

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

Helena, Montana  
April 24, 2003

Senate Chambers  
State Capitol

Senate convened at 8:00 a.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 eighty-sixth legislative day.

**REPORTS OF STANDING COMMITTEES**

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

4/24/2003

**HJR 35**, be concurred in. Report adopted.

**HJR 40**, be concurred in. Report adopted.

**HJR 43**, be concurred in. Report adopted.

**MESSAGES FROM THE GOVERNOR**

April 23, 2003

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

RE: **Senate Bill 46**

Dear Senator Keenan:

I am requesting that you return Senate Bill 46 and the proposed amendatory veto to the Governor's Office for further consideration.

Sincerely,

JUDY MARTZ  
Governor

April 23, 2003

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

RE: **Senate Bill 370**

Dear Senator Keenan:

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I am requesting that you return Senate Bill 370 and the proposed amendatory veto to the Governor's Office for further consideration.

Sincerely,

JUDY MARTZ  
Governor

**MOTIONS**

**SB 46 and SB 370** - Senator Thomas moved the Senate accede to the request of the Governor to return **SB 46** and **SB 370** for further consideration. Motion carried.

**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 Tropila in the chair.

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

**SB 252 - Free Conference Committee Report No. 1** - Senator Butcher moved the Free Conference Committee report to **SB 252** be adopted. Senator Squires made a **substitute motion** that the Free Conference Committee Report be **not** adopted. After discussion, Senator Squires' substitute motion on **SB 252** was moved below SB 407 on the second reading board.

**SB 270 - Governor's Amendments** - Senator Harrington moved Governor's amendments to **SB 270** be concurred in. Motion carried unanimously.

**SB 271 - Free Conference Committee Report No. 1** - Senator Stapleton moved the Free Conference Committee report to **SB 271** be adopted. Motion carried unanimously.

**SB 336 - Conference Committee Report No. 1** - Senator Mahlum moved the Conference Committee report to **SB 336** be adopted. Motion carried as follows:

Yeas: Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, DePratu, Ellingson, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Thomas, Toole, Tropila, Mr. President.

Total 30

Nays: Anderson, Bales, Cobb, Cromley, Curtiss, Elliott, Esp, Johnson, McGee, O'Neil, Perry, Roush, Story, Tash, Taylor, Tester, Wheat, Zook.

Total 18

Absent or not voting: None.

Total 0

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Excused: Glaser, Stapleton.  
Total 2

**SB 349** - Senator Anderson moved consideration of **SB 349** be passed for the day. Motion carried.

**SB 381 - Governor's Amendments** - Senator Keenan moved Governor's amendments to **SB 381** be concurred in. Motion carried unanimously.

**SB 406 - Governor's Amendments** - Senator McGee moved Governor's amendments to **SB 406** be concurred in. Motion carried unanimously.

**SB 407** - Senator Elliott rose on a point of parliamentary procedure concerning whether or not SB 407 was properly before the Senate. Since a Conference Committee report was not read across the rostrum, he thought the Senate needed to reconsider its action, and that the rules would have to be suspended to bring it to the floor. Senator Thomas stated that it was properly before the Senate. Senator Elliott suggested it was time to call a meeting of the Rules Committee.

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 Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

**MOTIONS**

Majority Leader Thomas moved the Senate stand in recess for a Rules meeting, until the call of the chair. Motion carried.

**Senate recessed at 10:05 p.m.**  
**Senate reconvened at 10:56 a.m.**

Roll call: All members present. Quorum present.

**MOTIONS**

**SB 407** - Senator Stapleton moved **SB 407, with House Amendments**, be placed on second reading this day. After discussion, Senator Tester made a **substitute motion** that the motion to place SB407 with House amendments on second reading was improper. President Keenan ruled Senator Tester's motion was out of order. Senator Tester then made a **substitute motion** that the Senate reconsider its action in adopting Senator Thomas's motion the previous day to put SB 407 on second reading this day. Senator Grimes called for the previous question. President Keenan ruled the question was in order.

