

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

Helena, Montana
August 5, 2002

Senate Chambers
State Capitol

Senate convened at 9:00 a.m. President Beck presiding at the special session of the 57th Legislature.

Invocation by Pastor Keith Johnson of the Evangelical Covenant church. Captain Orlan Strom and the Montana National Guard Honor Guard presented the colors, followed by the Pledge of Allegiance to the Flag.

MESSAGES FROM THE GOVERNOR

August 1, 2002

To: Members of the Montana Senate
Members of the Montana House of Representatives
Members of the Montana Supreme Court c/o Clerk of the Court Ed Smith
Secretary of State Bob Brown

AMENDED PROCLAMATION

Call to the 57th 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, general fund revenues are anticipated to fall short of Legislative projections for FY2003; and

WHEREAS, in an effort to ensure that the expenditure of appropriations do not exceed available revenue, the provisions of section 17-7-140, MCA, were invoked directing agencies to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least 1% of all general fund appropriations during the biennium ending June 30, 2003; and

WHEREAS, based upon the revenue estimates available at the time that the budget director notified the legislative fiscal analyst, the legislative finance committee, and the revenue and finance committee pursuant to the requirements of section 17-7-140, MCA, the budget director recommended a 3 ½ % reduction in general fund expenditures; and

WHEREAS, a 3 ½ % reduction in general fund expenditures is being implemented based upon the information available at the time of commencing the process required under section 17-7-140, MCA; and

WHEREAS, based upon a continuing review and analysis of declining revenues to the state general fund, the budget director projects a general fund budget deficit that may not be met by a further directive to reduce spending beyond the current 3 ½ % reduction because of the limitations in section 17-7-140, MCA; and

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

WHEREAS, it is in the public interest of all Montanans that the programs funded through general fund expenditures by the Fifty-Seventh Legislature be considered at a special session of the Legislature; and

WHEREAS, it is in the public interest of all Montanans that a special session of the Legislature be called for the limited purpose of approving fund balance transfers, reducing general fund expenditures, reducing non-general fund appropriations and nonbudgeted transfers, reducing the general fund shortfall in revenue to meet the declining revenue projections for the 2003 biennium, and providing a guarantee account in the state special revenue fund.

NOW, THEREFORE I, Judy Martz, 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-Seventh Legislature into Special Session in Helena, at the Capitol Complex at the hour of 9:00 a.m., the 5th day of August, 2002, and hereby direct the Special Session of the Fifty-Seventh Legislature to consider action limited to the following subjects:

1. Legislation approving fund balance transfers as submitted by the Office of Budget and Program Planning.
2. Legislation reducing general fund expenditures, including general fund expenditures exempted by section 17-7-140, MCA, House Bill 2, any other appropriation bill, statutory appropriation, or language appropriation.
3. Legislation reducing non-general fund appropriations and nonbudgeted transfers when the reduction will increase the general fund balance and any necessary statutory amendments to effectuate the legislative reductions.
4. Legislation reducing the general fund shortfall in revenue.
5. Legislation amending House Bill 41 and Senate Bill 495 to provide for a guarantee account in the state special revenue fund.
6. Confirmation by the Montana Senate of the water judge appointed by the Montana Supreme Court and agency heads appointed since the regular legislative session.
7. Legislation amending Montana's Sexual & Violent Offender Act to bring Montana into compliance with federal law which will restore lost federal funds for the current state fiscal year as well as ensure that Montana receives full federal fund allocation in future years.

Dated this 1st day of August, 2002.

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, the Capitol, this 1st day of August, in the year of our Lord, two thousand and two.

JUDY MARTZ, Governor

ATTEST:

BOB BROWN, Secretary of State

Roll call. All members present except Senators Berry and Miller, excused. Quorum present.

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

MOTIONS

Majority Leader Thomas moved that the rules of the 57th Legislature as amended by the Joint Senate/House Rules Committee and the Senate Rules committee on July 26, 2002 be the rules of the Special Session. Senator Doherty questioned whether, according to the constitution, a 2/3 vote was required to change the rules. Senator Thomas stated the amendments were approved by the Rules Committee by a voice vote. Senator Jergeson questioned the legality of a non-recorded vote, according to the Constitution.

Senator Halligan made a **substitute motion** to eliminate sub 4 of 50.190 of the proposed Temporary Senate Special Session Rule changes. Motion **failed** as follows:

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

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

Absent or not voting: None.
Total 0

Excused: Berry, Miller.
Total 2

Majority Leader Thomas's original **motion** to adopt the amended rules **passed** by the following vote:

Yeas: Bishop, Bohlinger, Butcher, Cobb, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Johnson, Keenan, Mahlum, McNutt, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.
Total 28

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

Absent or not voting: None.
Total 0

Excused: Berry, Miller.
Total 2

Temporary Senate Special Session Rule Changes

S30-60. Committee reports to Senate. (1) Reports of standing committees shall be read on Order of Business No. 2, and no debate may be had on any report unless a minority report has been submitted. A minority report is submitted after a majority report.

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

(2) Committee reports may recommend approval or disapproval, with or without amendment. They may not be reported to the Senate without recommendation.

(3) Any Senator seeking a reconsideration of the Senate's action on the adoption of a committee report shall do so on Order of Business No. 6 by motion to reconsider. Any Senator may make such motion and need not have voted on the prevailing side. This rule applies notwithstanding any joint rule to the contrary.

(4) The Rules Committee and conference committees may report at any time, except ~~during a call of the Senate or~~ when a vote is being taken.

S40-40. Reading limitations. (1) Every bill shall be read three times prior to passage, either by title or by summary of title as provided in these rules.

(2) ~~No~~ A bill or resolution ~~shall~~ may have more than one reading on the same day ~~except the last legislative day.~~

(3) No amendment may be offered on third reading.

S40-60. Scheduling for second reading. (1) All bills and resolutions that have been reported by a committee, accepted by the Senate, and reproduced shall be scheduled for consideration by Committee of the Whole.

~~(2) Until the 50th legislative day, 1 day must elapse between receiving the legislation from printing and scheduling for second reading for consideration by Committee of the Whole.~~

~~—————~~(3) Legislation shall be arranged on the agenda in numerical order unless bills are grouped as companion bills or are placed in order otherwise by the Senate or Committee of the Whole.

S50-50. Precedence of motions. (1) When a question is under debate only the following privileged and subsidiary motions shall be made:

- (a) to adjourn;
- ~~(b) for a call of the Senate;~~
- (c) to recess;
- (d) question of privilege;
- (e) to lay on the table;
- (f) for the previous question;
- (g) to postpone to a certain day;
- (h) to refer or commit;
- (i) to amend; and
- (j) to postpone indefinitely.

(2) The motions listed in subsection (1) have precedence in the order listed.

(3) A question may be indefinitely postponed by a majority roll call of all Senators present and voting. When a bill or resolution is postponed indefinitely, it is finally rejected and may not be acted upon again during the biennium except upon a motion of reconsideration.

(4) No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment or substitute.

S50-60. Nondebatable motions. The following motions are not debatable:

- (1) to adjourn;
- ~~(2) for a call of the Senate;~~
- (3) to recess;
- (4) for parliamentary inquiry;
- (5) for suspension of the rules;
- (6) to lay on the table;

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

- (7) for the previous question;
- (8) to limit, extend the limits of, or to close debate;
- (9) to amend an undebatable motion;
- (10) to divide a question;
- (11) to pass business in Committee of the Whole;
- (12) to take from the table;
- (13) a decision of the presiding officer, unless appealed or unless the presiding officer submits the question to the Senate for advice or decision; and
- (14) all incidental motions, such as motions relating to voting or other questions of a general procedural nature.

S50-80. Previous question. (1) Except as provided in subsection (2), the effect of calling for the previous question, if adopted, is to close debate immediately, to prevent the offering of amendments or other subsidiary motions, and to bring to vote promptly the immediately pending main question and the adhering subsidiary motions, whether on appeal or otherwise.

(2) When the previous question is ordered on any debatable question on which there has been no debate, the question may be debated for one-half hour, one-half of such time to be given to the proponents and one-half to the opponents.

~~(3) A call of the Senate is not in order after the previous question is ordered unless it appears upon an actual count by the presiding officer that a quorum is not present.~~

S50-90. Reconsideration. (1) Any Senator may, on the day the vote was taken or on the next day the Senate is in session, move to reconsider the question. A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider may not address the substance of the matter for which reconsideration is sought.

(2) A motion to reconsider may not be withdrawn after such next legislative day without the unanimous consent of the Senate, and thereafter any Senator may call it up for consideration; however, a motion to reconsider ~~made after the 54th day of the session~~ shall be disposed of when made.

(3) A motion to recall a bill from the House of Representatives constitutes notice to reconsider and shall be acted on as a motion to reconsider. A motion to reconsider or to recall a bill from the House of Representatives may be made only under Order of Business No. 6 and, under that order of business, takes precedence over all motions except motions to recess or adjourn.

(4) When a motion to reconsider is laid on the table, a two-thirds majority is required to take it from the table. When a motion to reconsider fails, the question is finally and conclusively settled.

(5) If a motion to reconsider third reading action is carried, there ~~shall~~ may be ~~no~~ further action ~~until the succeeding on that~~ legislative day.

S50-170. Third reading procedure. (1) All legislation passing second reading shall be placed on third reading ~~the day following the receipt of the engrossing or other appropriate printing report.~~

(2) On Order of Business No. 9 the Secretary shall read the title and the President shall state the question as follows: "Senate bill number (or other appropriate identification).... having been read three several times, the question is, shall the bill (or other appropriate identification) pass the Senate?"

(3) If an electronic voting system is used, the President shall state "Those in favor vote yes and those opposed vote no" and the Secretary will sound the signal and open the board for voting. After a reasonable pause the presiding officer asks "Has every member voted?" (reasonable pause), "Does any member wish to change his or her vote?" (reasonable pause), "The Secretary will record the vote."

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

S50-190. Pairs. (1) Two Senators may pair on a question that will be determined by a majority vote. On a question requiring a two-thirds vote for adoption, three Senators may pair, with two Senators for the question and one Senator against. Pairing is permitted only when one of the paired Senators is excused when the vote is taken.

(2) An agreement to pair must be in writing and dated and signed by the Senators agreeing to be bound and must specify the duration of the pair. When an agreement to pair is filed with the Secretary of the Senate, it shall bind the Senators signing until the expiration of time for which it was signed, unless the paired Senators sooner appear and ask that the agreement be canceled.

(3) Pairs in Committee of the Whole are prohibited.

(4) The Committee of the Whole may by a majority vote authorize Senators to vote in absentia. Authorization for voting in absentia must be reflected in the journal.

~~**S50-200. Call of the Senate.** (1) In the absence of a quorum, a majority of Senators present may compel the attendance of absent Senators by ordering a call of the Senate.~~

~~(2) If a quorum is present, five Senators may order a call of the Senate.~~

~~(3) On a call of the Senate, a Senator who refuses to attend may be arrested by the Sergeant-at-Arms or any other person, as the majority of such Senators present shall direct. When the attendance of an absent Senator is secured and the Senate refuses to excuse the Senator's absence, the Senator shall not be paid any expense payments while absent and is liable for the expenses incurred in procuring the Senator's attendance.~~

~~(4) During a call of the Senate, all business shall be suspended. After a call has been ordered, no motion is in order except a motion to adjourn or remove the call. The call may be removed by a two-thirds vote.~~

S70-30. Committee process. (1) (a) The committee shall research each nominee and may request biographical information from the Governor for each nominee if none has been provided.

(b) The committee chair shall submit a bill draft request for a simple resolution to include the nominees specified by the committee chair. These bill draft requests will not count against any bill draft request limit imposed on members. When the resolution has been prepared and introduced, the committee shall hold a hearing on the resolution after appropriate public notice has been made.

(2) Following the hearings, the committee shall issue preliminary standing committee reports to be distributed to each Senator, stating the committee's recommendations concerning the nominees.

(3) ~~(a)~~ If a Senator wishes to have an individual nominee, or group of nominees, considered by the Senate separately from the group of nominees recommended by the committee, the Senator may request of the chair of the committee that the nominee or nominees be considered by a separate resolution.

~~(b) A Senator shall request separate consideration of a nominee within 3 days of receipt of the preliminary standing committee report. The committee chair shall honor this request.~~

(4) After waiting 3 days from the day of distribution of the preliminary standing committee report, the committee chair shall issue a final standing committee report and deliver the report to the Secretary of the Senate.

~~(a) If a nominee is to be separated from the resolution, the final standing committee report shall include an amendment deleting that nominee.~~

~~(b) When a nominee has been separated at the request of a Senator, the committee chair shall submit a bill draft request for a simple resolution to include only the nominee so separated. When the resolution has been prepared and introduced, the committee shall take executive action on the resolution. When a hearing on the separated nomination was held prior to the committee's preliminary standing committee report, no additional hearing need be held before the committee takes action on the separate resolution. After the committee's executive action, the committee chair shall issue a standing committee report.~~

(5) If a resolution contains only one nominee, the committee shall dispense with the preliminary standing committee report and shall issue a final standing committee report to be distributed to each Senator stating the committee's recommendation concerning the nominee.

(6) The Secretary will read the reports under Order of Business No. 2, reports of standing committees.

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

(7) Thereafter, the resolution must be placed on Order of Business No. 11 the next legislative day for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be debated.

Appendix A

List of Questions Requiring Other Than a Majority Vote

The following questions require the vote specified:

- ~~(1) a call of the Senate with a quorum (five Senators);~~
- ~~———— (2) a motion to lift a call of the Senate (two-thirds of the members present and voting);~~
- (3) a motion to amend or suspend rules (two-thirds);
- (4) a motion to override the Governor's veto (two-thirds);
- (5) a motion to approve a bill to appropriate the principal of the coal trust fund (three-fourths of each house);
- (6) a motion to approve a bill to appropriate highway revenue as described in Article VIII, section 6, of the Montana Constitution for purposes other than therein described (three-fifths of each house);
- (7) a motion to approve a bill proposing to amend the Montana Constitution (two-thirds of the entire Legislature);
- (8) an appeal of the ruling of the presiding officer (one Senator, seconded by two other Senators); and
- (9) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds).

Temporary Joint Rule Changes for Special Session

10-150. Recording and publication of voting. (1) Every vote of each member on each substantive 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 Finance Committee and the House Appropriations Committee, and then by each separately.~~

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

~~———— (3) The committee chair of the Senate Finance Committee or of the House Appropriations Committee 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~~

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

~~_____ (c) the chair is present for the vote.~~

~~**30-60. Estimation of revenue.** The Revenue and Taxation Committee shall introduce a House joint resolution for the purpose of estimating revenue that may be available for appropriation by the Legislature.~~

~~**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: for bills within the call of the special session.~~

~~(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) 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.~~

~~_____ (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~~

~~_____ (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) (2) 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 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) (3) During a session, a bill may be introduced by endorsing it with the name of a member and presenting it 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) (4) (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~~

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

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. ~~Unless requested by an individual member, a bill draft request submitted at the request of an agency must be submitted to, reviewed by, and requested by the appropriate interim or statutory committee. 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.~~

~~(6) (5) 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 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	No Deadline

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

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

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 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 the fiscal note must be available 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.

