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INTRODUCED BY

House BILL NO. 339
Carey Williams James Rose

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PENALTIES FOR A PERSON UNDER THE AGE OF 21 WHO HAS AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AND DRIVES OR WHO IS IN ACTUAL PHYSICAL CONTROL OF A VEHICLE UPON WAYS OF THIS STATE OPEN TO THE PUBLIC; AND AMENDING SECTION 61-8-410, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-410, MCA, is amended to read:

"61-8-410. Operation of vehicle by person under twenty-one with alcohol concentration of 0.02 or more. (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or more to drive or be in actual physical control of a vehicle upon ways of this state open to the public.

~~(2) A person convicted of a violation of this section must be sentenced under the provisions of 45-5-624.~~

~~(3) Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section.~~

(2) Upon a first conviction under this section, a person shall be punished by a fine of not less than \$100 or more than \$500.

(3) Upon a second conviction under this section, a person shall be punished by a fine of not less than \$200 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not more than 10 days.

(4) Upon a third or subsequent conviction under this section, a person shall be punished by a fine of not less than \$300 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not less than 24 consecutive hours or more than 60 days.

(5) In addition to the punishment provided in this section, regardless of disposition:

(a) the person shall comply with the alcohol information course and alcohol and drug treatment provisions in 61-8-714; and

(b) the department shall suspend the person's driver's license for 90 days upon the first conviction, 6 months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted

1 or probationary driver's license may not be issued during the suspension period."

2 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0339, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill changing the penalties for a person under the age of 21 who has an alcohol concentration of 0.02 or more and drives or who is in actual physical control of a vehicle upon ways of this state open to the public.

ASSUMPTIONS:

1. HB 339 does three things that fiscally impact the state: 1) it increases the fines that may be charged, 2) it makes license suspension mandatory for first offense for people under 21 years, and 3) it complies with federal law so that federal monies will not be withheld. These three impacts are explained in greater detail in the following assumptions. Also, it is assumed that the effective date of the bill is October 1, 1997, and thus all FY98 amounts are 75% of the FY99 amounts.
2. Under current law, a violation of 61-8-410, MCA, if operating a vehicle and under age 18 and it is the first offense, produced a fine of up to \$100; if age is between 18-21, the fine is up to \$50. Proposed law makes the fine a range of at least \$100, but not greater than \$500, for all persons under age 21. Second and third conviction fines also increase, in approximately the same ratio.
3. The Department of Justice (DOJ) estimated an increase in fine revenue in the state general fund in FY99 of \$60,500. DOJ assumed a mid-range of the current law and compared that with the bottom of the range for the proposed law, for the 1st, 2nd and 3rd offenses. The assumptions and calculations are extensive, and therefore not included here, but are available in the OBPP offices.
4. The proposed law requires suspension of the driver's license for 90 days on 1st offense; current law does not provide for license suspension. The DOJ estimates it will suspend 1,000 more licenses with the passage of HB 339. Each suspension requires approximately 3/4 of an hour. Thus in FY99 a 0.40 FTE would be needed to suspend the additional licenses. A 0.40 FTE, grade 8, would cost \$8,200 in FY99 with operating expenses of \$2,500, and equipment in FY98 of \$4,500.
5. In November 1995, a federal law went into effect requiring, among other things, that people under 21 years, if driving with an alcohol content of .02 or higher, must have their driver's license suspended. If the states do not comply with this law by October 1, 1998, 5% their of federal-aid apportionment funds, or about \$5 million will be withheld in FY99, and 10%, or \$10 million, in FY00 and thereafter. Passage of HB339 will satisfy the federal law and thus avoid potential withholding. The Governor's Executive Budget assumes the funds will not be withheld; thus, with the proposed law, there is no fiscal impact.

