

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

Helena, Montana  
January 25, 2003

Senate Chambers  
State Capitol

Senate convened at 9:00 a.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

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

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

**REPORTS OF STANDING COMMITTEES**

**JUDICIARY** (Grimes, Chairman):  
**SB 34**, introduced bill, be amended as follows:

1/24/2003

1. Page 2, line 1.

**Following:** "at least"

**Strike:** "~~two-thirds~~"

**Insert:** "three-fourths"

2. Page 2, line 7 through line 8.

**Following:** "court," on line 7

**Strike:** remainder of line 7 through "~~70-30-311~~" on line 8

**Insert:** "an order to show cause why the property should not be condemned as requested in the complaint"

3. Page 2, line 9.

**Following:** line 8

**Insert:** "(5)(a) If the condemnee does not file an objection to the motion within 10 days, the court shall issue the preliminary condemnation order as provided in 70-30-206 and place the condemnor in possession of the property as provided in 70-30-311."

4. Page 2, line 9.

**Strike:** "~~(5)(a)~~"

**Insert:** "(b)"

5. Page 2, line 9 through line 10.

**Following:** "motion" on line 9

**Strike:** remainder of line 9 through "possession" on line 10

6. Page 2, line 10.

**Strike:** "set a date for"

**Insert:** "schedule"

7. Page 2, line 14 through line 16.

**Strike:** subsection (b) in its entirety

**Insert:** "(c) The motion shall include a notice specifying that the order sought is a final order on the issue of possession of the property described in the complaint."

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8. Page 3, line 14.

**Following:** "condemnation order"

**Insert:** "pursuant to 70-30-206"

**Following:** "an order"

**Strike:** "placing the department of transportation in possession."

9. Page 3, line 15.

**Following:** "(5)"

**Strike:** "₃"

And, as amended, do pass. Report adopted.

**SB 164**, do pass. Report adopted.

**STATE ADMINISTRATION** (Cobb, Chairman):

1/25/2003

**SB 142**, introduced bill, be amended as follows:

1. Title, lines 6 and 7.

**Following:** "LAW" on line 6

**Strike:** remainder of line 6 through "INFRASTRUCTURE INFORMATION," on line 7

2. Title, lines 10 and 11.

**Following:** "CAPACITY;" on line 10

**Strike:** remainder of line 10 through "SYSTEMS;" on line 11

**Strike:** "SECTIONS 2-6-101 AND"

**Insert:** "SECTION"

3. Page 1, line 17.

**Strike:** "related to critical information"

4. Page 1, line 22 through page 2, line 19.

**Strike:** section 1 in its entirety

**Renumber:** subsequent sections

5. Page 3, line 11.

**Strike:** "critical infrastructure"

6. Page 3, line 20.

**Following:** "interest"

**Strike:** "₃"

**Insert:** "or"

**Following:** "safety"

**Strike:** ", or security in public facilities"

And, as amended, do pass. Report adopted.

**SB 149**, do pass. Report adopted.

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**SB 195**, do pass. Report adopted.

**HB 21**, be concurred in. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

House bills passed and transmitted to the Senate for concurrence:

1/24/2003

**HB 44**, introduced by Smith

**HB 53**, introduced by Newman

**HB 54**, introduced by Newman

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 263**, introduced by Grimes, referred to Judiciary.

**SB 264**, introduced by Grimes, referred to Judiciary.

**SB 265**, introduced by Grimes, McGee, referred to Judiciary.

**SB 266**, introduced by Cobb, Butcher, Elliott, Tester, referred to Agriculture, Livestock and Irrigation.

**SB 267**, introduced by Stapleton, R. Brown, Brueggeman, F. Thomas, referred to Education and Cultural Resources.

**SB 268**, introduced by Shea, referred to Business and Labor.

**SB 269**, introduced by Laible, referred to Natural Resources.

**SB 270**, introduced by Harrington, Squires, Wanzenried, referred to Business and Labor.

**SB 271**, introduced by Stapleton, Wanzenried, referred to Taxation.

**SB 272**, introduced by Toole, referred to Energy and Telecommunications.

**SB 273**, introduced by Tester, Wanzenried, D. Brown, Dowell, Ellingson, Forrester, Jacobson, Lindeen, Pattison, Schmidt, Sinrud, Stonington, Toole, referred to Business and Labor.

**SB 274**, introduced by McGee, Anderson, Bales, Balyeat, Barkus, Black, R. Brown, Butcher, Curtiss, DePratu, Esp, Fuchs, Glaser, Grimes, Jackson, Keenan, Laible, Lake, Lange, Laszloffy, Mahlum, Mood, Morgan, Pattison, Perry, Stapleton, Story, Taylor, F. Thomas, Tropila, Wagman, referred to Judiciary.

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

**HB 44**, introduced by Smith, referred to State Administration.

**HB 53**, introduced by Newman, referred to Judiciary.

**HB 54**, introduced by Newman, referred to Judiciary.

**HB 77**, introduced by Jent (by request of the Department of Justice), referred to Judiciary.

**HB 88**, introduced by Kasten (by request of the Legislative Finance Committee), referred to Taxation.

**HB 96**, introduced by Devlin (by request of the Office of Budget and Program Planning), referred to Taxation.

**HB 98**, introduced by McKenney (by request of the Department of Labor and Industry), referred to Business and Labor.

**HB 107**, introduced by A. Olson (by request of the Governor), referred to Education and Cultural Resources.

**HB 136**, introduced by Fisher (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

**HB 174**, introduced by B. Thomas (by request of the Department of Labor and Industry), referred to Business and Labor.

**HB 175**, introduced by P. Clark (by request of the Environmental Quality Council), referred to Natural Resources.

**HB 230**, introduced by Erickson, referred to Business and Labor.

**SECOND READING OF BILLS**

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(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 Bales in the chair.

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

**SJR 8** - Senator Tester moved **SJR 8** be adopted. Motion carried unanimously.

**SB 163** - Senator Mangan moved **SB 163**, second reading copy, be amended as follows :

1. Title, line 13.

**Following:** "FROM"

**Insert:** "AN APPROPRIATE FUND OF"

2. Title, line 14.

**Strike:** "ENTITY'S GENERAL FUND"

**Insert:** "ENTITY"

Amendment **adopted** unanimously.

**SB 163** - Senator Mangan moved **SB 163**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, 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 46

Nays: Elliott, Laible, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: Johnson.

Total 1

**SB 8, requiring 2/3 of entire Legislature** - Senator Sprague moved **SB 8** do pass. Motion received the following vote:

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

Total 29

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

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Total 20

Absent or not voting: None.

Total 0

Excused: Johnson.

Total 1

**SB 66** - Senator Bohlinger moved **SB 66** do pass. Motion carried unanimously.

**SB 81** - Senator Cooney moved **SB 81** do pass. Motion carried with Senator Stapleton voting nay.

**SB 96** - Senator Kitzenberg moved **SB 96** do pass. Motion carried unanimously.

**SB 109** - Senator McNutt moved **SB 109** do pass. After discussion, **SB 109** was moved to the bottom of the board for purpose of amendment..

**SB 110** - Senator Toole moved **SB 110** do pass. Motion carried unanimously.

**SB 162** - Senator Story moved **SB 162** do pass. Motion carried unanimously.

**SB 165** - Senator Cooney moved **SB 165** do pass. Motion passed as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 25

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: Johnson.

Total 1

**Senator Tester excused at this time.**

**SB 172** - Senator McNutt moved **SB 172** do pass. Motion carried unanimously.

**SB 109** - Senator McNutt moved **SB 109** do pass. After discussion, Senator Butcher made a **substitute motion** that **SB 109**, second reading copy, be amended as follows :

1. Page 8, line 25.

**Following:** "~~days~~"

**Insert:** "at least 30 days"

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2. Page 14, line 26.

**Following:** "days"

**Insert:** "no later than 30 days"

3. Page 18, line 26.

**Following:** "days"

**Insert:** "no later than 30 days"

Amendment **not** adopted as follows:

Yeas: Butcher, Curtiss, Glaser, O'Neil, Stapleton, Taylor.

Total 6

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

Total 42

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

**SB 109** - Senator McNutt's motion that **SB 109** do pass carried as follows:

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

Total 40

Nays: Black, Butcher, Curtiss, DePratu, O'Neil, Stapleton, Taylor, Zook.

Total 8

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

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

**THIRD READING OF BILLS**

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

**SB 47** passed as follows:

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

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

**SB 57** passed as follows:

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

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

**SB 76** passed as follows:

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

Total 47

Nays: McGee.

Total 1

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Absent or not voting: None.  
Total 0

Excused: Johnson, Tester.  
Total 2

**SB 78** passed as follows:

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

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Johnson, Tester.  
Total 2

**SB 97** passed as follows:

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

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Johnson, Tester.  
Total 2

**SB 141** passed as follows:

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



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Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Johnson, Tester.  
Total 2

**SB 143** passed as follows:

Yeas: Anderson, Bohlinger, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tash, Toole, Tropila, Wheat, Mr. President.  
Total 33

Nays: Bales, Barkus, Black, Butcher, Cobb, Curtiss, Esp, Laible, McGee, Perry, Sprague, Stapleton, Story, Taylor, Thomas, Zook.  
Total 16

Paired: Johnson, Aye; Stapleton, No.

Absent or not voting: None.  
Total 0

Excused: Tester.  
Total 1

**SB 146** passed as follows:

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

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Johnson, Tester.  
Total 2

**SB 180** passed 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, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

**SB 188** passed as follows:

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

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

**SB 206** passed as follows:

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

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Johnson, Tester.

Total 2

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**ANNOUNCEMENTS**

Senator Stapleton introduced the Senate pages and gave a brief overview of their current interests and of their future plans, and thanked them for their work through the week.

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Monday, January 27, 2003. Motion carried.

Senate adjourned at 12:04 p.m.

ROSANA SKELTON  
Secretary of the Senate

BOB KEENAN  
President of the Senate