

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTY-FIRST LEGISLATIVE DAY**

Helena, Montana
April 15, 2003

Senate Chambers
State Capitol

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

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the eightieth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly engrossed: **HB 363, HB 559.**

Correctly enrolled: **SB 35, SB 46, SB 89, SB 194, SB 230, SB 232, SB 243, SB 244, SB 246, SB 247, SB 263, SB 270, SB 275, SB 282, SB 288, SB 321, SB 337, SB 344, SB 360, SB 363, SB 364, SB 370, SB 381, SB 383, SB 386, SB 387, SB 392, SB 400, SB 406, SB 423, SB 434, SB 441, SB 442, SB 444, SB 447, SB 458.**

Examined by the sponsor and found to be correct: **SR 4, SR 5.**

Signed by the President at 10:00 a.m., April 12, 2003: **SR 4, SR 5.**

Signed by the Secretary of the Senate at 8:00 a.m., April 14, 2003: **SR 4, SR 5.**

Delivered to the Secretary of State at 9:05 a.m., April 15, 2003: **SR 4, SR 5.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
SJR 30, introduced joint resolution, be amended as follows:

4/15/2003

1. Title, line 6 through 11.

Following: "EXAMINE" on line 6

Strike: remainder of line 6 through line 11

2. Title, line 13.

Following: line 12

Insert: "URGING MONTANA STATE UNIVERSITY TO REPORT RESEARCH RESULTS TO THE LEGISLATURE RELATED TO THE SAFETY OF GENETICALLY ENGINEERED GRAINS AND RELATED ISSUES; URGING THE OFFICE OF ECONOMIC DEVELOPMENT TO EXPLORE AND PROMOTE APPROPRIATE BIOTECHNOLOGY OPPORTUNITIES FOR MONTANA AGRICULTURAL PRODUCERS;"

3. Page 1, line 23.

Strike: "a majority"

Insert: "some"

4. Page 1, line 24.

Following: "markets"

Insert: "; and

WHEREAS, biotechnology holds great promise for the future in fighting grain diseases and in providing new niche markets similar to the present market for organic products; and

WHEREAS, questions continue to be raised about the safety of genetically engineered crops, necessitating scientific research to provide answers to those questions; and

WHEREAS, programs at Montana State University may provide the research not only to address safety, but also

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to provide recommendations regarding new genetically engineered grain varieties, the advisability and timing of their release, and the proper handling, production, transportation, marketing, testing, and disposition of new varieties; and

WHEREAS, the Office of Economic Development is an appropriate state agency to explore and promote biotechnology opportunities for Montana producers; and

WHEREAS, the Legislature desires to document credible findings regarding genetically engineered grains"

5. Page 1, line 29 through page 2, line 7.

Following: "examine" on line 29

Strike: remainder of line 29 through "(4)" on page 2, line 7

6. Page 2, line 9 through line 10.

Following: "study" on line 9

Strike: remainder of line 9 through "(1)" on line 10

7. Page 2, line 11.

Following: "representatives of"

Insert: "university and"

8. Page 2, line 12 through line 13.

Following: "entities" on line 12

Strike: remainder of line 12 through "Montana" on line 13

9. Page 2.

Following: line 13

Insert: "BE IT FURTHER RESOLVED, that the scope of the study include a review of any relevant studies from other sources.

BE IT FURTHER RESOLVED, that the study recommend any necessary coordination with applicable federal laws and consider laws of other states that may relate to the introduction of genetically engineered grains in Montana.

BE IT FURTHER RESOLVED, that Montana State University be urged to report to the study committee and to the agriculture committees of the 58th Legislature prior to September 15, 2004, regarding research efforts related to safety, new genetically engineered grain varieties, the advisability and timing of release, and the proper handling, production, transportation, marketing, testing, and disposition of new varieties, as well as any efforts to obtain federal funding to achieve the goals of this resolution for the benefit of Montana producers.

BE IT FURTHER RESOLVED, that the Office of Economic Development be urged to explore and promote appropriate biotechnology opportunities for Montana agricultural producers."

And, as amended, be adopted. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

4/15/2003

HB 489, be concurred in. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

4/15/2003

SR 7, be adopted. Report adopted.

SR 8, be adopted. Report adopted.

SR 9, be adopted. Report adopted.

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PRELIMINARY REPORT

SR 10, be adopted. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **House Joint Resolution 31**

Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Joint Resolution 31** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Joint Resolution 31** (reference copy -- salmon) be amended as follows:

1. Page 2, line 7.

Strike: "FOR GOOD CAUSE, ALLOW FOR THE REASONABLE EXTENSION OF"

Insert: "not count against"

2. Page 2, line 8.

Following: "assistance"

Insert: ", but it is not the intent of the Legislature to extend the 5-year limit on TANF assistance"

For the House:

B. Thomas, Chairman
Facey
Stoker

For the Senate:

Esp, Chairman
Cobb
Schmidt

MESSAGES FROM THE GOVERNOR

April 14, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 180** sponsored by Senator D. Ryan et al., **Senate Bill 283** sponsored by Senator Wheat, **Senate Bill 302** sponsored by Senator McCarthy et al., **Senate Bill 329** sponsored by Senator Mangan, **Senate Bill 331** sponsored by Senator Squires, and **Senate Bill 409** sponsored by Senator Stapleton et al. on April 14, 2003.

Sincerely,
JUDY MARTZ
Governor

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MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 4/14/2003

SB 314, introduced by McCarthy
SB 424, introduced by Nelson

Senate amendments to House bill **concurred in:** 4/15/2003

HB 701, introduced by Newman

House joint resolution passed and transmitted to the Senate for concurrence: 4/14/2003

HJR 36, introduced by Pattison

SB 304 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 304:** 4/14/2003

Representative Lewis, Chair
Representative Morgan
Representative Wilson

SB 330 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 330:** 4/14/2003

Representative Bitney, Chair
Representative Fuchs
Representative B. Ryan

SB 340 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 340:** 4/14/2003

Representative Barrett, Chair
Representative Everett
Representative Gutsche

SB 347 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 347:** 4/14/2003

Representative E. Clark, Chair
Representative Franklin
Representative Gallus

SB 349 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 349:** 4/14/2003

Representative Steinbeisser, Chair
Representative Keane
Representative Rome

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SB 362 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 362**:
4/14/2003

Representative Shockley, Chair
Representative Parker
Representative Sales

SB 375 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 375**:
4/14/2003

Representative Barrett, Chair
Representative Brueggeman
Representative Harris

SB 395 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference** Committee to meet with a like committee from the Senate to confer on House amendments to **SB 395**:
4/14/2003

Representative Balyeat, Chair
Representative Golie
Representative Wagman

SB 62 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 62**:
4/14/2003

Representative Laszloffy, Chair
Representative Carney
Representative Mendenhall

SB 130 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 130**:
4/14/2003

Representative Peterson, Chair
Representative Lawson
Representative Matthews

SB 252 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 252**:
4/14/2003

Representative Sinrud, Chair
Representative Gibson
Representative B. Olson

SB 271 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 271**:
4/14/2003

Representative Brueggeman, Chair
Representative Pattison
Representative Wanzenried

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SB 326 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 326**:

4/14/2003

Representative Younkin, Chair
Representative Everett
Representative Gillan

SB 360 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 360**:

4/14/2003

Representative McKenney, Chair
Representative Fisher
Representative Wilson

HB 190 - The House dissolved the Conference Committee on Senate amendments to **HB 190**, authorized the Speaker to appoint a **Free** Conference Committee, and request the Senate to appoint a like committee to confer on **HB 190**:

4/14/2003

Representative Younkin, Chair
Representative Hurwitz
Representative Windy Boy

HJR 31 - The House dissolved the Conference Committee on Senate amendments to **HJR 31**, authorized the Speaker to appoint a **Free** Conference Committee, and request the Senate to appoint a like committee to confer on **HJR 31**:

4/14/2003

Representative B. Thomas, Chair
Representative Facey
Representative Stoker

MOTIONS

SB 375 - Senator Thomas moved the Conference Committee to **SB 375** be dissolved and that the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee to confer on **SB 375**. Motion carried. The President appointed the following members:

Senator Stapleton, Chair
Senator Perry
Senator Elliott

HB 190 - Senator Thomas moved the Conference Committee to **HB 190** be dissolved and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 190**. Motion carried. The President appointed the following members:

Senator Cobb, Chair
Senator Sprague
Senator Squires

SB 349 - Senator Thomas moved the Conference Committee on **SB 349** be dissolved and that the President be authorized to appoint a **Conference** Committee, and request the House to appoint a like committee to confer on the House amendments to **SB 349**. Motion carried. The President appointed the following members:

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Senator Anderson, Chair
Senator Grimes
Senator Cocchiarella

FIRST READING AND COMMITMENT OF BILLS

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

HJR 36, introduced by Pattison, Andersen, Anderson, Bales, Balyeat, Barkus, Barrett, Bitney, Black, Bohlinger, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, Butcher, E. Clark, Curtiss, DePratu, Devlin, Dickenson, Esp, Everett, Fisher, Fuchs, Gebhardt, Gillan, Glaser, Golie, Grimes, Haines, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jent, Johnson, Kasten, Kaufmann, Keenan, Kitzenberg, Laible, Lake, Lambert, Lange, Lawson, Lehman, Lewis, Lindeen, Maedje, Mahlum, Malcolm, McGee, McNutt, Mendenhall, Mood, Morgan, Nelson, O'Neil, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Rome, Ross, Sales, Schmidt, Schrupf, Sinrud, Sprague, Stapleton, Steinbeisser, Stoker, Story, Tash, Taylor, Tester, B. Thomas, F. Thomas, Tropila, Wagman, Waitschies, Weiss, Witt, Younkin, Zook, referred to Judiciary.

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

Session 1

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

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

SB 492 - Senator Johnson moved **SB 492** do pass. Motion carried unanimously.

SB 126 - Free Conference Committee Report No. 1 - Senator Story moved the **Free** Conference Committee report to **SB 126** be adopted. Motion carried unanimously.

HB 298 - Free Conference Committee Report No. 1 - Senator Gebhardt moved the **Free** Conference Committee report to **HB 298** be adopted. Motion carried unanimously.

HB 564 - Free Conference Committee Report No. 1 - Senator Mahlum moved the **Free** Conference Committee report to **HB 564** be adopted. Motion carried unanimously.

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

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 57, as amended by the Free Conference Committee Report No. 1, adopted as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 101, as amended by the Governor, passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 47

Nays: Cooney, Elliott, Toole.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 18, as amended by the House, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SJR 32 adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 11, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 42, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Cobb, Cooney, Cromley, Schmidt, Toole.
Total 5

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

HB 94, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: Cromley, Esp.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 201, as amended by the Free Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 259, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Taylor.

Total 1

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

HB 261, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, O'Neil, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

Nays: Curtiss, Gebhardt, McGee, Nelson, Roush.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 277, as amended by the Conference Committee Report No. 1, adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 37

Nays: Butcher, Cooney, Cromley, Ellingson, Elliott, Johnson, O'Neil, Ryan, Schmidt, Stapleton, Stonington, Tester, Toole.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 363, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Glaser, Hansen, Harrington, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

HB 408, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: Mangan.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 441, as amended by the Governor, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 559, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Curtiss, Roush, Ryan, Stapleton, Story.