FISCAL IMPACT:

Department of Justice:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	0.30	0.40
Personal Services	6,200	8,200
Operating Expenses	2,000	2,500
Equipment	<u>4,500</u>	<u>0</u>
Total	12,700	10,700

Funding:

General Fund (01)	12,700	10,700
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(continued)

David Lewis 2-5-97
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Bill Carey 2-6-97
 BILL CAREY, PRIMARY SPONSOR DATE

Fiscal Note for HB0339, as introduced

HB 339

	<u>FY98</u>	<u>FY99</u>
<u>Revenues:</u>	<u>Difference</u>	<u>Difference</u>
Fine revenue (01)	45,400	60,500
<u>Net Impact on Fund Balance:</u> (revenue minus expense)		
General Fund (01)	32,700	49,800

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Fifty percent of fine revenue is deposited to the general fund of the county in which the infraction occurred. Therefore, with the passage of this bill, counties would receive approximately \$60,500 more in revenue each year.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Passage of this bill may make Montana eligible for a \$250,000 annual grant through the National Highway Traffic Safety Administration. Some of this grant may flow to local governments.

1 HOUSE BILL NO. 339

2 INTRODUCED BY CAREY, BOHLINGER, GRIMES, ROSE, MARSHALL

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PENALTIES FOR A PERSON UNDER THE AGE
5 OF 21 WHO HAS AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AND DRIVES OR WHO IS IN
6 ACTUAL PHYSICAL CONTROL OF A VEHICLE UPON WAYS OF THIS STATE OPEN TO THE PUBLIC; AND
7 AMENDING SECTION 61-8-410, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10

11 Section 1. Section 61-8-410, MCA, is amended to read:

12 "**61-8-410. Operation of vehicle by person under twenty-one with alcohol concentration of 0.02**
13 **or more.** (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or
14 more to drive or be in actual physical control of a vehicle upon ways of this state open to the public.

15 ~~(2) A person convicted of a violation of this section must be sentenced under the provisions of~~
16 ~~45-5-624.~~

17 ~~(3) Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section.~~

18 (2) Upon a first conviction under this section, a person shall be punished by a fine of not less than
19 \$100 or more than \$500.

20 (3) Upon a second conviction under this section, a person shall be punished by a fine of not less
21 than \$200 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not more
22 than 10 days.

23 (4) Upon a third or subsequent conviction under this section, a person shall be punished by a fine
24 of not less than \$300 or more than \$500 and, if the person is 18 years of age or older, by incarceration
25 for not less than 24 consecutive hours or more than 60 days.

26 (5) In addition to the punishment provided in this section, regardless of disposition:

27 (a) the person shall comply with the alcohol information course and alcohol and drug treatment
28 provisions in 61-8-714; and

29 (b) the department shall suspend the person's driver's license for 90 days upon the first conviction,
30 6 months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted

1 or probationary driver's license may not be issued during the suspension period."

2

3 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
4 APPROVAL.

5

-END-

HOUSE BILL NO. 339

INTRODUCED BY CAREY, BOHLINGER, GRIMES, ROSE, MARSHALL

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PENALTIES FOR A PERSON UNDER THE AGE OF 21 WHO HAS AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AND DRIVES OR WHO IS IN ACTUAL PHYSICAL CONTROL OF A VEHICLE UPON WAYS OF THIS STATE OPEN TO THE PUBLIC; AND AMENDING SECTION 61-8-410, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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Section 1. Section 61-8-410, MCA, is amended to read:

"61-8-410. Operation of vehicle by person under twenty-one with alcohol concentration of 0.02 or more. (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or more to drive or be in actual physical control of a vehicle upon ways of this state open to the public.

~~(2) A person convicted of a violation of this section must be sentenced under the provisions of 45-5-624.~~

~~(3) Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section.~~

(2) Upon a first conviction under this section, a person shall be punished by a fine of not less than \$100 or more than \$500.

(3) Upon a second conviction under this section, a person shall be punished by a fine of not less than \$200 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not more than 10 days.

(4) Upon a third or subsequent conviction under this section, a person shall be punished by a fine of not less than \$300 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not less than 24 consecutive hours or more than 60 days.

