

**HOUSE JOURNAL
FIRST LEGISLATIVE DAY
56th LEGISLATURE - SPECIAL SESSION**

Helena, Montana
June 15, 1999

House Chambers
State Capitol

House convened at 9:00 a.m. Mr. Speaker in the Chair. Invocation by former Representative Jim Rice. Pledge of Allegiance to the Flag.

Roll Call. All members present except Representatives Adams, Hanson, McKenney, Molnar, and Schmidt. Quorum present.

COMMUNICATIONS AND PETITIONS

PROCLAMATION

Call to the 56th Legislature for a Special Session

WHEREAS, Article V, section 6 of the Montana Constitution and section 5-3-101, MCA, provide that the Legislature may be convened in special session by the Governor; and

WHEREAS, Article VI, section 11, of the Montana Constitution provides that whenever the Governor considers it in the public interest, the Governor may convene the Legislature; and

WHEREAS, Indian Tribes in Montana have claimed rights to use water within Montana that are implied from acts of Congress, treaties or executive orders establishing tribal reservations, which rights are known as federal reserved water rights; and

WHEREAS, in 1979 the Montana Legislature created the Reserved Water Rights Compact Commission to negotiate water rights compacts with Indian Tribes, instead of litigating these complex and expensive cases in court; and

WHEREAS, to date water rights compacts have been reached between the State and the Fort Peck, Northern Cheyenne, and Rocky Boy's Reservations; and

WHEREAS, the Crow Tribe and the State and Federal governments have been working cooperatively since 1994 to resolve water issues on the Crow Reservation, and in the fall of 1998 the Crow Tribe and the State began negotiations towards a comprehensive settlement that addressed water rights as well as a long-standing lawsuit over the State's imposition of coal severance taxes; and

WHEREAS, after public hearings and the opportunity for public comment, the Reserved Water Rights Compact Commission and the Crow Tribe have reached a proposed settlement on these issues; and

WHEREAS, the payment of settlement funds to resolve the coal severance tax litigation requires an appropriation from the Montana Legislature, and a water rights compact between the State and the Tribe must be ratified by the Montana Legislature; and

WHEREAS, it is in the public interest of all Montanans, in order to avoid further protracted litigation and negotiation of the water rights and coal severance tax issues with the Crow Tribe, to consider these issues at a

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special session of the Legislature;

NOW, THEREFORE, I, Marc Racicot, Governor of the State of Montana, pursuant to the authority vested in me by the Constitution and laws of the state of Montana do hereby call the Fifty-Sixth Legislature into Special Session in Helena, at O'Connell Hall at Carroll College at the hour of 9:00 A.M., the 15th and 16th of June, 1999, and hereby direct the Special Session of the Fifty-Sixth Legislature to consider action on the following:

1. Legislation to implement the Crow-Montana reserved water rights compact and provide for the payment of funds to the Crow Tribe in satisfaction of the State's obligations under the compact and in consideration of the Tribe's agreement to release certain claims against the State.
2. Any appropriations necessary for the legislative session.

Dated this 1st day of June, 1999.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Montana to be affixed. **DONE** at the City of Helena, this 1st day of June, in the year of our Lord, one thousand nine hundred and ninety nine.

MARC RACICOT
Governor

Speaker Mercer introduced the following pages for the special session:

Lacey Foster, Townsend
Danny Person, Helena

Representative Grinde moved that the following House rules and Joint rules as proposed be adopted as the operating rules of the Special Session of the 56th Legislature:

PROPOSED TEMPORARY HOUSE RULES FOR SPECIAL SESSION

H40-60. One reading per day. ~~Except on the final legislative day, legislation~~ Legislation may receive no more than one reading per legislative day. ~~On the final legislative day, legislation may receive more than one reading.~~

H40-140. Second reading. (1) Legislation returned from committee may be placed on second reading unless otherwise ordered by the House.

(2) The House shall form itself into a Committee of the Whole to consider business on second reading. The Committee of the Whole may debate legislation, attach amendments, and recommend approval or disapproval of legislation.

(3) ~~Except on the final legislative day, at least 1 legislative day must elapse between the time legislation is~~ Legislation reported from committee ~~and the time it is~~ may be considered on second reading at any time.

(4) If a motion to recommend that a bill "do pass" or "be concurred in" fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill "do not pass" or "be not concurred in", is considered to

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have passed. If a motion to recommend that a bill "do not pass" or "be not concurred in" fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill "do pass" or "be concurred in", is considered to have passed.

(5) An amendment attached to legislation by the Committee of the Whole remains unless removed by further legislative action.

(6) When the Committee of the Whole reports to the House, the House shall adopt or reject the Committee of the Whole report. If the House rejects the Committee of the Whole report, the legislation remains on second reading, as amended by the Committee of the Whole, unless the House orders otherwise.

(7) A representative may move to segregate legislation from the Committee of the Whole report before the report is adopted. Segregated legislation, as amended by the Committee of the Whole, must be placed on second reading unless the House orders otherwise.

