

**SENATE JOURNAL  
57TH LEGISLATURE / SPECIAL SESSION AUGUST 2002  
THIRD LEGISLATIVE DAY**

Helena, Montana  
August 7, 2002

Senate Chambers  
State Capitol

Senate convened at 8:00 a.m. President Pro Tempore McNutt presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Beck, Berry, Butcher, Miller and Sprague, excused. Quorum present.

**Senators Beck, Butcher and Sprague present at this time.**

**MESSAGES FROM THE OTHER HOUSE**

House bill passed and transmitted to the Senate for concurrence:

8/7/2002

**HB 2**, introduced by Lewis

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 22**, introduced by Doherty, Christiaens, Cocchiarella, Ellingson, Elliott, Franklin, Gallus, Halligan, Jergeson, Keane, McCarthy, Nelson, Newman, Pease, Roush, Shea, Toole, referred to Taxation.

**SB 23**, introduced by Elliott, B. Waddill, Cobb, Waterman, referred to Finance.

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

**HB 2**, introduced by Lewis (by request of the Office of Budget and Program Planning), referred to Finance.

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

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

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

**SB 6** - Senator Cobb moved **SB 6** do pass. Motion carried unanimously.

**SB 17** - Senator Christiaens moved **SB 17** do pass. Motion carried unanimously.

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

**SPECIAL ORDERS OF THE DAY**

**SR 2** - Senator Hargrove moved that **SR 2**, concurring in, confirming, and consenting to the nomination and appointment

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of Mr. Ed Bartlett and Mr. John Hines, as members of the Pacific Northwest Electric Power and Conservation Planning Council, made by the Governor and submitted to the Senate, be adopted and that the yeas and nays be spread upon the journal. Motion carried as follows:

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

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Berry, Miller.

Total 2

**SR 3** - Senator Hargrove moved that **SR 3**, concurring in, confirming, and consenting to the nomination of appointment of Ms. Wendy Keating as Commissioner of Labor and Industry, made by the Governor and submitted to the Senate, be adopted and that the yeas and nays be spread upon the journal. Motion carried as follows:

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

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Berry, Miller.

Total 2

**SR 4** - Senator Hargrove moved that **SR 4**, concurring in, confirming and consenting to the nomination of appointment of Mr. Scott Darkenwald as Director of the Department of Administration, made by the Governor and submitted to the Senate, be adopted and that the yeas and nays be spread upon the journal. Motion carried as follows:

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

Total 48

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: Berry, Miller.

Total 2

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate stand in recess until the hour of 1:00 p.m. this legislative day. Motion carried.

**Senate recessed at 8:37 a.m.**

**Senate reconvened at 1:00 p.m.** President Pro Tempore McNutt presiding.

Roll Call. All members present except Senators Beck, Berry and Miller and Taylor, excused. Quorum present.

**REPORTS OF STANDING COMMITTEES**

**FINANCE** (Keenan, Chairman):

8/7/2002

**HB 1**, be concurred in. Report adopted.

**HB 8**, be concurred in. Report adopted.

**President Beck present at this time.**

**FIRST READING AND COMMITMENT OF BILLS**

The following Senate bills were introduced, read first time, and referred to committee:

**SB 24**, introduced by O'Neil, referred to Taxation.

**SB 25**, introduced by O'Neil, referred to Judiciary

**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 6** passed as follows:

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

Total 47

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Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Berry, Miller, Taylor.  
Total 3

**SB 17** passed as follows:

Yeas: Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.  
Total 47

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Berry, Miller, Taylor.  
Total 3

**MOTIONS**

**SB 23** - Senator Thomas moved that **SB 23** be taken from the committee on Finance and rereferred to the committee on Taxation. Motion carried with Senators Cobb, Jergeson and Waterman voting nay.

**HB 3** - Senator Thomas moved that **HB 3** be taken from the committee on Finance and rereferred to the committee on Taxation. Motion carried with Senators Cobb, Jergeson and Waterman voting nay.

**HB 4** - Senator Thomas moved that **HB 4** be taken from the committee on Finance and rereferred to the committee on Taxation. Motion carried with Senators Cobb, Jergeson and Waterman voting nay.

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate stand in recess until the hour of 5:00 p.m. this legislative day. Motion carried.

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

**Senate reconvened at 5:00 p.m.** President Pro Tempore McNutt presiding.

Roll Call. All members present except Senators Berry, Glaser, Miller, and Taylor excused. Quorum present.

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**Senator Glaser present at this time.**

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL** (Ekegren, Vice Chairman): 8/7/2002  
Correctly enrolled: SR 2, SR 3, SR 4.  
Signed by the President at 12:30 p.m., August 7, 2002: SR 2, SR 3, SR 4.  
Delivered to the Secretary of State at 2:00 p.m., August 7, 2002: SR 2, SR 3, SR 4.

**FINANCE** (Keenan, Chairman): 8/7/2002  
**HB 6**, be concurred in. Report adopted.  
**HB 7**, be amended as follows:

1. Title, line 6 through line 7.

**Following:** line 5

**Strike:** line 6 through "SCHOOLS" on line 7

**Insert:** "CHANGING THE FUND DESIGNATION FOR THE GUARANTEE FUND FROM A SUBFUND OF THE  
GENERAL FUND TO A STATE SPECIAL REVENUE FUND"

2. Title, line 8.

**Strike:** "17-6-340,"

**Strike:** "20-9-331, 20-9-333, "

**Strike:** "20-9-360,"

3. Page 1, line 13 through line 19.

**Strike:** section 1 in its entirety

**Renumber:** subsequent sections

4. Page 2, line 21 through page 4, line 21.

**Strike:** sections 3 and 4 in their entirety

**Renumber:** subsequent sections

5. Page 4, line 26.

**Strike:** "dedicated school revenue fund"

**Insert:** "guarantee account, provided for in 20-9-622,"

6. Page 5, lines 8 and 9.

**Strike:** "dedicated school revenue fund"

**Insert:** "guarantee account, provided for in 20-9-622,"

7. Page 5, line 16.

**Strike:** "20-9-331, 20-9-333,"

8. Page 5, line 17.

**Strike:** " 1 "

9. Page 5, lines 19 through 25.

**Strike:** section 7 in its entirety

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**Renumber:** subsequent sections

10. Page 5, line 28.

**Strike:** "Dedicated school revenue fund"

**Insert:** "Guarantee account"

11. Page 5, line 29.

**Strike:** "dedicated school revenue fund"

**Insert:** "guarantee account"

12. Page 5, line 30.

**Strike:** "dedicated school revenue fund"

**Insert:** "guarantee account"

13. Page 6, lines 1 and 2.

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

**Renumber:** subsequent subsections

14. Page 6, line 5.

**Strike:** "dedicated school revenue fund"

**Insert:** "guarantee account"

15. Page 6, lines 6 through 8.

**Following:** "~~distributed~~" on line 6

**Strike:** remainder of line 6 through "fund" on line 7

**Insert:** "guarantee account"

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

**Strike:** remainder of line 7 through "entitlements" on line 8

**Insert:** "school equalization aid as provided in 20-9-343"

16. Page 6, line 11.

**Strike:** "dedicated school revenue fund"

**Insert:** "guarantee account"

17. Page 6, line 15.

**Insert:** "NEW SECTION. Section 5. Coordination instruction. (1) If [this act] and House Bill No. 4 are both passed and approved and both bills contain a section amending 20-9-343, then the coordination instruction in House Bill No. 4 is void and section 20-9-343 must read as follows:

**"20-9-343. Definition of and revenue for state equalization aid.** (1) As used in this title, the term "state equalization aid" means revenue as required in this section for:

(a) distribution to the public schools for guaranteed tax base aid, BASE aid, state reimbursement for school facilities, and grants for school technology purchases; and

(b) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.

(2) The superintendent of public instruction may spend throughout the biennium funds appropriated for the purposes of guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for school facilities, negotiated payments authorized under 20-7-420(3), and school technology purchases.

(3) ~~The~~ From July 1, 2001, through June 30, 2003, the following money must be paid into ~~a subfund of the state general fund~~ the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

(a) (i) ~~subject to subsection (3)(a)(ii);~~ interest and income money described in 20-9-341 and 20-9-342; and

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(ii) ~~an amount of money equal to the income money attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year to the school technology account in the state special revenue fund, which is statutorily appropriated, pursuant to 20-9-534, to be used for the purposes of 20-9-533;~~

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342.

(4) Beginning July 1, 2003, the following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

(a) (i) subject to subsection (4)(a)(ii), interest and income money described in 20-9-341 and 20-9-342; and

(ii) an amount of money equal to the income money attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year, which is statutorily appropriated, pursuant to 20-9-534, to be used for the purposes of 20-9-533;

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342."

(2) If [this act] is passed and approved but House Bill No. 4 is not passed and approved, then section 20-9-534, must read as follows:

**"20-9-534. School technology purchases.** By September 1, the superintendent of public instruction shall allocate the annual amount for grants for school technology purchases to each district based on the ratio that each district's BASE budget bears to the statewide BASE budget amount for all school districts multiplied by the amount of money provided in ~~20-9-343(3)(a)(ii)~~ 20-9-343(4)(a)(ii) in the prior fiscal year. The grants for school technology purchases are statutorily appropriated, as provided in 17-7-502."

(3) If [this act] is passed and approved but House Bill No. 4 is not passed and approved, then section 20-9-620 must read as follows:

**"20-9-620. Definition.** (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue" means, except for that portion of revenue described in ~~20-9-343(3)(a)(ii)~~ 20-9-343(4)(a)(ii), 77-1-607, and 77-1-613, 95% of all revenue from the management of school trust lands and the permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

(2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the permanent fund or net unrealized capital gains that remain in the permanent fund until realized."

**Renumber:** subsequent section

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

**HB 9**, be amended as follows:

1. Title, line 6.

**Strike:** "REDUCING"

**Insert:** "ELIMINATING"

2. Title, line 7.

**Strike:** "TO \$300,000"

3. Title, line 8 and 9.

**Following:** "TRANSFERRING" on line 8

**Strike:** remainder of line 8 through "MILLION" on line 9

**Insert:** "\$1,000"

**Following:** "GENERAL FUND" on line 9

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**Insert:** "AND TRANSFERRING AN ADDITIONAL \$999,000 FROM THE ORPHAN SHARE FUND TO THE GENERAL FUND IF FUNDS ARE AVAILABLE"

4. Page 16, line 6.

**Strike:** "(1)"

5. Page 16, line 12 through line 14.

**Strike:** subsection (2) in its entirety

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

**HB 12**, be concurred in. Report adopted.

**JUDICIARY** (Grosfield, Chairman):

8/7/2002

**SB 18**, introduced bill, be amended as follows:

1. Title, page 1, line 4.

**Strike:** "REQUIRING"

**Insert:** "ALLOWING"

2. Page 1, line 13.

**Strike:** "on first day of month"

**Insert:** "up to thirty days early"

3. Page 1, line 14.

**Strike:** "shall"

**Insert:** "may"

4. Page 1, line 14 through line 15.

**Strike:** "on the" on line 14 through "month in" on line 15

**Insert:** "at any time within 30 days prior to the day on"

5. Page 1, line 21.

**Strike:** "on the first day of the month"

**Insert:** "under this section"

And, as amended, do pass. Report adopted.

**TAXATION** (DePratu, Chairman):

**SB 9**, introduced bill, be amended as follows:

1. Title, page 1, line 5.

**Strike:** "\$10 MILLION"

2. Title, page 1, line 6.

**Following:** first "FUND" on line 6

**Insert:** "\$2,078,000"

**Following:** second "FUND"

**Insert:** "AND \$7,922,000 TO THE SCHOOL FLEXIBILITY ACCOUNT"



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3. Page 1, line 10.

**Following:** "fund"

**Strike:** "to general fund"

4. Page 1, line 11.

**Following:** "fund"

**Strike:** "to the general fund \$10 million"

5. Page 1, line 12.

**Following:** "2003"

**Insert:** ": (1) \$2,078,000 to the general fund; and

(2) \$7,922,000 to the school flexibility account established in 20-9-542"

And, as amended, do pass. Report adopted.

**HB 3**, be concurred in. Report adopted.

**MOTIONS**

**SB 15** - Senator Bohlinger moved that **SB 15** be taken from the committee on Finance and rereferred to the committee on Taxation. Motion **failed** as follows:

Yeas: Bishop, Bohlinger, Cocchiarella, Doherty, Ellingson, Franklin, Halligan, Harrington, Kitzenberg, Nelson, Pease, Stonington, Toole.

Total 13

Nays: Butcher, Christiaens, Cobb, Cole, Crismore, DePratu, Ekegren, Elliott, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Jergeson, Johnson, Keenan, Mahlum, McCarthy, McNutt, Mohl, O'Neil, Roush, Ryan, Shea, Sprague, Stapleton, Tash, Tester, Thomas, Waterman, Wells, Zook, Mr. President.

Total 34

Absent or not voting: None.

Total 0

Excused: Berry, Miller, Taylor.

Total 3

**SB 8** - Senator Cobb moved that **SB 8** be taken from the committee on Taxation and placed on second reading the next legislative day, August 8, 2002. Motion **failed** as follows:

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

Total 23

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

Total 24

Absent or not voting: None.

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Total 0

Excused: Berry, Miller, Taylor.

Total 3

**FIRST READING AND COMMITMENT OF BILLS**

The following Senate bills were introduced, read first time, and referred to committee:

**SB 26**, introduced by Christiaens, Ellingson, Golie, Halligan, Jacobson, Kaufmann, Kitzenberg, McCarthy, Roush, Tester, Toole, Wanzenried, Waterman, referred to Finance.

**SB 27**, introduced by Stapleton, referred to Finance.

**SB 28**, introduced by Doherty, referred to Taxation.

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Thursday, August 8, 2002. Motion carried.

Senate adjourned at 5:33 p.m.

SUSAN ANDERSEN  
Assistant Secretary of Senate

WALT MCNUTT  
President Pro Tempore of the Senate