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

~~————— (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 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.~~

REPORTS OF STANDING COMMITTEES

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

8/5/2002

Mr. President:

We, your Committee on Legislative Administration recommend employment of the following attaches of the Senate for the duration of the special session:

Name

Title

Susan Anderson	Assistant Secretary of the Senate
Paul Blom	Page
Bev Donaldson	Assistant Sergeant at Arms
Judy Feland	Secretary to the secretary of the Senate
Jeanne Forrester	Secretary to the Minority leader
Prudence Gildroy	Committee secretary, Finance
Freddie Haab	Secretary to the majority Leader
Jill Hanson	Page
Betti Hill	Secretary to the President
Rob Hill	Aide to the Minority
Tom Harris	Assistant Sergeant at Arms
Keith Johnson	chaplain
Katie Lane	Administrative Assistant
Janean Meacham	Journal & Bills Clerk
Richard Miltenberger	Page, pre-session hearings only
Cory Swanson	Senate Majority Aide

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

Kristin Robinson	Page, special session
Shon Tester	Page, pre-session hearings only
Deb Thompson	Committee Secretary, taxation
Shirley Wareheim	Status
Mary Gay Wells	Committee Secretary at Large

MOTIONS

Majority Leader Thomas moved that the President appoint a select committee to notify Her Excellency, the Governor, that the Senate is organized and ready for business and to escort the Governor into the senate to deliver her address. Motion carried. The President appointed Senator Crismore, Chairman, Senator Cole, Senator Franklin and Senator Christiaens.

Majority Leader Thomas moved that the President appoint a select committee to notify the Chief Justice and members of the Supreme Court that the Senate is organized and ready for the transaction of business. Motion carried. The President appointed Senator Grosfield, Chairman, Senator Hargrove, Senator Waterman and Senator Halligan.

Majority Leader Thomas moved that the President appoint a select committee to notify the House of Representatives that the Senate is organized and ready for business and that the Senate wishes them success in their deliberations. Motion carried. The President appointed Senator Ellis, Chairman, Senator Ekegren, Senator Cocchiarella and Senator Shea.

Select committees were dismissed to attend their duties.

Majority Leader Thomas moved that the accredited members of the press, radio and television be granted the privilege of the Senate floor subject to the rules. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 1, introduced by Cobb (by request of the Office of Budget and Program Planning), referred to Taxation.
SB 2, introduced by Zook (by request of the Office of Budget and Program Planning), referred to Taxation.
SB 3, introduced by Zook (by request of the Office of Budget and Program Planning), referred to Taxation.
SB 4, introduced by Harrington, referred to Taxation.
SB 5, introduced by Kitzenberg, referred to Taxation.
SB 6, introduced by Cobb, referred to Taxation.
SB 7, introduced by R. Johnson, referred to Taxation.
SB 8, introduced by Cobb, referred to Taxation.
SB 9, introduced by Cobb, referred to Taxation.
SB 10, introduced by Cobb, referred to Taxation.
SB 11, introduced by Cobb, referred to Taxation.
SB 12, introduced by Bohlinger, referred to Taxation.
SB 13, introduced by Harrington, referred to Taxation.
SB 14, introduced by Stonington, referred to Finance.
SB 15, introduced by Cobb, referred to Finance.
SB 16, introduced by Ellingson, referred to Taxation.

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

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

SR 1, introduced by Grosfield, referred to Judiciary.

REPORTS OF SELECT COMMITTEES

The committee appointed to notify the Chief Justice and the associate members of the Supreme Court that the Senate was organized and ready for business reported that the Supreme Court had been notified. The message was acknowledged and the committee dismissed.

The committee appointed to notify the House of Representatives that the Senate was organized and ready for business reported that the House had been notified. The message was acknowledged and the committee dismissed.

The Sergeant-at-Arms escorted her Excellency, the Governor, and the escort committee to the well of the Senate. President Beck thanked the committee and dismissed them from their duties. Senator Beck introduced the Governor to the Senate. Governor Martz presented the following address:

Mr. President, members of the Senate - good morning. Please accept my sincere gratitude for your dedication and public service, especially under these incredibly challenging circumstances.

This is the 28th special session in our state's history. In 1921, the 17th Special Session of our state's legislature was convened by then-Governor Dixon for the very same purpose.