Senator Tester's motion **failed** by the following vote:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.  
Total 23

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

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Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

The Senate then reverted to Senator Stapleton's motion that **SB 407, with House Amendments**, be placed on second reading this day. Motion **carried** as follows:

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

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.  
Total 23

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**MESSAGES FROM THE GOVERNOR**

April 24, 2003

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

The Honorable Doug Mood  
Speaker of the House  
State Capitol  
Helena, Montana 59620

**Re: SB 370**

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 370, "**AN ACT REVISING WHICH ENTITIES PAY FOR THE MEDICAL EXPENSES OF INMATES HELD IN COUNTY DETENTION FACILITIES; PROVIDING CIRCUMSTANCES UNDER WHICH THE INMATE IS RESPONSIBLE FOR PAYMENT; REQUIRING THE HEALTH CARE PROVIDER TO COLLECT PAYMENTS FOR TREATMENT FROM INMATES WHO ARE ABLE TO PAY; PROVIDING CIRCUMSTANCES UNDER WHICH THE COUNTY IS RESPONSIBLE FOR PAYMENT; AMENDING SECTIONS 7-32-2222 AND 7-32-2245, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**" for the following reasons:

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I have no concerns with the objectives of Senate Bill No. 370, or with its specific measures. I recommend, however, that Section 2 (3)(C) be amended to read that if the health care provider is reimbursed by the third-party payor or by the inmate or after the provider has been reimbursed by the county, the provider shall refund to the county the amount that the provider had been paid by the county for the services provided to the inmate.

I have enclosed my amendment to that effect. Please be advised that Senator Gebhardt, the sponsor of the bill, has been informed of my recommendation and has no objection.

Sincerely,

JUDY MARTZ  
Governor

GOVERNOR'S AMENDMENTS  
TO SENATE BILL 370

1. Page 3, line 2.  
**Following:** "BY"  
**Insert:** "the inmate or"

April 24, 2003

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

Dear Senator Keenan:

Please be informed that effective May 2, 2003, I have appointed the following individual as Supreme Court Judge of the Montana Supreme Court, in accordance with Montana Code Annotated 3-1-1011:

The Honorable John Arnan Warner, District Court Judge  
906 6th Avenue, Havre, MT 59501,

who fulfills the qualifications for being a nominee of the Judicial Nomination Commission.

I am attaching a copy of Judge Warner's biographical information for your convenience when considering Senate confirmation.

If you have questions regarding this appointment, please call Susan Ames, Appointments Advisor, at extension 0575.

Sincerely,

JUDY MARTZ  
Governor

MOTIONS

**SB 370** - Senator Mangan moved consideration of **SB 370 with Governor's amendments** be placed on second reading on a second agenda this legislative day. Motion passed unanimously.

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**HB 42** - Senator Bales moved the Senate recall **HB 42** from the House of Representatives for reconsideration. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.  
Total 39

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Harrington, McCarthy, Schmidt, Squires, Toole, Wheat.  
Total 11

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

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

**Senate recessed at 11:52 a.m.**  
**Senate reconvened at 1:18 p.m.**

Roll call. All members present except Senator Sprague, excused. Quorum present.

**MESSAGES FROM THE GOVERNOR**

April 24, 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 76** sponsored by Senator Schmidt., **Senate Bill 89** sponsored by Senator Tash, **Senate Bill 115** sponsored by Senator Mahlum, **Senate Bill 194** sponsored by Senator Tash et al., **Senate Bill 230** sponsored by Senator Cromley, **Senate Bill 232** sponsored by Senator Mahlum, **Senate Bill 282** sponsored by Senator Squires, **Senate Bill 288** sponsored by Senator Mangan, **Senate Bill 321** sponsored by Senator Laible, **Senate Bill 337** sponsored by Senator Tropila, **Senate Bill 400** sponsored by Senator Toole et al., **Senate Bill 441** sponsored by Senator D. Ryan, and **Senate Bill 444** sponsored by Senator Tester on April 24, 2003.