~~**H40-190. Engrossing.** (1) After legislation is passed on second reading, it must be engrossed within 48 hours under the direction of the Speaker. The Speaker may grant additional time for engrossing.~~

~~_____ (2) When the legislation Legislation that has passed second reading has been correctly engrossed, it may be placed on third reading on the following the same legislative day. On the final legislative day, the correctly engrossed legislation may be placed on third reading on the same legislative day.~~

H40-200. Third reading. (1) All bills, joint resolutions, and Senate amendments to House bills and resolutions passing second reading must be placed on third reading ~~the day following the receipt of the engrossing or other appropriate printing report.~~

(2) Legislation on third reading may not be amended or debated.

(3) The Speaker shall state the question on legislation on third reading. If a majority of the representatives voting does not approve the legislation, it fails to pass third reading.

~~**H40-240. Enrolling.** (1) When House legislation has passed both houses, it must be enrolled within 48 hours under the direction of the Speaker. The Speaker may grant additional time for enrolling.~~

~~(2) The chief sponsor of the legislation shall examine the enrolled legislation and, if it has no enrolling errors, shall, within 1 legislative day, certify the legislation as correctly enrolled.~~

~~(3) The correctly enrolled legislation must be delivered to the Speaker, who shall sign the legislation.~~

~~(4) After the legislation has been reported correctly enrolled but before it is signed, any representative may examine the legislation.~~

Rules

H70-10. House rules. (1) The House may adopt, through a House resolution passed by a majority of its members, rules to govern its proceedings.

(2) After adoption of the House rules, ~~two-thirds~~ a majority of the representatives voting must vote in favor of the question to amend the rules.

(3) The Speaker shall refer to the House Rules Committee all resolutions for House rules.

(4) The House Rules Committee shall report all resolutions for House rules within 1 legislative day of referral.

H70-20. Tenure of rules. Rules adopted by the House for a regular session remain in effect until removed by House resolution or until a new House is elected and takes office.

H70-30. Suspension of rules. The House may suspend a House rule on a motion approved by not less than ~~two-thirds~~ a majority of the members voting.

PROPOSED TEMPORARY JOINT RULES FOR SPECIAL SESSION

10-150. Recording and publication of voting. (1) Every vote of each member on each substantive

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question in the Legislature, in any committee, or in Committee of the Whole must be recorded and made public. On final passage of any bill or joint resolution, the vote must be taken by ayes and noes and the names entered on the journal.

(2) (a) Roll call votes must be taken by ayes and noes and the names entered on the journal on adopting an adverse committee report and on those motions made in Committee of the Whole to:

- (i) amend;
- (ii) recommend passage or nonpassage;
- (iii) recommend concurrence or nonconcurrence; or
- (iv) indefinitely postpone.

(b) The text of all ~~proposed~~ adopted amendments must be recorded.

(3) A roll call vote must be taken on nonsubstantive questions on the request of two members who may, on any vote, request that the ayes and noes be spread upon the journal.

(4) Roll call votes and other votes that are to be made public but are not specifically required to be spread upon the journal must be entered in the minutes of the appropriate committee or of the appropriate house (Montana Constitution, Art. V, Sec. 11(2)). A copy of the minutes must be filed with the Montana Historical Society.

~~————— **30-50. Committee consideration of appropriation bills.** (1) All bills providing for an appropriation of public money may first be considered by a joint committee composed of the members of the Senate Committee on Finance and Claims and the House Committee on Appropriations, and then by each separately.~~

~~————— (2) Meetings of the joint committee must be held upon call of the chair of the House Committee on Appropriations, who is chair of the joint committee.~~

~~————— (3) The committee chair of the Senate Committee on Finance and Claims or of the House Committee on Appropriations may be a voting member in the joint subcommittees if:~~

- ~~————— (a) either house has fewer members on the joint subcommittees;~~
- ~~————— (b) the chair represents the house with fewer members on the subcommittees; and~~
- ~~————— (c) the chair is present for the vote.~~

~~————— **40-40. Bill requests and introduction --limits and procedures.** (1) Prior to a regular the special session, a person entitled to serve in that session, hereafter referred to as a "member", is entitled to request bill drafting services from the Legislative Services Division, subject to the following limits:~~

~~————— (a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and resolutions to be prepared by the Legislative Services Division for introduction in the regular session.~~

~~————— (b) (i) Except as provided in subsection (1)(b)(ii), after 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Services Division. At least five of the seven bills or resolutions must be requested before the regular session convenes.~~

~~————— (ii) For the 56th legislative session, after 11 a.m. on December 18, a member may request no more than four bills or resolutions to be prepared by the Legislative Services Division. At least two of the four bills or resolutions must be requested before the regular session convenes. A bill or resolution requested between 5 p.m. on December 5 and 11 a.m. on December 18 is exempt from this subsection (1)(b)(ii).~~

~~————— (c) After December 5, a member, in the member's discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator.~~

~~————— (d) These limitations on bill and resolution requests do not apply to:~~

- ~~————— (i) Code Commissioner bills;~~
- ~~————— (ii) a bill or resolution requested by a standing committee; and~~