In his opening remarks, he said, "The proclamation calling you into special session was issued by me with reluctance. But a knowledge of the critical condition of the state treasury ... coupled with the belief on my part that a fuller appreciation of the situation by you might lead to immediate action in bringing legislative relief ... determined my action."

I echo Governor Dixon's comments today. These are difficult times, and difficult times call for strong leadership and cooperation.

As we begin today, I want to reiterate the focus of my call for this session.

The last time we were together, in the spring of 2001, the budget was in structural imbalance. This is nothing new. For several years, our state has been run in a structurally imbalanced manner, counting on increasing revenues to compensate for increases in expenditures.

And in the past, they have. But in 2001, an economy already in recession took another severe hit when terrorists attacked our nation on September 11. The economic recession affects government as surely as it affects businesses and individuals. The net effect has been a decline in state revenues.

We are not alone in this dilemma. On average across this country, state tax revenue has dropped eight percent from comparable months of 2001, and personal income tax payments plummeted a full twenty-six percent.

States like Connecticut, Illinois, and Massachusetts are facing budget deficits of one to two billion dollars each. Idaho's legislature has reduced state spending by one hundred ten million dollars. According to the National Conference of State Legislatures, across the nation, state budget deficits are at \$58 BILLION, and nearly every state is reporting budget gaps.

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

Here at home, as income and corporate tax returns have come in throughout the spring, we have seen a trend toward increased refund amounts and lower tax payments. This indicates a loss in income for both individuals and corporations in our state.

Based on current projections, we have fallen well short of the revenues projected when you left the session last year. As you know, this legislative body gave the Governor's Office the statutory obligation to reduce budgets in order to keep the state's budget in balance.

Given the level of reductions that we faced to address those revenue shortfalls, my budget office recommended, and I concurred, that there was no way that our administration could recommend the level of reduction needed while remaining within the statutory parameters outlined.

It was based on that information that I called you for this special session.

The budget office has extensively researched all available options, and has provided those recommendations to you as a base for your deliberations.

You know as well as I that these are painful decisions that affect everyone's lives. I ask that you focus on reductions that have the most limited impact possible while at the same time assuring that the state remains fiscally responsible.

Our state is already 46th in per capita income. **I do not believe** that increasing taxes on Montanans is the way to realign our budgets. I will, of course, give due consideration to all proposals that you bring forward.

Businesses and families must operate within their means, and I commit to the people of Montana that our government will do the same.

One final note – as you move forward in this session, it is my sincere hope and belief that we will serve Montanans best by putting aside partisan politics for the common good of our state.

I hope – I trust – that you will see fit to do the right thing for the future of our state and its families. Thank you again for your service, and may God bless and guide your deliberations.

REPORTS OF STANDING COMMITTEES

TAXATION (DePratu, Chairman):

7/31/2002

SB 1, introduced bill, be amended as follows:

1. Title, line 8.

Following: "ILLNESSES;"

Strike: "ELIMINATING"

Insert: "REVISING"

2. Title, line 9 through line 10.

Following: "MCA;" on line 9

Strike: "REPEALING" on line 9 through "2001;" on line 10

3. Title, line 10.

Following: "DATE"

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

Insert: "AND A TERMINATION DATE"

4. Page 1, line 25.

Following: "(2)"

Insert: "(a)"

5. Page 1, line 29.

Following: line 28

Insert: "(b) The department shall distribute at least \$1 million to state-approved chemical dependency programs during fiscal year 2003. During fiscal year 2003, the department may use other sources of funding to meet its obligations under this subsection (2)(b). At least \$730,000 of funds distributed under this subsection (2)(b) must be derived from revenue generated by 16-1-404, 16-1-406, and 16-1-411 and must be distributed to counties, as provided in 53-24-206(3)(b), for the private or public programs approved pursuant to 53-24-208. The remaining balance may consist of a combination of funds generated by taxation on alcoholic beverages and other funds available to the department."

6. Page 2, line 24.

Following: "~~2001-~~"

Insert: "(Subsection (2) terminates July 1, 2003--sec. 6, Ch. 470, L. 2001.)"

7. Page 2, line 26.

Strike: section 2 in its entirety

Renumber: subsequent section

8. Page 2, line 29.

Following: line 28

Insert: "NEW SECTION. Section 3. Termination. [This act] terminates July 1, 2003."

And, as amended, do pass. Report adopted.

SB 2, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

July 29, 2002

The Honorable Tom Beck
Montana Senate President
State Capitol
Helena, MT 59620

Dear Senator Beck:

Please be informed that I have appointed the following individuals as Directors of state agencies in accordance with Montana Codes Annotated 2-15-111:

Ms. Wendy Keating, Commissioner
Department of Labor & Industry
State of Montana

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

Helena MT 59620
(406) 444-3299

Mr. Scott Darkenwald, Director
Department of Administration
State of Montana
Helena MT 59620
(406) 444-3033

I have also made the following appointments as members of the Northwest Power Planning council in accordance with Montana Codes Annotated 2-15-111:

Mr. Ed Bartlett
Northwest Power Planning council
P. O. Box 200805
Helena MT 59620
(406)444-2436

Mr. John Hines
Northwest Power Planning council
P.O.Box 200805
Helena MT 59620
(406)444-2439

I am enclosing biographical information on each person. Please feel free to contact Susan Ames in my office at 444-0575 if you should require any further information.

Sincerely,

JUDY MARTZ
Governor

ANNOUNCEMENTS

Minority Leader Doherty and Majority Leader Thomas and President Beck addressed the Senate and wished the committee a successful session.

Committee chairmen announced committee meetings.

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

Senate recessed at 10:42 a.m.

Senate reconvened at 3:10 p.m.

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

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Ekegren, Vice Chairman): 8/6/2002
Correctly printed: SB 1, SB 2.
Correctly engrossed: SB 1.

JUDICIARY (Grosfield, Chairman): 8/5/2002
SR 1, be adopted. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

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

SR 2, introduced by Hargrove, referred to State Administration.
SR 3, introduced by Hargrove, referred to State Administration.
SR 4, introduced by Hargrove, referred to State Administration.

Senator Butcher present at this time.

**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 J. Wells in the chair.

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

SB 1 - Senator Cobb moved **SB 1** do pass. Motion carried unanimously.

SB 2 - Senator Zook moved **SB 2** do pass. Motion carried as follows:

Yeas: Bishop, Bohlinger, Butcher, Cobb, Cole, Crismore, DePratu, Ellis, Glaser, Grimes, Grosfield, Hargrove, Johnson, Keenan, Mahlum, McNutt, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.
Total 26

Nays: Christiaens, Cocchiarella, Doherty, Ekegren, Ellingson, Elliott, Franklin, Halligan, Harrington, Holden, Jergeson, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.
Total 22

Absent or not voting: None.
Total 0

Excused: Berry, Miller.
Total 2

SENATE JOURNAL
FIRST LEGISLATIVE DAY - AUGUST 5, 2002

MOTIONS

Senator Hargrove moved that the President be authorized to appoint a special committee to attend informational meetings for State Administration and State Veterans Affairs. Motion carried unanimously. The President appointed Senator Hargrove, Chairman, Senator Bohlinger, Senator Roush, Senator Toole, and Senator Wells.

SPECIAL ORDERS OF THE DAY

SR 1 - Senator Grosfield moved that SR 1, concurring in, confirming, and consenting to the nomination and appointment, made by the Chief Justice of the Montana Supreme court and submitted to the Senate, of the Honorable C. Bruce Loble as Chief Water Judge, be concurred in and confirmed and consented to by the Senate in accordance with the resolution set forth, and that the ayes 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

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Tuesday, August 6, 2002. Motion carried.

Senate adjourned at 4:10 p.m.

SUSAN ANDERSEN
Assistant Secretary of Senate

TOM BECK
President of the Senate