

**SENATE JOURNAL  
57<sup>TH</sup> LEGISLATURE  
SEVENTY-FIRST LEGISLATIVE DAY**

Helena, Montana  
March 29, 2001

Senate Chambers  
State Capitol

Senate convened at 9:03 a.m. President Beck presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Butcher and Nelson, excused. Quorum present.

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

Miller, Chairman

**REPORTS OF STANDING COMMITTEES**

**FINANCE** (Keenan, Chairman): 3/29/2001  
**HB 9**, be concurred in. Report adopted.  
**HB 12**, be concurred in. Report adopted.

**JUDICIARY** (Grosfield, Chairman): 3/29/2001  
**HB 66**, be amended as follows:

1. Title, line 4.

**Strike:** "CREATING" through "ON"

2. Title, line 4.

**Strike:** "MONTANA" through "REFORM" on line 5

**Insert:** "REQUIRING CERTAIN STATE AGENCIES"

3. Title, line 5.

**Following:** "ANNOTATED"

**Strike:** "AND"

**Insert:** ", "

4. Title, line 6.

**Following:** "LAWS"

**Insert:** ", AND DRAFT LEGISLATION TO ADDRESS LAWS IN NEED OF AMENDMENT OR REPEAL"

5. Title, line 7.

**Following:** line 6

**Strike:** "PROVIDING" through "LEGISLATURE"

**Insert:** "CREATING A COMMISSION ON MONTANA CODE ANNOTATED REFORM TO REVIEW PROPOSED AGENCY LEGISLATION AND RECOMMEND LEGISLATION FOR SUBMISSION TO INTERIM COMMITTEES BY JUNE 30, 2002"

6. Title, line 9.

**Strike:** "LEGISLATIVE SERVICES DIVISION"

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**Insert:** "SECRETARY OF STATE'S OFFICE"

7. Page 1.

**Following:** line 13

**Insert:** "NEW SECTION. Section 1. Agency review of Montana Code Annotated. (1) The following state agencies shall review the Montana Code Annotated and identify obsolete, illogical, inconsistent, poorly organized, or unconstitutional laws that the agency is required to administer:

- (a) department of agriculture;
- (b) department of commerce;
- (c) department of justice;
- (d) office of the superintendent of public instruction;
- (e) secretary of state's office; and
- (f) state auditor's office.

(2) Each agency shall:

- (a) draft legislation to amend or repeal laws identified under subsection (1); and
- (b) submit its proposed legislation to the commission on Montana Code Annotated reform provided for in

[section 2]."

**Renumber:** subsequent sections

8. Page 1, line 15.

**Following:** "shall"

**Insert:** ":(a)"

9. Page 1, line 15.

**Following:** "review"

**Strike:** "the" through "repeal" on page 1, line 19

**Insert:** "proposed legislation submitted by an agency under [section 1]; and

(b) recommend proposed agency legislation for submission to the appropriate interim committee provided for in 5-5-202(2)"

10. Page 2, line 3.

**Strike:** "legislative services division"

**Insert:** "secretary of state's office"

11. Page 2.

**Following:** line 5

**Insert:** "NEW SECTION. Section 3. Agency submission of proposed legislation. Proposed legislation recommended by the commission under [section 2] must be submitted by the agency to the appropriate interim committee for review by June 30, 2002."

**Renumber:** subsequent sections

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

**HB 165**, be amended as follows:

1. Title, line 8.

**Following:** "SITES"

**Strike:** "ON STATE OR PRIVATE LAND"

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2. Title, line 9.

**Following:** "AFFILIATION;"

**Insert:** "EXEMPTING LITHIC MATERIAL AND OTHER ARTIFACTS OF NONHUMAN DERIVATION REMOVED FROM THE ANZICK SITE ON OR BEFORE JULY 1, 1991, FROM THE PROVISIONS OF THIS ACT;"

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

**Strike:** everything after the enacting clause

**Insert:** "NEW SECTION. Section 1. Short title. [Sections 1 through 13] may be cited as the "Montana Repatriation Act"."

**Insert:** "NEW SECTION. Section 2. Legislative findings and intent. (1) The legislature of the state of Montana finds that:

(a) since July 1, 1991, and passage of the Human Skeletal Remains and Burial Site Protection Act, Montana law has provided a mechanism to protect marked, unmarked, unrecorded, registered, or unregistered graves or burial grounds discovered on state and private land from pilferage, disturbance, and destruction in an effort to provide equal protection and respect for all burial sites, human skeletal remains, and funerary objects;

(b) despite the state's success in balancing the interests of those persons who have tribal, kinship, cultural, or religious affiliation with a burial site with the interests of scientists, agencies, law enforcement, and private landowners, the 1991 Human Skeletal Remains and Burial Site Protection Act did not provide a mechanism to repatriate culturally affiliated human skeletal remains or funerary objects that were taken from burial sites prior to July 1, 1991;

(c) funerary objects interred with culturally affiliated human skeletal remains are not abandoned when interred. Discoverers, therefore, have no right of ownership, and they cannot confer a right of ownership to another because the person who interred funerary objects with the deceased did not through interment abandon a property interest in the objects, but intended for those objects to remain with the deceased.

(d) the state of Montana has an obligation to avoid infringing upon the right to religious beliefs and practices guaranteed to all citizens under the free exercise clause of the first amendment of the United States constitution and under Article II, section 4, of the Montana constitution and to preserve the cultural integrity of American Indian citizens recognized by the state under Article X, section 1(2), of the Montana constitution;

(e) the state of Montana acknowledges the paramount privacy right of a tribal group, lineal descendant, next of kin, agency, or museum to protect sensitive and sacred information that may be required to be disclosed to demonstrate cultural affiliation or lineal descent and therefore authorizes the protection of that information to the full extent allowed by the Montana constitution; and

(f) the state of Montana acknowledges the right of an agency, museum, or person to maintain possession or control of human skeletal remains or funerary objects that are currently under scientific study or that require testing prior to the effective date of the board's determination regarding repatriation.

(2) It is the intent of the legislature to:

(a) provide a consistent state policy to ensure that all human skeletal remains and all funerary objects interred with those human skeletal remains be treated with dignity and respect;

(b) encourage voluntary disclosure and repatriation of culturally affiliated human skeletal remains and funerary objects by an agency, museum, or person;

(c) provide a mechanism to provide for repatriation of human skeletal remains and funerary objects to a tribal group, lineal descendant, or next of kin establishing cultural affiliation with those human skeletal remains or funerary objects that were taken from unprotected burial sites prior to July 1, 1991, and that are currently in the possession or control of an agency, museum, or person in this state; and

(d) protect the right of privacy guaranteed to tribal groups, lineal descendants, next of kin, agencies, or museums regarding the disclosure of sacred or religious information to the full extent allowed by the Montana constitution."

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**Insert:** "NEW SECTION. Section 3. Definitions. As used in [sections 1 through 13], the following definitions apply:

(1) "Agency" means any department, bureau, commission, board, council, or political subdivision of the state of Montana, except an entity that is a cemetery board or has authority over a cemetery.

(2) "Board" means the burial preservation board established in 22-3-804.

(3) "Burial site" has the meaning provided in 22-3-803.

(4) "Claimant" means a claimant for repatriation under [section 5] and includes a tribal group, lineal descendant, or next of kin.

(5) "Control" means having a legal interest in human skeletal remains or funerary objects sufficient to lawfully permit an agency or museum to treat the object as part of its collection for purposes of [sections 1 through 13] whether or not the human skeletal remains or funerary objects are in the physical custody of the agency or museum.

(6) "Cultural affiliation" means the existence of a shared group identity that can reasonably be traced historically or anthropologically between a tribal group and an identifiable earlier tribe. It may also include a shared identity that can reasonably be traced historically between an individual and an identifiable individual lineal descendant or next of kin.

(7) "Funerary objects" means objects that, as part of a death rite or ceremony, are reasonably believed to have been placed with human skeletal remains at a specific burial site either at the time of death or later and which human skeletal remains are currently in the possession or control of an agency, museum, or person, either along with the human skeletal remains or that can be identified by a preponderance of the evidence to be related to specific known human skeletal remains not currently in the possession or control of the agency, museum, or person.

(8) "Human skeletal remains" has the meaning provided in 22-3-803.

(9) "Inventory" means an itemized list that summarizes the collection of human skeletal remains and funerary objects in the possession or control of an agency or museum.

(10) "Marked, unmarked, unrecorded, registered, or unregistered grave or burial ground" has the meaning provided in 22-3-803.

(11) "Museum" means an entity or state or local government agency, including an educational institution, that receives state funding.

(12) "Person" includes a corporation, partnership, joint venture, estate, and any other legal entity, as well as a natural person.

(13) "Possessing entity" means an agency, museum, or person from whom repatriation is requested.

(14) (a) "Possession" means having physical custody of human skeletal remains or funerary objects with a sufficient legal interest to lawfully treat the human skeletal remains or funerary objects as part of a collection.

(b) The term does not include human skeletal remains or funerary objects on loan to an agency or museum.

(15) "Right of possession" means:

(a) possession obtained of nonculturally affiliated human skeletal remains or funerary objects; or

(b) possession obtained with the voluntary consent of a group or individual that had authority of alienation over the human skeletal remains or funerary object.

(16) "Tribal group" has the meaning provided in 22-3-803."

**Insert:** "NEW SECTION. Section 4. Agency and museum inventory of human skeletal remains and funerary objects. (1) An agency or museum that on or after [the effective date of this act] has possession or control over human skeletal remains or funerary objects shall within 6 months complete an inventory of all human skeletal remains and funerary objects and, to the extent possible based on all information possessed by the agency or museum:

(a) identify the circumstances surrounding the acquisition of the human skeletal remains or funerary objects, including any geographical information available pertaining to the original location of the human skeletal remains or funerary objects;

(b) list in the inventory the human skeletal remains or funerary objects that are clearly identifiable as to cultural affiliation; and

(c) list the human skeletal remains or funerary objects that are not clearly identifiable as to cultural affiliation.

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(2) Within 3 months of completing the inventory, the agency or museum shall provide a copy of the inventory to:

- (a) the board;
- (b) the state historical preservation office; and
- (c) each tribal government located in Montana.

(3) The agency, museum, board, or state historical preservation office shall provide a copy of an inventory list or a portion of a list to any other requesting party only after the agency, museum, board, or office, pursuant to Article II, section 9, of the Montana constitution, has balanced the public's right to the information and the individual privacy interest associated with the information and has determined that the right of individual privacy does not clearly exceed the merits of public disclosure.

(4) Following completion of the initial inventory, each agency or museum shall, whenever the agency or museum receives new human skeletal remains or funerary objects through a loan or donation, update its inventory list within 6 months of the loan or donation. Upon completion, the agency or museum shall provide a copy of this update to the entities listed in subsection (2) within 3 months."

**Insert: "NEW SECTION. Section 5. Claims for repatriation.** (1) A claim for repatriation of human skeletal remains or funerary objects must be made by:

(a) filing a written claim for the human skeletal remains or funerary objects with the board and the possessing entity having possession or control of the human skeletal remains or funerary objects; and

- (b) proving, by a preponderance of the evidence:
  - (i) the claimant's cultural affiliation to the human skeletal remains or funerary objects; and
  - (ii) that the possessing entity does not have the right of possession.

(2) A claim for repatriation under this section may be made by a claimant:

(a) who claims cultural affiliation and requests the return of human skeletal remains or funerary objects listed in the inventory of an agency or museum; or

(b) who requests the repatriation of human skeletal remains or funerary objects that are not listed in the inventory of an agency or museum but are in the possession or control of the possessing entity."

**Insert: "NEW SECTION. Section 6. Hearing -- hearings examiner -- evidence -- study or testing order and costs -- findings.** (1) The board shall appoint an attorney licensed to practice law in Montana as a hearings examiner to hold a hearing pursuant to Title 2, chapter 4, part 6, on a claim filed under [section 5]. At a hearing under this section, the hearings examiner shall hear the evidence presented by each party, including evidence presented by a possessing entity or intervenor in support of a request for a temporary delay in repatriation made under [section 7].

(2) Either party or an intervenor may request and is responsible for the cost of genetic or other study or testing necessary to determine cultural affiliation. Upon such a request, the hearings examiner may order any study or testing necessary and may require a surety bond to ensure protection of human skeletal remains or funerary objects. The hearings examiner may grant the study or testing requested along with sufficient time to conduct the study or testing or may deny any study or testing requested upon a finding that the study or testing would not likely be pertinent to the determination of cultural affiliation.

(3) (a) If, based on a preponderance of the evidence, the hearings examiner finds that the claimant has a cultural affiliation with the human skeletal remains or funerary objects and that the possessing entity does not have the right of possession, the hearings examiner shall recommend to the board that the board order repatriation under [section 8]. If the hearings examiner finds that there is a need to temporarily delay repatriation based on an ongoing scientific study or a good faith effort toward scientific study under [section 7], the hearings examiner shall recommend a delay as provided in [section 7].

(b) If, based on a preponderance of the evidence, the hearings examiner finds that the claimant has not proven that the claimant has a cultural affiliation with the human skeletal remains or funerary objects and that the possessing entity has the right of possession, the hearings examiner shall recommend to the board that the board deny the claimant's request for repatriation and shall recommend that the board order that the possessing entity be granted uncontested control and possession of the human skeletal remains or funerary objects under [section 8].

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(c) A recommendation under this subsection (3) shall be made in the form of a proposal for decision as provided in 2-4-621. The provisions of 2-4-621 apply to a recommendation made under this subsection (3).

(4) If the hearings examiner recommends repatriation, the hearings examiner shall issue an order requiring the possessing entity to consult with the claimant to arrange for the expeditious repatriation of the culturally affiliated human skeletal remains or funerary objects to the claimant, upon order of the board under [section 8]. "

**Insert: "NEW SECTION. Section 7. Delay of repatriation for scientific study.** (1) If repatriation is ordered after a hearing, a possessing entity may request a temporary delay in repatriation because of:

(a) scientific study being conducted on or proposed to be conducted on human skeletal remains or funerary objects in its possession or control; or

(b) good faith efforts to initiate or proceed with a scientific study of human skeletal remains or funerary objects in its possession or control.

(2) If a hearings examiner determines that a possessing entity has provided evidence supporting a good faith effort regarding scientific study, the hearings examiner shall provide a reasonable period of delay to allow completion of the study prior to repatriation."

**Insert: "NEW SECTION. Section 8. Board decision -- order -- immunity against aggrieved parties -- relinquishment of control by tribal group.** (1) Subject to the provisions of 2-4-621 and 2-4-623, at the conclusion of the hearing and upon receipt of the recommendations of the hearings examiner, the board shall:

(a) issue findings of facts and conclusions related to any decision regarding its determination supporting or denying a claimant's written request for the repatriation of human skeletal remains or funerary objects;

(b) issue findings of facts and conclusions related to any decision regarding a possessing entity's or intervenor's request for a temporary delay in repatriation pending completion of ongoing scientific study; and

(c) provide the claimant, respondent, possessing entity, or intervenor with a written copy of its findings and conclusions regarding the specific repatriation request.

(2) A possessing entity that repatriates culturally affiliated human skeletal remains or funerary objects in good faith pursuant to this section is not liable for claims by an aggrieved party or for claims of breach of a fiduciary duty or the public trust or of violation of state law that are inconsistent with [sections 1 through 13].

(3) This section does not prevent the governing body of a tribal group from expressly relinquishing control over any human skeletal remains or control or title to any funerary object. The acquisition of a funerary object from a tribal group or individual with the voluntary consent of the tribal group or individual with authority to alienate the object constitutes the right of possession over that object. Divestiture of culturally affiliated human skeletal remains or funerary objects from a person without a right of possession does not constitute an unconstitutional taking of property."

**Insert: "NEW SECTION. Section 9. Appeals -- stay of order pending appeal -- court costs and attorney fees.**

(1) Within 30 days of a board decision regarding human skeletal remains or a funerary object located within the jurisdiction of the state, either party may file an appeal in the district court in the county in which the subject of the dispute is located. The court may include a grant of attorney fees to the prevailing party when it would serve the interests of justice. The court shall grant an award of costs to the prevailing party. An appeal under this section is subject to the provisions of Title 2, chapter 4, part 7.

(2) The filing of an appeal by either party automatically stays a board order on repatriation of human skeletal remains or funerary objects.

(3) A protection order issued by the board remains in effect until the issue is finally resolved by a state court."

**Insert: "NEW SECTION. Section 10. Multiple claims -- care and handling of human skeletal remains or funerary objects pending disposition.** If multiple requests for repatriation of human skeletal remains or funerary objects occur and the appropriate claimant cannot be determined, the board shall provide for the appropriate care and handling of the human skeletal remains or funerary objects until:

(1) the requesting parties agree upon the disposition;

(2) the dispute is resolved by the board pursuant to [section 8]; or

(3) the issue is finally resolved in a state court of competent jurisdiction."

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**Insert:** "NEW SECTION. Section 11. Closure of hearings. To the extent allowed by Montana law, the board shall, upon the request of either party or an intervenor, close any part of a board hearing or any part of a hearing under [section 6] to the public if the board finds that information required at the hearing may include identification of the specific location of a burial site that may lead to compromise of a burial site, human skeletal remains, or funerary objects or that information necessary for a determination regarding repatriation may compromise or interfere with any religious practice or custom."

**Insert:** "NEW SECTION. Section 12. Rules. The board shall adopt rules necessary to provide for filing of claims, procedures for hearings authorized under [sections 1 through 13], and procedures for resolving multiple claims. Hearings may not occur until rules have been adopted. Rules must address, at a minimum, criteria for determining lineal descent, cultural affiliation, standards of evidence, and standards of proof."

**Insert:** "NEW SECTION. Section 13. Exclusions. The provisions of [sections 1 through 13] do not apply to any lithic material or other artifacts of nonhuman derivation removed from the Anzick site (known as Montana historical site No. 24PA506) on or before July 1, 1991, regardless of where the material or artifacts are located or by whom the material or artifacts are controlled or possessed."

**Insert:** "NEW SECTION. Section 14. Codification instruction. [Sections 1 through 13] are intended to be codified as a new part in Title 22, chapter 3."

**Insert:** "NEW SECTION. Section 15. Effective date. [This act] is effective on passage and approval."

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

**HB 637**, be amended as follows:

1. Title, line 6.

**Following:** "PROGRAMS;"

**Insert:** "PROVIDING FOR RESTORATIVE JUSTICE PRINCIPLES IN THE CORRECTIONAL AND SENTENCING POLICY;"

2. Title, line 8.

**Following:** "APPROPRIATION;"

**Insert:** "AMENDING SECTION 46-18-101, MCA;"

3. Page 2, line 30.

**Following:** the second "A"

**Strike:** "FEDERAL,"

**Following:** "STATE"

**Strike:** "1"

4. Page 3, line 5.

**Following:** line 4

**Insert:** "**Section 4.** Section 46-18-101, MCA, is amended to read:

**"46-18-101. Correctional and sentencing policy.** (1) It is the purpose of this section to establish the correctional and sentencing policy of the state of Montana. Laws for the punishment of crime are drawn to implement the policy established by this section.

(2) The correctional and sentencing policy of the state of Montana is to:

(a) punish each offender commensurate with the nature and degree of harm caused by the offense and to hold an offender accountable;

(b) protect the public, reduce crime, and increase the public sense of safety by incarcerating violent offenders and serious repeat offenders;

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- (c) provide restitution, reparation, and restoration to the victim of the offense; and
- (d) encourage and provide opportunities for the offender's self-improvement to provide rehabilitation and reintegration of offenders back into the community.
- (3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following principles:
  - (a) Sentencing and punishment must be certain, timely, consistent, and understandable.
  - (b) Sentences should be commensurate with the punishment imposed on other persons committing the same offenses.
  - (c) Sentencing practices must be neutral with respect to the offender's race, gender, religion, national origin, or social or economic status.
  - (d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating circumstances.
  - (e) Sentencing practices must include punishing violent and serious repeat felony offenders with incarceration.
  - (f) Sentencing practices must provide alternatives to imprisonment for the punishment of those nonviolent felony offenders who do not have serious criminal records.
  - (g) Sentencing and correctional practices must emphasize that the offender is responsible for obeying the law and must hold the offender accountable for the offender's actions.
  - (h) Sentencing practices must emphasize restitution to the victim by the offender. A sentence must require an offender who is financially able to do so to pay restitution, costs as provided in 46-18-232, costs of court-appointed counsel as provided in 46-8-113, and, if the offender is a sex offender, costs of any chemical treatment.
  - (i) Sentencing practices should promote and support the use of community-based, including faith-based, practices, policies, and programs that focus on repairing the harm of crime and strengthening communities around the state."

**Renumber:** subsequent sections

5. Page 3, line 11.  
**Strike:** "\$400,000"  
**Insert:** "\$100,000"

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

**TAXATION** (DePratu, Chairman):  
**SB 504**, do pass. Report adopted.

3/29/2001

**MOTIONS**

**SB 507** - Senator Elliott moved that the Senate reconsider its action to indefinitely postpone **SB 507** on second reading the previous legislative day. Motion carried as follows:

Yeas: Bohlinger, Christiaens, Cole, Crismore, DePratu, Doherty, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Harrington, Jergeson, Kitzenberg, McCarthy, Pease, Roush, Ryan, Shea, Stonington, Tash, Tester, Toole, Waterman, Zook, Mr. President.  
Total 29

Nays: Berry, Bishop, Cobb, Ekegren, Hargrove, Holden, Johnson, Keenan, Mahlum, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Taylor, Thomas, Wells.  
Total 18

Absent or not voting: Cocchiarella.



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Total 1

Excused: Butcher, Nelson.

Total 2

**SB 507** - Senator Elliott moved that the rules of the Senate be suspended to allow **SB 507** to be placed on second and third reading this legislative day. Motion requiring 2/3 of the body, **failed** as follows:

Yeas: Bohlinger, Christiaens, Cole, Crismore, DePratu, Doherty, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Kitzenberg, McCarthy, Pease, Ryan, Shea, Stonington, Tash, Tester, Toole, Waterman, Zook, Mr. President.

Total 29

Nays: Berry, Bishop, Cobb, Ekegren, Holden, Johnson, Keenan, Mahlum, McNutt, Miller, Mohl, O'Neil, Roush, Sprague, Stapleton, Taylor, Thomas, Wells.

Total 18

Absent or not voting: Cocchiarella.

Total 1

Excused: Butcher, Nelson.

Total 2

**SB 507** - Senator Grosfield moved that **SB 507** be **indefinitely postponed**. Motion carried as follows:

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

Total 39

Nays: Doherty, Ellingson, Franklin, Harrington, Jergeson, McCarthy, Pease, Shea.

Total 8

Absent or not voting: Cocchiarella.

Total 1

Excused: Butcher, Nelson.

Total 2

**Senator Cocchiarella excused 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 213 failed** as follows:

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Yeas: Bishop, Bohlinger, Christiaens, Cocchiarella, DePratu, Doherty, Ekegren, Franklin, Glaser, Halligan, Harrington, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McNutt, Miller, Ryan, Shea, Stonington, Toole, Waterman, Mr. President.

Total 24

Nays: Berry, Butcher, Cobb, Cole, Crismore, Ellingson, Elliott, Ellis, Grimes, Grosfield, Hargrove, Holden, McCarthy, Mohl, O'Neil, Pease, Roush, Sprague, Stapleton, Tash, Taylor, Tester, Thomas, Wells, Zook.

Total 25

Paired: Cocchiarella, McNutt, Ayes; Butcher, Tester, Noes.

Absent or not voting: None.

Total 0

Excused: Nelson.

Total 1

**SB 439** passed as follows:

Yeas: Berry, Bohlinger, Christiaens, Cole, Crismore, Doherty, Ellingson, Ellis, Franklin, Glaser, Grosfield, Halligan, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, McCarthy, McNutt, Pease, Ryan, Shea, Stonington, Tash, Thomas, Toole, Waterman, Zook, Mr. President.

Total 30

Nays: Bishop, Cobb, DePratu, Ekegren, Elliott, Grimes, Hargrove, Mahlum, Miller, Mohl, O'Neil, Roush, Sprague, Stapleton, Taylor, Tester, Wells.

Total 17

Absent or not voting: None.

Total 0

Excused: Butcher, Cocchiarella, Nelson.

Total 3

**SB 493, requiring 2/3 of entire Legislature**, received the following vote:

Yeas: Berry, Bishop, Bohlinger, Christiaens, Cobb, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, 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

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Excused: Butcher, Cocchiarella, Nelson.  
Total 3

**SB 494** passed as follows:

Yeas: Berry, Bishop, Bohlinger, Christiaens, Cobb, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Zook, Mr. President.  
Total 46

Nays: Wells.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Butcher, Cocchiarella, Nelson.  
Total 3

**SB 495** passed as follows:

Yeas: Berry, Bohlinger, Christiaens, Cobb, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.  
Total 43

Nays: Bishop, Elliott, Johnson, Stonington.  
Total 4

Absent or not voting: None.  
Total 0

Excused: Butcher, Cocchiarella, Nelson.  
Total 3

**SB 501** passed as follows:

Yeas: Berry, Bishop, Bohlinger, Christiaens, Cobb, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, 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

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Absent or not voting: None.  
Total 0

Excused: Butcher, Cocchiarella, Nelson.  
Total 3

**SB 505** passed as follows:

Yeas: Berry, Bohlinger, Cobb, Cole, Crismore, DePratu, Ekegren, Elliott, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Roush, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.  
Total 30

Nays: Bishop, Christiaens, Doherty, Ellingson, Franklin, Halligan, Harrington, Jergeson, Johnson, O'Neil, Pease, Ryan, Shea, Stonington, Tester, Toole, Waterman.  
Total 17

Absent or not voting: None.  
Total 0

Excused: Butcher, Cocchiarella, Nelson.  
Total 3

**SB 506** passed as follows:

Yeas: Berry, Bohlinger, Christiaens, Cobb, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.  
Total 45

Nays: Bishop, O'Neil.  
Total 2

Absent or not voting: None.  
Total 0

Excused: Butcher, Cocchiarella, Nelson.  
Total 3

**SB 508** passed as follows:

Yeas: Berry, Bohlinger, Christiaens, Cobb, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harrington, Holden, Jergeson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Roush, Ryan, Shea, Sprague, Stapleton, Tash, Taylor, Tester, Thomas, Wells, Zook, Mr. President.  
Total 38

Nays: Bishop, Franklin, Halligan, Johnson, O'Neil, Pease, Stonington, Toole, Waterman.

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Total 9

Absent or not voting: None.

Total 0

Excused: Butcher, Cocchiarella, Nelson.

Total 3

**SB 509** passed as follows:

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

Total 42

Nays: Bishop, Miller, Mohl, O'Neil, Waterman.

Total 5

Absent or not voting: None.

Total 0

Excused: Butcher, Cocchiarella, Nelson.

Total 3

**SB 510** passed as follows:

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

Total 35

Nays: Christiaens, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, McCarthy, Ryan, Stonington, Toole, Waterman.

Total 12

Absent or not voting: None.

Total 0

Excused: Butcher, Cocchiarella, Nelson.

Total 3

**SB 511** passed as follows:

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

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Total 46

Nays: Bishop.

Total 1

Absent or not voting: None.

Total 0

Excused: Butcher, Cocchiarella, Nelson.

Total 3

**Senator Cocchiarella present at this time.**

**SB 512** passed as follows:

Yeas: Berry, Bohlinger, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Kitzenberg, Mahlum, McCarthy, McNutt, Roush, Ryan, Shea, Sprague, Stonington, Tash, Taylor, Tester, Toole, Waterman, Wells, Zook, Mr. President.

Total 38

Nays: Bishop, Grimes, Johnson, Keenan, Miller, Mohl, O'Neil, Pease, Stapleton, Thomas.

Total 10

Absent or not voting: None.

Total 0

Excused: Butcher, Nelson.

Total 2

**SB 513** passed as follows:

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

Total 39

Nays: Bishop, Johnson, Keenan, Miller, Mohl, O'Neil, Ryan, Stapleton, Wells.

Total 9

Absent or not voting: None.

Total 0

Excused: Butcher, Nelson.

Total 2

**SB 514** passed as follows:

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Yeas: Berry, Bishop, Bohlinger, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, 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: Butcher, Nelson.  
Total 2

**SB 519** passed as follows:

Yeas: Berry, Bishop, Bohlinger, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, 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: Butcher, Nelson.  
Total 2

**SB 520** passed as follows:

Yeas: Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Johnson, Kitzenberg, McCarthy, Miller, Mohl, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Thomas, Toole, Waterman, Wells, Zook.  
Total 41

Nays: Cobb, Holden, Keenan, Mahlum, McNutt, Tester, Mr. President.  
Total 7

Absent or not voting: None.  
Total 0

Excused: Butcher, Nelson.  
Total 2

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**SB 521** passed as follows:

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

Total 43

Nays: Elliott, Halligan, Harrington, Ryan, Toole.

Total 5

Absent or not voting: None.

Total 0

Excused: Butcher, Nelson.

Total 2

**HB 73, as amended by the Senate**, concurred in as follows:

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

Total 31

Nays: Christiaens, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Grimes, Halligan, Jergeson, McCarthy, Pease, Roush, Ryan, Shea, Stonington, Tash, Toole, Waterman.

Total 18

Paired: Butcher, Aye; Ellingson, No.

Absent or not voting: None.

Total 0

Excused: Nelson.

Total 1

**HB 403, as amended by the Senate**, concurred in as follows:

Yeas: Berry, Bohlinger, Christiaens, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Grosfield, Halligan, Hargrove, Harrington, Johnson, Kitzenberg, McNutt, Pease, Roush, Ryan, Shea, Sprague, Stonington, Tash, Thomas, Toole, Waterman, Wells, Zook.

Total 28

Nays: Bishop, Butcher, Cobb, Cocchiarella, Cole, Crismore, DePratu, Glaser, Grimes, Holden, Jergeson, Keenan, Mahlum, McCarthy, Miller, Mohl, O'Neil, Stapleton, Taylor, Tester, Mr. President.

Total 21



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Paired: Berry, Aye; Butcher, No.

Absent or not voting: None.

Total 0

Excused: Nelson.

Total 1

**HB 504** concurred in as follows:

Yeas: Berry, Bishop, Bohlinger, Christiaens, 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, Pease, Roush, Ryan, Shea, Sprague, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.

Total 45

Nays: Johnson, O'Neil, Stapleton.

Total 3

Absent or not voting: None.

Total 0

Excused: Butcher, Nelson.

Total 2

**MOTIONS**

**SB 439** - Senator Grimes moved that he be allowed to change his vote on **SB 439**, third reading this day, from yea to nay. Motion carried.

**SB 439** - Senator Sprague moved that he be allowed to change his vote on **SB 439**, third reading this day, from yea to nay. Motion carried.

**SB 439** - Senator Tester moved that he be allowed to change his vote on **SB 439**, third reading this day, from yea to nay. Motion carried.

**HB 73** - Senator Ryan moved that he be allowed to change his vote on **HB 73**, third reading this day, from yea to nay. Motion carried.

Majority Leader Thomas moved that the Senate stand in recess until the hour of 10:05 a.m. for purpose of party caucuses. Motion carried.

**Senate recessed at 9:38 a.m.**

**Senate reconvened at 10:05 a.m.**

Roll Call. All members present except Senators Butcher and Nelson, excused. Quorum present.

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**MOTIONS**

**HB 357** - Senator Thomas moved that the rules of the Senate be suspended to allow the late receipt of **HB 357** due to the absence of the sponsor, Representative Fuchs. Motion carried as follows:

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

Total 45

Nays: Bishop.

Total 1

Absent or not voting: Elliott, McCarthy.

Total 2

Excused: Butcher, Nelson.

Total 2

**SB 504** - Senator Thomas moved that the Senate Rules be suspended to allow consideration of **SB 504** to be placed on second and third reading this legislative day. Failing to receive 2/3 vote, the motion **failed** as follows:

Yeas: Bohlinger, Cocchiarella, Cole, Crismore, Ekegren, Franklin, Glaser, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Johnson, Keenan, Kitzenberg, Pease, Ryan, Shea, Sprague, Stonington, Tash, Thomas, Waterman, Zook.

Total 24

Nays: Berry, Bishop, Christiaens, Cobb, DePratu, Doherty, Ellingson, Ellis, Grimes, Holden, Mahlum, McNutt, Miller, Mohl, O'Neil, Roush, Stapleton, Taylor, Tester, Toole, Wells, Mr. President.

Total 22

Absent or not voting: Elliott.

Total 1

Excused: Butcher, McCarthy, Nelson.

Total 3

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

Session 1 -10:17 a.m.

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

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

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**HB 2** - Senator Keenan moved **HB 2** be concurred in. Senator Keenan gave a brief overview of HB 2 and the actions of the Finance committee and subcommittees. Senator Keenan thanked the Legislative Fiscal Analyst's staff and all staff members for their work on HB 2. He explained that the committee would start with Section E of HB 2.

Senator Jergeson spoke of the skillful leadership of Finance chairman Keenan and thanked the committee, the Legislative Fiscal Analysts's staff, the Senate staff and the Budget Office for their dedicated work on HB 2. Senator Jergeson spoke on HB 2 and the importance of the budget process.

**SECTION E - EDUCATION**

Senator Miller explained Section E of HB 2.

1. Senator Jergeson moved that Section E of HB 2 be amended as follows :

1. Page E-1.

**Following:** line 17

**Insert:** "e. School Improvement (Restricted)"

2. Page E-1, line 19.

**Strike:** "0 0" [General Fund FY02 and FY03]

**Insert:** "450,000 450,000" [General Fund FY02 and FY03]

Amendment **failed** as follows:

Yeas: Christiaens, Cobb, Cocchiarella, Doherty, Ellingson, Franklin, Halligan, Harrington, Jergeson, Kitzenberg, Mahlum, McCarthy, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.

Total 20

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

Total 26

Absent or not voting: Ekegren, Elliott.

Total 2

Excused: Butcher, Nelson.

Total 2

2. Senator Ryan moved that Section E of HB 2 be amended as follows:

1. Page E-1, following line 17.

**Insert:** "e. HB 140 -- Teacher Loan Program"

2. Page E-1, line 19.

**Strike:** "0 0" [General Fund FY02 and FY03]

**Insert:** "23,948 22,241" [General fund FY02 and FY03]"

3. Page E-2, following line 25.

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**Insert:** "1. HB 140 -- Teacher Loan Program"

**Renumber:** subsequent subsections

4. Page E-3, line 2.

**Strike:** "0 0" [General fund FY02 and FY03]

**Insert:** "330,000 660,000" [General fund FY02 and FY03]"

5. Page E-4, following line 10.

**Insert:** "Item 1e is contingent upon passage and approval of House Bill No. 140."

6. Page E-4, line 11.

**Strike:** "2M"

**Insert:** "2n"

**Strike:** "2P"

**Insert:** "2q"

7. Page E-4, following line 16.

**Insert:** "Item 2l is contingent upon passage and approval of House Bill No. 140."

For the Office of Public Instruction: Amendments 1 through 3 add administration dollars for the teacher loan program, total \$46,189 general fund for the biennium.

Amendments 4 through 6 add distribution dollars for the teacher loan program, total \$990,000 general fund for the biennium.

Amendment 7 relabels biennial appropriations.

Funding is contingent on passage and approval of HB140, which establishes a teacher loan forgiveness program.

Amendment **failed** as follows:

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

Total 19

Nays: Berry, Bishop, Cobb, Crismore, DePratu, Ekegren, Ellis, Grimes, Grosfield, Hargrove, Holden, Jergeson, Johnson, Keenan, Mahlum, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.

Total 26

Absent or not voting: Cole, Glaser, Wells.

Total 3

Excused: Butcher, Nelson.

Total 2

**3.** Senator Jergeson moved that Section E of HB 2 be amended as follows:

1. Page E-12, line 3.

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**Strike:** "2,500,000 5,000,000" [FY 02 & 03 General Fund]

**Insert:** "3,750,200 8,781,050" [FY 02 & 03 General Fund]

Amendment **failed** as follows:

Yeas: Bohlinger, Christiaens, Cobb, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, Kitzenberg, Mahlum, McCarthy, Pease, Roush, Ryan, Shea, Stapleton, Stonington, Tester, Toole, Waterman.  
Total 23

Nays: Berry, Bishop, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Johnson, Keenan, McNutt, Miller, Mohl, O'Neil, Sprague, Tash, Taylor, Thomas, Wells, Zook, Mr. President.  
Total 25

Absent or not voting: None.  
Total 0

Excused: Butcher, Nelson.  
Total 2

4. Senator Shea moved that Section E of HB 2 be amended as follows:

1. Page E-12.

**Following:** line 3

**Insert:** "c. Colleges of Technology Academic Program Development (Restricted/Biennial)  
400,000" [Fiscal 2002 General Fund]

**Renumber:** subsequent subsections

2. Page E-13.

**Following:** the second "through" on line 7

**Strike:** "7b"

**Insert:** "7c"

3. Page E-15.

**Following:** line 4

**Insert:** "Item 7c is intended by the legislature to be used for academic program development at the colleges of technology and community colleges. The board of regents shall establish priorities for how the appropriation will be used and allocate the appropriation accordingly."

4. Page E-16.

**Following:** "item" on line 9

**Strike:** "7c"

**Insert:** "7d"

5. Page E-16.

**Following:** "item" on line 10

**Strike:** "7d"

**Insert:** "7e"

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6. Page E-16.

**Following:** "item" on line 15

**Strike:** "7e"

**Insert:** "7f"

7. Page E-16.

**Following:** "item" on line 17

**Strike:** "7f"

**Insert:** "7g"

8. Page E-16.

**Following:** "item" on line 19

**Strike:** "7g"

**Insert:** "7h"

9. Page E-16.

**Following:** "item" on line 21

**Strike:** "7h"

**Insert:** "7i"

Amendment **failed** as follows:

Yeas: Bohlinger, Christiaens, Cocchiarella, Crismore, Doherty, Ellingson, Elliott, Franklin, Grimes, Halligan, Jergeson, Kitzenberg, Mahlum, McCarthy, Pease, Roush, Ryan, Shea, Stonington, Taylor, Tester, Toole, Waterman.  
Total 23

Nays: Berry, Bishop, Cobb, Cole, DePratu, Ekegren, Ellis, Glaser, Grosfield, Hargrove, Holden, Johnson, Keenan, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Thomas, Wells, Zook, Mr. President.  
Total 24

Absent or not voting: Harrington.

Total 1

Excused: Butcher, Nelson.

Total 2

5.Senator Cobb moved that Section E of HB 2 be amended as follows:

1. Page E-13, lines 22 and 23.

**Following:** "CONTRIBUTION." on line 22

**Strike:** remainder of line 22 through line 23 in their entirety

2. Page E-14, lines 13 and 14.

**Following:** "contribution." on line 13

**Strike:** remainder of line 13 through line 14 in their entirety

Amendment **failed** as follows:

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Yeas: Christiaens, Cobb, Cocchiarella, DePratu, Doherty, Ellingson, Elliott, Franklin, Halligan, Hargrove, Harrington, Jergeson, Kitzenberg, McCarthy, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.  
Total 22

Nays: Berry, Bishop, Bohlinger, Cole, Crismore, Ekegren, Ellis, Glaser, Grimes, Grosfield, Holden, Johnson, Keenan, Mahlum, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.  
Total 26

Absent or not voting: None.  
Total 0

Excused: Butcher, Nelson.  
Total 2

6. Senator Jergeson moved that Section E of HB 2 be amended as follows:

1. Page E-13, line 23.  
**Following:** "REVERT"  
**Strike:** "\$2,792"  
**Insert:** "\$1,396"

2. Page E-14, line 14.  
**Following:** "revert"  
**Strike:** "\$1,914"  
**Insert:** "\$957"

Amendment **failed** as follows:

Yeas: Christiaens, Cobb, DePratu, Ellingson, Elliott, Franklin, Halligan, Hargrove, Harrington, Jergeson, Kitzenberg, Mahlum, McCarthy, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.  
Total 21

Nays: Berry, Bishop, Bohlinger, Cole, Crismore, Doherty, Ekegren, Ellis, Glaser, Grimes, Grosfield, Holden, Johnson, Keenan, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.  
Total 26

Absent or not voting: Cocchiarella.  
Total 1

Excused: Butcher, Nelson.  
Total 2

Senator Keenan moved that Section E of HB 2 be closed. Motion carried.

Senator Thomas moved that the Senate stand in recess until the hour of 1:15 p.m. this day. Motion carried.

**Senate recessed at 12:36 p.m.**

**Senate reconvened at 1:20 p.m.**

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Roll Call. All members present except Senators Butcher and Nelson, excused. Quorum present.

**SECTION A - GENERAL GOVERNMENT AND TRANSPORTATION**

Senator Wells explained Section A of HB 2.

1. Senator Grimes moved that Section A of HB 2 be amended as follows:

1. Page A-1.

**Following:** line 8

**Insert:** "a. Senate Artwork Commission (Restricted/Biennial)  
40,000" [General Fund FY 02]

2. Page A-1.

**Following:** line 8

**Insert:** "b. Senate Artwork (Restricted/Biennial)  
300,000" [General Fund FY 02]

3. Page A-1.

**Following:** line 23

**Insert:** "Item 2a must be used to support a commission to determine the feasibility of and commission a work of art for the senate chambers. The commission must consist of the following members:

- (1) two members of the senate appointed by the senate president;
- (2) the director or the director's designee of the Montana historical society;
- (3) one member of the public appointed by the governor; and
- (4) a Montana artist designated by the commission.

A commission member appointed under subsection (1) is entitled to compensation and expenses provided in 5-2-302. A commission member designated under subsection (2) is not entitled to compensation for services as a member of the commission. A commission member appointed under subsections (3) and (4) is entitled to compensation not to exceed the daily allowance provided for in 5-2-301(3) for compensation of legislators for each day in which the member is actually and necessarily engaged in performing commission duties and to travel expense reimbursement as provided in 2-18-501 through 2-18-503.

Duties of the commission include the following:

- (1) production and dissemination of a project prospectus, including criteria for determining the artist and artwork subject matter;
- (2) feasibility and potential degree of private donations; and
- (3) potential for the purchase of appropriate preexisting artwork.

The commission shall present its recommendation to the capitol complex advisory council, established in 2-17-803, for review and recommendation to the 2003 legislature."

4. Page A-1.

**Following:** line 23

**Insert:** "Item 2b must be used to commission and make full payment for artwork for display in the senate chambers and for all installation and maintenance costs in the 2003 biennium."

Senator Grimes made a **substitute motion** that amendments **1 and 3** be **segregated**, and that amendments **2 and 4** be



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**withdrawn.**

**Amendments 1 and 3 failed** as follows:

Yeas: Bohlinger, Crismore, Doherty, Ellingson, Franklin, Grimes, Harrington, Mahlum, Taylor, Thomas, Waterman.  
Total 11

Nays: Berry, Bishop, Christiaens, Cobb, Cocchiarella, Cole, DePratu, Ekegren, Elliott, Ellis, Glaser, Grosfield, Halligan, Hargrove, Holden, Jergeson, Johnson, Keenan, Kitzenberg, McCarthy, McNutt, Miller, Mohl, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Tester, Toole, Wells, Zook, Mr. President.  
Total 37

Absent or not voting: None.  
Total 0

Excused: Butcher, Nelson.  
Total 2

2. Senator Beck moved that Section A of HB 2 be amended as follows:

1. Page A-2, line 11.

**Strike:** "2,860,201            2,875,865" [general fund FY02 and FY03]  
**Insert:** "2,988,928            3,004,593" [general fund FY02 and FY03]  
**Strike:** "183,725            183,725" [federal funds FY02 and FY03]  
**Insert:** "363,725            363,725" [federal funds FY02 and FY03]

2. Page A-2, line 16.

**Strike:** "82,182                            82,182" [general fund FY02 and FY03]  
**Insert:** "50,000    50,000" [general funds FY02 and FY03]  
**Strike:** "190,000" [federal funds FY02]  
**Insert:** "100,000" [federal funds FY02]

3. Page B-3, line 5.

**Strike:** "18,195,626            19,360,361" [general funds FY02 and FY03]  
**Insert:** "18,099,081            19,263,815" [general funds FY02 and FY03]  
**Strike:** "24,060,700            24,213,980" [federal funds FY02 and FY03]  
**Insert:** "23,925,700            24,078,980" [federal funds FY02 and FY03]

After discussion, Senator Waterman requested that the amendments be segregated.

Senator Beck moved that the committee vote on **Amendment 3** first. Motion carried.

**Amendment 3 failed** as follows:

Yeas: Bishop, Cobb, Cocchiarella, Ekegren, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Kitzenberg, Mahlum, McCarthy, McNutt, Mohl, O'Neil, Ryan, Shea, Sprague, Stapleton, Tash, Thomas, Zook, Mr. President.  
Total 24

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Nays: Berry, Bohlinger, Christiaens, Cole, Crismore, DePratu, Doherty, Ellingson, Elliott, Ellis, Franklin, Glaser, Jergeson, Johnson, Keenan, Miller, Pease, Roush, Stonington, Taylor, Tester, Toole, Waterman, Wells.  
Total 24

Absent or not voting: None.  
Total 0

Excused: Butcher, Nelson.  
Total 2

Senator Beck **withdrew the remaining amendments.**

3. Senator Jergeson moved that Section A of HB 2 be amended as follows:

1. Page A-4.

**Following:** line 11

**Insert:** "c. Energy Cost Contingency Account (Restricted/Biennial/OTO)  
5,687,697 [general fund FY02]  
1,745,436 [state special FY02]  
693,282" [federal special FY02]

2. Page A-5.

**Following:** line 10

**Insert:** "Item 4c is a contingency biennial account to be managed by the office of budget and program planning to respond to contingencies related to cost increases in electricity and natural gas expenditures by state government significantly above the amounts appropriated in [this act]. Requests for use of this account must be analyzed by the office of budget and program planning and approved by the governor. Distribution of this money to state agencies must be proportional to the overall needs of state agencies relative to the total funds available. Approved expenditures must be reported to the legislative finance committee."

Amendment **failed** as follows:

Yeas: Bohlinger, Christiaens, Cobb, Cocchiarella, Doherty, Ellingson, Franklin, Halligan, Harrington, Jergeson, Johnson, Kitzenberg, McCarthy, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.  
Total 21

Nays: Berry, Bishop, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Hargrove, Holden, Keenan, Mahlum, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.  
Total 25

Absent or not voting: Elliott, Grosfield.  
Total 2

Excused: Butcher, Nelson.  
Total 2

4. Senator Cobb moved that Section A of HB 2 be amended as follows:

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1. Page A-10, line 12.

**Strike:** "72,429,203 72,509,096" [General fund in FY02 & FY03]

**Insert:** "72,644,529 72,725,167" [General fund in FY02 & FY03]

2. Page A-11.

**Strike:** line 2 through line 4 in their entirety

Amendment **adopted** as follows:

Yeas: Berry, Bishop, Bohlinger, Christiaens, Cobb, Cocchiarella, Cole, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Johnson, Kitzenberg, Mahlum, McCarthy, McNutt, Mohl, O'Neil, Pease, Roush, Ryan, Shea, Stonington, Tash, Tester, Toole, Waterman, Zook, Mr. President.  
Total 37

Nays: Crismore, Glaser, Holden, Keenan, Miller, Sprague, Stapleton, Taylor, Thomas, Wells.  
Total 10

Absent or not voting: Grimes.  
Total 1

Excused: Butcher, Nelson.  
Total 2

Senator Keenan moved that Section A of HB 2 be closed. Motion carried.

**SECTION B - HEALTH AND HUMAN SERVICES**

Senator Cobb explained Section B of HB 2.

Senator Christiaens complimented Senator Cobb on his in-depth explanation of Section B.

**Senator Thomas excused at this time.**

1. Senator Ellingson moved that Section B of HB 2 be amended as follows:

1. Page B-1, line 5.

**Strike:** "135,636,532 138,709,228" [federal funds FY02 and FY03]

**Insert:** "135,562,099 138,496,958" [federal funds FY02 and FY03]

2. Page B-1, line 7.

**Strike:** "1,344,800" [federal funds FY02]

**Insert:** "1,312,497" [federal funds FY02]

3. Page B-1, line 9.

**Strike:** "2,014,950" [federal funds FY02]

**Insert:** "1,966,550" [federal funds FY02]

4. Page B-1, line 11.

**Strike:** "1,150,744 1,150,744" [federal funds FY02 and FY03]

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**Insert:** "1,123,102            1,064,997" [federal funds FY02 and FY03]

5. Page B-1, line 13.

**Strike:** "850,000" [federal funds FY02]

**Insert:** "829,582" [federal funds FY02]

6. Page B-1, line 15.

**Strike:** "1,000,000" [federal funds FY02]

**Insert:** "975,979" [federal funds FY02]

7. Page B-1, line 17.

**Strike:** "500,000" [federal funds FY02]

**Insert:** "487,990" [federal funds FY02]

8. Page B-1, line 19.

**Strike:** "1,104,155            1,104,155" [federal funds FY02 and FY03]

**Insert:** "1,077,633            1,021,879" [federal funds FY02 and FY03]

9. Page B-1, line 21.

**Strike:** "636,000" [federal funds FY02]

**Insert:** "620,723" [federal funds FY02]

10. Page B-1, line 23.

**Strike:** "600,000" [federal funds FY02]

**Insert:** "585,588" [federal funds FY02]

11. Page B-1, line 25.

**Strike:** "500,000" [federal funds FY02]

**Insert:** "487,990" [federal funds FY02]

12. Page B-2, line 2.

**Strike:** "400,000" [federal funds FY02]

**Insert:** "390,392" [federal funds FY02]

13. Page B-2, line 4.

**Strike:** "3,500,000" [federal funds FY02]

**Insert:** "3,415,928" [federal funds FY02]

14. Page B-2, line 6.

**Strike:** "800,000" [federal funds FY02]

**Insert:** "780,784" [federal funds FY02]

15. Page B-2, line 8.

**Strike:** "1,241,550            1,241,550" [federal funds FY02 and FY03]

**Insert:** "1,211,727            1,149,036" [federal funds FY02 and FY03]

16. Page B-2, line 10.

**Strike:** "1,036,000            282,627" [federal funds FY02 and FY03]

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**Insert:** "1,011,115            261,567" [federal funds FY02 and FY03]

17. Page B-2, line 12.

**Strike:** "180,000" [federal funds FY02]

**Insert:** "175,676" [federal funds FY02]

18. Page B-2, line 14.

**Strike:** "140,161            140,161" [federal funds FY02 and FY03]

**Insert:** "136,794            129,717" [federal funds FY02 and FY03]

19. Page B-2, line 17.

**Strike:** "2,500,000" [federal funds FY02]

**Insert:** "2,439,948" [federal funds FY02]

20. Page B-2, line 19.

**Strike:** "1,000,000            500,000" [federal funds FY02 and FY03]

**Insert:** "975,979            462,743" [federal funds FY02 and FY03]

21. Page B-2, line 24.

**Strike:** "500,000" [federal funds FY02]

**Insert:** "487,990" [federal funds FY02]

22. Page B-2, line 25.

**Strike:** "500,000" [federal funds FY03]

**Insert:** "462,742" [federal funds FY03]

23. Page B-3.

**Following:** line 2

**Insert:** "v. Earned Income Tax Credit 578,826 578,826" [federal funds FY02 and FY03]

24. Page B-7.

**Following:** line 15

**Insert:** "Funding in item 1v is contingent upon passage and approval of Senate Bill No. 220."

Amendment **adopted** as follows:

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

Total 40

Nays: Miller, Mohl, Taylor.

Total 3

Absent or not voting: Ellis, Sprague, Tester, Mr. President.

Total 4

Excused: Butcher, Nelson, Thomas.

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Total 3

2. Senator Cobb moved that Section B of HB 2 be further amended as follows:

1. Page B-1, line 9.

**Strike:** "2,014,950" [federal funds FY02]

**Insert:** "2,514,950" [federal funds FY02]

2. Page B-2, line 17.

**Strike:** "2,500,000" [federal funds FY02]

**Insert:** "2,000,000" [federal funds FY02]

3. Page B-7.

**Following:** line 10

**Insert:** "Funds in item 1b may be used to fund head start services for tribal members. Tribal members may not access services supported by funds in item 1r because funding for tribal head start projects has been included in item 1b."

Amendment **adopted** as follows:

Yeas: Christiaens, Cobb, Cole, Doherty, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Keenan, Kitzenberg, O'Neil, Pease, Roush, Ryan, Shea, Tash, Toole, Waterman.

Total 24

Nays: Berry, Bishop, Bohlinger, Crismore, Ekegren, Elliott, Holden, Johnson, Mahlum, McNutt, Miller, Mohl, Stapleton, Stonington, Taylor, Wells, Zook.

Total 17

Absent or not voting: Cocchiarella, DePratu, McCarthy, Sprague, Tester, Mr. President.

Total 6

Excused: Butcher, Nelson, Thomas.

Total 3

3. Senator Christiaens moved that Section B of HB 2 be further amended as follows:

1. Page B-3, line 5.

**Strike:** "18,195,626      19,360,361" [general fund FY02]

**Insert:** "18,304,012      19,583,636" [general fund FY02]

**Strike:** "24,060,700      24,213,980" [federal funds FY02]

**Insert:** "24,119,062      24,334,205" [federal funds FY02]

Amendment **failed** as follows:

Yeas: Bohlinger, Christiaens, Cobb, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, Kitzenberg, Mahlum, McCarthy, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.

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Total 21

Nays: Berry, Bishop, Cole, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Johnson, Keenan, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.

Total 25

Absent or not voting: Cocchiarella, Crismore.

Total 2

Excused: Butcher, Nelson.

Total 2

4. Senator Cobb moved that Section B of HB 2 be further amended as follows:

1. Page B-3.

**Following:** line 11

**Insert:** "d. In-Home Services (Restricted) 200,000 200,000" [general fund FY02 and FY03]

2. Page B-8.

**Following:** line 1

**Insert:** "Funds in item 2d may be used only to support the costs of in-home services for families in the child welfare system. The department estimates that 100 families or 200 children will be served with this funding and that 80% of the families served will not enter the foster care system. If the department achieves this goal, the estimated increase in the foster care caseload will decrease from 3% to 1%. Any savings realized because of a lower than anticipated caseload increase may be used by the department to expand the provision of in-home services or other services within the child welfare system."

Amendment **failed** as follows:

Yeas: Bohlinger, Christiaens, Cobb, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Grimes, Halligan, Jergeson, Kitzenberg, McCarthy, Pease, Roush, Ryan, Shea, Tester, Toole, Waterman.

Total 20

Nays: Berry, Bishop, DePratu, Ellis, Glaser, Grosfield, Hargrove, Holden, Johnson, Keenan, Mahlum, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.

Total 23

Absent or not voting: Cole, Crismore, Ekegren, Harrington, Stonington.

Total 5

Excused: Butcher, Nelson.

Total 2

5. Senator Cobb moved that Section B of HB 2 be further amended as follows:

1. Page B-3.

**Following:** line 11

**Insert:** "d. In-Home Services (Restricted) 100,000" [general fund FY02]

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2. Page B-8.

**Following:** line 1

**Insert:** "Funds in item 2d may be used only to support the costs of in-home services for families in the child welfare system. The department estimates that 25 families or 50 children will be served with this funding and that 80% of the families served will not enter the foster care system. If the department achieves this goal, the estimated increase in the foster care caseload will decrease from 3% to 2%. Any savings realized because of a lower than anticipated caseload increase may be used by the department to expand the provision of in-home services or other services within the child welfare system."

Amendment **adopted** as follows:

Yeas: Bohlinger, Christiaens, Cobb, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Grimes, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Kitzenberg, McCarthy, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.

Total 24

Nays: Berry, Bishop, Cole, Crismore, DePratu, Ellis, Glaser, Holden, Johnson, Keenan, Mahlum, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.

Total 23

Absent or not voting: Ekegren.

Total 1

Excused: Butcher, Nelson.

Total 2

6. Senator Ellingson moved that Section B of HB 2 be further amended as follows:

1. Page B-4, line 4.

**Strike:** "57,483,855                      61,672,929"[general fund FY02 and FY03]

**Insert:** "60,483,855                      64,672,929"[general fund FY02 and FY03]

Amendment **failed** as follows:

Yeas: Berry, Bohlinger, Christiaens, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, McCarthy, Pease, Roush, Ryan, Shea, Toole, Waterman.

Total 18

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

Total 30

Absent or not voting: None.

Total 0

Excused: Butcher, Nelson.

Total 2



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7. Senator Waterman moved that Section B of HB 2 be further amended as follows:

1. Page B-4, line 18.

**Strike:** "100,000" [state special revenue FY02/FY03]  
**Insert:** "100,000" [general fund FY02/FY03]

2. Page B-8.

**Following:** line 13

**Insert:** "Contingent on passage and approval of \_\_\_ Bill No. \_\_\_ [LC 1747], the general fund appropriation in item 5e is reduced by \$100,000 in general fund money in fiscal year 2002 and state special revenue is increased by an equal amount in fiscal 2003."

Amendment **failed** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Jergeson, Kitzenberg, McCarthy, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.

Total 19

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

Total 29

Absent or not voting: None.

Total 0

Excused: Butcher, Nelson.

Total 2

8. Senator Cobb moved that Section B of HB 2 be further amended as follows:

1. Page B-5, line 1.

**Strike:** "10,385,987      10,132,250" [general fund FY02 and FY03]  
**Insert:** "10,928,647      10,676,800" [general fund FY02 and FY03]

2. Page B-8, line 24 through Page B-9, line 1 .

**Strike:** Page B-8, line 24 through Page B-9, line 1

Amendment **failed** as follows:

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

Total 21

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

Total 27

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Absent or not voting: None.  
Total 0

Excused: Butcher, Nelson.  
Total 2

9. Senator Cobb moved that Section B of HB 2 be further amended as follows:

1. Page B-5, line 6.

**Strike:** "43,657,391" [general fund FY02]

**Insert:** "42,106,078" [general fund FY02]

**Strike:** "54,914,135" [federal funds FY02]

**Insert:** "53,417,647" [federal funds FY02]

2. Page B-5, line 7.

**Strike:** "44,665,024" [general fund FY03]

**Insert:** "42,219,724" [general fund FY03]

**Strike:** "56,086,810" [federal funds FY03]

**Insert:** "53,722,089" [federal funds FY03]

3. Page B-5.

**Following:** line 11

**Insert:** "c. Direct Care Worker Wage Parity (Restricted)

1,551,313        2,445,300" [general fund FY02 and FY03]

"1,496,488        2,364,721" [federal funds FY02 and FY03]

4. Page B-9, line 17.

**Following:** "Item"

**Strike:** "8"

**Insert:** "8c"

**Strike:** "\$3,098,317"

**Insert:** "\$3,996,613"

**Strike:** "\$2,997,541"

**Insert:** "\$3,861,209"

5. Page B-10, line 11.

**Following:** "in"

**Strike:** "item"

**Insert:** "items 8c and"

6. Page B-10, line 12.

**Following:** "in"

**Strike:** "item"

**Insert:** "items 8c and"

7. Page B-10, line 13.

**Following:** "in"

**Strike:** "item"



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Total 2

12. Senator Waterman moved that Section B of HB 2 be further amended as follows:

1. Page B-6.

**Following:** line 20

**Insert:** "The department shall provide the following information by program to the children, families, health, and human services interim committee and to the legislative finance committee by August 1, 2002:

(1) rates paid by each program for comparable services; and

(2) entry level and average hourly wage and benefit rates paid by community providers for direct care workers and group home employees.

The information must specify how the data was gathered and whether and how the department verified the data and must be presented to allow evaluation among comparable services and jobs."

Amendment **adopted** unanimously.

13. Senator Holden moved that Section B of HB 2 be further amended as follows:

1. Page B-10, line 3 through line 4.

**Following:** "only." on line 3

**Strike:** remainder of line 3 through "settings." on line 4

Amendment **adopted** unanimously.

Senator Keenan moved that Section B of HB 2 be closed. Motion carried unanimously.

Senator Thomas moved the committee rise and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Beck in the chair. Chairman Halligan moved the Committee of the Whole report be adopted. Report adopted unanimously.

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL** (Miller, Chairman):

3/29/2001

Correctly printed: SB 493, SB 494, SB 495, SB 501, SB 504, SB 505, SB 506, SB 508, SB 509, SB 514, SB 520, SB 521, HB 7, HB 9, HB 10, HB 12, HB 30, HB 38, HB 468.

Correctly engrossed: SB 213, SB 439, SB 510, SB 511, SB 512, SB 513, SB 519, HB 66, HB 144, HB 165, HB 320, HB 345, HB 382, HB 409, HB 589, HB 596, HB 637, HJR 19, HJR 27.

Correctly enrolled: SB 117, SB 144, SB 207, SB 290, SB 321, SB 361, SB 482.

Examined by the sponsor and found to be correct: SB 207.

Signed by the President at 10:14 p.m., March 29, 2001: SB 207.

Signed by the Speaker at 10:16 p.m., March 29, 2001: SB 207.

Signed by the Secretary of Senate at 10:20 a.m., March 29, 2001: SB 207.

Delivered to the Governor for approval at 10:25 a.m., March 29, 2001: SB 207.

**BUSINESS AND LABOR** (Taylor, Chairman):

3/29/2001

**HB 596**, be amended as follows:

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1. Page 1, lines 23 and 24.

**Strike:** "OR" on line 23 through "COURSE" on line 24

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

**JUDICIARY** (Grosfield, Chairman):  
**HB 313**, be amended as follows:

3/29/2001

1. Title, line 10 through line 11.

**Following:** "HOMICIDE;" on line 10

**Strike:** remainder of line 10 through "MINOR;" on line 11

2. Page 2, line 24.

**Following:** "counseling and"

**Strike:** "facilitator"

**Insert:** "other"

3. Page 2, line 25 through line 26.

**Following:** "counseling" on line 25

**Strike:** remainder of line 25 through "counselor services," on line 26

4. Page 2, line 26.

**Following:** "certified"

**Strike:** "facilitator"

**Insert:** "other"

5. Page 2, line 30.

**Following:** "certified"

**Strike:** "domestic violence"

6. Page 5, line 5.

**Following:** "certified"

**Strike:** "domestic violence"

7. Page 5, line 5 through line 6.

**Following:** "counselors" on line 5

**Strike:** remainder of line 5 through "facilitators" on line 6

8. Page 7, line 5.

**Following:** the first "certified"

**Strike:** "domestic violence"

**Following:** "counselor"

**Strike:** "or"

**Following:** the second "certified"

**Strike:** "facilitator"

9. Page 7, line 6.

**Following:** the first "certified"

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**Strike:** "domestic violence"  
**Following:** "counselor"  
**Strike:** "or"  
**Following:** the second "certified"  
**Strike:** "facilitator"

10. Page 7, line 12.  
**Following:** the first "certified"  
**Strike:** "domestic violence"  
**Following:** "counselor"  
**Strike:** "or"  
**Following:** the second "certified"  
**Strike:** "facilitator"

11. Page 7, line 14.  
**Following:** the first "certified"  
**Strike:** "domestic violence"  
**Following:** "counselor"  
**Strike:** "or"  
**Following:** the second "certified"  
**Strike:** "facilitator"

12. Page 10, line 25 through line 26.  
**Strike:** subsection (v) in its entirety

13. Page 11, line 18.  
**Following:** "25"  
**Strike:** "40"  
**Insert:** "25"

14. Page 11, line 30.  
**Following:** "25"  
**Strike:** "40"  
**Insert:** "25"

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

**LEGISLATIVE ADMINISTRATION** (Grimes, Chairman):  
**HB 144**, be amended as follows:

3/28/2001

1. Page 6, line 21.  
**Strike:** "\$260,000"  
**Insert:** "up to \$1.3 million"

2. Page 6, line 22.  
**Following:** "SEEK"  
**Insert:** "and expend"

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

**LOCAL GOVERNMENT** (Mahlum, Chairman):  
**HB 345**, be amended as follows:

3/29/2001

1. Title, line 6.

**Following:** line 5

**Insert:** "REVISING THE BASE SALARY FOR COUNTY ATTORNEYS;"

2. Title, line 9.

**Following:** "RECOMMENDATION;"

**Insert:** "CLARIFYING THAT THE DEPARTMENT OF JUSTICE IS NOT OBLIGATED TO PROVIDE MORE THAN THE AMOUNT APPROPRIATED TO IT FOR THE STATE'S SHARE OF COUNTY ATTORNEY SALARIES;"

3. Page 3, line 27.

**Following:** "base"

**Insert:** "base"

4. Page 3, line 28.

**Strike:** "60% of the annual salary of a full-time county attorney"

**Insert:** "the salary received for the fiscal year ending June 30, 2001"

5. Page 5, line 14.

**Following:** "officials"

**Insert:** ", including the county attorney,"

6. Page 6, lines 24 and 25.

**Following:** "annual" on line 24

**Insert:** "base"

**Following:** "equal to" on line 24

**Strike:** remainder of line 24 through "attorney" on line 25

**Insert:** "the salary received for the fiscal year ending June 30, 2001"

7. Page 8, line 10.

**Following:** "officials"

**Insert:** ", including the county attorney,"

8. Page 9, lines 26 and 27.

**Following:** "7-4-2503" on line 26

**Strike:** remainder of line 26 through "30,000" on line 27

9. Page 13.

**Following:** line 22

**Insert:** "NEW SECTION. Section 9. Limit on state share of county attorney salary. As provided in 7-4-2502(2)(a), the department of justice is not obligated to provide more than one-half of the salary of a county attorney based on the amount included in the department's budget and appropriated for that purpose."

**Renumber:** subsequent section

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

**HB 382**, be amended as follows:

1. Page 2, line 14 through line 15.

**Strike:** "CONTROLS" on line 14 through "AS" on line 15

**Insert:** "applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is"

2. Page 2, line 16.

**Following:** "25."

**Insert:** "This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction."

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

**HB 409**, be amended as follows:

1. Title, line 4.

**Following:** "EXEMPTING"

**Insert:** "INCREASES IN"

2. Title, line 6.

**Following:** "LIMITATION;"

**Insert:** "REQUIRING THAT A PUBLIC HEARING BE HELD PRIOR TO IMPLEMENTING A LEVY;"

3. Page 1, line 17.

**Following:** "(2)"

**Insert:** "(a)"

**Strike:** "A"

**Insert:** "The increase in a"

4. Page 1, line 18.

**Following:** "2-18-703"

**Insert:** "beyond the amount of contributions in effect on July 1, 1999,"

5. Page 1.

**Following:** line 19

**Insert:** "(b) Prior to implementing a levy under subsection (2)(a), a public hearing must be held regarding any proposed increases."

6. Page 2, line 9.

**Strike:** "A"

**Insert:** "Subject to the public hearing requirement provided in 2-9-212(2)(b), the increase in a"

7. Page 2, line 10.

**Following:** "benefits"



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**Insert:** "beyond the amount of contributions in effect on July 1, 1999,"

8. Page 3, line 14.

**Following:** "(b)"

**Insert:** "the portion of"

**Following:** "benefits"

**Insert:** "excluded"

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

**HB 589**, be amended as follows:

1. Page 1, line 14.

**Following:** "regulations"

**Insert:** "where local zoning regulations are in effect"

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

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

3/28/2001

**HB 320**, be amended as follows:

1. Page 1, line 13.

**Strike:** "This" through "protect"

**Insert:** "The purpose of this section is to advance the legitimate state interest in the protection of"

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

**HB 340**, be amended as follows:

1. Title, line 5 through line 6.

**Strike:** "FOR" on line 5 through "WATER" on line 6

**Insert:** "OR ESTABLISH A LANDOWNER'S WATER USE AGREEMENT"

2. Title, line 9.

**Following:** "DENSITY,"

**Insert:** "REQUIRING THE SUBDIVIDER TO SHOW UTILITY EASEMENTS OF SUFFICIENT WIDTH TO PROVIDE UTILITY SERVICES ON THE FINAL PLAT;"

3. Page 2, line 15.

**Following:** "surface"

**Insert:** "or a portion of the"

4. Page 2, line 22.

**Strike:** "all"

**Insert:** "any remaining"

**Following:** "rights"

**Insert:** "that are not reserved under subsection (9)(a)"

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5. Page 2, line 28.

**Strike:** "at" through "side of"

**Insert:** "a sufficient distance from"

**Following:** "ditch"

**Insert:** "to allow for construction, repair, maintenance, and inspection of the ditch"

6. Page 3, lines 17 and 18.

**Strike:** "ESTABLISH, FILE, AND RECORD"

**Insert:** "describe, dimension, and show"

**Strike:** "THAT" on line 17 through "AND" on line 18

**Insert:** "on the final plat in their true and correct location. The utility easements must be of"

7. Page 3, line 19.

**Strike:** "PROVISIONS"

**Insert:** "provision"

8. Page 3, line 20 through line 21.

**Following:** " \_"

**Strike:** "THE" on line 20 through "PLAT." on line 21

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

**HB 495**, be amended as follows:

1. Title, line 11.

**Following:** "DATE"

**Insert:** ", "

**Strike:** "AND A"

2. Title, line 12.

**Strike:** "RETROACTIVE"

**Strike:** "DATE"

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

3. Page 4, line 19 through line 21.

**Strike:** "THE" on line 19 through "PERMIT." on line 21

4. Page 4, line 23 through line 26.

**Strike:** "AFTER" on page 4, line 23 through "PLAN." on line 26

5. Page 5, line 6.

**Strike:** "DETERMINES"

**Insert:** "can show"

6. Page 5, line 18.

**Strike:** "HAS DETERMINED"

**Insert:** "can show"

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7. Page 5, line 22.

**Following:** "¿"

**Insert:** "or"

8. Page 5, line 23 through line 24.

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

**Renumber:** subsequent subsection

9. Page 5.

**Following:** line 28

**Insert:** "(9) This section does not apply to the revocation or transfer of an operating permit that authorizes mine operations on federal lands."

10. Page 6.

**Following:** line 10

**Insert:** "NEW SECTION. Section 5. Termination--contingent termination. (1) Except as provided in subsection (2), [this act] terminates October 1, 2005.

(2) If the office of surface mining of the United States department of the interior disapproves the changes to Montana's program that are provided in [this act], then [this act] terminates 60 days after the department of environmental quality receives notification of that disapproval. The department of environmental quality shall provide a copy of the document that disapproves the changes to Montana's program to the Montana code commissioner."

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

**HB 572**, be amended as follows:

1. Title, line 4.

**Following:** "ACCOUNT;"

**Insert:** "CLARIFYING THE DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION TAXES;"

2. Title, line 5.

**Strike:** "RESOURCE INDEMNITY AND GROUND WATER ASSESSMENT TAX"

**Insert:** "OIL AND NATURAL GAS PRODUCTION TAX"

3. Title, line 6.

**Following:** the first "THE"

**Insert:** "COAL BED METHANE PROTECTION"

4. Title, line 15.

**Strike:** "15-38-106"

**Insert:** "15-36-324"

5. Page 2, line 28.

**Following:** "account"

**Insert:** "a total of"

6. Page 2, line 29.

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**Following:** "the "

**Strike:** remainder of line 29

**Insert:** "distribution of oil and natural gas production taxes, as provided in 15-36-324."

7. Page 4, line 24 through page 6, line 12.

**Strike:** section 6 in its entirety

**Insert:** "**Section 6.** Section 15-36-324, MCA, is amended to read:

**"15-36-324. Distribution of taxes -- rules.** (1) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalty collected under this part. For purposes of distribution of the taxes to county and school taxing units, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) Except as provided in subsections (3) through (5), oil production taxes must be distributed as follows:

(a) The amount equal to 39.3% of the oil production taxes, including late payment interest and penalty, collected under this part must be distributed as provided in subsection (9).

(b) The remaining 60.7% of the oil production taxes, plus accumulated interest earned on the amount allocated under this subsection (2)(b), must be deposited in the state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

(3) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on qualifying production occurring during the first 12 months of production must be distributed as provided in subsection (10).

(4) (a) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on production from horizontally completed wells occurring during the first 18 months of production must be distributed as provided in subsection (10).

(b) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on the incremental production from horizontally recompleted wells occurring during the first 18 months of production must be distributed as provided in subsection (9).

(5) (a) The amount equal to 13.8% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on the first 10 barrels of stripper oil production wells must be distributed as provided in subsection (10).

(b) The remaining 86.2% of the oil production taxes, plus accumulated interest earned on the amount allocated under this subsection (5)(b), must be deposited in the state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

(c) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on stripper well exemption production from pre-1985 wells and post-1985 wells must be distributed as provided in subsection (10).

(6) Except as provided in subsections (7) and (8), natural gas production taxes must be allocated as follows:

(a) The amount equal to 14% of the natural gas production taxes, including late payment interest and penalty, collected under this part must be distributed as provided in subsection (11).

(b) The remaining 86% of the natural gas production taxes, plus accumulated interest earned on the amount allocated under this subsection (6)(b), must be deposited in the state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

(7) The amount equal to 100% of the natural gas production taxes, including late payment interest and penalty, collected from working interest owners under this part on production from wells occurring during the first 12 months of production must be distributed as provided in subsection (10).

(8) The amount equal to 100% of natural gas production taxes, including late payment interest and penalty, collected from working interest owners on production from horizontally completed wells occurring during the first 18 months of production must be distributed as provided in subsection (10).

(9) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of oil

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production taxes specified in subsections (2)(a) and (4)(b), including late payment interest and penalty collected, as follows:

- (a) 86.21% to the state general fund;
- (b) 5.17% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(c) 8.62% to be distributed as ~~provided in 15-38-106(2)~~ follows:

(i) a total of \$400,000, including the proceeds from subsections (10)(b)(i) and (11)(c)(i), to the coal bed methane protection account established in [section 4];

(ii) 50% of the remaining proceeds to the reclamation and development grants special revenue account established in 90-2-1104; and

(iii) 50% of the remaining proceeds to the orphan share account established in 75-10-743.

(10) The department shall distribute the state portion of oil and natural gas production taxes specified in subsections (3), (4)(a), (5)(a), (5)(c), (7), and (8), including late payment interest and penalty collected, as follows:

- (a) 37.5% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(b) 62.5% to be distributed as ~~provided in 15-38-106(2)~~ follows:

(i) a total of \$400,000, including the proceeds from subsections (9)(c)(i) and (11)(c)(i), to the coal bed methane protection account established in [section 4];

(ii) 50% of the remaining proceeds to the reclamation and development grants special revenue account established in 90-2-1104; and

(iii) 50% of the remaining proceeds to the orphan share account established in 75-10-743.

(11) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of natural gas production taxes specified in subsection (6)(a), including late payment interest and penalty collected, as follows:

- (a) 76.8% to the state general fund;
- (b) 8.7% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(c) 14.5% to be distributed as ~~provided in 15-38-106(2)~~ follows:

(i) a total of \$400,000, including the proceeds from subsections (9)(c)(i) and (10)(b)(i), to the coal bed methane protection account established in [section 4];

(ii) 50% of the remaining proceeds to the reclamation and development grants special revenue account established in 90-2-1104; and

(iii) 50% of the remaining proceeds to the orphan share account established in 75-10-743.

(12) (a) By the dates referred to in subsection (13), the department shall, except as provided in subsection (12)(b), calculate and distribute oil and natural gas production taxes received under subsections (2)(b), (5)(b), and (6)(b) to each eligible county in proportion to the oil and natural gas production taxes received under subsections (2)(b), (5)(b), and (6)(b) that are attributable to production in that county.

(b) The department shall distribute 5% of the oil and natural gas production taxes received under subsections (2)(b), (5)(b), and (6)(b) from pre-1999 wells to eligible counties in proportion to the underfunding that would have occurred from the tax liability distribution of pre-1985 oil and natural gas production taxes for production in calendar year 1997.

(c) Except as provided in subsection (12)(d), the county treasurer shall distribute the money received under subsection (12)(b) to the taxing units that levied mills in fiscal year 1990 against calendar year 1988 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in the taxing unit, except that a distribution may not be made to a municipal taxing unit.

(d) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of oil and natural gas production tax money that would have gone to a taxing unit, as provided in subsection (12)(c), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

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(i) The county treasurer shall first allocate the oil and natural gas production taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(ii) If the allocation in subsection (12)(d)(i) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

(e) The board of trustees of an elementary or high school district may reallocate the oil and natural gas production taxes distributed to the district by the county treasurer under the following conditions:

(i) The district shall first allocate the oil and natural gas production taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(ii) If the allocation under subsection (12)(e)(i) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(f) The county treasurer shall distribute oil and natural gas production taxes received under subsection (12)(a) between county and school taxing units in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the preceding fiscal year.

(g) The allocation to the county in subsection (12)(f) must be distributed by the county treasurer in the relative proportions required by the levies for county taxing units and in the same manner as property taxes were distributed in the preceding fiscal year.

(h) The money distributed in subsection (12)(f) that is required for the county mill levies for school district retirement obligations and transportation schedules must be deposited to the funds established for these purposes.

(i) The oil and natural gas production taxes distributed under subsection (12)(c) that are required for the 6-mill university levy imposed under 20-25-423 and for the county equalization levies imposed under 20-9-331 and 20-9-333, as those sections read on July 1, 1989, must be remitted by the county treasurer to the state treasurer.

(j) The oil and natural gas production taxes distributed under subsection (12)(f) that are required for the 6-mill university levy imposed under 20-25-423, for the county equalization levies imposed under 20-9-331 and 20-9-333, and for the state equalization aid levy imposed under 20-9-360 must be remitted by the county treasurer to the state treasurer.

(k) The amount of oil and natural gas production taxes remaining after the treasurer has remitted the amounts determined in subsections (12)(i) and (12)(j) is for the exclusive use and benefit of the county and school taxing units.

(13) The department shall remit the amounts to be distributed in subsection (12) to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous calendar year.

(14) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes and for county bonding purposes.

(15) (a) In the event that the board of oil and gas conservation revises the privilege and license tax pursuant to 82-11-131, the department shall, by rule, change the formula under this section for distribution of taxes collected under 15-36-304. The revised formula must provide for the distribution of taxes in an amount equal to the rate adopted by the board of oil and gas conservation for the expenses of the board.

(b) Before the department adopts a rule pursuant to subsection (15)(a), it shall present the proposed rule to the appropriate administrative rule review committee.

(16) The distribution to taxing units under this section is statutorily appropriated as provided in 17-7-502."

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**Following:** line 16

**Insert:** "NEW SECTION. Section 8. Coordination instruction. If House Bill No. 642 and [this act] are both passed and approved, and both amend 15-36-324(9) through (11), then those amendments in House Bill No. 642 are void."

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

**HB 573**, be amended as follows:

1. Title, line 6.

**Strike:** "DELAYED"

**Insert:** "CONTINGENT"

2. Page 2, line 16.

**Following:** "area"

**Insert:** ", "

**Following:** "82-2-206"

**Insert:** ", that requires mitigation of adverse effects to a water right or permit held by another appropriation under Title 85, chapter 2. Ground water withdrawn in association with coal bed methane production is not a waste of water under Title 85"

3. Page 2, line 18.

**Following:** "~~priority:~~"

**Insert:** "in any of the following ways:"

4. Page 2, line 19.

**Following:** "~~(a)~~"

**Insert:** "(a)"

5. Page 2, line 20.

**Strike:** "   "

**Insert:** ", "

6. Page 2, line 21 through line 23.

**Strike:** line 21 through line 23 in their entirety

7. Page 2, line 24.

**Strike:** "(A)"

**Insert:** "(b)"

8. Page 2, line 26.

**Strike:** "(B)"

**Insert:** "(c)"

9. Page 2, line 28.

**Strike:** "(C)"

**Insert:** "(d)"

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10. Page 3, lines 8 and 9.

**Strike:** "Effective" on line 8

**Insert:** "Contingent effective"

**Strike:** "JUNE" on line 8 through "2002" on line 9

**Insert:** "when the director of the department of environmental quality and the administrator or the presiding officer of the board of oil and gas conservation certify to the governor that a final environmental impact statement on coal bed methane development has been prepared and a record of decision has been signed. The director of the department of environmental quality and the administrator or the presiding officer of the board of oil and gas conservation shall provide a copy of the certification to the Montana code commissioner"

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

**HB 605**, be amended as follows:

1. Title, page 1, line 6.

**Strike:** "RULES OR REQUIREMENTS"

**Insert:** "RULES, ORDINANCES, OR LOCAL LAWS"

2. Title, page 1, line 8.

**Strike:** "RULES OR REGULATIONS"

**Insert:** "RULES, ORDINANCES, OR LOCAL LAWS"

3. Title, line 11 through line 12.

**Strike:** the second "PROCEDURES" on line 11 through "ACT" on line 12

4. Title, page 1, line 14.

**Strike:** "AND"

5. Title, page 1, line 15.

**Following:** "MCA"

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

6. Page 2, line 23.

**Strike:** "is needed to protect"

**Insert:** "protects"

7. Page 2, line 25.

**Strike:** "reasonable and economically"

8. Page 4, line 19.

**Strike:** "is" through "protect"

**Insert:** "protects"

9. Page 4, line 21.

**Strike:** "reasonable" through "economically"

10. Page 6, line 16 through line 17.

**Strike:** "be" on line 16 through "Act." on line 17



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**Insert:** "comply with the following requirements:

(a) The local air pollution control program shall create and maintain a list of interested persons who wish to be informed of actions related to ordinances or local laws adopted by the local air pollution control program.

(b) At least 30 days prior to the adoption, revision, or repeal of an ordinance or law, the local air pollution control program shall give written notice of its intended action.

(c) The notice required under subsection (13)(b) must include:

(i) a statement of the terms or substance of the intended action or a description of the subjects and issues affected by the intended action;

(ii) an explanation of the procedure for a person to be included on the list of interested persons established pursuant to subsection (13)(a);

(iii) an explanation of the procedures and deadlines for presentation of oral or written comments related to the intended action;

(iv) an explanation of the process for requesting a public hearing as provided in subsection (13)(e); and

(v) the rationale for the intended action. The rationale must be written in plain, easily understood language.

(d) The local air pollution control program shall mail a copy of the proposed ordinance or local law to all interested persons on the list established pursuant to subsection (13)(a) who have made timely requests to be included on the list.

(e) If at least 25 of the persons who will be directly affected by the proposed ordinance or local law request a public hearing, the local air pollution control program shall hold a hearing to hear comments from the public on the intended action.

(f) The local air pollution control program shall prepare a written response to all comments submitted in writing or presented at the public hearing for consideration prior to adoption, revision, or repeal of the proposed ordinance or local law.

(g) A person who submits a written comment on a proposed action or who attends a public hearing in regard to a proposed action must be informed of the final action."

11. Page 6.

**Following:** line 17

**Insert:** "NEW SECTION. **Section 3. Effective date.** [This act] is effective May 1, 2003."

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

**HB 626**, be concurred in. Report adopted.

**HJR 19**, be amended as follows:

1. Title, line 6.

**Strike:** "SUPPORTING" through "REMEDY"

**Insert:** "URGING CONGRESS AND THE PRESIDENT"

2. Page 1, line 9 through line 10.

**Following:** "the"

**Insert:** "wise multiple use of national forests and public lands is necessary for the"

**Following:** "stability"

**Insert:** "and growth"

**Following:** "in"

**Insert:** "Montana and in other"

**Strike:** "depends" on line 9 through "lands" on line 10

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3. Page 1, line 11.

**Strike:** "40 million"

**Insert:** "under the federal Roadless Area Conservation Rule adopted by the United States Department of Agriculture, the use of millions of"

4. Page 1, line 12 through line 13.

**Strike:** "and" on line 12 through "wilderness" on line 13

**Insert:** "will be severely limited"

5. Page 1.

**Following:** line 13

**Insert:** "WHEREAS, under the National Forest System Road Management Rule and the National Forest System Land Resource Management Planning Rule, the use of national forest lands will be severely limited; and WHEREAS, these rules effectively make lands unavailable for wise multiple use; and"

6. Page 1, line 14.

**Strike:** "39 million"

**Insert:** "tens of millions of"

7. Page 1, line 15.

**Following:** "system"

**Insert:** ", including land in Montana and other western states,"

**Following:** "wildfire"

**Strike:** ", " through "acres"

**Insert:** "or"

8. Page 1.

**Following:** line 16

**Insert:** "WHEREAS, these rules limit the ability of the United States Forest Service to address these problems; and"

9. Page 1, line 17.

**Following:** "WHEREAS,"

**Insert:** "while"

10. Page 1, line 18.

**Following:** "~~office~~"

**Insert:** ", these rules and executive actions pursuant to these rules will make lands essentially de facto wilderness"

11. Page 1, line 19 through line 20.

**Strike:** "this" through "ignores"

**Insert:** "these rules significantly restrict the use of national forest lands for"

**Following:** "created"

**Strike:** ", " on line 19 through "regarding" on line 20

**Insert:** "; and

WHEREAS, these rules severely limit"

12. Page 1, line 21.

**Following:** "to"

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**Insert:** "the affected"  
**Following:** "lands"  
**Insert:** "in Montana and other western states"

13. Page 1, line 26.  
**Strike:** "support"  
**Insert:** "supports"  
**Following:** "use"  
**Insert:** ", including responsible economic uses,"

14. Page 1, line 28 through line 29.  
**Strike:** "57th"  
**Insert:** "Montana"  
**Strike:** "support" on line 28 through "remedies" on line 29  
**Insert:** "urges Congress and the President"  
**Strike:** "this" through "powers" on line 29  
**Insert:** "the federal "roadless initiative", especially with respect to the public lands of Montana"

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

**HJR 27**, be amended as follows:

1. Page 2, line 2 through line 5.  
**Strike:** line 2 through line 5 in their entirety  
**Renumber:** subsequent subsections

2. Page 2, line 6.  
**Following:** "That"  
**Strike:** "the" through "that"

3. Page 2, line 7.  
**Following:** "Conservation"  
**Insert:** "be requested to"  
**Strike:** "written and oral"

4. Page 2, lines 9 and 10.  
**Strike:** "The" on line 9 through "interim." on line 10

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

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

**Session 2**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second

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reading. Motion carried. Senator Halligan in the chair.

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

**HB 2 -**

**SECTION C - NATURAL RESOURCES AND COMMERCE**

Senator Crismore explained Section C of HB 2.

1. Senator Taylor moved that Section C of HB 2 be amended as follows:

1. Page C-2, line 1.

**Strike:** "101,341 101,337" [general fund fy02 and fy03]

**Insert:** "0 0" [general fund fy02 and fy03]

**Strike:** "5,881,819 5,956,481" [state special fy02 and fy03]

**Insert:** "5,983,160 6,057,818" [state special fy02 and fy03]

2. Page C-18, following line 2.

**Insert:** "d. Weed Control Program (Restricted) 101,341 101,337" [general fund fy02 and fy03]

3. Page C-18, following line 24.

**Insert:** "The funds in item 2d are to be granted to governmental entities through an application process, to mitigate the impact of noxious weeds on private and state lands, except department of fish, wildlife, and parks lands, as a result of the activities of the department of fish, wildlife, and parks."

Amendment **adopted** unanimously.

2. Senator Grimes moved that Section C of HB 2 be further amended as follows:

1. Page C-6, line 17.

**Strike:** "150,000" [general fund FY02]

**Insert:** "100,000" [general fund FY02]

2. Page C-9.

**Following:** line 4

**Insert:** "n. Yellowstone National Park Winter Use Study (Restricted/Biennial/OTO)  
50,000" [general fund FY02]

3. Page C-10.

**Following:** line 2

**Insert:** "Item 5n includes a restricted, biennial, one-time-only appropriation of general fund money to conduct a study of the national park service final environmental impact statement (FEIS) on winter use plans in Yellowstone national park. It is the intent of the legislature that the department of environmental quality conduct a study of the FEIS. As a result of the study, the department shall produce an analytical report that will contain a

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description of any deficiencies, conclusions, recommendations, and alternatives regarding over-snow motorized recreation in Yellowstone national park. Upon completion, the department shall present its findings to the environmental quality council. After the presentation, copies of the report must be furnished to the governor and to the president of the United States."

Senator Jergeson requested that amendments **2 and 3 be segregated** from number 1. Chairman Halligan stated that the amendments were segregated.

Amendment **Nos. 2 and 3 failed** as follows:

Yeas: Berry, Cobb, Cole, Crismore, DePratu, Ellis, Grimes, Grosfield, Hargrove, Shea, Stapleton, Tash, Wells.  
Total 13

Nays: Bishop, Bohlinger, Christiaens, Cocchiarella, Doherty, Ekegren, Ellingson, Franklin, Glaser, Halligan, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, O'Neil, Pease, Roush, Ryan, Sprague, Stonington, Taylor, Tester, Thomas, Toole, Waterman, Zook.  
Total 33

Absent or not voting: Elliott, Mr. President.  
Total 2

Excused: Butcher, Nelson.  
Total 2

Senator Grimes **withdrew amendment No. 1.**

**Senator Nelson present at this time.**

**3.** Senator Hargrove moved that Section C of HB 2 be further amended as follows:

1. Page C-13.

**Following:** line 4

**Insert:** "a. Agriculture Heritage (Biennial/OTO)"

**Renumber:** subsequent subsections

2. Page C-13, line 5.

**Strike:** "0 0" [general fund FY02 and FY03]

**Insert:** "905,000 95,000" [general fund FY02 and FY03]

3. Page C-16.

**Following:** line 21

**Insert:** "During the 2003 biennium, up to \$1 million in federal special revenue is appropriated to the department for the agriculture heritage program, contingent upon receipt of federal funds for this purpose. This appropriation is restricted for use in the agriculture heritage program."

Amendment **failed** as follows:

Yeas: Cocchiarella, Cole, Elliott, Franklin, Hargrove, Holden, Jergeson, Kitzenberg, Mahlum, Pease, Roush, Ryan,

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Shea, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman.  
Total 20

Nays: Berry, Bishop, Bohlinger, Christiaens, Cobb, Crismore, DePratu, Doherty, Ekegren, Ellingson, Ellis, Glaser, Grimes, Grosfield, Halligan, Harrington, Johnson, Keenan, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Sprague, Stapleton, Wells, Zook, Mr. President.  
Total 29

Absent or not voting: None.  
Total 0

Excused: Butcher.  
Total 1

Senator Crismore moved that Section C of HB 2 be closed. Motion carried unanimously.

**SECTION D - CORRECTIONS AND PUBLIC SAFETY**

Senator Christiaens explained Section D of HB 2.

1. Senator Wells moved that Section D of HB 2 be amended as follows:

1. Page D-10, following line 6.

**Insert:** "a. National Guard Scholarship Program (Biennial/OTO)"

2. Page D-10, line 8.

**Strike:** "0" [general fund fy02]

**Insert:** "250,000" [general fund fy02]

Amendment **adopted** unanimously.

2. Senator Hargrove moved that Section D of HB 2 be further amended as follows:

1. Page D-3, line 9.

**Strike:** "2,057,834 2,047,253"

**Insert:** "2,085,304 2,074,816"

Explanation: Department of Justice - Forensic Science Division

This amendment provides general fund of \$27,470 in fiscal 2002 and \$27,563 in fiscal 2003 to fund a 0.5 FTE Forensic Scientist. The total impact to the general fund for the biennium is \$55,033. This position provides peer review in the trace evidence section of the lab and will provide support on the backlog of methamphetamine cases.

Amendment **adopted** as follows:

Yeas: Bishop, Bohlinger, Christiaens, Cobb, Cocchiarella, DePratu, Doherty, Ellingson, Elliott, Ellis, Franklin, Grimes, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Johnson, Kitzenberg, Mahlum, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Sprague, Stonington, Tash, Taylor, Tester, Toole, Waterman, Zook.

Total 34

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Nays: Berry, Cole, Crismore, Ekegren, Glaser, Holden, Keenan, McNutt, Miller, Mohl, O'Neil, Stapleton, Thomas, Mr. President.

Total 14

Absent or not voting: Butcher.

Total 1

Excused: Wells.

Total 1

3. Senator Beck moved that Section D of HB 2 be further amended as follows:

1. Page D-5, line 3.

**Strike:** "2,428,904 2,409,962"[state special revenue FY02 & 03]

**Insert:** "2,450,387 2,430,951"[state special revenue FY02 & 03]

Amendment **adopted** as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cole, DePratu, Doherty, Ellingson, Elliott, Franklin, Glaser, Grimes, Grosfield, Halligan, Harrington, Keenan, Kitzenberg, Mahlum, McNutt, Pease, Ryan, Shea, Stonington, Tash, Taylor, Thomas, Toole, Mr. President.

Total 27

Nays: Berry, Bishop, Christiaens, Crismore, Ekegren, Ellis, Hargrove, Holden, Jergeson, Johnson, McCarthy, Miller, Mohl, Nelson, O'Neil, Roush, Sprague, Stapleton, Tester, Waterman, Zook.

Total 21

Absent or not voting: None.

Total 0

Excused: Butcher, Wells.

Total 2

4. Senator Beck moved that Section D of HB 2 be further amended as follows:

1. Page D-5, line 3.

**Strike:** "2,428,904 2,409,962"[state special revenue FY02 & 03]

**Insert:** "2,586,091 2,567,116"[state special revenue FY02 & 03]

Amendment **failed** as follows:

Yeas: Cocchiarella, Cole, DePratu, Glaser, Grimes, Grosfield, Jergeson, Keenan, Mohl, Tash, Toole.

Total 11

Nays: Berry, Bishop, Bohlinger, Christiaens, Cobb, Crismore, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Halligan, Hargrove, Harrington, Holden, Johnson, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Taylor, Tester, Thomas, Waterman, Zook, Mr. President.

Total 37

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Absent or not voting: None.  
Total 0

Excused: Butcher, Wells.  
Total 2

5. Senator Cobb moved that Section D of HB 2 be further amended as follows:

1. Page D-5, line 21.

**Strike:** "~~14,409,598~~" [general fund FY03]

**Insert:** "14,665,918" [general fund FY03]

Amendment **failed** as follows:

Yeas: Christiaens, Cobb, Doherty, Ellingson, Elliott, Franklin, Harrington, Jergeson, Kitzenberg, O'Neil, Pease, Ryan, Shea, Stonington, Toole, Waterman.

Total 16

Nays: Berry, Bishop, Bohlinger, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Holden, Johnson, Keenan, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, Roush, Sprague, Stapleton, Tash, Taylor, Tester, Thomas, Zook, Mr. President.

Total 32

Absent or not voting: None.  
Total 0

Excused: Butcher, Wells.  
Total 2

6. Senator Miller moved that Section D of HB 2 be further amended as follows:

1. Page D-5, line 21.

**Strike:** "~~14,800,869~~ ~~14,409,598~~" [general fund FY02 and FY03]

**Insert:** "14,783,449 14,392,639" [general fund FY02 and FY03]

2. Page D-5.

**Following:** line 25

**Insert:** "c. Montana Children's Trust Fund Account (Restricted/Biennial/OTO)  
112,480 117,520" [general fund FY02 and FY03]

3. Page D-6, line 3.

**Strike:** "~~32,634,379~~ ~~34,358,528~~" [general fund FY02 and FY03]

**Insert:** "32,595,970 34,318,090" [general fund FY02 and FY03]

4. Page D-6, line 5.

**Strike:** "48,134,474 51,083,654" [general fund FY02 and FY03]

**Insert:** "48,077,823 51,023,531" [general fund FY02 and FY03]



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Amendment **failed** as follows:

Yeas: Bohlinger, Cocchiarella, Cole, Crismore, DePratu, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, Keenan, Mahlum, Miller, Pease, Shea, Stonington, Taylor, Toole, Waterman.

Total 20

Nays: Berry, Bishop, Christiaens, Cobb, Doherty, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Johnson, McCarthy, McNutt, Mohl, Nelson, O'Neil, Roush, Ryan, Sprague, Stapleton, Tash, Tester, Thomas, Zook, Mr. President.

Total 27

Absent or not voting: Kitzenberg.

Total 1

Excused: Butcher, Wells.

Total 2

Senator Christiaens moved that Section D of HB 2 be closed. Motion carried.

**BOILERPLATE**

Senator Keenan moved that the Boilerplate Section of HB 2 be opened. Motion carried.

1. Senator Cobb moved that the Boilerplate of HB 2 be amended as follows:

1. Page BP-4.

**Following:** line 10

**Insert:** "NEW SECTION. Section 13. Energy cost increases. The legislature recommends that agencies absorb the cost of any potential energy cost increases for the 2003 biennium within their existing budgets, either through conservation or other reprioritization, and that the agencies not anticipate a supplemental appropriation to reimburse these costs."

**Renumber:** subsequent sections

Amendment **failed** as follows:

Yeas: Cobb, DePratu, Elliott, Hargrove, Harrington, Nelson, O'Neil, Pease, Shea, Sprague, Tester.

Total 11

Nays: Berry, Bishop, Bohlinger, Cocchiarella, Cole, Crismore, Doherty, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Roush, Ryan, Stapleton, Stonington, Tash, Taylor, Thomas, Toole, Waterman, Zook, Mr. President.

Total 36

Absent or not voting: Christiaens.

Total 1

Excused: Butcher, Wells.

Total 2

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2. Senator Cocchiarella moved that the Boilerplate of HB 2 be amended as follows:

1. Page BP-4, following line 10.

**Insert:** "NEW SECTION. Section 12. Contingent appropriation to education. If the general fund ending fund balance for the 2003 biennium as projected by the legislative fiscal division in the June 2001 Legislative Fiscal Report for the 2003 biennium is exceeded by at least \$10 million as of March 1, 2002, then two-thirds of the excess above \$10 million over the original projection is appropriated to the office of public instruction for direct distribution to schools based upon enrollment and one-third is appropriated to the commissioner of higher education as an increase to the university system lump sum appropriation, up to a total of \$20 million. The projected ending fund balance as of March 1, 2002 is to be determined and certified by the legislative fiscal analyst after consultation with the legislative finance committee and the governor's budget director."

Amendment **failed** as follows:

Yeas: Christiaens, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.  
Total 20

Nays: Berry, Bishop, Bohlinger, Cobb, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Johnson, Keenan, Mahlum, McNutt, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.  
Total 27

Absent or not voting: Miller.  
Total 1

Excused: Butcher, Wells.  
Total 2

Senator Keenan moved that the Boilerplate section be closed. Motion carried.

Senator Keenan moved that **Section A be reopened** to submit amendment No. 701841CW.sjo only, and that it be posted on the board and deemed read. Motion carried.

Senator Jergeson moved that Section A of HB 2 be amended as follows:

1. Page A-4.

**Following:** line 11

**Insert:** "c. Energy Cost Contingency Account (Restricted/Biennial/OTO)  
3,299,912 [general fund FY02]  
868,751 [state special FY02]  
387,533" [federal special FY02]

2. Page A-5.

**Following:** line 10

**Insert:** "Item 4c is a contingency biennial account to be managed by the office of budget and program planning to respond to contingencies related to cost increases in electricity and natural gas expenditures by state government significantly above the amounts appropriated in [this act]. Requests for use of this account must

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be analyzed by the office of budget and program planning and approved by the governor. Distribution of this money to state agencies must be proportional to the overall needs of state agencies relative to the total funds available. Approved expenditures must be reported to the legislative finance committee."

Amendment **adopted** with Senator Johnson voting nay.

Senator Keenan moved to **reclose Section A of HB 2**. Motion carried.

Senator Doherty moved that **Section E be reopened** to submit amendment No. 711806CW.srf. Motion **failed** as follows:

Yeas: Christiaens, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, Johnson, Kitzenberg, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.

Total 22

Nays: Berry, Bishop, Bohlinger, Cobb, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Keenan, Mahlum, McNutt, Miller, Mohl, Sprague, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: Butcher, Wells.

Total 2

**HB 2** - Senator Keenan moved **HB 2**, as amended, be concurred in. Motion carried with Senators Cobb, Miller and Mohl voting nay..

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

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Friday, March 30, 2001. Motion carried.

Senate adjourned at 7:40 p.m.

ROSANA SKELTON  
Secretary of Senate

TOM BECK  
President of the Senate