

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

Helena, Montana  
January 29, 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 Senators Butcher, McCarthy and Tester, excused. Quorum present.

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

**Senators Butcher and Tester present at this time.**

**REPORTS OF STANDING COMMITTEES**

**BILL REPORT**

Correctly engrossed: **SB 16, SB 95, SB 145, SB 257.**

**BUSINESS AND LABOR** (Mahlum, Chairman):  
**SB 151**, introduced bill, be amended as follows:

1/28/2003

1. Page 13, line 14.

**Strike:** "Lewis and Clark County"

**Insert:** "the first judicial district"

And, as amended, do pass. Report adopted.

**SB 216**, do pass. Report adopted.

**ENERGY AND TELECOMMUNICATIONS** (Johnson, Chairman):  
**SB 173**, do pass. Report adopted.

1/29/2003

**TAXATION** (DePratu, Chairman):  
**HB 58**, be concurred in. Report adopted.  
**HB 188**, be concurred in. Report adopted.

1/29/2003

**ADVERSE COMMITTEE REPORT**

**ENERGY AND TELECOMMUNICATIONS** (Johnson, Chairman):  
**SB 215**, do **not** pass.

1/29/2003

**MOTIONS**

**SB 245** - Senator Bohlinger moved that Becker, Gibson, Gutsche and Lindeen be added as sponsors to **SB 245**. Motion carried.

**SB 275** - Senator Mahlum moved **SB 275** be taken from the committee on Local and Government and rereferred to the committee on Business and Labor.

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**SJR 10** - Senator O'Neil moved that he be allowed to add sponsors to **SJR 10**. Motion carried.

**HB 91** - Senator Grimes moved **HB 91** be taken from second reading and rereferred to the committee on State Administration. Motion carried.

**FIRST READING AND COMMITMENT OF BILLS**

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

- SB 288**, introduced by Mangan, referred to Local Government.
- SB 289**, introduced by Ellingson, referred to Taxation.
- SB 290**, introduced by Tester, referred to Energy and Telecommunications.
- SB 291**, introduced by Butcher, referred to Education and Cultural Resources.

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

- SJR 10**, introduced by O'Neil, Black, Brueggeman, Curtiss, Everett, Fuchs, Grimes, Hedges, Laible, A. Olson, Pattison, Sales, Shockley, Sinrud, referred to Judiciary.
- SJR 11**, introduced by Schmidt, Grimes, referred to Public Health, Welfare and Safety.

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

- HB 63**, introduced by Kasten, referred to Fish and Game.
- HB 94**, introduced by Lawson, referred to Local Government.
- HB 105**, introduced by B. Olson (by request of the Department of Transportation), referred to Highways and Transportation.
- HB 112**, introduced by Pattison (by request of the Department of Transportation), referred to Highways and Transportation.
- HB 116**, introduced by Kaufmann (by request of the Department of Justice), referred to Judiciary.
- HB 164**, introduced by Callahan, referred to Business and Labor.
- HB 170**, introduced by Parker (by request of the Department of Justice), referred to Judiciary.
- HB 171**, introduced by Parker (by request of the Department of Justice), referred to Judiciary.
- HB 187**, introduced by Gallus (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.
- HB 196**, introduced by Fisher (by request of the Department of Labor and Industry), referred to Business and Labor.
- HB 207**, introduced by Laslovich (by request of the Department of Revenue), referred to Taxation.
- HB 208**, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.
- HB 209**, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.
- HB 210**, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.
- HB 212**, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.
- HB 309**, introduced by R. Brown, Balyeat, D. Brown, Brueggeman, Devlin, Fisher, Fuchs, Kasten, Laszloffy, Lehman, McNutt, Mood, A. Olson, Ripley, Sinrud, Stapleton, Steinbeisser, F. Thomas, Younkin, referred to Joint Select Committee on Districting and Reapportionment.

**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:

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**SB 164** 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, 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 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: McCarthy.

Total 1

**SB 195** 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, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 47

Nays: Esp, Story.

Total 2

Absent or not voting: None.

Total 0

Excused: McCarthy.

Total 1

**SB 258** passed 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

Paired: Thomas, Aye; McCarthy, No.

Absent or not voting: None.

Total 0

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Excused: None.  
Total 0

**HB 21** concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, 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 47

Nays: Bales, Esp.  
Total 2

Absent or not voting: None.  
Total 0

Excused: McCarthy.  
Total 1

**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 Cooney in the chair.

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

**SB 34** - Senator Barkus moved **SB 34** do pass. Motion passed with Senator Elliott voting nay.

**SB 86** - Senator Zook moved **SB 86** do pass. Motion carried unanimously.

**SB 135** - Senator Thomas moved **SB 135** be placed at the bottom of the second reading board. Motion carried.

**SB 142** - Senator Wheat moved **SB 142**, second reading copy, be amended as follows :

1. Title, page 1, lines 8 and 9.

**Following:** "OFFICER OR"

**Insert:** "THE PRIVACY OF"

**Following:** "TO" on line 9

**Strike:** "PROTECT" through "OF"

**Insert:** "KEEP PRIVATE"

2. Page 3, lines 12 through 16.

**Following:** "to the" on line 12

**Strike:** "privacy or"

**Insert:** ":

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- (i) public safety;
- (ii)"

**Following:** "of any"

**Strike:** "person" through "have" on line 16

**Insert:** "elected public officer or judge; or  
(iii) privacy of any public employee who has"

**Strike:** "their"

**Insert:** "the employee's"

3. Page 3, line 18.

**Strike:** "(d)"

**Insert:** "(c)"

Amendment **adopted** unanimously.

**SB 142** - Senator McNutt moved **SB 142**, as amended, do pass. Motion carried unanimously.

**SB 202** - Senator Johnson moved **SB 202** do pass. Motion carried unanimously.

**SB 137** - Senator DePratu moved **SB 137** do pass. After discussion, Senator Ellingson made a substitute motion that **SB 137**, second reading copy, be amended as follows :

1. Page 1, line 17.

**Following:** "management"

**Insert:** ", consistent with 77-1-202"

2. Page 1, line 17 through line 19.

**Strike:** "It is the intent" on line 17 through "held." on line 19

3. Page 1, line 20 through line 21.

**Strike:** "To fulfill" on line 20 through "beneficiaries, the" on line 21

**Insert:** "The"

Amendment **not** adopted as follows:

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

Total 21

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, 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 28

Absent or not voting: None.

Total 0

Excused: McCarthy.

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Total 1

**SB 137** - Senator DePratu's do pass motion carried unanimously.

**SB 189** - Senator Curtiss moved **SB 189** do pass. Motion **failed** as follows:

Yeas: Bales, Black, Cobb, Curtiss, Gebhardt, McGee, O'Neil, Perry, Sprague, Thomas, Mr. President.

Total 11

Nays: Anderson, Barkus, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Toole, Tropila, Wheat, Zook.

Total 38

Absent or not voting: None.

Total 0

Excused: McCarthy.

Total 1

**SB 189** - Senator F. Thomas moved **SB 189** be **indefinitely postponed**. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, 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 45

Nays: Bales, Butcher, Curtiss, McGee.

Total 4

Absent or not voting: None.

Total 0

Excused: McCarthy.

Total 1

**SB 213** - Senator Nelson moved **SB 213** do pass. Motion carried unanimously.

**SB 242** - Senator Perry moved **SB 242** do pass. Motion carried as follows:

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

Total 45

Nays: Curtiss, McGee, Stapleton, Taylor.

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Total 4

Absent or not voting: None.

Total 0

Excused: McCarthy.

Total 1

**SJR 9** - Senator Nelson moved **SJR 9** be adopted. Motion carried unanimously.

**SB 135** - Senator F. Thomas moved **SB 135** 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 Cooney moved the Committee of the Whole report be adopted. Report adopted unanimously.

**MOTIONS**

**SR 2** - Senator Grimes moved **SR 2** be taken from the committee on Legislative Administration and rereferred to the Joint Committee on Redistricting and Apportionment. Motion carried.

**SB 233** - Senator Zook moved **SB 233** be taken from the committee on Natural Resources and rereferred to the committee on Finance and Claims. Motion carried.

**SB 242** - Senator Schmidt moved she be allowed to be shown as voting yea on **SB 242**, second reading this legislative day. Motion carried.

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, January 30, 2003. Motion carried.

Senate adjourned at 2:37 p.m.

ROSANA SKELTON  
Secretary of the Senate

BOB KEENAN  
President of the Senate