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~~_____ (iii) a bill or resolution requested by a member at the request of a newly elected state official if so designated.~~

~~_____ (2) The staff of the Legislative Services Division shall work on bill draft requests in the order received. After a member has requested the drafting of five bills, the sixth bill request and all subsequent bill requests of that member must receive a lower drafting priority than all other bills of members not in excess of five per member. A bill requested pursuant to subsection (5) must receive a lower drafting priority than all bills requested by members, unless the requesting member assigns that request to the member's five request priority. A legislator draft must receive priority at each step of the drafting process. A legislator draft must be delivered to the Legislative Services Division by the 20th legislative day or the request is canceled. The Speaker of the House, the minority leader of the House, the President of the Senate, and the minority leader of the Senate may each direct the staff of the Legislative Services Division to assign a higher priority to 10 draft requests. The staff of the Legislative Services Division shall assign a higher priority to any bill draft request when jointly directed by:~~

~~_____ (a) the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House; or~~

~~_____ (b) the House and the Senate.~~

~~_____ (3) Bills and resolutions must be reviewed by the staff of the Legislative Services Division prior to introduction for proper format, style, and legal form. The staff of the Legislative Services Division shall store bills on the automated bill drafting equipment and shall print and deliver them in duplicate to the requesting members. The original bill cover must be signed to indicate review by the Legislative Services Division. A bill may not be introduced unless it is so signed.~~

~~_____ (4) During a session, a bill may be introduced by endorsing it with the name of a member and presenting it in duplicate to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name appears first on the bill is a member. The chief joint sponsor's name must appear immediately to the right of the first sponsor's name. In each session of the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.~~

~~_____ (5) (a) Any bill proposed by an interim or statutory legislative committee or introduced by request of an administrative or executive agency or department must be so indicated by placing after the names of the sponsors the phrase "By Request of the..... (Name of committee or agency)". The phrase may not be added to an introduced bill and may not be placed on a bill whose subject matter was requested by an agency or statutory or interim committee prior to the convening of the session. A bill draft request submitted at the request of an agency or committee prior to December 23 must be requested by an individual member by December 23 or the request is placed on hold. After December 23, an agency or committee bill must be requested by an individual member. Except as provided in subsection (5)(b), an agency or committee bill request must be preintroduced or the request is canceled. Preintroduction must occur no later than 5 p.m. on the fifth working day prior to the convening of a legislative session. Preintroduction is accomplished when the Legislative Services Division receives a signed preintroduction form.~~

~~_____ (b) The preintroduction requirement does not apply to an office held by an elected official during the official's first year in that office or to bills requested by a joint select or joint special committee appointed prior to the convening of the legislative session to address a specific issue.~~
for bills within the call of the special session.

~~(6) (2) Bills may be preintroduced, numbered, and reproduced prior to a legislative session by the staff of the Legislative Services Division. Actual signatures of persons entitled to serve as members in the ensuing session may appear on the face of the preintroduced bill, or signatures may be obtained on a consent form from the Legislative Services Division and the sponsor's name printed on the bill. Additional sponsors may be added~~

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on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Services Division to be included on the face of the bill following standing committee approval.

~~40-50. Schedules for drafting requests and bill introduction.~~ The following schedules must be followed for submission of drafting requests and introduction of bills and resolutions:

Request Deadline
5:00 P.M.
Legislative Day
=====

† General Bills and Resolutions — 10
† Revenue Bills — 17
† Committee Bills and Resolutions — 36
† Committee Revenue Bills — 62
† Committee Bills implementing provisions
of a general appropriation act — 75
† Bills and Resolutions must be introduced within
2 legislative days after delivery.
† Appropriation Bills — No Deadline
† Interim study resolutions — 75
† Resolutions to express confirmation of
appointments — No Deadline
† Bills repealing or directing the amendment
or adoption of administrative rules and
joint resolutions advising or requesting
the repeal, amendment, or adoption of
administrative rules

~~40-100. Fiscal notes.~~ (1) As provided in Title 5, chapter 4, part 2, MCA, all bills reported out of a committee of the Legislature having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect. The Legislative Services Division staff shall indicate at the top of each bill prepared for introduction that a fiscal note may be necessary under this rule. Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.

~~(2) Unless the chief sponsor directs otherwise, the Legislative Services Division shall make available an electronic copy of any bill for which it has been determined a fiscal note may be necessary to the Budget Director immediately after the bill has been prepared for introduction and delivered to the requesting member. The Budget Director may proceed with the preparation of a fiscal note in anticipation of a subsequent formal request. A bill with financial implications for a local government or school district must comply with subsection (4).~~

~~(3) The Budget Director, in cooperation with the governmental entity or entities affected by the bill, is responsible for the preparation of the fiscal note. Except as provided in subsection (4), the Budget Director shall return the fiscal note within 6 days unless further time is granted by the presiding officer or committee making the request, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the note.~~

~~(4) (a) A bill that may require a local government or school district to perform an activity or provide a~~

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~~service or facility that requires the direct expenditure of additional funds without a specific means to finance the activity, service, or facility in violation of section 1-2-112 or 1-2-113, MCA, must be accompanied, at the time that the bill is presented for introduction, by an estimate of all direct and indirect fiscal impacts on the local government or school district. The estimate of the fiscal impacts must be prepared by the Budget Director in cooperation with a local government or school district affected by the bill.~~

~~_____ (b) The Budget Director has 8 days to prepare the estimate unless further time is granted by the presiding officer, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the estimate. Upon completion of the estimate, the Budget Director shall submit it to the presiding officer and the chief sponsor of the bill.~~

~~_____ (5) A completed fiscal note must be submitted by the Budget Director to the presiding officer who requested it. The presiding officer shall notify the bill's chief sponsor of the completed fiscal note and request the chief sponsor's signature. The chief sponsor has 1 legislative day after delivery to review the fiscal note and to discuss the findings with the Budget Director, if necessary. After the legislative day has elapsed, all fiscal notes must be reproduced and placed on the members' desks, either with or without the chief sponsor's signature.~~

~~_____ (6) A fiscal note must, if possible, show in dollar amounts:~~

~~_____ (a) the estimated increase or decrease in revenues or expenditures;~~

~~_____ (b) costs that may be absorbed without additional funds; and~~

~~_____ (c) long-range financial implications.~~

~~_____ (7) The fiscal note may not include any comment or opinion relative to merits of the bill. However, technical or mechanical defects in the bill may be noted.~~

~~_____ (8) A fiscal note also may be requested, through the presiding officer, on a bill and on an amended bill by:~~

~~_____ (a) a committee considering the bill;~~

~~_____ (b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or~~

~~_____ (c) the chief sponsor~~

~~_____ (9) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.~~

~~_____ (10) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is accompanied by the fiscal note.~~

40-140. Second reading -- bill reproduction. (1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill must be reproduced on yellow paper with all amendments incorporated into the copies.

_____ (2) If a bill has been returned from a committee without amendments, only the first sheet must be reproduced on yellow paper, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.

_____ (3) A bill requested by and heard by a joint select or joint special committee, as provided in 40-40(5)(b), may be referred directly to second reading. If the bill is passed by the house of origin, the bill must be transmitted to the other house, and if the bill was not amended, it may be placed on second reading without the need for referral to a committee.

40-150. Engrossing. (1) When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed. Committee of the Whole amendments must be included in the engrossed bill. The bill must be placed on the calendar for third reading on the legislative day after receipt.

_____ (2) Copies of the engrossed bill to be distributed to members are reproduced on blue paper. If a bill is

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~~unamended by the Committee of the Whole and contains no clerical errors, it is not required to be reprinted. Only the first sheet must be reproduced on blue paper, with the remainder of the text incorporated by reference to the preceding version of the entire bill.~~

~~(3) If a bill is amended by a standing committee in the second house, the amendments must be included in a tan-colored bill and distributed in the second house for second reading consideration. If the bill is amended in Committee of the Whole, the amendments must be included in a salmon-colored reference bill and distributed in the second house for third reading. If the bill passes on third reading, copies of the reference bill must be distributed in the original house. The original house may request from the second house a specified number of copies of the amendments to be printed.~~

60-10. Suspension of joint rule --change in rules. (1) A joint rule may be repealed or amended only with the concurrence of both houses, under the procedures adopted by each house for the repeal or amendment of its own rules.

(2) A joint rule governing the procedure for handling bills may be temporarily suspended by the consent of ~~two-thirds~~ a majority of the members of either house, insofar as it applies to the house suspending it.

(3) Any Rules Committee report recommending a change in the joint rules must be referred to the other house. Any new rule or any change in the rules of either house must be transmitted to the other house for informational purposes.

(4) Upon adoption of any change, the Secretary of the Senate and the Chief Clerk of the House of Representatives shall provide the office of the Legislative Services Division:

- (a) one copy of all motions or resolutions amending Senate, House, or joint rules; and
- (b) copies of all minutes and reports of the Rules Committees.

Motion to adopt rules carried as follows:

Ayes: Ahner, Andersen, Anderson, Barnett, Barnhart, Beck, E. Bergsagel, P. Bergsagel, Bitney, Bookout-Reinicke, Brainard, Brown, E. Clark, R. Clark, Cobb, Curtiss, Dale, Davies, Fisher, Fuchs, Gillan, Grinde, Gutsche, Hagener, Haines, Harrington, Hedges, Hibbard, Holden, Jackson, Johnson, Jore, Kasten, Kitzenberg, Krenzler, Lawson, Lenhart, Masolo, Matthews, McCann, McGee, Mercer, Mood, Noennig, Ohs, Orr, Pavlovich, Quilici, Rehbein, Rose, Shockley, Simon, Sliter, Smith, Soft, Somerville, Story, Stovall, Swanson, Tash, Taylor, Thomas, Trexler, Tropila, Vick, Wagner, Walters, Witt, Younkin, Zook
Total: 70

Nays: Buzzas, P. Clark, Dell, Eggers, Erickson, Ewer, Facey, Gallus, Galvin-Halcro, Golie, Guggenheim, Harper, Hurdle, Juneau, Lindeen, Mangan, McCulloch, Menahan, Peck, Raney, Ryan, Squires, Tuss, Williams, Wyatt
Total: 25

Absent or not voting: none
Total: 0

Excused: Adams, Hanson, McKenney, Molnar, and Schmidt
Total: 5

Representative Grinde moved that the Speaker appoint a committee of four members to notify the Governor that the House is now organized and ready for business. Motion carried. Mr. Speaker appointed the following members: Representative Hibbard, Chairman, Representatives E. Clark, Facey, and Gutsche.

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Representative Grinde moved that the Speaker appoint a committee of four members to notify the Senate that the House is now organized and ready for business. Motion carried. Mr. Speaker appointed the following members: Representative Johnson, Chairman, Representatives Masolo, Quilici, and Swanson.

Representative Grinde moved that the Speaker appoint a committee of four members to notify the Supreme Court, by letter, that the House is now organized and ready for business. Motion carried. Mr. Speaker appointed the following members: Representative McGee, Chairman, Representatives Guggenheim, Jackson, and Juneau.

Mr. Speaker discharged committees and announced that the House would stand at ease to await the reports of the Select Committee from the Senate and the three Select Committees of the House.

Sergeant-at-Arms Meuli escorted the Select Committee from the Senate into the House Chamber. Senators Glaser, Mahlum, and Wilson reported that the Senate was organized and ready for business. The committee was thanked and escorted from the House Chamber.

Sergeant-at-Arms Meuli escorted the Select Committees of the House into the House Chamber and they reported that the Senate, Governor, and the Supreme Court had been notified that the House was ready for business. The committees were thanked and discharged.

COMMUNICATIONS AND PETITIONS

June 15, 1999

The Honorable Marc Racicot
Governor
State of Montana
Helena, MT 59620

The Honorable Bruce Crippen
President of the Senate
Montana Senate
Helena, MT 59620

The Honorable John Mercer
Speaker of the House
Montana House of Representatives
Helena, MT 59620

Dear Governor Racicot, President Crippen and Speaker Mercer:

A majority of legislators have petitioned to extend the call of the Special Session beginning June 15, 1999 to consider legislation to make inapplicable to misdemeanor speeding convictions in Justice and City Court the surcharges imposed by 46-18-237 (1) and 3-1-317.

The petition calls for the special session to run concurrently with the special session beginning June 15, 1999, called by Governor Marc Racicot.

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appropriation of money to implement the compact and to settle litigation involving the state's imposition of coal severance taxes; and

WHEREAS, the Fifty-Sixth Montana Legislature passed Senate Bill No.133, establishing a numerical speed limit and setting the minimum fine for a violation of the speed limit at \$20; and

WHEREAS, the application of sections 46-18-236(1) and 3-1-317, MCA, imposing a \$15 and a \$5 surcharge, respectively, on convictions in Justice's Court and City Court to pay for salaries of city and county attorneys and computer systems for the courts; and

WHEREAS, the application of the \$15 and \$5 surcharges to speeding convictions in Justice's and City Courts results in an effective doubling of the \$20 minimum speeding penalty to a \$40 penalty and an increase in the fines for higher misdemeanor speeding violations as well; and

WHEREAS, the Montana Legislature did not intend that the minimum fine for speeding be \$40 or that other speeding fines be increased above those fines specified in Senate Bill No.133; and

WHEREAS, Article V, section 6, of The Constitution of the State of Montana and section 5-3-101, MCA, provide that the Legislature may be convened in special session at the request of a majority of the members.

NOW, THEREFORE, THE UNDERSIGNED member of the Fifty-Sixth Legislature, pursuant to Article V, section 6, of the Montana Constitution and section 5-3-101, MCA, hereby petitions to convene the Fifty-Sixth Legislature into special session in Helena at the Capitol, to run concurrently with the special session beginning June 15, 1999, called by the Governor. The special session requested by this petition is requested for the purpose of considering legislation to make inapplicable to misdemeanor speeding convictions in Justice's and City Court the surcharges imposed by sections 46-18-237(1) and 3-1-317, MCA.

Members of the Fifty-Sixth Legislature:

Representatives Adams, Ahner, Anderson, Beck, Brown, Cobb, Curtiss, Dale, Davies, Eggers, Ewer, Fisher, Fuchs, Galvin-Halcro, Gillan, Golie, Grinde, Guggenheim, Hanson, Harper, Harrington, Hedges, Holden, Jackson, Jore, Juneau, Kitzenberg, Krenzler, Lindeen, Mangan, Masolo, Matthews, McCulloch, McGee, Menahan, Molnar, Ohs, Pavlovich, Quilici, Rehbein, Ryan, Schmidt, Simon, Sliter, Somerville, Squires, Story, Stovall, Taylor, Trexler, Tropila, Wagner, Williams, and Wyatt, and Senators Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Devlin, Ellis, Halligan, Holden, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Mohl, Nelson, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, and Wilson.

FIRST READING AND COMMITMENT OF BILLS

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

HB 1, introduced by Stovall, referred to Appropriations.

HB 2, introduced by Zook, referred to Appropriations.

ANNOUNCEMENTS

Committee meetings were announced by the chairmen.

Representative Grinde moved that the House receive the Governor's address in joint session and that, upon completion, recess until 2:00 p.m. today. Motion carried.

President Crippen recognized Senator Harp who moved that the body resolve itself into a joint session for the purpose of receiving the address from the Honorable Marc Racicot, Governor of the State of Montana. Motion

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carried.

Senator Harp moved that the President be authorized to appoint a committee of four to notify the Governor that the joint session was ready to receive his address. Motion carried. President Crippen appointed Senator Beck, Chairman, Senator Jergeson, and Representatives Hurdle and Rose. The committee was discharged to escort the Governor into the Carroll Commons.

Sergeant-at-Arms Cramer escorted the committee and Governor Racicot into the chamber.

The invocation was given by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

After being introduced by President Crippen, Governor Racicot delivered the following address:

Welcome back to college. Welcome to Session 56 point 5 of the Montana Legislature. This is a historic session for a number of reasons. This is the 26th special session in our special state's special history. This is, as far as we can gather, the first session in nearly a century held outside of the State Capitol Building, which, as you know, is being renovated, not from anything that happened during the regular session, but because it is being prepared for yet another century of service to the people of this state.

I am going to be extremely brief this morning. We have some important work to do, and we can't get to it if I am talking at you and you are stuck listening. Finally, I say historic because of the subjects at hand. The Crow Tribe Montana Water Compact is truly an historic opportunity for the Crow Tribe and the State of Montana, further proof of how the peoples in Montana can accomplish so much more by working together.

Last fall officials from the Crow Tribe approached me and Attorney General Mazurek with a proposal for a comprehensive settlement of three important issues that have gone unresolved for decades: tribal water rights, coal severance tax litigation and Section 2 land ownership. The Tribe hoped that a settlement package involving the first two issues could be brought to the 1999 regular session of the Legislature for approval. Time and the need for public hearings did not permit that. But since December the Montana Reserved Water Rights Compact Commission and the Crow Tribe, working closely with federal negotiators, have engaged in intense negotiations on the water rights issues.

In April, the Tribe and Compact Commission finalized a compact which provides for a significant water right for the Tribe while protecting the rights of all existing water users. At the same time, the Attorney General and I negotiated with the Tribe a final settlement of the contentious coal tax litigation, which has dragged on for so many years and so many dollars.

It is these two agreements that we bring to this special session gathered here today and tomorrow. This is the first step in an approval process that includes Congressional authorization, a Crow Tribe secret ballot referendum and ultimately approval by the Montana Water Court. The Section 2 issue will be negotiated by the Tribe and United States and included in a Congressional settlement package.

Your hearings will learn of the specific details of these agreements later. Let me just say for now in brief that the Compact provides water from surface flow, groundwater and storage for the Crow Tribe for existing and future needs, provides protection for all state and tribal current water users while protecting conservation districts' rights to future water. It creates an administrative process for resolution of future disputes between Tribal and non-Tribal water users, closes certain basins to new water appropriations and authorizes the State to pay the Tribe \$15 million

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for the Tribe's dismissal of the coal severance lawsuit and for the State's cost-share for the water rights settlement.

While the State has, indeed, prevailed in recent court decisions on this issue, the Attorney General and I are in agreement that some potential liability does remain on the subject. And in the interests of economy, expeditious resolution of a longstanding dispute and our mutual interests in building positive future relationships, we agree that this settlement is the best for the people of Montana.

Well, that's it--two complex issues have been narrowed through good-faith negotiations to a pair of fairly simple decisions before you this week. I hope, I trust, you will see fit to do the right thing for the mutual futures of Montana's peoples and approve these pacts. By doing that, by approving these agreements in this historic special session, together, we can turn two perpetual points of division and debate over water resources into what they should quickly become: water under the bridge between our peoples.

Thank you, good luck, God bless, and good day.

President Crippen introduced Amos Bird Hat from Billings, son of Crow Tribe Water Rights Negotiator Bob Kelly and Smith Wells from Helena, daughter of Legal Counsel for Reserved Water Rights Compact Commission Faye Bergan who presented gifts to Governor Racicot.

After being recognized and thanked by President Crippen, Legislative Director Bob Person addressed the assembly.

Reverend John Darragh gave the Benediction.

The committee escorted the Governor from the Chamber.

Committee chairmen announced the committee meetings.

Senator Harp moved that the joint session be adjourned. Motion carried.

House recessed at 10:00 a.m.

House reconvened at 2:00 p.m. Quorum present. Representatives Hanson, Molnar, and Schmidt present.

COMMUNICATIONS AND PETITIONS

June 15, 1999

The Honorable Marc Racicot
Governor
State of Montana
Helena, MT 59620

The Honorable Bruce Crippen
President of the Senate
Montana Senate
Helena, MT 59620

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MIKE COONEY
Secretary of State

PETITION OF THE FIFTY-SIXTH LEGISLATURE
FOR A CALL OF SPECIAL SESSION

WHEREAS, House Bill No. 91 was approved by the House of Representatives by a vote of 63 to 35 and was approved by the Senate by a vote of 32 to 17; and

WHEREAS, on April 23, 1999, the Governor vetoed House Bill No. 91, after the Legislature had adjourned on April 21, 1999; and

WHEREAS, Article VI, Section 10(4)(b), of the Montana Constitution provides that the legislature may reconvene as provided by law to reconsider any bill vetoed by the Governor when the Legislature is not in session; and

WHEREAS, Section 5-4-306(3), MCA, provides that the Legislature may reconvene to reconsider any bill vetoed by the Governor when the Legislature is not in session by using the statutory procedure for convening in special session at the request of a majority of the members pursuant to section 5-3-101, MCA.

NOW, THEREFORE, WE THE UNDERSIGNED, being a majority of the members of the Fifty-Sixth Legislature, pursuant to Article V, Section 6 and Article VI, Section 10(4)(b), of the Montana Constitution and sections 5-3-101 and 5-4-306(3), MCA, hereby reconvene the Fifty-Sixth Legislature into session in Helena at the Capitol, to run concurrently with the special session beginning June 15, 1999, called by the Governor.

The session hereby reconvened shall consider overriding the veto of House Bill No. 91.

Members of the Fifty-Sixth Legislature:

Representatives Ahner, Andersen, Anderson, Barnett, P. Bergsagel, Bitney, Bookout-Reinicke, Brainard, Brown, E. Clark, P. Clark, R. Clark, Cobb, Curtiss, Dale, Davies, Fisher, Fuchs, Grinde, Haines, Hedges, Holden, Jackson, Jore, Kasten, Kitzenberg, Lenhart, Masolo, McCulloch, McGee, Menahan, Molnar, Mood, Ohs, Orr, Pavlovich, Raney, Rehbein, Rose, Ryan, Shockley, Simon, Sliter, Soft, Squires, Story, Stovall, Taylor, Thomas, Trexler, Tuss, Vick, Wagner, Walters, Witt, Younkin, and Zook, and Senators Beck, Berry, Bishop, Devlin, Ellingson, Glaser, Grimes, Hargrove, Hertel, Jabs, Keating, Keenan, Lynch, Mahlum, Mesaros, Miller, Sprague, M. Taylor, Thomas, Toews.

Speaker Mercer resigned from the Legislative Council and appointed Representative Noennig in his place.

Larry Grinde resigned from the Transition Advisory Council.

Speaker Mercer appointed Representatives Erickson and Witt to the Interim Court Funding and Structure Committee.

Speaker Mercer appointed Representatives Guggenheim and Story to the Interim Local Government Funding and Structure Committee.

Speaker Mercer appointed Representatives Mangan and McKenney to the Interim Committee on Education and

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Local Government.

REPORTS OF STANDING COMMITTEES

APPROPRIATIONS (Zook, Chairman):
HB 1, do pass. Report adopted.

6/15/1999

MOTIONS

Representative Taylor moved that **HB 1** be taken from the Committee on Appropriations, be printed and placed on 2nd reading today. Motion carried as follows:

Ayes: Ahner, Andersen, Anderson, Barnett, Beck, E. Bergsagel, Bitney, Bookout-Reinicke, Brown, E. Clark, Dell, Facey, Gallus, Gillan, Golie, Grinde, Guggenheim, Hagener, Haines, Hanson, Harper, Harrington, Hedges, Hibbard, Holden, Jackson, Johnson, Juneau, Kitzenberg, Krenzler, Lawson, Lenhart, Lindeen, Mangan, Masolo, Matthews, McCann, McCulloch, McGee, Menahan, Mercer, Mood, Noennig, Ohs, Pavlovich, Quilici, Rose, Ryan, Schmidt, Shockley, Simon, Sliter, Smith, Soft, Somerville, Squires, Story, Stovall, Swanson, Tash, Taylor, Thomas, Trexler, Tropila, Walters, Williams, Witt, Younkin, Zook
Total: 69

Nays: Barnhart, P. Bergsagel, Brainard, Buzzas, P. Clark, R. Clark, Cobb, Curtiss, Dale, Davies, Eggers, Erickson, Fisher, Fuchs, Galvin-Halcro, Gutsche, Hurdle, Jore, Kasten, Molnar, Orr, Peck, Raney, Rehbein, Tuss, Vick, Wagner, Wyatt
Total: 28

Absent or not voting: Ewer
Total: 1

Excused: Adams, McKenney
Total: 2

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

Representative Grinde moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Tropila in the chair.

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

HB 1 - Representative Stovall moved **HB 1** do pass.

HB 1 - Representative E. Bergsagel moved **HB 1**, second reading copy, be amended as follows :

1. Page 3, line 21.

Following: "parties"

Insert: "and the approval of the legislature"

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Amendment adopted.

HB 1 - Representative Stovall moved **HB 1**, second reading copy, be further amended as follows :

1. Page 1, line 21.

Strike: "6"

Insert: "7"

Amendment adopted.

Motion that **HB 1**, as amended, do pass carried as follows:

Ayes: Ahner, Andersen, Anderson, Barnett, Beck, E. Bergsagel, Bitney, Bookout-Reinicke, Brainard, Brown, E. Clark, R. Clark, Cobb, Curtiss, Dale, Davies, Dell, Erickson, Ewer, Facey, Fisher, Fuchs, Gallus, Gillan, Golie, Grinde, Guggenheim, Hagener, Haines, Hanson, Harper, Harrington, Hedges, Hibbard, Holden, Jackson, Johnson, Juneau, Kitzenberg, Krenzler, Lawson, Lenhart, Lindeen, Mangan, Masolo, Matthews, McCann, McCulloch, McGee, Menahan, Mercer, Mood, Noennig, Ohs, Pavlovich, Quilici, Rose, Ryan, Schmidt, Shockley, Simon, Sliter, Smith, Soft, Somerville, Squires, Story, Stovall, Swanson, Tash, Taylor, Thomas, Trexler, Tropila, Walters, Williams, Witt, Wyatt, Younkin, Zook

Total: 80

Nays: Barnhart, P. Bergsagel, Buzzas, P. Clark, Eggers, Galvin-Halcro, Gutsche, Hurdle, Jore, Kasten, Molnar, Orr, Peck, Raney, Rehbein, Tuss, Vick, Wagner

Total: 18

Absent or not voting; none

Total: 0

Excused: Adams, McKenney

Total: 2

Representative Grinde moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted.

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:

HB 1 passed as follows:

Ayes: Ahner, Andersen, Anderson, Barnett, Beck, E. Bergsagel, Bitney, Bookout-Reinicke, Brainard, Brown, E. Clark, R. Clark, Cobb, Curtiss, Dale, Davies, Dell, Erickson, Ewer, Facey, Fisher, Fuchs, Gallus, Gillan, Golie, Grinde, Guggenheim, Hagener, Haines, Hanson, Harper, Harrington, Hedges, Hibbard, Holden, Jackson, Johnson, Juneau, Kitzenberg, Krenzler, Lawson, Lenhart, Lindeen, Mangan, Masolo, Matthews, McCann, McCulloch, McGee, Menahan, Mercer, Mood, Noennig, Ohs, Pavlovich, Quilici, Rose, Ryan, Schmidt, Shockley, Simon,

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Sliter, Smith, Soft, Somerville, Squires, Story, Stovall, Swanson, Tash, Taylor, Thomas, Trexler, Tropila, Walters, Williams, Witt, Wyatt, Younkin, Zook

Total: 80

Nays: Barnhart, P. Bergsagel, Buzzas, P. Clark, Eggers, Galvin-Halcro, Gutsche, Hurdle, Jore, Kasten, Molnar, Orr, Peck, Raney, Rehbein, Tuss, Vick, Wagner

Total: 18

Absent or not voting; none

Total: 0

Excused: Adams, McKenney

Total: 2

MOTIONS

Representative Simon moved that the House override the Governor's veto to **HB 91**.

Representative Gallus called for the previous question. Motion carried.

Motion to override the Governor's veto, requiring two-thirds vote of members present in each house, failed as follows:

Ayes: Ahner, Andersen, Anderson, Barnett, E. Bergsagel, P. Bergsagel, Bitney, Bookout-Reinicke, Brainard, Brown, E. Clark, P. Clark, R. Clark, Cobb, Curtiss, Dale, Davies, Fisher, Fuchs, Galvin-Halcro, Grinde, Haines, Hanson, Hedges, Jackson, Jore, Kasten, Kitzenberg, Masolo, McCann, McCulloch, McGee, Mercer, Molnar, Mood, Ohs, Orr, Pavlovich, Quilici, Rehbein, Rose, Ryan, Shockley, Simon, Sliter, Soft, Squires, Story, Stovall, Tash, Taylor, Thomas, Trexler, Tropila, Vick, Wagner, Walters, Witt, Younkin, Zook

Total:60

Nays: Barnhart, Beck, Buzzas, Dell, Eggers, Erickson, Ewer, Facey, Gallus, Gillan, Golie, Guggenheim, Gutsche, Hagener, Harper, Harrington, Hibbard, Holden, Hurdle, Johnson, Juneau, Krenzler, Lawson, Lenhart, Lindeen, Mangan, Matthews, Menahan, Noennig, Peck, Raney, Schmidt, Smith, Somerville, Swanson, Tuss, Williams, Wyatt

Total:38

Absent or not voting; none

Total: 0

Excused: Adams, McKenney

Total: 2

Representative Gallus requested on **HB 1**, 2nd and 3rd reading today that his votes be shown as yes. There being no objections, so ordered.

ANNOUNCEMENTS

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Committee meetings were announced by committee chairmen.

Majority Leader Grinde moved that the House adjourn until 8:00 a.m., Wednesday, June 16, 1999. Motion carried.

House adjourned at 3:45 a.m.

MARILYN MILLER
Chief Clerk of the House

JOHN MERCER
Speaker of the House