Sincerely,

JUDY MARTZ  
Governor

April 24, 2003

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The Honorable Doug Mood  
Speaker of the House  
State Capitol  
Helena, Montana 59620

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

**Re: HB 701**

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby **veto** House Bill 701, "**AN ACT REVISING PROVISIONS OF THE JUDICIAL BRANCH PERSONNEL PLAN TO EXCLUDE PERSONAL STAFF OF A JUSTICE, JUDGE, AND THE CLERK OF THE SUPREME COURT; PROVIDING THAT A JUSTICE, JUDGE, OR THE CLERK OF THE SUPREME COURT MAY APPOINT UP TO THREE PERSONAL STAFF MEMBERS; AMENDING SECTIONS 3-1-130 AND 3-2-501, MCA; AND PROVIDING AN EFFECTIVE DATE**" for the following reasons:

**House Bill No. 701 has significant long-term fiscal impacts.** This bill's fiscal impact cannot be determined, but likely will be significant. House Bill No. 701 would allow hiring authorities--all District Court judges, Supreme Court justices, and the Clerk of the Supreme Court--to set the salary for up to 3 employees each at any level within the salary range for the employees' position classification, including the maximum salary available. Currently, most of the potentially affected employee positions are not at or near the maximum salary available for the position classification--this bill clearly gives very broad discretion to significantly increase the personal services portion of the Judicial Branch's budget. The Judicial Branch is unable to predict the salary increases that might result from this legislation. At my request, however, the Judicial Branch provided the salary ranges for the potentially affected positions. The narrowest of the ranges is approximately \$14,000, and the broadest range is approximately \$23,000. This legislation would permit each hiring authority to move up to 3 employees to the maximum salary for their position.

**House Bill No. 701 strips employee rights.** House Bill No. 701 would remove up to 150 Judicial Branch employees from the current Judicial Branch personnel policies. This could result in approximately 44 percent of court employees being deprived of the usual employee rights to progressive discipline, termination only with cause, and, ultimately, wrongful discharge recourse. This is not acceptable. The Legislative Branch, which is like the Judicial Branch in having many elected officials across the state, has only 2 employees (1.7%) who are totally exempt from all employment rights.

By way of background, Section 59, Ch. 585, L. 2001, provides that all but 2 non-elected Judicial Branch employees, including district court employees, become subject to the overall judicial plan of personnel administration adopted by the Supreme Court as required by [section 1] [3-1-130]. The plan must include, but is not limited to, classification and pay, recruitment and selection, performance appraisal, training and promotion. In compliance with Section 3-1-130, MCA, the Supreme Court adopted a classification and compensation plan, and separately adopted personnel policies. It is these two pieces that make-up the overall judicial personnel plan.

Clearly, House Bill No. 701 impacts on both areas, as discussed briefly above. The fiscal impact will be substantial and Judicial Branch employee rights, some of which existed before state assumption when the employees were county employees, will be overturned. Neither aspect of the bill is acceptable to me.

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For these reasons, I **veto** House Bill No. 701.

Sincerely,

JUDY MARTZ  
Governor

**MESSAGES FROM THE OTHER HOUSE**

**Governor's amendments** to Senate bills **concurred in** and returned to the Senate: 4/24/2003

**SB 101**, introduced by Mahlum  
**SB 325**, introduced by McGee  
**SB 408**, introduced by Nelson  
**SB 429**, introduced by Esp

**Senate bill concurred in** and returned to the Senate: 4/24/2003

**SB 492**, introduced by Johnson

**Senate joint resolutions concurred in** and returned to the Senate: 4/24/2003

**SJR 29**, introduced by Toole  
**SJR 32**, introduced by Grimes

**Governor's amendments** to House bills **concurred in** and transmitted to the Senate for concurrence in the Governor's amendments:

4/24/2003

**HB 5**, introduced by Kasten  
**HB 218**, introduced by Bookout-Reinicke  
**HB 609**, introduced by Windy Boy

**House joint resolution passed** and transmitted to the Senate for concurrence: 4/24/2003

**HJR 45**, introduced by Small-Eastman

**Senate amendments** to House bills **concurred in**: 4/24/2003

**HB 90**, introduced by E. Clark  
**HB 727**, introduced by E. Clark

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

4/24/2003

**SB 415**, introduced by F. Thomas

This amended bill is being returned after the deadline for General Bills. Joint rule 40-200 requires a 2/3 vote for the bill to be considered by the receiving house.



