

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

Helena, Montana
January 24, 2003

Senate Chambers
State Capitol

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

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

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

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 251, SB 252, SB 253, SB 254, SB 255, SB 256, SB 257, SB 258.**

Correctly engrossed: **SB 66, SB 81, SB 96, SB 109, SB 162, SB 172.**

Senator Stonington present at this time.

BUSINESS AND LABOR (Mahlum, Chairman):
SB 131, introduced bill, be amended as follows:

1/24/2003

1. Title, page 1, line 7.

Strike: "FEDERAL"

Insert: "UNITED STATES DEPARTMENT OF AGRICULTURE"

Following: "PROGRAMS"

Insert: "AND OTHER FEDERAL PROGRAMS"

2. Page 1, line 22.

Following: "9812a"

Insert: "or other federal revolving loan programs, including but not limited to programs from the economic development administration of the U.S. department of commerce and the community development financial institution program from the U.S. department of the treasury"

3. Page 2, line 20.

Following: "9812a"

Insert: "or other federal revolving loan programs, including but not limited to programs from the economic development administration of the U.S. department of commerce and the community development financial institution program from the U.S. department of the treasury"

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):
SB 118, introduced bill, be amended as follows:

1/24/2003

1. Title, page 1, line 8.

Strike: "2008"

Insert: "2006"

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2. Page 2, line 18.

Following: line 18

Insert: "(6) For the purposes of this section, "conspicuously displayed" means that the required license plates are obviously visible and firmly attached to:

- (a) the front and the rear bumper of a motor vehicle equipped with front and rear bumpers; or
- (b) other clearly visible locations on the front and the rear exteriors of a motor vehicle."

3. Page 5, lines 4 and 5.

Strike: "2007" on line 4

Insert: "2005"

Strike: "2008" on line 6

Insert: "2006"

4. Page 20, line 11.

Following: "sold"

Insert: "or renewed"

5. Page 24, line 10.

Following: "(1)"

Strike: "The"

Insert: "(a) Except as provided in subsection (1)(b), the"

6. Page 24.

Following: line 18

Insert: "(b) If the sponsor of a generic specialty license plate is not listed on the county collection report published by the department of revenue and required under 15-1-504 as of the initial distribution date for the sale of the sponsor's plates, the department shall require the sponsor to collect the initial donation fee from, and issue a special certificate of registration to, a person who is eligible to receive the sponsor's generic specialty license plates. The person shall present the special certificate of registration upon application for the generic specialty license plates."

7. Page 25, line 6.

Following: "pay"

Strike: "the donation fee specified by the sponsor and"

Following: "\$15"

Insert: "and, except as provided in 61-3-479(1)(b), the donation fee specified by the sponsor"

8. Page 25, line 9.

Following: "this title"

Insert: "and unless otherwise provided in 61-3-479(1)(b)"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):
SB 160, introduced bill, be amended as follows:

1/24/2003

1. Title, page 1, line 4.

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Strike: "AGENCIES"

Insert: "THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES"

2. Page 1, line 15.

Strike: "has" through "2-15-102"

Insert: "means a division of the department of public health and human services"

3. Page 1.

Following: line 15

Insert: "(2) "Department" means the department of public health and human services provided for in 2-15-2201."

Renumber: subsequent subsections

4. Page 1, line 17.

Strike: "an agency's"

Following: "actions"

Insert: "by the department and its agencies"

5. Page 1, line 18.

Following: "services"

Insert: "that the department or"

6. Page 1, line 20.

Following: "in"

Insert: "the department's or"

7. Page 1, line 23.

Following: "that the"

Insert: "department or an"

8. Page 1, line 24.

Strike: "the mission"

Insert: "missions"

9. Page 1, line 27.

Strike: the first "agencies"

Insert: "the department"

Strike: the second "agencies"

Insert: "the department"

10. Page 1, line 29.

Following: "toward"

Insert: "the department's or"

11. Page 1, line 30.

Following: "focus"

Insert: "department or"

12. Page 2, line 6.

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Strike: "Each agency's"
Insert: "The department's"

13. Page 2, line 10.
Following: "to"
Insert: "the department,"
Following: "agency"
Insert: ", "

14. Page 2, line 15.
Following: "every"
Insert: "department or"

15. Page 2, lines 23 through 24.
Strike: "each" on line 23 through "agency" on line 24
Insert: "the department"

16. Page 2, line 26.
Strike: "agency"
Insert: "the department's"

17. Page 2, line 27.
Following: "strategies of"
Insert: "department or"

18. Page 2, line 29.
Following: "on"
Strike: "the agency's"
Insert: "department and agency"

19. Page 3, line 2.
Following: "of the"
Strike: "agency budget"
Insert: "department and the agencies' budgets"

20. Page 3, line 3.
Strike: "agency's mission"
Insert: "department's and the agencies' missions"

21. Page 3, line 6.
Strike: the first "Agency"
Insert: "Department and agency"
Strike: the second "Agency"
Insert: "Department and agency"

22. Page 3, line 7.
Following: "for"

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Insert: "the department or"

23. Page 3, line 8.

Following: "from the"

Insert: "department's or an"

24. Page 3, line 9.

Following: "serving the"

Insert: "department's or an"

Following: "years, the"

Insert: "department and its"

25. Page 3, line 14.

Strike: the first "17"

Insert: "2"

Strike: the first "1"

Insert: "15, part 22"

Strike: the second "17"

Insert: "2"

Strike: the second "1"

Insert: "15, part 22"

And, as amended, do pass. Report adopted.

TAXATION (DePratu, Chairman):

1/24/2003

SB 82, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "THE"

2. Title, page 1, line 5.

Following: line 4

Insert: "OPERATIONS,"

Strike: "AND ESTABLISHMENT"

Insert: ", CAPITAL EXPENDITURES, AND ACQUISITION"

3. Title, page 1, line 6.

Following: "MONTANA;"

Insert: "ELIMINATING STATE PARK DAY-USE FEES FOR RESIDENTS;"

4. Title, page 1, line 7.

Following: "MONTANA;"

Insert: "AMENDING SECTION 23-1-105, MCA;"

5. Page 1, line 12.

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Following: "parks."

Insert: "(1)"

Following: "15-10-420,"

Insert: "for the period ending December 31, 2014,"

6. Page 1, line 17.

Insert: "(2) One-half of the funds in the state special revenue fund must be allocated equally to administrative regions, and the remainder must be allocated by the commission. The funds allocated by administrative districts must be used for state park purposes within those districts. The funds must be used for the operation, maintenance, capital expenditures, and acquisition of state parks.

(3) The funding authorized by this section is a replacement for resident day-use fees for state parks.

(4) For the purposes of 15-23-703 and 15-36-324, the levy authorized by this section is not considered a state levy for the determination and distribution of nonlevy revenue based upon relative proportions of mills levied for state, county, and school district purposes.

Insert: "**Section 2.** Section 23-1-105, MCA, is amended to read:

"23-1-105. Fees and charges. (1) The department may levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided and to grant concessions that it considers advisable, except as provided in subsection (2). All money derived from the activities of the department, except as provided in subsection (5), must be deposited in the state treasury in a state special revenue fund to the credit of the department.

(2) (a) The department may establish day-use fees payable by nonresident users. During the period in which a levy is authorized in [section 1], residents of the state may not be charged for day use of state parks.

(b) Overnight camping fees established by the department under subsection (1) must be discounted 50% for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and either 62 years of age or older or certified as disabled in accordance with rules adopted by the department.

(3) For a violation of any fee collection rule involving a vehicle, the registered owner of the vehicle at the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not allowable unless it is shown that at that time, the vehicle was being used without the consent of the registered owner.

(4) Money received from the collection of fees and charges is not subject to the deposit requirements of 17-6-105. The department shall deposit money collected under this section within a reasonable time after receipt.

(5) There is a fund of the enterprise fund type, as defined in 17-2-102(1)(b)(i), for the purpose of managing state park visitor services revenue. The fund is to be used by the department to serve the recreating public by providing for the obtaining of inventory through purchase, production, or donation and for the sale of educational, commemorative, and interpretive merchandise and other related goods and services at department sites and facilities. The fund consists of money from the sale of educational, commemorative, and interpretive merchandise and other related goods and services and from donations. Gross revenue from the sale of educational, commemorative, and interpretive merchandise and other related goods and services must be deposited in the fund. All interest and earnings on money deposited in the fund must be credited to the fund for use as provided in this subsection.""

"

Renumber: subsequent sections

7. Page 1, line 24.

Following: "2-mill"

Insert: "property tax"

Strike: "on all taxable property"

8. Page 1, line 25.

Strike: "maintenance" through "of"

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Insert: "eliminate resident day-use fees and for funding"

9. Page 1, line 26.

Following: "2-mill"

Insert: "property tax"

Strike: "on all taxable property"

10. Page 1, line 27.

Strike: "maintenance" through "of"

Insert: "eliminate resident day-use fees and for funding"

And, as amended, do pass. Report adopted.

SB 159, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "A BUILDING AND APPURTENANT LAND"

Insert: "CERTAIN PROPERTY"

2. Page 1, line 10.

Strike: "Buildings"

Insert: "Property"

Strike: "The"

Insert: "A"

3. Page 1, line 11.

Following: "land"

Insert: "or just the appurtenant land"

Following: "leased"

Insert: "for less than \$100 a year"

4. Page 1, line 13.

Following: "taxation"

Insert: "if the building was constructed on a railroad right-of-way by a railroad prior to the year 2000"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/23/2003

HB 77, introduced by Jent

HB 88, introduced by Kasten

HB 96, introduced by Devlin

HB 98, introduced by McKenney

HB 107, introduced by A. Olson

HB 136, introduced by Fisher

HB 174, introduced by B. Thomas

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HB 175, introduced by P. Clark

HB 230, introduced by Erickson

MOTIONS

SB 237 - Senator Bales moved **SB 237** be taken from the committee on Agriculture, Livestock and Irrigation and rereferred to the committee on Fish and Game. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 259, introduced by Glaser, Story, referred to Education and Cultural Resources.

SB 260, introduced by DePratu, Brueggeman, Anderson, Barkus, Bohlinger, Butcher, Curtiss, Everett, Grimes, Haines, Kasten, Keenan, Kitzenberg, Laible, Lake, Lawson, McNutt, Mood, Morgan, A. Olson, Pattison, Sales, Sprague, Tash, Taylor, Witt, Zook, referred to Taxation.

SB 261, introduced by Stonington, referred to Natural Resources.

SB 262, introduced by Perry, Facey, referred to State Administration.

**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 Laible in the chair.

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

SB 143 - Senator Bohlinger moved **SB 143** do pass. Motion carried as follows:

Yeas: Anderson, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook.

Total 33

Nays: Bales, Barkus, Black, Butcher, Cobb, Curtiss, Esp, Glaser, Grimes, Laible, McGee, Perry, Sprague, Stapleton, Story, Taylor, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 146 - Senator Anderson moved **SB 146** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu,

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Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, 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 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Butcher excused at this time.

SB 180 - Senator Ryan moved **SB 180** do pass. Motion carried as follows:

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

Total 46

Nays: Curtiss, McGee, O'Neil.

Total 3

Absent or not voting: None.

Total 0

Excused: Butcher.

Total 1

SB 35 - Senator Grimes moved **SB 35**, second reading copy, be amended as follows :

1. Page 4, line 17.

Following: "or"

Insert: "correctional facility,"

2. Page 4, line 21.

Following: "health"

Insert: "correctional, mental health, or developmental disabilities"

Amendment **adopted** unanimously.

SB 35 - Senator Grimes moved **SB 35**, as amended, do pass. Motion carried unanimously.

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SB 47 - Senator Gebhardt moved **SB 47** do pass. Motion carried unanimously.

SB 57 - Senator Keenan moved **SB 57** do pass. Motion carried unanimously.

Senator Butcher present at this time.

Senators Cobb and Perry excused at this time.

SB 76 - Senator Schmidt moved **SB 76** do pass. Motion carried as follows:

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

Total 46

Nays: Gebhardt, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: Cobb, Perry.

Total 2

SB 78 - Senator McCarthy moved **SB 78** do pass. Motion carried unanimously.

Senator Cobb present at this time.

SB 97 - Senator Story moved **SB 97** do pass. Motion carried unanimously.

Senator Butcher excused at this time.

SB 141 - Senator Wheat moved **SB 141** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, 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, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: Butcher, Perry.
Total 2

SB 163 - Senator Mangan moved **SB 163** do pass. After discussion, **SB 163** was moved to the bottom of the board for purpose of amendment.

SB 188 - Senator Cocchiarella moved **SB 188** do pass. Motion carried unanimously.

Senator Butcher present at this time.

SB 206 - Senator Anderson moved **SB 206** 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 Laible moved the Committee of the Whole report be adopted. Report adopted.

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 70 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, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Perry.
Total 1

SB 88 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, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: Perry.
Total 1

SB 103 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, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Perry.
Total 1

SB 108 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Perry.
Total 1

SB 139 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 45

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Nays: Butcher, Curtiss, McGee, O'Neil.
Total 4

Absent or not voting: None.
Total 0

Excused: Perry.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 9:00 a.m., Saturday, January 25, 2003. Motion carried.

Senate adjourned at 3:16 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate