

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

Helena, Montana
January 27, 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 Butcher, excused. Quorum present.

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

Senator Butcher present at this time.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 259, SB 260, SB 261, SB 262, SB 263, SB 264, SB 265, SB 266, SB 267, SB 268, SB 269, SB 270, SB 271, SB 272, SB 273, SB 274.**

Correctly engrossed: **SB 142, SB 163.**

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman): 1/27/2003
SB 202, do pass. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman): 1/27/2003
SB 86, do pass. Report adopted.
SB 135, do pass. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman): 1/27/2003
SB 258, do pass. Report adopted.
HB 91, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman): 1/27/2003
SB 137, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "STATE"

Insert: "TRUST"

2. Title, page 1, line 6.

Following: "STATE"

Insert: "TRUST"

3. Page 1, line 15.

Following: "that state"

Insert: "trust"

Following: "land"

Insert: ", as described in The Enabling Act (approved February 22, 1889, 25 Stat. 676),"

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4. Page 1, line 17.

Following: "best"

Strike: "long-term"

Following: "interest of"

Strike: "the"

Insert: "current and future"

5. Page 2, line 6.

Following: "resources;"

Strike: "and"

6. Page 2, line 7.

Following: "sites"

Strike: "."

Insert: "; and (v) utility rights-of-way."

7. Page 3, line 4.

Following: "The"

Insert: "department may require the"

8. Page 3, line 5.

Following: "purposes"

Strike: "shall also"

Insert: "to"

9. Page 3, line 7.

Following: the second "cancellation"

Insert: "or in the event that the successful proposer is offered and does not accept the lease"

10. Page 4, line 9.

Following: "all"

Insert: "permanent"

Following: "improvements"

Strike: ", " through "equipment,"

11. Page 4, line 10 through line 12.

Strike: ", " on line 10 through "enterprise," on line 12

12. Page 4, line 15.

Following: "bonds."

Insert: "(1)"

13. Page 4, line 20.

Following: "beneficiaries."

Insert: "(2) All commercial leases of which the commercial purpose includes the use of a hazardous substance as defined in 75-10-602 must be bonded to ensure a degree of cleanup of the hazardous substance that ensures protection of public health, safety, and welfare and of the environment in a manner that protects the long-term

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financial interest of the beneficiaries."

And, as amended, do pass. Report adopted.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman):

1/27/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Saturday, January 25, 2003:

<u>TITLE</u>	<u>NAME</u>
Pages:	Jennie Berg, Butte, MT
	Abbey Joyce, Butte, MT
	Sarah Knobel, Conrad, MT
	Rebekah Grewett, Helena, MT
	Abigail Horan, Lewistown, MT
	Peter Nistler, Helena, MT

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, January 27, 2003:

<u>TITLE</u>	<u>NAME</u>	<u>SPONSOR</u>
Pages:	Emily Munn, Helena, MT	Senator Cooney
	Christopher Anderson, Deer Lodge, MT	Senator Anderson
	Kandice Parks, Anaconda, MT	Senator McCarthy
	Addy Lord, Helena, MT	Senator Cooney
	Ashley Wimmer-Barsness, Malta, MT	Senator Kitzenberg
	Ben Hoffmann, Helena, MT	Senator Butcher
	Kadie Golberg, White Sulphur, MT	Senator Stonington
	Marcus Meyer, Helena, MT	Senator Cooney

Report Adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/25/2003

HB 79, introduced by Jackson
HB 93, introduced by Lawson
HB 110, introduced by Lange
HB 126, introduced by Fritz
HB 145, introduced by McKenney
HB 167, introduced by Schrupf
HB 168, introduced by Callahan
HB 183, introduced by Steinbeisser
HB 232, introduced by Devlin

FIRST READING AND COMMITMENT OF BILLS

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

- SB 275**, introduced by Laible, Jent, Younkin, referred to Local Government.
- SB 276**, introduced by D. Ryan, Cocchiarella, Shea, referred to Education and Cultural Resources.
- SB 277**, introduced by Curtiss, referred to Energy and Telecommunications.
- SB 278**, introduced by Butcher, Bales, Black, Bohlinger, Curtiss, Gebhardt, Grimes, Kitzenberg, Laible, Mahlum, McGee, Perry, Taylor, referred to Education and Cultural Resources.
- SB 279**, introduced by Butcher, referred to Education and Cultural Resources.
- SB 280**, introduced by Butcher, referred to Education and Cultural Resources.
- SB 281**, introduced by Butcher, McGee, referred to Judiciary.
- SB 282**, introduced by Squires, referred to Business and Labor.
- SB 283**, introduced by Wheat, referred to Judiciary.
- SB 284**, introduced by Wheat, referred to Local Government.
- SB 285**, introduced by Wheat, referred to Judiciary.
- SB 286**, introduced by Sprague, referred to Highways and Transportation.
- SB 287**, introduced by Sprague, referred to Fish and Game.

The following Senate resolution was introduced, read first time, and referred to committee:

- SR 2**, introduced by Barkus, Anderson, Bales, Black, Butcher, Curtiss, Esp, Gebhardt, Glaser, Grimes, Keenan, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Taylor, F. Thomas (by request of the Joint Select Committee on Districting and Apportionment), referred to Legislative Administration.

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

- HB 79**, introduced by Jackson, referred to Natural Resources.
- HB 93**, introduced by Lawson, referred to Highways and Transportation.
- HB 110**, introduced by Lange, referred to Business and Labor.
- HB 126**, introduced by Fritz (by request of the Department of Administration), referred to Business and Labor.
- HB 145**, introduced by McKenney (by request of the State Auditor), referred to Business and Labor.
- HB 167**, introduced by Schrupf (by request of the Secretary of State), referred to State Administration.
- HB 168**, introduced by Callahan (by request of the Public Service Commission), referred to Energy and Telecommunications.
- HB 183**, introduced by Steinbeisser (by request of the State Auditor), referred to Business and Labor.
- HB 232**, introduced by Devlin, referred to Local Government.

**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 Harrington in the chair.

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

SB 82 - Senator Kitzenberg moved **SB 82** do pass. Motion carried as follows:

Yeas: Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Hansen, Harrington, Kitzenberg,

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Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat, Mr. President.

Total 28

Nays: Anderson, Bales, Barkus, Butcher, Curtiss, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 118 - Senator DePratu moved **SB 118** do pass. Motion carried with Senators Roush and Ryan voting nay.

SB 131 - Senator Barkus moved **SB 131** do pass. Motion carried with Senator O'Neil voting nay.

SB 149 - Senator Barkus moved **SB 149** do pass. After discussion, Senator Tester made a **substitute motion** that **SB 149**, second reading copy, be amended as follows :

1. Title, line 7 through line 9.

Following: "EQUALITY AND"

Strike: remainder of line 7 through "PROVISIONS" on line 9

Insert: "FLEXIBILITY IN APPOINTMENT"

2. Title, page 1, line 10.

Strike: "SECTIONS 2-15-1508, 2-15-1821, 2-15-1822, AND"

Insert: "SECTION"

3. Page 1, line 14 through page 3, line 12.

Strike: sections 1 through section 3 in their entirety

Renumber: subsequent sections

4. Page 3, lines 16 and 17.

Strike: "Two commissioners must"

Insert: "At least one commissioner must and no more than two commissioners may"

5. Page 3, line 23.

Following: "Mineral,"

Insert: "and"

Following: "Missoula"

Strike: "," through end of line 23

Insert: " ;"

6. Page 3, line 24.

Following: "~~Clark~~"

Insert: "(b) District 2: Lewis and Clark"

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Following: "Granite,"
Insert: "Ravalli,"
Strike: "Jefferson, Broadwater,"

7. Page 3, line 25.
Following: "Madison,"
Insert: "and"
Following: "Gallatin"
Strike: remainder of line 24 through "Carbon"

8. Page 3, line 26.
Strike: "(b)"
Insert: "(c)"
Strike: "2"
Insert: "3"

9. Page 3, line 27.
Following: "Richland,"
Insert: "Dawson,"
Following: "Cascade,"
Insert: "Meagher, Broadwater, Jefferson,"
Following: "~~and~~"
Insert: "and"
Following: "~~;~~~~and~~"
Insert: "; and"

10. Page 3, line 28.
Strike: "; Lewis and Clark, Meagher."
Insert: "(d) District 4:"

11. Page 3, line 29.
Strike: "Dawson,"
Strike: "and"

12. Page 3, line 30.
Following: "~~Grass~~"
Insert: ", Carbon, Stillwater, Sweet Grass, and Park"

Amendment **not** adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 149 - Senator Barkus' do pass motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 28

Nays: Bales, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 159 - Senator Johnson moved **SB 159** do pass. Motion carried with Senators Ellingson and Elliott voting nay.

SB 77 - Senator Johnson moved **SB 77** do pass. Motion carried unanimously.

SB 160 - Senator Cobb moved **SB 160** 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 Harrington moved the Committee of the Whole report be adopted. Report adopted unanimously.

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 8, requiring 2/3 of the entire Legislature, received the following vote:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 21

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 35 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 66 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 81 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, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

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Nays: Stapleton.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 96 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 109 passed 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, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Butcher, O'Neil, Stapleton, Taylor.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 110 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,

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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 162 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 165 failed as follows:

Yeas: Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 24

Nays: Anderson, Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 172 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, 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

SJR 8 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

MOTIONS

SB 160 - Senator Zook moved **SB 160** be taken from third reading and rereferred to the committee on Finance and Claims. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, January 28, 2003. Motion carried.

Senate adjourned at 2:56 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate