

**SENATE JOURNAL
58TH LEGISLATURE
TWENTY-FIRST LEGISLATIVE DAY**

Helena, Montana
January 31, 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 twentieth legislative day.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 292, SB 293, SB 294, SB 295, SB 296, SB 297, SB 298, SB 299, SB 300.**

Correctly engrossed: **SB 28, SB 229, SR 2.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman): 1/29/2003
HB 62, be concurred in. Report adopted.

BUSINESS AND LABOR (Mahlum, Chairman): 1/30/2003
SB 101, introduced bill, be amended as follows:

1. Title, page 1, line 10.

Following: "ACCOUNT;"

Insert: "REQUIRING THE COMMISSION TO ESTABLISH A SUBCOMMITTEE OF COMMISSION MEMBERS AND MEMBERS OF THE MONTANA HISTORICAL SOCIETY BOARD; REQUIRING A MAJORITY VOTE OF THE SUBCOMMITTEE PRIOR TO SELLING PERSONAL PROPERTY FROM THE BOVEY ASSETS; REQUIRING THAT FUNDS RECEIVED FROM THE SALE OF PERSONAL PROPERTY FROM THE BOVEY ASSETS BE DEPOSITED IN A TRUST FUND; TRANSFERRING TITLE OF THE BOVEY ASSETS TO THE STATE OF MONTANA;"

2. Page 5, line 7.

Following: "legislature;"

Insert: "It is the intent of the 58th legislature that no general fund money be provided for the operations and maintenance of Virginia City and Nevada City beyond what has been appropriated by the 55th legislature."

3. Page 5, line 18.

Following: line 17

Insert: "(7) The commission shall establish a subcommittee composed of an equal number of members of the Montana historical society board of trustees and commission members to review and recommend the sale of personal property from the former Bovey assets acquired by the 55th legislature. A recommendation to sell may be presented to the commission only if the recommendation is supported by a majority of the members of the subcommittee."

Renumber: subsequent subsections

4. Page 5, line 19.

Following: "acquisition"

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Strike: "and"
Insert: "or"

5. Page 5, line 26.

Strike: "and"

Insert: "(g) whether the commission should include any preservation covenants in a proposed sale agreement for real property;

(h) whether the commission should incorporate any design review ordinances established by Virginia City into a proposed sale agreement for real property; and"

Renumber: subsequent subsection

6. Page 5, line 28.

Strike: "The"

Insert: "Except as provided in subsection (11), the"

Strike: "(7)"

Insert: "(8)"

7. Page 6, line 6.

Following: "commission."

Insert: "Funds from the sale of personal property from the Bovey assets must be placed in a trust fund, and interest from the trust fund must be used to manage and protect the remaining personal property."

8. Page 6, line 9.

Strike: "and"

Insert: "or"

9. Page 6, line 26.

Following: line 25

Insert: "NEW SECTION. **Section 4. Transfer of title.** Title to the real and personal property acquired by the 55th legislature and commonly referred to as the "Bovey assets" is transferred from the Montana historical society to the state of Montana."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 230, do pass. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

1/30/2003

SB 89, do pass. Report adopted.

SB 197, do pass. Report adopted.

SB 211, do pass. Report adopted.

SB 222, introduced bill, be amended as follows:

1. Title, line 11.

Following: "ELECTIONS"

Insert: "IF APPROVED BY RESIDENT ELECTORS"

2. Page 2, line 16.

Following: "15;"

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Insert: "or"

3. Page 2, line 17 through line 19.

Strike: "or" on line 17 through "district;" on line 19

4. Page 3, line 6 through line 8.

Strike: "or" on line 6 through "municipality" on line 8

5. Page 3, line 9.

Strike: ", as provided in subsection (3)(b),"

Insert: "that is situated within the boundaries of the municipality in which the individual proposes to vote"

6. Page 3, line 10.

Following: "13-1-111(1)(c)"

Insert: "and may vote in elections subsequent to the creation of a municipality"

Following: "if"

Insert: ": (a)"

7. Page 3, line 12.

Following: "administrator"

Insert: "; and (b) a petition signed by at least 100 resident electors of the municipality is:

(i) filed with the governing body of the municipality not less than 30 days or more than 180 days before a regular, primary, or general election; and

(ii) approved by a majority of resident electors voting in the election"

8. Page 3, line 16.

Following: "greater."

Insert: "The term does not mean a timeshare owner as defined in 37-53-102."

And, as amended, do pass. Report adopted.

HB 132, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

SELECT COMMITTEE ON REDISTRICTING AND APPORTIONMENT(Barkus, Chair) 1/31/2003

HB 309, be concurred in. Report adopted as follows:

Yeas: 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

Nays: Cobb, Cocchiarella, Cooney, Cromley, 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

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Excused: Ellingson.
Total 1

SB 215 - Senator Toole rose on a point of parliamentary inquiry concerning the Adverse Committee Report on **SB 215** on the nineteenth legislative day.

Majority Leader Thomas stated if the committee report is adopted, the bill will go to second reading. If the committee report is denied, the bill stays in the committee as if it never left.

MOTIONS

SB 215 - Senator Johnson moved to adopt the Adverse Committee Report on **SB 215** on January 29, 2003. Motion **failed** as follows:

Yeas: Curtiss, Johnson, Taylor.
Total 3

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, 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, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 47

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 215 will remain in the Energy and Telecommunications Committee.

MESSAGES FROM THE OTHER HOUSE

Senate joint resolution concurred in and returned to the Senate: 1/30/2003

SJR 1, introduced by F. Thomas

House bills passed and transmitted to the Senate for concurrence: 1/30/2003

HB 134, introduced by Weiss
HB 197, introduced by Becker
HB 233, introduced by Waitschies
HB 234, introduced by Cohenour
HB 285, introduced by R. Brown
HB 312, introduced by Lindeen

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FIRST READING AND COMMITMENT OF BILLS

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

- SB 301**, introduced by Toole, referred to Taxation.
- SB 302**, introduced by McCarthy, Lewis, Grimes, Laslovich, referred to Taxation.
- SB 303**, introduced by Glaser, referred to Education and Cultural Resources.
- SB 304**, introduced by Johnson, Bohlinger, referred to Business and Labor.
- SB 305**, introduced by Stonington, referred to Finance and Claims.
- SB 306**, introduced by D. Ryan, referred to Business and Labor.
- SB 307**, introduced by D. Ryan, referred to Education and Cultural Resources.
- SB 308**, introduced by Taylor, referred to Energy and Telecommunications.
- SB 309**, introduced by Bohlinger, referred to Taxation.
- SB 310**, introduced by Glaser, referred to Education and Cultural Resources.
- SB 311**, introduced by Wheat, referred to Judiciary.

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

- HB 134**, introduced by Weiss (by request of the Department of Corrections), referred to Judiciary.
- HB 156**, introduced by Matthews, referred to Judiciary.
- HB 197**, introduced by Becker (by request of the Department of Justice), referred to Judiciary.
- HB 217**, introduced by Brueggeman (by request of the Office of Budget and Program Planning), referred to Finance and Claims.
- HB 233**, introduced by Waitschies, referred to Natural Resources.
- HB 234**, introduced by Cohenour, referred to Judiciary.
- HB 238**, introduced by Andersen, referred to Local Government.
- HB 248**, introduced by Balyeat, Anderson, Bales, Barkus, P. Clark, Curtiss, Forrester, Fuchs, Golie, Jent, Laible, Lange, Laslovich, Lawson, Maedje, Mahlum, McGee, Mood, Pattison, Perry, Peterson, Shea, Sinrud, Sprague, Story, Tropila, Wagman, Younkin, referred to Fish and Game.
- HB 261**, introduced by Haines, referred to Finance and Claims.
- HB 285**, introduced by R. Brown, Gallik, Laszloffy, McGee, McKenney, Mood, F. Thomas, Wanzenried, referred to Education and Cultural Resources.
- HB 312**, introduced by Lindeen, referred to Business and Labor.
- HB 315**, introduced by Lawson, referred to Business and Labor.
- HB 323**, introduced by Jent, referred to Business and Labor.

**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 Cromley in the chair.

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

HB 188 - Senator Thomas moved **HB 188** be moved to the top of the second reading board. Motion carried.

HB 188 - Senator DePratu moved **HB 188** be concurred in. Motion carried as follows:

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Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, 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, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Bales, Curtiss, Elliott, McGee, Tester.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 216 - Senator Cocchiarella moved **SB 216** do pass. Motion carried unanimously.

SB 1, requiring 2/3 of entire Legislature - Senator McCarthy moved **SB 1** do pass. Motion received the following vote:

Yeas: Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Ellingson, Esp, Glaser, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Story, Tash, Tester, Toole, Tropila, Zook, Mr. President.

Total 34

Nays: Anderson, Butcher, Cooney, Elliott, Gebhardt, Grimes, Johnson, Laible, McGee, O'Neil, Sprague, Stapleton, Stonington, Taylor, Thomas, Wheat.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 79 - Senator Sprague moved **SB 79**, second reading copy, be amended as follows :

1. Title, page 1, line 6.

Following: "EACH"

Insert: "AND PROVIDING THAT LEGISLATION MAY NOT BE CARRIED FORWARD FROM ONE SESSION TO ANOTHER"

2. Page 1, line 12.

Following: "session."

Insert: "Legislation may not be carried forward from one session to another."

3. Page 1, line 19.

Following: "days"

Insert: "and prohibiting legislation from being carried forward from one session to another"

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4. Page 1, line 20.

Following: "days"

Insert: "and prohibiting legislation from being carried forward from one session to another"

Amendment **adopted** unanimously.

SB 79, requiring 2/3 of entire Legislature - Senator Sprague moved **SB 79**, as amended, do pass. Motion received the following vote:

Yeas: Anderson, Bales, Barkus, Bohlinger, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, 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, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 43

Nays: Black, Butcher, Cobb, Elliott, Stapleton, Taylor, Tester.

Total 7

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 Cromley moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

SB 243 - Senator Wheat moved **SB 243** be taken from third reading this legislative day and rereferred to the committee on Finance and Claims. Motion carried.

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 16 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, Wheat, Zook, Mr. President.

Total 49

Nays: Tropila.

Total 1

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 95 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, 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 47

Nays: Bales, Curtiss, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 142 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, 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: Nelson, Tester.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 145 passed as follows:

Yeas: Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 41

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Nays: Anderson, Bales, Butcher, Cromley, Curtiss, Grimes, McGee, O'Neil, Story.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 173 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 257 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

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 9:00 a.m., Saturday, February 1, 2003. Motion carried.

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Senate adjourned at 3:00 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate