

**SENATE JOURNAL
57TH LEGISLATURE
TWENTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
January 31, 2001

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Beck presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Christiaens, Mahlum, Shea, and Stonington, excused. Quorum present.

Mr. President: We, your committee on Bills and Journal, having examined the daily journal for the nineteenth legislative day, find the same to be correct.

Miller, Chairman

Senator Shea present at this time.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 1/31/2001
Correctly printed: SB 27, SB 35, SB 56, SB 115, SB 168, SB 269, SB 352, SB 353, SB 354, SB 355, SB 356, HB 36.
Correctly engrossed: SB 128.
Correctly enrolled: SB 87, SR 3.
Examined by the sponsor and found to be correct: SB 87, SR 3.
Delivered to the Secretary of State at 3:21 p.m., January 30, 2001: SR 4.

HIGHWAYS AND TRANSPORTATION (Mohl, Chairman): 1/31/2001
SB 191, introduced bill, be amended as follows:

1. Page 2.

Following: line 12

Insert: "(b) in consultation with the department of corrections, determine which license plate processing system is the most efficient and versatile manufacturing method for the production of generic specialty license plates;"

Renumber: subsequent subsections

2. Page 3, line 30.

Strike: "3(1)(b)"

Insert: "3(1)(c)"

3. Page 6.

Following: line 9

Insert: "(c) Generic specialty license plates issued under [sections 1 through 10] are not subject to the maximum 4-year limitation provided in 61-3-332(2)(a)."

4. Page 7, line 25.

Strike: "All"

Insert: "Except as provided in [section 8], all"

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - JANUARY 31, 2001

5. Page 8, line 10.

Strike: "and the year"

And, as amended, do pass. Report adopted.

SB 237, do pass. Report adopted.

JUDICIARY (Grosfield, Chairman):

1/31/2001

SB 283, introduced bill, be amended as follows:

1. Title, line 5 through line 6.

Following: "ACT;"

Strike: remainder of line 5 through the second "2003;" on line 6

2. Title, line 8.

Following: "41-3-1013,"

Strike: "41-3-1122, AND 52-2-112,"

Insert: "AND 41-3-1115,"

Following: "MCA;"

Strike: "AND"

3. Title, line 9.

Following: "41-3-1009,"

Insert: "AND"

Following: "41-3-1014,"

Strike: "AND 41-3-1115,"

4. Title, line 10.

Following: line 9

Insert: "AN"

Strike: "DATES"

Insert: "DATE"

5. Page 3, line 18.

Following: "applicable,"

Insert: "a foster care review committee established under 41-3-1115 or, when applicable,"

6. Page 4, line 22.

Strike: "By July 1, 2003, each judicial district"

Insert: "Subject to the availability of funds, a district court judge who has indicated in writing an interest in having a board"

7. Page 5, line 15 through line 16.

Strike: line 15 through line 16 in their entirety

Insert: "must be willing to serve without compensation."

8. Page 13, line 9 through page 14, line 8.

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - JANUARY 31, 2001

Strike: section 13 through section 14 in their entirety

Renumber: subsequent sections

9. Page 14, line 9.

Following: line 8

Insert: "**Section 13.** Section 41-3-1115, MCA, is amended to read:

"41-3-1115. Foster care review committee. (1) Except as provided in Title 41, chapter 3, part 10, in every judicial district the youth court judge, in consultation with the department, shall appoint a foster care review committee. The members of the committee must be willing to act without compensation. The committee ~~shall~~ must be composed of not less than five or more than seven members. The members ~~shall~~ must include:

- (a) a representative of the department;
- (b) a representative of the youth court;
- (c) someone knowledgeable in the needs of children in foster care placements who is not employed by the department or the youth court;
- (d) a representative of a local school district;
- (e) if the child whose care under review is an Indian, someone, preferably an Indian person, knowledgeable about Indian cultural and family matters who is appointed effective only for and during that review; and
- (f) if there is one, the foster parent of the child whose care is under review. The foster parent's appointment is effective only for and during that review.

