

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

Helena, Montana
January 28, 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. Quorum present.

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

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 275, SB 276, SB 277, SB 278, SB 279, SB 280, SB 281, SB 282, SB 283, SB 284, SB 285, SB 286, SB 287.**

Correctly engrossed: **SB 137.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman): 1/28/2003
SB 213, do pass. Report adopted.
SB 242, do pass. Report adopted.
HB 31, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman): 1/28/2003
SB 16, introduced bill, be amended as follows:

1. Page 3, line 7.

Strike: "4"

Insert: "8"

2. Page 3, line 8.

Following: "transferred."

Insert: "In cases where the cumulative effect of other transfers of territory out of the district in the previous 8 years is equal to or greater than 25% of the district's taxable value, the following additional factors must be considered and weighed in the decision:

(A) the district's rate of passage of discretionary levies placed before the voters over the previous 8 years;

(B) the district's reduction or elimination of instructional staff or programs over the previous 8 years; and

(C) any increase in district taxes over the previous 8 years and the likely increase in district taxes if the transfer is granted."

And, as amended, do pass. Report adopted.

JUDICIARY (Grimes, Chairman): 1/28/2003
SB 189, do pass. Report adopted.

SB 257, introduced bill, be amended as follows:

1. Page 4, line 18.

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Following: "court"
Strike: "of the 10-day"
Insert: "stating the statutory time deadline for a"
Following: "hearing"
Strike: "requirement"

2. Page 4, line 19.
Strike: "requirement"
Insert: "time deadline"

And, as amended, do pass. Report adopted.

HB 70, be concurred in. Report adopted.

NATURAL RESOURCES (Tash, Chairman): 1/27/2003
SJR 9, be adopted. Report adopted.
HB 83, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman): 1/27/2003
SB 95, introduced bill, be amended as follows:

1. Title, page 1, line 7 through line 9.
Following: "ABANDONMENT;" on line 7
Strike: remainder of line 7 through "WELFARE;" on line 9

2. Page 3, line 28.
Following: "facility;"
Insert: "(b) a person providing care in a day-care facility;"
Renumber: subsequent subsections

3. Page 21, line 26.
Following: "Evidence"
Insert: "at the discretion of the presiding judge"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman): 1/28/2003
SB 145, introduced bill, be amended as follows:

1. Title, page 1, line 6.
Following: "MEMBERSHIP SERVICE"
Insert: "AND SERVICE"

2. Page 1, line 13.
Following: "membership service"
Insert: "and service"

3. Page 1, line 14.

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Following: "peace corps,"

Strike: "americorps,"

Following: "or"

Strike: "the freedom corps"

Insert: "successful completion of a term of service in a national service position as described in the National and Community Service Act of 1990, 42 U.S.C. 12501, et seq"

4. Page 1, line 15.

Following: "membership service"

Insert: "and service"

Strike: "retirement"

5. Page 1, line 16.

Following: "member's"

Insert: "volunteer"

6. Page 1, line 17.

Following: "membership service"

Insert: "and service"

7. Page 1, line 24.

Following: "service"

Insert: "credit"

8. Page 1, line 25.

Following: "purchase service"

Insert: "credit"

And, as amended, do pass. Report adopted.

SB 243, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/27/2003

HB 63, introduced by Kasten

HB 94, introduced by Lawson

HB 105, introduced by B. Olson

HB 116, introduced by Kaufmann

HB 164, introduced by Callahan

HB 170, introduced by Parker

HB 171, introduced by Parker

HB 187, introduced by Gallus

HB 196, introduced by Fisher

HB 207, introduced by Laslovich

HB 208, introduced by Shockley

HB 209, introduced by Shockley

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HB 210, introduced by Shockley
HB 212, introduced by Shockley

MOTIONS

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:30 p.m. this day for purpose of party caucuses. Motion carried.

Senate recessed at 1:12 p.m.

Senate reconvened at 1:28 p.m.

Roll Call. All members present. Quorum present.

Senator Stonington excused at this time.

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 77 passed as follows:

Yeas: Anderson, 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, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 46

Nays: Bales, Nelson, O'Neil, Story.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 82 passed as follows:

Yeas: Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Tester, Toole, Tropila, Wheat, Mr. President.

Total 28

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

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Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 118 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, Perry, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Esp, Roush, Ryan.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 131 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, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Stonington present at this time.

SB 149 passed as follows:

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

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President.
Total 28

Nays: Bales, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, 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 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Ellingson, Elliott, Mangan, Squires.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 163 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, 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 48

Nays: Elliott, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

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SB 82 - Senator Sprague moved he be allowed to change his vote on **SB 82**, third reading this legislative day, from yea to nay. Motion carried.

Senator Stonington moved that she be allowed to have her vote recorded for bills voted on in third reading this legislative day in her absence, i.e., yea on **SB 77**; nay on **SB 82**; yea on **SB 118**; yea on **SB 131**. Motion carried.

SB 149 - Senator Tropila moved he be allowed to change his vote on **SB 149**, third reading this legislative day, from yea to nay. Motion carried.

SB 77 - Senator Bales moved he be allowed to change his vote on **SB 77**, third reading this legislative day, from yea to nay. Motion carried.

**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 Butcher in the chair.

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

SB 164 - Senator Mangan moved **SB 164** do pass. Motion carried unanimously.

SB 195 - Senator Grimes moved **SB 195** do pass. Motion carried unanimously.

HB 21 - Senator Gebhardt moved **HB 21** be concurred in. Motion carried unanimously.

SB 258 - Senator Thomas moved **SB 258** do pass. Motion carried as follows:

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

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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

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MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/28/2003

HB 112, introduced by Pattison
HB 309, introduced by R. Brown

MOTIONS

HB 79 - Senator Tash moved **HB 79** be taken from the committee on Natural Resources and rereferred to the committee on Fish and Game. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, January 29, 2003. Motion carried.

Senate adjourned at 3:03 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate