: SR 19, HB 342, HJR 8.
Correctly engrossed: HB 74, HB 78, HB 118, HB 130, HB 148, HB 152, HB 172, HB 174, HB 204, HB 221, HB 241, HB 300, HB 311, HB 417.
Correctly enrolled: SB 32, SB 45, SB 75.
Examined by the sponsor and found to be correct: SB 32, SB 45, SB 75.

AGRICULTURE, LIVESTOCK AND IRRIGATION (Holden, Chairman): 3/5/2001
HB 114, be concurred in. Report adopted.
HB 210, be concurred in. Report adopted.

BUSINESS AND LABOR (Taylor, Chairman): 3/5/2001
HB 47, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman): 3/6/2001
HB 108, be concurred in. Report adopted.
HB 110, be concurred in. Report adopted.
HB 268, be concurred in. Report adopted.
HB 358, be concurred in. Report adopted.

JUDICIARY (Grosfield, Chairman): 3/6/2001
HB 216, be amended as follows:

1. Page 2, line 27.

Following: "(ii)"

Strike: "shall"

Insert: "may"

Following: the first "service"

Strike: "if a community service program is available"

2. Page 2, line 29.

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Following: "service,"

Strike: "if any is available,"

3. Page 3, line 4.

Following: "(ii)"

Strike: "shall"

Insert: "may"

Following: the first "service"

Strike: "if a community service program is available"

4. Page 3, line 6.

Following: "service,"

Strike: "if any is available, "

5. Page 3, line 15.

Following: "service,"

Strike: "if any is available,"

6. Page 3, line 21.

Following: "and"

Insert: "may"

7. Page 3, line 22.

Following: the first "service"

Strike: "if a community service program is available"

8. Page 3, line 24.

Following: "(i)"

Strike: "shall"

Insert: "may"

Following: the first "service"

Strike: "if a community service program is available"

9. Page 3, line 28.

Following: "(i)"

Strike: "shall"

Insert: "may"

Following: the first "service"

Strike: "if a community service program is available"

10. Page 4, line 17.

Following: the first "COMMITTED"

Insert: "and may be ordered to perform community service"

Following: "OR"

Insert: "shall be fined an amount not to exceed"

Following: the second "COMMITTED"

Insert: "and may be ordered to perform community service"

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11. Page 5, line 18.

Following: "and"

Insert: "may"

12. Page 5, line 19.

Following: the first "service"

Strike: "if a community service program is available"

13. Page 5, line 21.

Following: "and"

Insert: "may"

Following: the first "service"

Strike: "if a community service program is available"

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

HB 238, be concurred in. Report adopted.

HB 286, be concurred in. Report adopted.

HB 336, be concurred in. Report adopted.

NATURAL RESOURCES (Crismore, Chairman):

3/6/2001

HB 126, be concurred in. Report adopted.

HB 147, be concurred in. Report adopted.

HB 166, be amended as follows:

1. Title, line 5.

Strike: "CERTAIN LAND" on line 5

Insert: "A WETLAND MITIGATION SITE"

2. Page 1, line 22 through line 23.

Strike: line 22 through line 23 in their entirety

Renumber: subsequent subsection

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

HB 462, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Bishop, Chairman):

3/6/2001

HB 175, be concurred in. Report adopted.

HB 458, be concurred in. Report adopted.

HJR 9, be concurred in. Report adopted.

STATE ADMINISTRATION (Hargrove, Chairman):

3/6/2001

HB 281, be concurred in. Report adopted.

HJR 11, be concurred in. Report adopted.

TAXATION (DePratu, Chairman):

3/6/2001

SB 134, introduced bill, be amended as follows:

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1. Title, line 5.

Following: "FACILITIES"

Insert: "THAT OFFER ELECTRICAL POWER AT A SPECIFIC PRICE FOR IN-STATE USE AND THAT ARE"

2. Page 2, line 27 through line 28.

Strike: "used" on line 27 through "2001," on line 28

Insert: "that meets the following conditions"

3. Page 2, line 29.

Following: "(1)(a)"

Insert: ":

(i) The coal is used for the production of electricity within the state in an electrical generation facility that was constructed after December 31, 2001.

(ii) The electrical producer agrees to offer, for use within the state, the first one-half of the amount of power that it produces to Montana customers and distribution services providers at a cost to be set by the public service commission that reflects the producer's cost of generating the electricity plus a reasonable return on investment"

4. Page 3, line 18 through line 19.

Strike: "used" on line 18 through "2001," on line 19

Insert: "that meets the following conditions"

5. Page 3, line 20.

Following: "(1)(a)"

Insert: ":

(i) The coal is used for the production of electricity within the state in an electrical generation facility that was constructed after December 31, 2001.

(ii) The electrical producer agrees to offer, for use within the state, the first one-half of the amount of power that it produces to Montana customers and distribution services providers at a cost to be set by the public service commission that reflects the producer's cost of generating the electricity plus a reasonable return on investment"

And, as amended, do pass. Report adopted.

SB 462, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/6/2001

SB 37, introduced by Mahlum

SB 44, introduced by Bishop

SB 148, introduced by Tester

SB 157, introduced by Cocchiarella

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/5/2001

SB 106, introduced by Sprague

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**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 Wells in the chair.

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

SB 59 - House Amendments - Senator Nelson moved House amendments to **SB 59** be concurred in. Motion carried unanimously.

HB 103 - Senator Glaser moved **HB 103** be concurred in. Motion carried unanimously.

HB 129 - Senator Grosfield moved **HB 129** be concurred in. Motion carried unanimously.

Senator Kitzenberg excused at this time.

HB 272 - Senator K. Miller moved **HB 272** be concurred in. Motion carried as follows:

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

Total 31

Nays: Christiaens, Cocchiarella, Ekegren, Ellingson, Franklin, Halligan, Harrington, Jergeson, Nelson, Pease, Roush, Ryan, Shea, Stonington, Toole, Waterman.

Total 16

Absent or not voting: None.

Total 0

Excused: Doherty, Kitzenberg, McCarthy.

Total 3

HB 309 - Senator DePratu moved **HB 309** be concurred in. Motion carried unanimously.

HB 411 - Senator Stonington moved **HB 411** be concurred in. Motion carried unanimously.

HB 118 - Senator Cole moved **HB 118** be concurred in. After discussion, Senator Cole made a **substitute motion** that consideration of **HB 118** be placed at the bottom of the second reading board. Motion carried.

HB 241 - Senator Ekegren moved **HB 241** be concurred in. Motion carried unanimously.

HB 311 - Senator Grimes moved **HB 311** be concurred in. After discussion, Senator Hargrove made a **substitute motion** that consideration of **HB 311** be placed at the bottom of the second reading board. Motion carried.

HB 342 - Senator Toole moved **HB 342** be concurred in. Motion carried with Senators R. Johnson, Mohl, and Zook

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voting nay.

HJR 8 - Senator Bohlinger moved **HJR 8** be concurred in. Motion carried unanimously.

HB 118 - Senator Grosfield moved **HB 118**, second reading copy, be amended as follows :

1. Page 2, line 16.

Strike: "Subsection (3) in its entirety" on page 2, line 16

Amendment **adopted** unanimously.

HB 118 - Senator Cole moved **HB 118**, as amended, be concurred in. Motion carried unanimously.

HB 311 - Senator Grimes moved consideration of **HB 311** be passed for the day. Motion carried.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Beck in the chair. Senator Wells moved that the committee of the whole report be adopted. Senator Keenan made a **substitute motion** that **HB 118** be **segregated** from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

MOTIONS

HB 342 - Senator Keenan moved that **HB 342** be taken from third reading and rereferred to the committee on Finance. Motion carried.

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 180, as amended by the House, passed as follows:

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

Total 46

Nays: Ellingson.

Total 1

Absent or not voting: None.

Total 0

Excused: Doherty, Kitzenberg, McCarthy.

Total 3

HB 74 concurred in as follows:

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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, Mahlum, 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Doherty, Kitzenberg, McCarthy.
Total 3

HB 78 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, Mahlum, 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Doherty, Kitzenberg, McCarthy.
Total 3

HB 130 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, Mahlum, 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Doherty, Kitzenberg, McCarthy.
Total 3

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HB 148, as amended by the Senate, 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, Mahlum, 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: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Doherty, Kitzenberg, McCarthy.

Total 3

HB 152 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, Mahlum, 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: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Doherty, Kitzenberg, McCarthy.

Total 3

HB 172, as amended by the Senate, concurred in as follows:

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

Total 45

Nays: Ellingson, Franklin.

Total 2

Absent or not voting: None.

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Total 0

Excused: Doherty, Kitzenberg, McCarthy.

Total 3

HB 174, as amended by the Senate, 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, Mahlum, 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: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Doherty, Kitzenberg, McCarthy.

Total 3

HB 204 concurred in as follows:

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

Total 45

Nays: Bishop, Toole.

Total 2

Absent or not voting: None.

Total 0

Excused: Doherty, Kitzenberg, McCarthy.

Total 3

HB 221 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, Mahlum, McNutt, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.

Total 46

Nays: Miller.

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Total 1

Absent or not voting: None.

Total 0

Excused: Doherty, Kitzenberg, McCarthy.

Total 3

HB 300, as amended by the Senate, 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, Mahlum, 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: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Doherty, Kitzenberg, McCarthy.

Total 3

HB 417 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, Keenan, Mahlum, McNutt, Miller, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.

Total 45

Nays: Johnson, Mohl.

Total 2

Absent or not voting: None.

Total 0

Excused: Doherty, Kitzenberg, McCarthy.

Total 3

MOTIONS

Senator Keenan moved that the Senate reconsider its action in segregating **HB 118** from the Committee of the Whole Report this legislative day. Motion carried.

Senator Keenan moved to segregate **HB 342** from the Committee of the Whole Report. Motion carried.

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Senator Wells moved adoption of the remainder of the Committee of the Whole Report. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, March 7, 2001. Motion carried.

Senate adjourned at 2:42 p.m.

ROSANA SKELTON
Secretary of Senate

TOM BECK
President of the Senate