(2) When a child is in foster care under the supervision of the department or if payment for care is made pursuant to 41-3-1122, the committee shall conduct a review of the foster care status of the child. The review must be conducted within a time limit established by the department. ~~The time limit must comply with federal law and may not be later than the 12-month anniversary date of the child's placement into foster care. The first review may not be more than 6 months after the child is placed in foster care. Subsequent reviews must take place at least once every 6 months until the child is no longer in foster care. The district court, by rule of the court or on an individual case basis, may relieve the department of its responsibility to review a case if a complete judicial review has taken place within 60 days prior to the next scheduled committee review.~~

(3) The department shall provide the committee with guidelines for operation of the committee. Within 30 days of the foster care review, the committee shall provide the youth court and the department with a written report of its findings and recommendations for further action by the youth court or the department.

(4) The department shall adopt rules necessary to carry out the purposes of this section. The rules must provide for policies and procedures consistent with the provisions regarding notice, written findings and recommendations, conflict of interest, recordkeeping, sibling reviews, disclosure and immunity under 41-3-1010, and the deliberation provisions of 41-3-1012.

(5) Because of the individual privacy involved, meetings of the committee, reports of the committee, and information on individuals' cases shared by committee members are confidential and subject to the confidentiality requirements of the department.

(6) The committee is subject to the call of the youth court judge to meet and confer with the judge on all matters pertaining to the foster care of a child before the youth court.""

Renumber: subsequent sections

10. Page 14, line 10.

Strike: "(1)"

11. Page 14, line 12.

Strike: line 12 in its entirety

12. Page 14, line 18.

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - JANUARY 31, 2001

Strike: "dates"

Insert: "date"

Strike: "(1)" through "[this act]"

Insert: "[This act]"

13. Page 14, line 20.

Strike: line 20 in its entirety

And, as amended, do pass. Report adopted.

HB 104, be amended as follows:

1. Title, line 5.

Following: "PERSON"

Insert: "OR THE PROSECUTOR"

2. Title, line 7.

Following: "PERSON"

Insert: "OR PROSECUTOR"

3. Title, line 11.

Following: "PRONOUNCEMENT;"

Insert: "PROVIDING THAT A FACTUALLY ERRONEOUS JUDGMENT MAY BE CORRECTED AT ANY TIME;"

4. Title, line 11.

Strike: "SECTIONS"

Insert: "SECTION"

Following: "46-18-116"

Strike: "AND 46-18-117"

Following: "MCA;"

Insert: "REPEALING SECTION 46-18-117, MCA;"

5. Page 1, line 17.

Following: "pronouncement"

Insert: "-- correction of factually erroneous sentence or judgment"

6. Page 1, line 20.

Following: "IS"

Strike: "ENTERED ON THE RECORD, THE COURT"

Insert: "filed, the prosecutor of the county in which the sentence was imposed"

Following: "SHALL"

Strike: "GIVE THE DEFENDANT"

Insert: "serve"

7. Page 1, line 21.

Following: "JUDGMENT"

Strike: "AND A COPY OF"

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - JANUARY 31, 2001

Insert: "on the defendant. The written judgment must include a statement of the rights set forth in"

8. Page 1, line 23.

Following: "defendant"

Insert: "or the prosecutor in the county in which the sentence was imposed"

9. Page 1, line 26.

Following: "The defendant"

Strike: "waives"

Insert: "and the prosecutor waive"

10. Page 1, following line 30.

Insert: "(3) The court may correct a factually erroneous sentence or judgment at any time. Illegal sentences must be addressed in the manner provided by law for appeal and postconviction relief."

11. Page 2, line 2 through line 6.

Strike: section 2 in its entirety

Insert: "NEW SECTION. Section 2. Repealer. Section 46-18-117, MCA, is repealed."

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

HB 117, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/30/2001

HB 127, introduced by Wanzenried

HB 152, introduced by Gallik

HB 174, introduced by Jent

HB 176, introduced by Jent

HB 208, introduced by Harris

HB 216, introduced by Himmelberger

HB 246, introduced by Bales

HB 256, introduced by C. Younkin

MOTIONS

SB 158 - Senator Grosfield moved that Doherty, Grimes, Halligan, McNutt, Mangan, Newman and K. Peterson be added as sponsors to SB 158. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 357, introduced by Ryan (by request of the State Auditor), referred to Business and Labor.

SB 358, introduced by DePratu, Tramelli, Wanzenried, referred to Highways and Transportation.

SB 359, introduced by Halligan, referred to Local Government.

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - JANUARY 31, 2001

SB 360, introduced by Waterman, referred to Energy and Telecommunications.
SB 361, introduced by McNutt, Grosfield, F. Thomas, referred to Public Health, Welfare and Safety.
SB 362, introduced by Tester, referred to State Administration.
SB 363, introduced by Tester, referred to Agriculture, Livestock and Irrigation.
SB 364, introduced by Cobb, referred to Natural Resources.
SB 365, introduced by Cobb, referred to Taxation.
SB 366, introduced by Shea, referred to Taxation.
SB 367, introduced by DePratu, Doherty, Gillan, Halligan, Kitzenberg, Lewis, Mohl, D. Mood, Sliter, Sprague, Wanzenried, referred to Business and Labor.
SB 368, introduced by Shea, Bitney, Halligan, McNutt, referred to Local Government.
SB 369, introduced by Glaser, Jacobson, Taylor, Toole, referred to Business and Labor.

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

HB 127, introduced by Wanzenried (by request of the Department of Transportation), referred to Highways and Transportation.
HB 152, introduced by Gallik (by request of the Public Employees' Retirement Board), referred to State Administration.
HB 174, introduced by Jent, referred to Judiciary.
HB 176, introduced by Jent, referred to Judiciary.
HB 208, introduced by Harris, Branae, Clancy, Davies, Eggers, R. Erickson, Gillan, Jent, Laslovich, Newman, K. Peterson, Shockley, referred to Judiciary.
HB 216, introduced by Himmelberger, referred to Judiciary.
HB 246, introduced by Bales, Andersen, Barrett, Beck, Butcher, Clancy, E. Clark, Cole, Curtiss, Dale, Davies, Devlin, Ekegren, Ellis, Esp, Hedges, R. Holden, Jayne, Kasten, Laible, Lenhart, McCann, Nelson Olson, Pattison, A. Peterson, Price, Rice, Ripley, Rome, Schrupf, Steinbeisser, Story, Tash, Tester, B. Thomas, J. Tropila, Waitschies, Wanzenried, Witt, Wolery, referred to Agriculture, Livestock and Irrigation.
HB 256, introduced by C. Younkin, Newman, referred to Judiciary.

**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 Ryan in the chair.

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

HB 29 - Senator K. Miller moved HB 29, second reading copy, be amended as follows :

1. Page 2, line 16.

Following: "tenant"

Insert: "for a period of 18 months"

2. Page 2, line 19.

Strike: "Failure"

Insert: "Subject to 70-25-202(3), failure"

Amendment **adopted** unanimously.

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - JANUARY 31, 2001

HB 29 - Senator Grosfield moved HB 29, as amended, be concurred in. Motion carried unanimously.

HB 56 - Senator DePratu moved HB 56 be concurred in. Motion carried unanimously.

SB 77 - Senator Hargrove moved SB 77 do pass. Motion carried unanimously.

SB 82 - Senator Keenan moved SB 82 do pass. Motion carried unanimously.

SB 140 - Senator J. Wells moved SB 140 do pass. Motion **failed** as follows:

Yeas: Berry, Bishop, Butcher, DePratu, Ekegren, Ellis, Glaser, Grimes, Holden, Keenan, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.

Total 22

Nays: Bohlinger, Cobb, Cocchiarella, Cole, Crismore, Doherty, Ellingson, Elliott, Franklin, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Johnson, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Tester, Toole, Waterman.

Total 25

Absent or not voting: None.

Total 0

Excused: Christiaens, Mahlum, Stonington.

Total 3

SB 140 - Senator Halligan moved that SB 140 be indefinitely postponed. Motion carried as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Crismore, Doherty, Ellingson, Elliott, Franklin, Grosfield, Halligan, Harrington, Jergeson, Johnson, Kitzenberg, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Shea, Stapleton, Taylor, Tester, Toole, Waterman.

Total 26

Nays: Berry, Bishop, Butcher, Cole, DePratu, Ekegren, Ellis, Glaser, Grimes, Hargrove, Holden, Keenan, Miller, Mohl, O'Neil, Sprague, Tash, Thomas, Wells, Zook, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: Christiaens, Mahlum, Stonington.

Total 3

SB 179 - Senator Jergeson moved SB 179, second reading copy, be amended as follows :

1. Title, page 1, line 7.

Strike: "GENERAL FUND"

2. Page 3, line 23.

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - JANUARY 31, 2001

Strike: "GENERAL FUND"

3. Page 3, line 25.

Strike: "GENERAL FUND"

4. Page 3, line 25.

Following: "director."

Insert: "Each agency plan must include base budget reductions that reflect the required percentage reduction by fund type for the general fund and state special revenue fund types."

Amendment **adopted** with Senators Cocchiarella, Miller, Shea, and Waterman voting nay.

SB 179 - Senator Zook moved SB 179, as amended, do pass. Motion carried unanimously.

SB 256 - Senator Hargrove moved SB 256 do pass. Motion carried with Senators Cobb and Mohl voting nay.

SB 275 - Senator Hargrove moved SB 275 do pass. Motion carried with Senators Cobb and Cocchiarella voting nay.

HB 26 - Senator F. Thomas moved consideration of HB 26 be passed for the day. Motion carried.

HB 34 - Senator Ryan moved HB 34 be concurred in. Motion carried as follows:

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

Total 47

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Christiaens, Mahlum, Stonington.

Total 3

SB 128 - Senator Bohlinger moved SB 128 do pass. After discussion, Senator Grosfield made a **substitute motion** that consideration of **SB 128** be passed for the day. Motion carried.

HB 36 - Senator Ellingson moved HB 36 be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Beck in the chair. Chairman Ryan moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - JANUARY 31, 2001

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 27 passed as follows:

Yeas: Berry, Bohlinger, Butcher, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Keenan, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.
Total 26

Nays: Bishop, Christiaens, Cobb, Cocchiarella, Doherty, Ellingson, Elliott, Franklin, Halligan, Harrington, Jergeson, Johnson, Kitzenberg, Mahlum, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.
Total 24

Paired: Holden, Stapleton, Taylor, Ayes; Christiaens, Mahlum, Stonington, Noes.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 35 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Cobb, Cole, Crismore, DePratu, Ekegren, Ellis, Franklin, Glaser, Grimes, Grosfield, Hargrove, Holden, Johnson, Keenan, McNutt, Miller, Mohl, O'Neil, Sprague, Stapleton, Tash, Taylor, Thomas, Wells, Zook, Mr. President.
Total 30

Nays: Christiaens, Cocchiarella, Doherty, Ellingson, Elliott, Halligan, Harrington, Jergeson, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Stonington, Tester, Toole, Waterman.
Total 19

Paired: Bohlinger, Holden, Ayes; Christiaens, Stonington, Noes.

Absent or not voting: None.
Total 0

Excused: Mahlum.
Total 1

SB 56 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Cobb, Cocchiarella, Cole, Crismore, DePratu, Ekegren, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Tash, Taylor, Tester, Thomas, Wells, Zook, Mr. President.
Total 43

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - JANUARY 31, 2001

Nays: Doherty, Ellingson, Stonington, Toole, Waterman.
Total 5

Paired: Tester, Aye; Stonington, No.

Absent or not voting: None.
Total 0

Excused: Christiaens, Mahlum.
Total 2

SB 115 passed as follows:

Yeas: Berry, Bohlinger, Butcher, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 46

Nays: Bishop.
Total 1

Absent or not voting: None.
Total 0

Excused: Christiaens, Mahlum, Stonington.
Total 3

SB 168 passed as follows:

Yeas: Bishop, Bohlinger, Cocchiarella, Crismore, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Jergeson, Johnson, Keenan, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Shea, Sprague, Stonington, Tash, Tester, Thomas, Toole, Waterman.
Total 33

Nays: Berry, Butcher, Cobb, Cole, DePratu, Holden, McNutt, Miller, Mohl, O'Neil, Stapleton, Taylor, Wells, Zook, Mr. President.
Total 15

Paired: Stonington, Aye; Holden, No.

Absent or not voting: None.
Total 0

Excused: Christiaens, Mahlum.
Total 2

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - JANUARY 31, 2001

SB 269 passed as follows:

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

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Christiaens, Mahlum, Stonington.
Total 3

MOTIONS

SB 262 - Senator Elliott moved that he be allowed to change his vote on **SB 262** on third reading the previous legislative day, January 30, 2001, from nay to yea. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, February 1, 2001. Motion carried.

Senate adjourned at 3:08 p.m.

ROSANA SKELTON
Secretary of Senate

TOM BECK
President of the Senate