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**FIRST READING AND COMMITMENT OF BILLS**

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

**SR 11**, introduced by Grimes (by request of the Senate Judiciary Standing Committee), referred to Judiciary.

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

**HJR 45**, introduced by Small-Eastman, referred to Natural Resources.

**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 Tropila in the chair.

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

**SB 487 - Free Conference Committee Report No. 1** - Senator Pease moved the Free Conference Committee report to **SB 487** be adopted. Motion carried unanimously.

**SJR 17 - House Amendments** - Senator Tester moved House amendments to **SJR 17** be concurred in. Motion carried unanimously.

**HB 247 - Governor's Amendments** - Senator Mangan moved Governor's amendments to **HB 247** be concurred in. Motion carried unanimously.

**HJR 37** - Senator Wheat moved **HJR 37** be concurred in. Motion carried with Senator Esp voting nay.

**SB 314 - Free Conference Committee Report No. 1** - Senator Stapleton moved **consideration** of the Free Conference Committee report to **SB 314 be passed for the day**. Motion carried unanimously.

**SB 252 - Free Conference Committee Report No. 1** - Senator Squires moved consideration of **SB 252 be indefinitely postponed**. Motion carried 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, Squires, Stapleton, Stonington, Story, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 47

Nays: None.  
Total 0

Absent or not voting: Mangan, Tash.  
Total 2

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Excused: Sprague.  
Total 1

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 Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

**MOTIONS**

Senator Thomas moved the Senate stand in recess until the hour of 3:00 p.m. this day. Motion carried.

**Senate recessed at 1:52 p.m.**  
**Senate reconvened at 3:04 p.m.**

Roll call. All members present except Senators Harrington and Sprague, excused. Quorum present.

**SPECIAL ORDERS OF THE DAY**

Senator Grimes introduced Governor Judy Martz, Chief Justice Karla Gray, and the new Justice, The Honorable John Arnan Warner, and his wife.

**Senator Harrington present at this time.**

**REPORTS OF STANDING COMMITTEES**

**BILL REPORT**

Correctly enrolled: **SB 101, SB 325, SB 384, SB 399, SB 408, SB 429, SB 446, SB 464, SB 489, SB 491, SJR 13, SJR 31.**

Examined by the sponsor and found to be correct: **SB 384, SB 399, SB 446, SB 464, SB 491.**

Signed by the President at 9:00 a.m., April 24, 2003: **SB 384, SB 399, SB 446, SB 464, SB 491.**

Signed by the Secretary of the Senate at 10:00 a.m., April 24, 2003: **SB 384, SB 399, SB 446, SB 464, SB 491.**

Signed by the Speaker at 10:05 a.m., April 24, 2003: **SB 384, SB 399, SB 446, SB 464, SB 491.**

Delivered to the Governor for approval at 10:30 a.m., April 24, 2003: **SB 384, SB 399, SB 446, SB 464, SB 491.**

**FINANCE AND CLAIMS** (Zook, Chairman): 4/24/2003  
**HB 19**, be concurred in. Report adopted.

**JUDICIARY** (Grimes, Chairman): 4/24/2003  
**SR 11**, be adopted. Report adopted.

**TAXATION** (DePratu, Chairman): 4/24/2003  
**HB 775**, be concurred in. Report adopted.

**MOTIONS**

Senator Thomas moved to suspend the rules to allow consideration of **SR 11** to be placed on the board this legislative day. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss,

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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, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Sprague.  
Total 1

**SPECIAL ORDERS OF THE DAY**

**SR 11** - Senator Grimes moved **SR 11** concurring in, confirming, and consenting to the nomination and appointment made by the Governor and submitted to the Senate of the Honorable John Arnan Warner as Justice of the Montana Supreme Court be adopted, and that the yeas and nays be spread upon the journal. Motion carried 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, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Sprague.  
Total 1

The Honorable John Warner, Justice of the Montana Supreme Court, received a standing ovation from the Senate.

**REPORTS OF SELECT COMMITTEES**

CONFERENCE COMMITTEE  
on Senate Amendments to **House Bill 107**  
Report No. 1, April 15, 2003

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 107** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 107** (reference copy -- salmon) be amended as follows:

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1. Page 4, line 20 through line 21.

**Strike:** subsection (8) in its entirety

**Renumber:** subsequent subsection

2. Page 4, line 30 through page 5, line 1.

**Strike:** section 6 in its entirety

**Renumber:** subsequent section

For the House:

A. Olson, Chairman  
Lehman  
Galvin-Harcro

For the Senate:

Glaser, Chairman  
Black  
Elliott

**MESSAGES FROM THE GOVERNOR**

April 24, 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 143** sponsored by Senator Bohlinger and **Senate Bill 401** sponsored by Senator Wheat et al. on April 24, 2003.

Sincerely,

JUDY MARTZ  
Governor

April 24, 2003

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

The Honorable Doug Mood  
Speaker of the House  
State Capitol  
Helena, Montana 59620

**Re: SB 473**

Dear President Keenan and Speaker Mood:

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In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 473, "**AN ACT PROVIDING FOR A PRESCRIPTION DRUG EXPANSION PROGRAM UNDER MEDICAID; AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO IMPLEMENT THE PRESCRIPTION DRUG EXPANSION PROGRAM UNDER MEDICAID; PROVIDING AN ANNUAL APPLICATION FEE FOR THE PROGRAM; AUTHORIZING A LOAN FROM THE BOARD OF INVESTMENTS FOR THE STARTUP COST OF THE PROGRAM; AND PROVIDING AN EFFECTIVE DATE**" for the following reasons:

I have no concerns with the objectives of Senate Bill No. 473, or with its specific measures. I recommend, however, that Section 2 (4) regarding prescription drug Expansion program rules be amended to read that the rules may be based upon rules adopted in other states to administer similar programs.

Further, I recommend that additional language be included in Section 4; and, I recommend that a termination date be included as new Section 13.

I have enclosed my amendments to that effect. Please be advised that Senator Elliott, the sponsor of the bill, has been informed of my recommendation and has no objection.

I urge your concurrence in the amendments.

Sincerely,

JUDY MARTZ  
Governor

GOVERNOR'S AMENDMENTS  
TO **SENATE BILL 473**

1. Title, line 9.

**Following:** "DATE"

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

2. Page 3, line 3.

**Strike:** "MAINE"

**Insert:** "other states"

**Strike:** "a"

**Strike:** "program"

**Insert:** "programs"

3. Page 4, line 1.

**Following:** "**program.**"

**Insert:** "(1)"

4. Page 4, line 6.

**Following:** line 5

**Insert:** "(2) Information disclosed by manufacturers during negotiations and all terms and conditions negotiated between the director and manufacturers and all information requested or required under the program must be kept confidential, except as the department determines is necessary to carry out the program. The department shall comply with the budget neutrality provisions required by the United States department of health and human services

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for the granting of any waivers.

(3) The department may not use access restrictions, supplemental rebates, or a preferred drug list to comply with the budget neutrality provisions when negotiating with the federal government for this waiver. These restrictions do not apply to other components of the medicaid or mental health services plan or drugs provided in those programs. These restrictions apply only to the prescription drug expansion program provided for in [section 2]."

5. Page 5, line 7.

**Insert:** "NEW SECTION. Section 13.{standard} **Termination.** [Section 4(3)] terminates June 30, 2005."

April 24, 2003

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

The Honorable Doug Mood  
Speaker of the House  
State Capitol  
Helena, Montana 59620

**Re: SB 46**

Dear President Keenan and Speaker Mood:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby **veto** Senate Bill 46, "**AN ACT REMOVING THE REQUIREMENT THAT A COUNTY MUST ENTER INTO A CONTRACT FOR CERTAIN LARGE PURCHASES OR CONSTRUCTION CONTRACTS; AMENDING SECTION 7-5-2301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**" for the following reasons:

After a review of the current law and discussions regarding the objectives and ramifications of this bill, I have decided to veto Senate Bill No. 46.

Current law requires counties to contract and have a competitive bid process for large projects. This allows private sector businesses to participate more significantly in major public projects and purchases which in turn provides a counter-balance. The current law provides continued benefits to the Montana taxpayer as well as keeps government operations more productive.

For these reasons, I **veto** Senate Bill 46.

Sincerely,

JUDY MARTZ  
Governor

**MOTIONS**

**HB 304** - Senator Thomas moved the Free Conference Committee to HB 304 be **dissolved** and that the President be

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authorized to appoint a new **Free** Conference Committee to meet with a like committee from the House to confer on **HB 304**. Motion carried. The President appointed the following members:

Senator Johnson, Chair  
Senator Bales  
Senator Tropila

**SB 46** - Senator Gebhardt moved to override the Governor's veto of **SB 46**. Motion carried as follows:

Yeas: Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Taylor, Tester, Toole, Tropila, Wheat.  
Total 34

Nays: Anderson, Bales, Barkus, Butcher, Glaser, Grimes, Laible, Mahlum, McGee, O'Neil, Stapleton, Tash, Thomas, Zook, Mr. President.  
Total 15

Absent or not voting: None.  
Total 0

Excused: Sprague.  
Total 1

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

Session 3

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

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

**HB 559 - Free Conference Committee Report No. 1** - Senator Glaser moved the Free Conference Committee report to **HB 559** be adopted. Motion carried with Senators McGee and Roush voting nay.

**SB 490 - House Amendments** - Senator Grimes moved House amendments to **SB 490** be concurred in. Motion carried unanimously.

**SB 370 - Governor's Amendments** - Senator Gebhardt moved Governor's amendments to **SB 370** be concurred in. Motion carried unanimously.

**SB 407 - House Amendments** - Senator DePratu moved House amendments to **SB 407** be concurred in. Motion carried as follows:

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

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President.  
Total 26

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.  
Total 23

Absent or not voting: None.  
Total 0

Excused: Sprague.  
Total 1

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted with Senators Toole, Mangan and Elliott voting nay.

**MESSAGES FROM THE OTHER HOUSE**

**Free** Conference Committee Report No.1 **not** adopted: 4/24/2003  
**SB 252**, introduced by Squires

**Conference** Committee Report No. 1 **not** adopted:  
**SB 349**, introduced by Anderson

**Free** Conference Committee Report No.1 adopted: 4/24/2003  
**SB 57**, introduced by Keenan  
**SB 126**, introduced by Story  
**SB 130**, introduced by McGee  
**SB 326**, introduced by McGee  
**SB 360**, introduced by F. Thomas  
**SB 375**, introduced by Elliott

**Conference** Committee Report No.1 adopted: 4/24/2003  
**SB 47**, introduced by Gebhardt  
**SB 304**, introduced by Johnson  
**SB 330**, introduced by Mangan  
**SB 347**, introduced by Keenan  
**SB 395**, introduced by Perry

**Free** Conference Committee Report No.1 adopted: 4/24/2003  
**HB 190**, introduced by Younkin  
**HB 197**, introduced by Becker  
**HB 201**, introduced by Jent  
**HB 211**, introduced by Newman  
**HB 283**, introduced by Fuchs  
**HB 298**, introduced by Younkin  
**HB 509**, introduced by A. Olson  
**HB 536**, introduced by Brueggeman



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**HB 564**, introduced by Lindeen  
**HB 689**, introduced by A. Olson  
**HB 720**, introduced by Hurwitz  
**HJR 31**, introduced by Facey

**Conference** Committee Report No.1 adopted: 4/24/2003

**HB 56**, introduced by B. Thomas  
**HB 259**, introduced by Maedje  
**HB 277**, introduced by Lindeen  
**HB 403**, introduced by Keane  
**HB 642**, introduced by Devlin  
**HB 680**, introduced by Noennig

**HB 363** - The House failed to concur in Senate amendments to **HB 363**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 363**:

4/24/2003

Representative R. Brown, Chair  
Representative Sales  
Representative Gillan

**MOTIONS**

**HB 363** - Senator Thomas moved the Senate accede to the request of the House and the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate Amendments to **HB 363**. Motion carried. The President appointed the following members:

Senator Barkus, Chair  
Senator Thomas  
Senator Cocchiarella

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Friday, April 25, 2003. Motion carried.

Senate adjourned at 6:07 p.m.

ROSANA SKELTON  
Secretary of the Senate

BOB KEENAN  
President of the Senate