(5) In addition to the punishment provided in this section, regardless of disposition:

(a) the person shall comply with the alcohol information course and alcohol and drug treatment provisions in 61-8-714; and

(b) the department shall suspend the person's driver's license for 90 days upon the first conviction, 6 months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted

THIRD READING

1 or probationary driver's license may not be issued during the suspension period."

2

3 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND

4 APPROVAL.

5

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0339, third reading

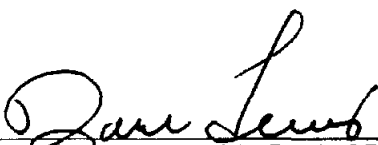
DESCRIPTION OF PROPOSED LEGISLATION:

A bill changing the penalties for a person under the age of 21 who has an alcohol concentration of 0.02 or more and drives or who is in actual physical control of a vehicle upon ways of this state open to the public.

ASSUMPTIONS:

1. HB 339 has been amended to provide an immediate effective date.
2. HB 339 accomplishes three things that fiscally impact the state: 1) increases the fines that may be charged, 2) makes license suspension mandatory for first offense for a person under age 21, and 3) complies with federal law so that federal monies would not be withheld. These three impacts are explained in greater detail in the following assumptions.
3. Under current law, a person violating 61-8-410, MCA, by operating a vehicle while having an alcohol concentration of 0.02 or more and under age 18, the first offense fine could be up to \$100; if a person is between age 18 and 21, the fine is up to \$50. Proposed law makes the fine a range of at least \$100, but not greater than \$500, for all persons under age 21. Second and third conviction fines also increase, in approximately the same ratio.
4. The Department of Justice (DOJ) estimates that annual fine revenues to the state general fund would be \$60,500. DOJ assumed a mid-range of the current law and compared that with the bottom of the range for the proposed law, for the first, second and third offenses. The assumptions and calculations are extensive, and therefore not included here, but are available from the department or the Office of Budget and Program Planning.
5. The proposed law requires a 90 day driver's license suspension for the first offense; current law does not provide for license suspension. The DOJ estimates it would suspend 1,000 more licenses with the passage of HB 339. Each suspension requires approximately three-quarters of an hour. Therefore, a 0.40 FTE would be needed each year of the biennium to suspend the additional licenses. A 0.40 FTE, grade 8, would cost approximately \$8,200 per year with annual operating expenses of \$2,500, and one time office equipment needs of \$4,500 in fiscal 1998.
6. In November 1995, a federal law went into effect requiring, among other things, that a person under age 21, if driving with an alcohol content of .02 or higher, must have his/her driver's license suspended. If the states do not comply with this law by October 1, 1998, five percent of the federal-aid apportionment funds, or about \$5.0 million would be withheld in fiscal 1999, and 10 percent, or \$10.0 million in fiscal 2000 and thereafter. Passage of HB 339 would satisfy the federal law and thus avoid the potential withholding of federal funds. The Governor's Executive Budget assumes that the funds would not be withheld; therefore, with the proposed law, there would be no fiscal impact.

(continued)

 3-11-97
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


BILL CAREY, PRIMARY SPONSOR DATE

Fiscal Note for HB0339, third reading

HB 339-#2

FISCAL IMPACT:

Department of Justice:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	0.40	0.40
Personal Services	8,200	8,200
Operating Expenses	2,500	2,500
Equipment	4,500	0
Total	<u>15,200</u>	<u>10,700</u>
 <u>Funding:</u>		
General Fund (01)	15,200	10,700
 <u>Revenues:</u>		
Fine Revenue (01)	60,500	60,500
 <u>Net Impact on Fund Balance: (revenue minus expense)</u>		
General Fund (01)	45,300	49,800

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Fifty percent of fine revenue is deposited to the general fund of the county in which the infraction occurred. Therefore, with the passage of this bill, counties would receive approximately \$60,500 more in revenue each year.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Passage of this bill may make Montana eligible for a \$250,000 annual grant through the National Highway Traffic Safety Administration. Some of this grant may flow to local governments.

HOUSE BILL NO. 339

INTRODUCED BY CAREY, BOHLINGER, GRIMES, ROSE, MARSHALL

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PENALTIES FOR A PERSON UNDER THE AGE OF 21 WHO HAS AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AND DRIVES OR WHO IS IN ACTUAL PHYSICAL CONTROL OF A VEHICLE UPON WAYS OF THIS STATE OPEN TO THE PUBLIC; PERMITTING PROBATIONARY DRIVING PRIVILEGES AFTER 30 DAYS AND REQUIRING PAYMENT OF A LICENSE REINSTATEMENT FEE PRIOR TO ISSUANCE OF A PROBATIONARY DRIVER'S LICENSE; AND AMENDING SECTION 61-8-410, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-410, MCA, is amended to read:

"61-8-410. Operation of vehicle by person under twenty-one with alcohol concentration of 0.02 or more. (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or more to drive or be in actual physical control of a vehicle upon ways of this state open to the public.

~~(2) A person convicted of a violation of this section must be sentenced under the provisions of 45-5-624.~~

~~(3) Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section.~~

(2) Upon a first conviction under this section, a person shall be punished by a fine of not less than \$100 or more than \$500.

(3) Upon a second conviction under this section, a person shall be punished by a fine of not less than \$200 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not more than 10 days.

(4) Upon a third or subsequent conviction under this section, a person shall be punished by a fine of not less than \$300 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not less than 24 consecutive hours or more than 60 days.

(5) In addition to the punishment provided in this section, regardless of disposition:

(a) the person shall comply with the alcohol information course and alcohol and drug treatment provisions in 61-8-714; and

1 (b) the department shall suspend the person's driver's license for 90 days upon the first conviction,
2 6 months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted
3 or probationary driver's license may not be issued during the suspension period UNTIL THE PERSON HAS
4 COMPLETED AT LEAST 30 DAYS OF THE SUSPENSION PERIOD AND PAID A LICENSE REINSTATEMENT
5 FEE IN ACCORDANCE WITH 61-2-107."

6

7 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
8 APPROVAL.

9

-END-

1 HOUSE BILL NO. 339

2 INTRODUCED BY CAREY, BOHLINGER, GRIMES, ROSE, MARSHALL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PENALTIES FOR A PERSON UNDER THE AGE
5 OF 21 WHO HAS AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AND DRIVES OR WHO IS IN
6 ACTUAL PHYSICAL CONTROL OF A VEHICLE UPON WAYS OF THIS STATE OPEN TO THE PUBLIC;
7 PERMITTING PROBATIONARY DRIVING PRIVILEGES AFTER 30 DAYS AND REQUIRING PAYMENT OF A
8 LICENSE REINSTATEMENT FEE PRIOR TO ISSUANCE OF A PROBATIONARY DRIVER'S LICENSE; AND
9 AMENDING SECTION 61-8-410, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 61-8-410, MCA, is amended to read:

14 **"61-8-410. Operation of vehicle by person under twenty-one with alcohol concentration of 0.02**
15 **or more.** (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or
16 more to drive or be in actual physical control of a vehicle upon ways of this state open to the public.

17 ~~(2) A person convicted of a violation of this section must be sentenced under the provisions of~~
18 ~~45-5-624.~~

19 ~~(3) Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section.~~

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21 \$100 or more than \$500.

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24 than 10 days.

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26 of not less than \$300 or more than \$500 and, if the person is 18 years of age or older, by incarceration
27 for not less than 24 consecutive hours or more than 60 days.

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29 (a) the person shall comply with the alcohol information course and alcohol and drug treatment
30 provisions in 61-8-714; and

1 (b) the department shall suspend the person's driver's license for 90 days upon the first conviction,
2 6 months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted
3 or probationary driver's license may not be issued during the suspension period UNTIL THE PERSON HAS
4 COMPLETED AT LEAST 30 DAYS OF THE SUSPENSION PERIOD AND PAID A LICENSE REINSTATEMENT
5 FEE IN ACCORDANCE WITH 61-2-107."

6

7 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
8 APPROVAL.

9

-END-

HOUSE BILL NO. 339

INTRODUCED BY CAREY, BOHLINGER, GRIMES, ROSE, MARSHALL

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PENALTIES FOR A PERSON UNDER THE AGE OF 21 WHO HAS AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AND DRIVES OR WHO IS IN ACTUAL PHYSICAL CONTROL OF A VEHICLE UPON WAYS OF THIS STATE OPEN TO THE PUBLIC; ~~PERMITTING PROBATIONARY DRIVING PRIVILEGES AFTER 30 DAYS AND RESTRICTING PROBATIONARY DRIVING PRIVILEGES FOR PERSONS UNDER THE AGE OF 18 FOR THE FIRST 30 DAYS OF LICENSE SUSPENSION; PROHIBITING USE OF CONVICTION FOR CERTAIN PURPOSES; REQUIRING PAYMENT OF A LICENSE REINSTATEMENT FEE PRIOR TO ISSUANCE OF A PROBATIONARY DRIVER'S LICENSE; AND~~ AMENDING SECTION 61-8-410, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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Section 1. Section 61-8-410, MCA, is amended to read:

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~~(2) A person convicted of a violation of this section must be sentenced under the provisions of 45-5-624.~~

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(5) In addition to the punishment provided in this section, regardless of disposition:

1 (a) the person shall comply with the alcohol information course and alcohol and drug treatment
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3 (b) the department shall suspend the person's driver's license for 90 days upon the first conviction,
4 6 months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted
5 or probationary driver's license may not be issued during the suspension period UNTIL THE PERSON HAS
6 COMPLETED AT LEAST 30 DAYS OF THE SUSPENSION PERIOD AND PAID A LICENSE REINSTATEMENT
7 FEE IN ACCORDANCE WITH 61-2-107 AND, IF THE PERSON WAS UNDER THE AGE OF 18 AT THE TIME
8 OF THE OFFENSE, HAS COMPLETED AT LEAST 30 DAYS OF THE SUSPENSION PERIOD.

9 (6) A CONVICTION UNDER THIS SECTION MAY NOT BE COUNTED AS A PRIOR CONVICTION
10 UNDER 61-8-401 OR 61-8-406."

11

12 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
13 APPROVAL.

14

-END-



FREE CONFERENCE COMMITTEE

on House Bill 339

Report No. 1, April 16, 1997

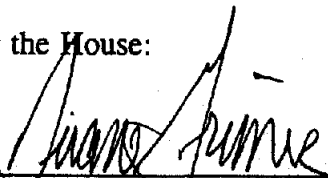
Page 1 of 1

Mr. Speaker and Mr. President:

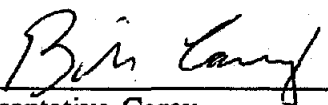
We, your Free Conference Committee met and considered **House Bill 339** (reference copy -- salmon) April 16, 1997 and recommend that, Senate Committee on Judiciary amendments to the third reading copy, dated March 15, 1997, be adopted.

And this FREE Conference Committee report be adopted.

For the House:



Representative Grimes, Chair

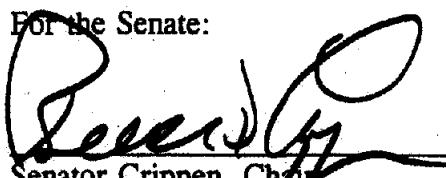


Representative Carey

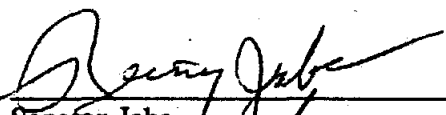


Representative Tash

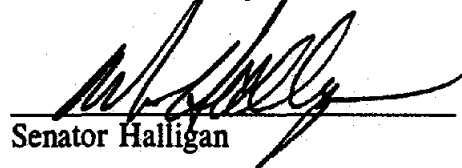
For the Senate:



Senator Crippen, Chair



Senator Jobs



Senator Halligan

ADOPT

REJECT

FCCR#1
HB 339
AC HB 339-1

811338CC.Hgd