Total 5

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 722, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Elliott, Mangan.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 767, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 2, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Pease, Perry, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.
Total 32

Nays: Black, Bohlinger, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Roush, Ryan, Schmidt, Shea, Squires, Toole, Wheat.

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Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

HB 363 - Senator Harrington moved he be allowed to change his vote on **HB 363**, third reading this day, from yea to nay. Motion carried.

HB 363 - Senator Squires moved she be allowed to change her vote on **HB 363**, third reading this day, from yea to nay. Motion carried.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **Senate Bill 326**

Report No. 1, April 15, 2003

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 326** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 326** (reference copy -- salmon) be amended as follows:

1. Title, line 10.

Following: "**REQUIRE**"

Insert: "PROVIDING THAT A GROWTH POLICY MUST INCLUDE REQUIRED ELEMENTS BY OCTOBER 1, 2006, AND"

2. Title, line 13.

Following: "**AREA;**"

Insert: "PROVIDING THAT A GROWTH POLICY MAY COVER PART OF A JURISDICTIONAL AREA;"

3. Title, line 17.

Following: ";

Insert: "CONFORMING PROVISIONS IN THE ZONING AND SUBDIVISION LAWS TO THESE REVISIONS IN THE GROWTH POLICY LAWS; ELIMINATING THE REQUIREMENT THAT SUBDIVISION REGULATIONS BE IN ACCORDANCE WITH THE GOALS AND OBJECTIVES OF THE GROWTH POLICY WITHIN 1 YEAR OF ADOPTION OF A GROWTH POLICY;"

4. Title, line 18.

Strike: "AND"

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5. Title, line 19.

Following: "~~76-4-127,~~"

Insert: "76-2-201, 76-2-310, 76-3-210, 76-3-504, 76-3-505, 76-4-122, AND 76-4-127,"

6. Page 3, line 10.

Strike: "The"

Insert: "A"

7. Page 3, line 11.

Strike: "MUST"

Insert: "may"

Following: "part"

Insert: "or part"

8. Page 3, line 13.

Following: "(2)"

Insert: "A growth policy must include the elements listed in subsection (3) by October 1, 2006."

9. Page 6, line 13.

Following: "policy"

Insert: "pursuant to 76-1-601"

10. Page 6, line 20.

Following: "policy"

Insert: "is not a regulatory document and"

11. Page 6, line 24.

Following: "withhold,"

Insert: "withhold,"

Following: "on"

Insert: ", or impose conditions on"

12. Page 6, line 25.

Following: "act"

Insert: "or other authority to act"

13. Page 6, line 26.

Insert: "**Section 8.** Section 76-2-201, MCA, is amended to read:

"76-2-201. County zoning authorized. For the purpose of promoting the public health, safety, morals, and general welfare, a board of county commissioners that has adopted a growth policy ~~for the entire jurisdictional area~~ pursuant to chapter 1 is authorized to adopt zoning regulations for all or parts of the jurisdictional area in accordance with the provisions of this part."

Insert: "**Section 9.** Section 76-2-310, MCA, is amended to read:

"76-2-310. Extension of municipal zoning and subdivision regulations beyond municipal boundaries.

(1) Except as provided in 76-2-312 and except in locations where a county has adopted zoning or subdivision regulations, a city or town council or other legislative body that has adopted a growth policy pursuant to chapter 1 for the area to be affected by the regulations may extend the application of its zoning or subdivision regulations beyond its limits in any direction subject to the following limits:

(a) up to 3 miles beyond the limits of a city of the first class as defined in 7-1-4111;

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- (b) up to 2 miles beyond the limits of a city of the second class; and
- (c) up to 1 mile beyond the limits of a city or town of the third class.

(2) When two or more noncontiguous cities have boundaries so near to one another as to create an area of potential conflict in the event that all cities concerned should exercise the full powers conferred by 76-2-302, 76-2-311, and this section, then the extension of zoning or subdivision regulations, or both, by these cities must terminate at a boundary line agreed upon by the cities."

Insert: "Section 10. Section 76-3-210, MCA, is amended to read:

"76-3-210. Subdivisions exempted from requirement of an environmental assessment. (1) Subdivisions totally within a jurisdictional area that has adopted is covered by all of the following are considered to be in the public interest and are exempt from the requirement of an environmental assessment:

- (a) a growth policy adopted pursuant to chapter 1;
- (b) zoning regulations pursuant to 76-2-201 or chapter 2, part 3; and
- (c) a strategy for development, maintenance, and replacement of public infrastructure pursuant to 76-1-601.

(2) (a) A planning board established pursuant to chapter 1 may exempt a proposed subdivision within its jurisdictional area from the requirement for completion of any portion of the environmental assessment if:

(i) the subdivision is proposed in an area for which a growth policy has been adopted pursuant to chapter 1 and the proposed subdivision will be in compliance with the growth policy; or

(ii) the subdivision will contain fewer than 10 parcels and less than 20 acres.

(b) When an exemption is granted under this subsection (2), the planning board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement must accompany the preliminary plat of the subdivision when it is submitted for review.

(c) ~~Where~~ If a properly established planning board having jurisdiction does not exist, the governing body may grant exemptions as specified in this subsection (2)."

Insert: "Section 11. Section 76-3-504, MCA, is amended to read:

"76-3-504. Subdivision regulations -- contents. (1) The subdivision regulations adopted under this chapter must, at a minimum:

(a) except as provided in 76-3-210, 76-3-509, or 76-3-609(3), require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;

(b) establish procedures consistent with this chapter for the submission and review of subdivision plats;

(c) prescribe the form and contents of preliminary plats and the documents to accompany final plats;

(d) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development and prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques;

(e) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;

(f) prescribe standards for:

(i) the design and arrangement of lots, streets, and roads;

(ii) grading and drainage;

(iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that, at a minimum, meet the regulations adopted by the department of environmental quality under 76-4-104;

(iv) the location and installation of utilities;

(g) provide procedures for the administration of the park and open-space requirements of this chapter;

(h) provide for the review of preliminary plats by affected public utilities and those agencies of local, state, and federal government having a substantial interest in a proposed subdivision. A utility or agency review may not delay the governing body's action on the plat beyond the time limits specified in this chapter, and the failure of any agency to complete a review of a plat may not be a basis for rejection of the plat by the governing body.

(i) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the

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water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

(j) except as provided in this subsection, require the subdivider to establish ditch easements in the subdivision that are in locations of appropriate topographic characteristics and sufficient width, to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots; are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner. Establishment of easements pursuant to this subsection (1)(j) is not required if:

(i) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(ii) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(k) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

~~_____ (l) if the governing body has adopted a growth policy pursuant to chapter 1 of this title, be made in accordance with the goals and objectives established in the growth policy that are within the scope of 76-3-501 within 1 year of adoption of the growth policy;~~

~~(m)(1)~~ require the subdivider to describe, dimension, and show utility easements in the subdivision on the final plat in their true and correct location. The utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of utility facilities for the provision of utility services within the subdivision.

(2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster development."

Insert: "Section 12. Section 76-3-505, MCA, is amended to read:

"76-3-505. Provision for summary review of minor subdivisions. (1) Local subdivision regulations must include procedures for the summary review and approval of subdivision plats containing five or fewer parcels when proper access to all lots is provided, when no land in the subdivision will be dedicated to public use for parks or playgrounds, and when the plats have been approved by the department of environmental quality whenever approval is required by part 1 of chapter 4; however, reasonable local regulations may contain additional requirements for summary approval.

(2) (a) Except when required by local subdivision regulations, proposed subdivisions eligible for summary review under this section that are located entirely within the ~~jurisdictional~~ area covered by a growth policy adopted pursuant to chapter 1 and zoning regulations adopted pursuant to chapter 2, part 2 or 3, are exempt from:

(i) the requirement to hold a hearing on the preliminary plat pursuant to 76-3-605; and

(ii) review by the governing body of the criteria in 76-3-608(3)(a).

(b) The governing body shall approve, conditionally approve, or disapprove a proposed subdivision that is eligible for review under this subsection (2) within 35 days of submission of the subdivision application."

Insert: "Section 13. Section 76-4-122, MCA, is amended to read:

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"76-4-122. Filing or recording of noncomplying plat or certificate of survey prohibited. (1) The county clerk and recorder may not file or record any plat or certificate of survey subject to review under this part showing a subdivision unless it complies with the provisions of this part.

(2) A county clerk and recorder may not accept a subdivision plat or certificate of survey subject to review under this part for filing until one of the following conditions has been met:

(a) the person wishing to file the plat or certificate of survey has obtained approval of the local health officer having jurisdiction and has filed the approval with the reviewing authority and a certificate of subdivision approval has been issued pursuant to 76-4-125 indicating that the reviewing authority has approved the subdivision application and that the subdivision is not subject to a sanitary restriction;

(b) the person wishing to file the plat or certificate of survey has obtained a certificate from the governing body pursuant to 76-4-127 that the subdivision is within a ~~jurisdictional area that has adopted~~ an area covered by a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and will be provided with adequate municipal facilities and adequate storm water drainage; or

(c) the person wishing to file the plat or certificate of survey has placed on the plat or certificate of survey an acknowledged certification that the subdivision is exempt from review under this part. The certification must quote in its entirety the wording of the applicable exemption."

Insert: "Section 14. Section 76-4-127, MCA, is amended to read:

"76-4-127. Notice of certification that adequate storm water drainage and adequate municipal facilities will be provided. (1) To qualify for the exemption from review set out in 76-4-125(2)(d), the governing body, as defined in 76-3-103, shall, within 20 days after preliminary plat approval under the Montana Subdivision and Platting Act, send notice of certification to the reviewing authority that a subdivision has been submitted for approval and that adequate storm water drainage and adequate municipal facilities will be provided for the subdivision.

(2) The notice of certification must include the following:

(a) the name and address of the applicant;

(b) a copy of the preliminary plat or a final plat when a preliminary plat is not necessary;

(c) the number of proposed parcels in the subdivision;

(d) a copy of any applicable zoning ordinances in effect;

(e) how construction of the sewage disposal and water supply systems or extensions will be financed;

(f) certification that the subdivision is within a ~~jurisdictional area that has adopted~~ an area covered by a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and a copy of the growth policy, when applicable, if one has not yet been submitted to the reviewing authority;

(g) the relative location of the subdivision to the city or town;

(h) certification that adequate municipal facilities for the supply of water and disposal of sewage and solid waste are available or will be provided within 1 year after the notice of certification is issued;

(i) if water supply, sewage disposal, or solid waste facilities are not municipally owned, certification from the facility owners that adequate facilities are available; and

(j) certification that the governing body has reviewed and approved plans to ensure adequate storm water drainage."

Renumber: subsequent sections

14. Page 11, line 3.

Strike: "(1)"

15. Page 11, line 4 through line 5.

Following: "APPROVED"

Strike: "AND" through "76-1-605"

Strike: "[SECTION 1] OF"

Strike: ", AMENDING" on line 4 through "76-1-605," on line 5

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16. Page 11, line 6 through line 7.
Strike: subsection (2) in its entirety

For the Senate:

McGee, Chairman
Laible
Wheat (unsigned)

For the House:

Younkin, Chairman
Everett
Gillan (unsigned)

FREE CONFERENCE COMMITTEE
on **House Bill 197**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 197** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 197** (reference copy -- salmon) be amended as follows:

1. Page 19, line 29.

Following: line 28

Insert: "(7) If House Bill No. 195 and [this act] are both passed and approved, then [section 1 of House Bill No. 195], amending 61-2-302, is void.

(8) If House Bill No. 195 and [this act] are both passed and approved and Senate Bill No. 37 is not passed and approved, then 61-5-208 must read as follows:

Insert: "**Section 5.** Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation -- probationary license -- ignition interlock device required allowed on second or subsequent first offense. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than 1 year, except as otherwise permitted by law.

(2) (a) Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) When a person is convicted or forfeits bail or collateral not vacated for ~~the~~ a first offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for ~~the~~ a first offense of operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall ~~revoke~~ suspend the license or driving privilege of the person for a period of 1 year and, ~~upon issuance of any restricted~~ may not issue a probationary license during the period of ~~revocation, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device~~ suspension. If the 1-year suspension period passes and the person has not completed a chemical dependency education course, treatment, or both, as ordered by the sentencing court, the license ~~revocation~~ suspension remains in effect until the course, treatment, or both, are completed.

(c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third, or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

(3) (a) If ~~a~~ the person pays the reinstatement fee required in 61-2-107 and provides the department proof of

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compliance with an ignition interlock restriction imposed under 61-8-442, the department shall stay the license suspension of a person who has been convicted of a first violation of 61-8-401 or 61-8-406 and return the person's driver's license. The stay must remain in effect until the period of suspension has expired and any required chemical dependency education course, treatment, or both, have been completed.

(b) If the department receives notice from a court, peace officer, or ignition interlock vendor that the person has violated the court-imposed ignition interlock restriction by, including but not limited to operating a motor vehicle not equipped with the device, tampering with the device, or removing the device before the period of restriction has expired, the department shall lift the stay and reinstate the license suspension for the remainder of the time period. The department may not issue a probationary driver's license to a person whose license suspension has been reinstated because of violation of an ignition interlock restriction.

~~(4)~~ The period for all revocations made mandatory by 61-5-205 is 1 year except as provided in subsection (2).

~~(5)~~(4) (a) ~~The~~ Except as provided in subsection (4)(b), the period of suspension or revocation for a person convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license commences from the date of conviction or forfeiture of bail.

(b) A suspension commences from the last day of the prior suspension or revocation period if the suspension is for a conviction of driving with a suspended or revoked license.

~~(6)~~(5) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-802.""

For the House:

Noennig, Chairman
B. Thomas (unsigned)
Becker

For the Senate:

Perry, Chairman
Mangan
Curtiss

FREE CONFERENCE COMMITTEE
on **House Bill 536**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 536** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 536** (reference copy -- salmon) be amended as follows:

1. Page 1, line 25.
Following: "statement"
Strike: "must"
Insert: "may"

2. Page 1, line 28.
Following: "manager"
Strike: "shall"
Insert: "may"

3. Page 3, line 9.
Following: "AGENT"
Insert: "of either"

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4. Page 3, line 22.

Following: "who"

Strike: "complies with subsections"

Insert: "provides the disclosure in subsection"

5. Page 3, line 23.

Following: "and"

Insert: "complies with subsection"

For the House:

Brueggeman, Chairman
Noennig
P. Clark

For the Senate:

Perry, Chairman
Black
Mangan (unsigned)

FREE CONFERENCE COMMITTEE
on **House Bill 689**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 689** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 689** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 7.

Following: "~~INFLATION~~"

Insert: "REVISING DEFINITIONS; REVISING REPORTING REQUIREMENTS; PROVIDING FOR ADJUSTMENT OF REPORTING THRESHOLD AMOUNTS FOR INFLATION;"

Following: "~~5-7-102;~~"

Insert: "5-7-102,"

2. Title, page 1, line 8.

Following: ";

Insert: ", 5-7-105,"

3. Title, page 1, line 9.

Following: "~~DATE~~"

Insert: "AND A RETROACTIVE APPLICABILITY DATE"

4. Page 4, line 13.

Insert: "**Section 1.** Section 5-7-102, MCA, is amended to read:

"5-7-102. Definitions. The following definitions apply in this chapter:

(1) "Business" means:

(a) a holding or interest whose fair market value is greater than \$1,000, in a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, self-employed person, holding company, joint-stock company, receivership, trust, or other entity or property held in anticipation of profit, but does not include nonprofit organizations; and

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- (b) present or past employment from which benefits, including retirement allowances, are received.
- (2) "Commissioner" means the commissioner of political practices.
- (3) "Docket" means the register of lobbyists and principals maintained by the commissioner pursuant to 5-7-201.
- (4) "Elected official" means a public official holding a state office filled by a statewide vote of all the electors of Montana or a state district office, including but not limited to legislators, public service commissioners, and district court judges. The term "official-elect" also applies to the offices.
- (5) "Individual" means a human being.
- (6) "Lobbying" means:
 - (a) the practice of promoting or opposing the introduction or enactment of legislation before the legislature or the members of the legislature by a person other than a member of the legislature or a public official; and
 - (b) the practice of promoting or opposing official action by any public official.
- ~~(7)~~ "Lobbying for hire" includes activities of the officers, agents, attorneys, or employees of a principal who are paid, reimbursed, or retained by the principal and whose duties include lobbying. If an individual is reimbursed only for his personal living and travel expenses, which together are less than \$1,000 per calendar year, that individual is not considered to be lobbying for hire.
- ~~(8)~~(7) (a) "Lobbyist" means a person who engages in the practice of lobbying ~~for hire~~.
- (b) Lobbyist does not include:
 - (i) an individual acting solely on ~~his~~ the individual's own behalf; ~~or~~
 - (ii) an individual working for the same principal as a licensed lobbyist if the individual does not have personal contact involving lobbying with a public official on behalf of ~~his~~ the lobbyist's principal; ~~or~~
 - (iii) an individual who receives payments from one or more persons that total less than the amount specified under [section 5] in a calendar year.
- (c) Nothing in this ~~section~~ chapter deprives an individual who is not lobbying for hire a lobbyist of the constitutional right to communicate with public officials.
- ~~(9)~~(8) (a) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made or to be made of money, property, or anything of value;
 - (i) to a lobbyist to influence legislation or official action by an elected local official or a public official;
 - (ii) directly or indirectly;
- ~~(10)~~ "Payment to influence official action" means any of the following types of payment:
 - ~~(a) direct or indirect payment to a lobbyist by a principal, such as salary, fee, compensation, or reimbursement for lobbying expenses, excluding personal living expenses; or~~
 - ~~(b)~~(iii) payment in support of or assistance to a lobbyist or a lobbying activity, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist.
- (b) The term does not include payments or reimbursements for:
 - (i) personal and necessary living expenses; or
 - (ii) travel expenses, unless a principal is otherwise required to report expenses pursuant to 5-7-208.
- ~~(11)~~(9) "Person" means an individual, corporation, association, firm, partnership, state or local government or subdivision of state or local government, or other organization or group of persons.
- ~~(12)~~(10) "Principal" means a person who employs a lobbyist or a person required to report pursuant to 5-7-208.
- ~~(13)~~(11) "Public official" means an individual, elected or appointed, acting in ~~his~~ an official capacity for ~~the~~ state government. The term does not include those acting in a judicial or quasi-judicial capacity or performing ministerial acts.
- ~~(14)~~(12) "Unprofessional conduct" means:
 - (a) violating any of the provisions of this chapter;
 - (b) instigating action by a public official for the purpose of obtaining employment;
 - (c) attempting to influence the action of a public official on a measure pending or to be proposed by:
 - (i) promising financial support; or
 - (ii) making public any unsubstantiated charges of improper conduct on the part of a lobbyist, a principal, or a legislator; or
 - (d) attempting to knowingly deceive a public official with regard to the pertinent facts of an official matter or

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attempting to knowingly misrepresent pertinent facts of an official matter to a public official.'" "

Renumber: subsequent sections

5. Page 4, line 26.

Strike: "20"

Insert: "10"

6. Page 5, line 3.

Strike: "\$2,150"

Insert: "the amount specified under [section 5]"

7. Page 5, line 8.

Insert: "**Section 3.** Section 5-7-105, MCA, is amended to read:

"**5-7-105. Suspension of lobbying privileges.** ~~No~~ A lobbyist whose license has been suspended and ~~no~~ a person who has been adjudged guilty of a violation of any provision of this chapter may not engage in lobbying ~~for hire~~ until that person has been reinstated to the practice and duly licensed.'" "

Renumber: subsequent sections

8. Page 5, lines 12 and 13.

Strike: "A TOTAL OF \$2,150"

Insert: "the amount specified under [section 5]"

9. Page 7, line 4.

Insert: "NEW SECTION. Section 5. Payment threshold -- inflation adjustment. For calendar years 2002 through 2004, the payment threshold in 5-7-102 and 5-7-208 is \$2,150. The commissioner shall adjust the threshold amount following a general election by multiplying the threshold amount valid for the year in which the general election was held by an inflation factor, adopted by the commissioner by rule. The rule must be written to reflect the annual average change in the consumer price index from the prior year to the year in which the general election is held. The resulting figure must be rounded up or down to the nearest \$50 increment. The commissioner shall adopt the adjusted amount by rule."

Renumber: subsequent sections

10. Page 7, line 10.

Following: "approved"

Insert: ": (1) and amend 5-7-102, then 5-7-102(13)(c) of Senate Bill No. 7 must read:

"Nothing in this chapter deprives an individual who is not a lobbyist of the constitutional right to communicate with public officials."

(2) and amend 5-7-103"

11. Page 7, line 14.

NEW SECTION. Section 8. Codification instruction. [Section 5] is intended to be codified as an integral part of Title 5, chapter 7, part 1, and the provisions of Title 5, chapter 7, part 1, apply to [section 5].

12. Page 7.

Following: line 22

Insert: "NEW SECTION. Section 11. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to all occurrences concerning filing or reporting on or after September 1, 2002. This section may not be construed to require a refund of any fee paid on or after September 1, 2002."

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For the House:

A. Olson, Chairman
Brueggeman
Ballantyne

For the Senate:

Gebhardt, Chairman
McNutt
Squires

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 680**
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 680** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 680** (reference copy -- salmon) be amended as follows:

1. Page 3, line 14 through line 15.

Strike: "ANY FEE" on line 14 through "SUBSECTION (2)" on line 15

Insert: "(a) Of the fees collected under subsection (1), \$1 must be deposited in the records preservation fund, provided for in 7-4-2635, and the remainder must be deposited as provided for in 7-4-2511.

(b) Of the fees collected under subsection (2) for nonstandard documents, each \$6 amount for a page or fraction of a page must be deposited as provided for in subsection (3)(a). The remaining \$4 of each \$10 charge for a page or fraction of a page must be deposited in the records preservation fund, provided for in 7-4-2635, and, notwithstanding 7-4-2635(3), each \$4 amount from a \$10 charge for a page or a fraction of a page"

For the House:

Noennig, Chairman
Younkin
Becker

For the Senate:

Sprague, Chairman
Gebhardt
Wheat

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved the Senate stand in recess until the hour of 5:30 p.m. this day. Motion carried.

Senate recessed at 1:57 p.m.

Senate reconvened at 5:33 p.m.

Roll call. All members present except Senators Stonington and Tropila, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Zook, Chairman):
SB 483, introduced bill, be amended as follows:

4/15/2003

1. Title, lines 7 and 8.

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Following: "ANALYSIS;"

Strike: "PROVIDING" on line 7 through "ANALYSIS;" on line 8

Insert: "REQUIRING THE STATE TREASURER TO PROVIDE INFORMATION ON THE STATE WEBSITE ON HOW TO DONATE FUNDS TO ANY STATE FUNCTION;"

2. Title, line 8.

Strike: "90"

Insert: "95"

3. Title, line 11.

Following: "SECTIONS"

Strike: "15-12-302,"

Insert: "17-1-111,"

4. Title, line 12.

Following: "17-7-102,"

Insert: "17-7-111,"

5. Page 1, line 16 through page 2, line 20.

Strike: section 1 in its entirety

Insert: "**Section 1.** Section 17-1-111, MCA, is amended to read:

"17-1-111. General fiscal duties of state treasurer. (1) The state treasurer is the custodian of all money and securities of the state unless otherwise expressly provided by law.

(2) It is the duty of the state treasurer to:

(a) receive and account for all money belonging to the state, not expressly required by law to be received and kept by some other person;

(b) pay warrants out of the funds upon which they are drawn;

(c) upon payment of any warrant, record the receipt of the person to whom it is paid;

(d) keep an account of all money received and disbursed;

(e) at the request of either house of the legislature or of any legislative committee, give information in writing as to the condition of the treasury or on any subject relating to the duties of the office of state treasurer;

(f) superintend the fiscal concerns of the state;

(g) suggest plans for the improvement and management of the public revenue;

(h) keep an account of all warrants drawn upon the treasury and of other appropriation records that the treasurer determines to be essential for the support of the accounting records maintained in the department;

(i) keep a register of warrants, showing the fund upon which each warrant is drawn, each warrant's number, who received the warrant, and the date issued;

(j) require all persons who have received money belonging to the state but who have not accounted for it to settle their accounts;

(k) draw warrants on the state treasury for the payment of money directed by law to be paid out of the treasury, except that a warrant may not be drawn unless authorized by law;

(l) authenticate with the official seal of the state all warrants drawn and all copies of papers issued from the office of state treasurer;

(m) collect and pay into the state treasury all fees received; and

(n) discharge other duties as may be imposed upon the state treasurer by law; and

(o) provide information through the state's official internet website detailing how donations can be made to the state general fund or to any function of state government."

Renumber: subsequent sections

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6. Page 3, line 9.

Strike: "90%"

Insert: "95%"

7. Page 4.

Following: line 10

Insert: "**Section 3.** Section 17-7-111, MCA, is amended to read:

"17-7-111. Preparation of state budget -- agency program budgets -- form distribution and contents.

(1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state need information that is consistent and accurate. Necessary information includes detailed disbursements by fund type for each agency and program for the appropriate time period, recommendations for creating a balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

(b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall by agreement:

(i) establish necessary standards, formats, and other matters necessary to share information between the agencies and to ensure that information is consistent and accurate for the preparation of the state's budget; and

(ii) provide for the collection and provision of budgetary and financial information that is in addition to or different from the information otherwise required to be provided pursuant to this section.

(2) In the preparation of a state budget, the budget director shall, not later than the date specified in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget estimates by the budget director. These forms must be prescribed by the budget director to procure the information required by subsection (3). The forms must be submitted to the budget director by the date provided in 17-7-112(2)(a) or the agency's budget is subject to preparation based upon estimates as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply with the provisions of this section or the instructions given for completing the forms.

(3) The agency budget request must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary of funds subject to appropriation or enterprise funds that transfer profits to the general fund or to an account subject to appropriation for the current base budget expenditures, including statutory appropriations, and for each present law adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress;

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the current biennium and estimated for the subsequent biennium;

(c) a statement of the agency mission and a statement of goals and objectives for each program of the agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and its programs and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals and objectives.

(d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;

(e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement category;

~~(f) for only agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the budget director. Each agency plan must include base budget reductions that reflect the required percentage reduction by fund type for the general fund and state special revenue fund types. The plan must include:~~

~~—— (i) a prioritized list of services that would be eliminated or reduced;~~

~~—— (ii) for each service included in the prioritized list, the savings that would result from the elimination or~~

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reduction; and

- ~~(iii) the consequences or impacts of the proposed elimination or reduction of each service.~~
~~(g)(f)~~ a reference for each new information technology proposal stating whether the new proposal is included in the approved agency information technology plan as required in 2-17-523; and
~~(h)(g)~~ other information the budget director feels is necessary for the preparation of a budget.
- (4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:
- (a) detailed recommendations for the state long-range building program. Each recommendation must be presented by institution, agency, or branch, by funding source, with a description of each proposed project.
- (b) a statewide summary of recommendations for information technology projects and new initiatives. Each recommendation must be presented by institution, agency, or branch and by funding source, and recommendations for major new information technology projects must contain the information identified in 2-17-526.
- (c) the proposed pay plan schedule for all executive branch employees at the program level by fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401.
- (d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and development grants program under Title 90, chapter 2, part 11, and the treasure state endowment program under Title 90, chapter 6, part 7.
- (5) The board of regents shall submit, with its budget request for each university unit in accordance with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this subsection (5). The report must include the following information for each year of the biennium, contrasted with the same information for the last completed fiscal year and the fiscal year in progress:
- (a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;
- (b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding requirements for each bond indenture; and
- (c) a schedule showing the total funds available from each bond indenture and its associated accounts, with a list of commitments and planned expenditures from such accounts, itemized by revenue source and project for each year of the current and ensuing bienniums.
- (6) The budget director may not obtain copies of individual income tax records protected under 15-30-303. The department of revenue shall make individual income tax data available by removing names, addresses, occupations, social security numbers, and taxpayer identification numbers. The department of revenue may not alter the data in any other way. The data is subject to the same restrictions on disclosure as are individual income tax returns.""

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

HB 206, be amended as follows:

1. Page 3, line 11.

Strike: "\$6"

Insert: "\$5"

2. Page 4, line 1.

Strike: "32.6%"

Insert: "22.3%"

Strike: "22.46%"

Insert: "25%"

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3. Page 4, line 16.

Strike: "17.5%"

Insert: "20.7%"

Strike: "4.31%"

Insert: "8.75%"

4. Page 4, line 19.

Strike: "47.40%"

Insert: "54.5%"

Strike: "69.48%"

Insert: "62.5%"

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

HB 705, be concurred in. Report adopted.

HB 727, be amended as follows:

1. Page 5, line 2.

Following: "date."

Insert: "When the department contracts for additional group homes for the developmentally disabled, the department shall give priority to providing those homes in a community in eastern Montana in which a residential facility has been closed. It is the intent of the legislature that the department of public health and human services have access to the personal services contingency funds in House Bill No. 13 in order to address any severance pay and costs for reduction in force associated with the closure of Eastmont human services center."

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

HB 735, be concurred in. Report adopted.

HB 736, be amended as follows:

1. Page 2.

Following: line 18

Insert: "(b) appoint a representative from the juvenile corrections division of the department of corrections to serve on the renewal commission;"

Renumber: subsequent subsections

2. Page 2.

Following: line 27

Insert: "(6) As used in this section, the term "K-12 public education" includes a state youth correctional facility, as defined in 41-5-103."

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

HB 741, be concurred in. Report adopted.

HB 743, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 509**

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Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 509** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 509** (reference copy -- salmon) be amended as follows:

1. Page 15, line 25.

Strike: "90" through "ACT"

Insert: "December 31, 2003"

2. Page 17, line 6.

Strike: "customer choice"

Insert: "transition"

For the House:

A. Olson, Chairman
Mendenhall
Matthews

For the Senate:

Johnson, Chairman
F. Thomas
McCarthy

MESSAGES FROM THE GOVERNOR

April 15, 2003

The Honorable Bob Keenan
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 13** sponsored by Senator Mahlum, **Senate Bill 34** sponsored by Senator Barkus, **Senate Bill 80** sponsored by Senator Laible, **Senate Bill 86** sponsored by Senator Zook, **Senate Bill 166** sponsored by Senator Bales et al., **Senate Bill 168** sponsored by Senator Stonington et al., **Senate Bill 241** sponsored by Senator Shea, **Senate Bill 262** sponsored by Senator Perry et al., **Senate Bill 315** sponsored by Senator Schmidt et al., **Senate Bill 316** sponsored by Senator Grimes, **Senate Bill 341** sponsored by Senator F. Thomas, **Senate Bill 380** sponsored by Senator Bales, **Senate Bill 432** sponsored by Senator Grimes, and **Senate Bill 460** sponsored by Senator Story on April 15, 2003.

Sincerely,
JUDY MARTZ
Governor

MESSAGES FROM THE OTHER HOUSE

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

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4/15/2003

SB 138, introduced by Cobb
SB 320, introduced by Tester
SB 336, introduced by Mahlum
SB 407, introduced by DePratu

Senate bill concurred in and returned to the Senate:

4/15/2003

SB 155, introduced by Taylor

Senate bill not concurred in and returned to the Senate:

4/14/2003

SB 287, introduced by Sprague

HB 2 - The House failed to concur in Senate amendments to **HB 2**, authorized the Speaker to appoint the following **Free Conference Committee**, and requested that the Senate appoint a like committee to confer on **HB 2**:

4/15/2003

Representative Lewis, Chair
Representative Lindeen
Representative Pattison

**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 reading. Motion carried. Senator Glaser in the chair.

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

*****SB 314 - House Amendments** - Senator McCarthy moved House amendments to **SB 314** be **not** concurred in. Motion carried unanimously.

SB 326 - Free Conference Committee Report No. 1 - Senator McGee moved the Free Conference Committee report to **SB 326** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Grimes, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Wheat.
Total 20

Absent or not voting: None.
Total 0

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Excused: Johnson, Stonington, Tropila.
Total 3

*****SB 424 - House Amendments** - Senator Nelson moved House amendments to **SB 424** be **not** concurred in. Motion carried unanimously.

HB 197 - Free Conference Committee Report No. 1 - Senator Perry moved the Free Conference Committee report to **HB 197** be adopted. Motion carried unanimously.

HB 536 - Free Conference Committee Report No. 1 - Senator Perry moved the Free Conference Committee report to **HB 536** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Squires, Tester, Toole, Wheat.
Total 20

Absent or not voting: None.
Total 0

Excused: Shea, Stonington, Tropila.
Total 3

HB 680 - Conference Committee Report No. 1 - Senator Sprague moved the Conference Committee report to **HB 680** be adopted. Motion carried unanimously.

HB 689 - Free Conference Committee Report No. 1 - Senator Gebhardt moved the Free Conference Committee report to **HB 689** be adopted. Motion carried with Senators Cobb and Taylor voting nay.

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

MOTIONS

HB 2 - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 2**. Motion carried. The President appointed the following members:

Senator Zook, Chair
Senator Keenan
Senator Nelson

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ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, April 16, 2003. Motion carried.

Senate adjourned at 6:10 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate