

**SENATE JOURNAL  
58TH LEGISLATURE  
FIFTH LEGISLATIVE DAY**

Helena, Montana  
January 10, 2003

Senate Chambers  
State Capitol

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

Roll Call. All members present except Senator Cocchiarella, excused. Quorum present.

The presiding officer has authenticated the daily journal for the third legislative day.

**REPORTS OF STANDING COMMITTEES**

**BILL REPORT**

Correctly printed: **SB 3, SB 7, SB 13, SB 19, SB 20, SB 23, SB 27, SB 38, SB 41, SB 55, SB 100, SB 136, SB 160-SB 186, SJR 6, SJR 7.**

Correctly engrossed: **SB 26, SB 42, SB 43.**

**HIGHWAYS AND TRANSPORTATION** (Butcher, Chairman):

1/9/2003

**SB 102**, do pass. Report adopted.

**SB 107**, do pass. Report adopted.

**MOTIONS**

**SJR 6** - Senator Grimes moved that **SJR 6** be taken from the Legislative Administration Committee and rereferred to the Finance and Claims Committee. Motion carried.

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 187**, introduced by Curtiss, Balyeat, D. Brown, Brueggeman, Fuchs, Hedges, Laszloffy, Lehman, Lewis, Mendenhall, Mood, A. Olson, D. Ryan, Schrumpf, Sinrud, Steinbeisser, Tropila, referred to Fish and Game.

**SB 188**, introduced by Cocchiarella, Glaser, Golie, Lange, referred to Business and Labor.

**SB 189**, introduced by Curtiss, Lawson, McGee, referred to Judiciary.

**SB 190**, introduced by Bohlinger, Schrumpf, referred to Public Health, Welfare and Safety.

**SB 191**, introduced by O'Neil, referred to Local Government.

**SB 192**, introduced by O'Neil, referred to Public Health, Welfare and Safety.

**SB 193**, introduced by O'Neil, referred to Business and Labor.

**SB 194**, introduced by Tash, McCarthy, Younkin, referred to Natural Resources.

**SB 195**, introduced by Grimes, Ellingson, Cooney, Keenan, Mahlum, McGee, Nelson, Pease, Tash, Tester, F. Thomas, Wheat, referred to State Administration.

**SB 196**, introduced by Kitzenberg, referred to Education and Cultural Resources.

**SB 197**, introduced by Perry, Black, Bookout-Reinicke, Butcher, Curtiss, DePratu, Keane, Lindeen, McGee, Mendenhall, A. Olson, Roush, Sales, Smith, Wheat, Younkin, referred to Local Government.

**SB 198**, introduced by Stonington, referred to Business and Labor.

**SB 199**, introduced by Stonington, referred to Energy and Telecommunications.

**SB 200**, introduced by Glaser, referred to Natural Resources.

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

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

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

**Senator Cocchiarella present at this time.**

**SB 3** - Senator Harrington moved **SB 3** do pass. Motion carried as follows:

Yeas: Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Johnson, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 29

Nays: Anderson, Bales, Barkus, Butcher, Curtiss, DePratu, Esp, Glaser, Kitzenberg, Laible, Mahlum, McGee, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 7** - Senator Bohlinger moved **SB 7**, second reading copy, be amended as follows :

1. Page 1, line 15.

**Following:** "is appointed"

**Insert:** ":(a)"

2. Page 1, line 17.

**Following:** "senate"

**Insert:** "; or

(b) by the board of regents of higher education to serve either as the commissioner of higher education or as the chief executive officer of a campus of the Montana university system"

Amendment **adopted** as follows:

Yeas: Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 44

Nays: Anderson, Cobb, Curtiss, Gebhardt, McGee, Sprague.

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Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 7** - Senator Butcher moved **SB 7**, as amended, do pass. Motion carried unanimously.

**SB 136** - Senator Butcher moved **SB 136** do pass. Motion carried unanimously.

**SB 19, SB 20, SB 100** - Senator Thomas moved that **SB 19, SB 20 and SB 100** be moved to the bottom of the second reading board. Motion carried.

**SB 23** - Senator Butcher moved **SB 23** do pass. Motion carried unanimously.

**SB 27** - Senator Johnson moved **SB 27** do pass. Motion carried unanimously.

**SB 38** - Senator Mahlum moved **SB 38** do pass. Motion carried unanimously.

**SB 41** - Senator Tropila moved **SB 41** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 55** - Senator Keenan moved **SB 55** do pass. Motion carried unanimously.

**SB 13** - Senator Thomas moved **SB 13** be placed at the bottom of the second reading board.. Motion carried.

**Senator Zook assumed the chair.**

**SB 19** - Senator Grimes moved **SB 19** do pass. Motion carried unanimously.

**SB 20** - Senator Grimes moved **SB 20** do pass. Motion carried unanimously.

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**SB 100** - Senator Grimes moved **SB 100** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Schmidt, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.

Total 45

Nays: Ryan, Squires, Tropila.

Total 3

Absent or not voting: Cobb, Elliott.

Total 2

Excused: None.

Total 0

**Senator Grimes reassumed the chair.**

**SB 13** - Senator O'Neil moved **SB 13**, second reading copy, be amended as follows :

1. Page 1, line 21.

**Following:** "more"

**Insert:** ", except as provided in subsection (3)"

2. Page 2, line 5.

**Following:** line 4

**Insert:** "(3) A person whose blood alcohol concentration is 0.08 or more but less than 0.10 and who is legally parked for a period of 10 minutes or more cannot be considered to be driving a motor vehicle for purposes of subsection (1)(b)."

3. Page 4, line 12.

**Following:** "alcohol"

**Insert:** ", except as provided in subsection (8)"

4. Page 4, line 22.

**Following:** line 21

**Insert:** "(8) A person whose blood alcohol concentration is 0.08 or more but less than 0.10 and who is legally parked for a period of 10 minutes or more cannot be considered to be driving or in actual physical control of a motor vehicle for purposes of subsection (4)(c)."

5. Page 4, line 29.

**Following:** "more"

**Insert:** ", except as provided in subsection (3)"

6. Page 5, line 3.

**Following:** line 2

**Insert:** "(3) A person whose blood alcohol concentration is 0.08 or more but less than 0.10 and who is legally parked

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for a period of 10 minutes or more cannot be considered to be driving or in actual physical control of a motor vehicle for purposes of subsection (1)(a)."

Amendment **not** adopted as follows:

Yeas: Bales, Butcher, Cobb, Cocchiarella, Cromley, Gebhardt, Glaser, O'Neil, Shea, Sprague, Taylor, Mr. President.  
Total 12

Nays: Anderson, Barkus, Black, Bohlinger, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.  
Total 38

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 13** - Senator Mahlum moved **SB 13** do pass. Motion carried with Senator O'Neil voting nay.

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes moved the Committee of the Whole report be adopted.

Senator F. Thomas made a **substitute motion** that **SB 136** be segregated from the Committee of the Whole report for purpose of amendment, and the remainder of the report be adopted. Motion carried.

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

2

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

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

**SB 136** - Senator F. Thomas moved **SB 136**, second reading copy, be amended as follows :

1. Title, line 6.

**Strike:** "AND"

**Following:** "MCA"

**Insert:** "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 3, line 4.

**Insert:** "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

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Amendment **adopted** unanimously.

**SB 136** - Senator Butcher moved **SB 136**, as amended, do pass. Motion carried unanimously.

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

**MOTIONS**

**SB 7, SB 136** - Senator Thomas moved that the rules be suspended to allow **SB 7** and **SB 136** to be placed on third reading this legislative day. Motion carried.

**THIRD READING OF BILLS**

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

**SB 17** passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 21** passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

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Excused: None.  
Total 0

**SB 33** passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 80** passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 85** passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

**SJR 1** adopted as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 7** passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 136** - Senator Thomas moved that **SB 136** be taken from the third reading board this day and that it be sent to engrossing and placed on third reading Monday, January 13, 2003, the 6th legislative day. Motion carried.

**MOTIONS**

**SJR 6** - Senator Zook moved that **SJR 6** be taken from the committee on Finance and Claims and rereferred to the committee on Taxation. Motion carried.

**SB 41** - Senator Tester moved that he be allowed to change his vote on **SB 41** from nay to yea. Motion carried.



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**Senators Johnson and Taylor excused at this time.**

Senator Thomas moved that the President of the Senate be authorized to appoint a Joint Select Committee on redistricting and apportionment. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cooney, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Thomas, Zook, Mr. President.

Total 30

Nays: Cocchiarella, Ellingson, Elliott, Hansen, Harrington, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 18

Absent or not voting: None.

Total 0

Excused: Johnson, Taylor.

Total 2

The President appointed Senator Barkus, chairman, Senator Pease and Senator Thomas.

**ANNOUNCEMENTS**

Senator Stapleton introduced the Senate pages and gave a brief overview of their future plans.

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, January 13, 2003. Motion carried.

Senate adjourned at 3:45 p.m.

ROSANA SKELTON  
Secretary of Senate

BOB KEENAN  
President of the Senate