

**SENATE JOURNAL  
58TH LEGISLATURE  
THIRTY-SECOND LEGISLATIVE DAY**

Helena, Montana  
February 13, 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 Elliott and Mangan, excused. Quorum present.

The presiding officer has authenticated the daily journal for the thirty-first legislative day.

**REPORTS OF STANDING COMMITTEES**

**BILL REPORT**

Correctly printed: **SB 380, SB 381, SB 382, SB 383, SJR 18.**

Correctly engrossed: **SB 112, SB 191,198, SB 246, SB 288, SB 298, SB 320, SB 328, SB 329, SB 334, HB 94, HB 116.**

**FINANCE AND CLAIMS** (Zook, Chairman): 2/13/2003  
**SB 89**, do pass. Report adopted.  
**SB 160**, do pass. Report adopted.  
**HB 217**, be concurred in. Report adopted.

**HIGHWAYS AND TRANSPORTATION** (Butcher, Chairman): 2/13/2003  
**HB 22**, be concurred in. Report adopted.  
**HB 112**, be concurred in. Report adopted.

**JUDICIARY** (Grimes, Chairman): 2/11/2003  
**SB 311**, introduced bill, be amended as follows:

1. Page 1, line 21.

**Following:** "is"

**Strike:** ", "

2. Page 1, line 22.

**Following:** "void"

**Insert:** ", "

3. Page 1, line 23 through line 25.

**Strike:** subsection (5) in its entirety

**Insert:** "(5) This section does not apply to:

(a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected pursuant to Title 30, chapter 14, part 4;

(b) other information that is confidential under state or federal law; or

(c) health care providers:

(i) developing or using professionally monitored experimental or investigational procedures; or

(ii) providing care and treatment to patients in accordance with the applicable professional standards of care."

And, as amended, do pass. Report adopted.

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**NATURAL RESOURCES** (Tash, Chairman): 2/13/2003  
**SB 300**, introduced bill, be amended as follows:

1. Page 1, line 21.

**Strike:** "100"

**Insert:** "20"

2. Page 1, line 30.

**Strike:** "100"

**Insert:** "20"

And, as amended, do pass. Report adopted.

**PUBLIC HEALTH, WELFARE AND SAFETY** (O'Neil, Chairman): 2/13/2003  
**HB 51**, be concurred in. Report adopted.  
**HB 121**, be concurred in. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

**House bills** passed and transmitted to the Senate for concurrence: 2/12/2003

**HB 61**, introduced by Laslovich

**HB 129**, introduced by Gutsche

**HB 184**, introduced by Wilson

**HB 226**, introduced by Gillan

**HB 445**, introduced by Pattison

**HB 448**, introduced by Harris

**House joint resolutions** passed and transmitted to the Senate for concurrence: 2/12/2003

**HJR 11**, introduced by Smith

**HJR 12**, introduced by Fuchs

**HJR 14**, introduced by Bixby

**MOTIONS**

**SB 268** - Senator Mahlum moved **SB 268** be taken from the second reading board this legislative day and rereferred to the committee on Business and Labor. Motion carried.

**HB 180** - Senator Thomas moved **HB 180** be taken from the committee on Finance and Claims and rereferred to the committee on Public Health, Welfare and Safety. Motion carried.

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 384**, introduced by Mangan, Mendenhall, Mood, Parker, F. Thomas, referred to Local Government.

**SB 385**, introduced by Mangan, McKenney, referred to Business and Labor.

**SB 386**, introduced by Gebhardt, Forrester, Shea, Taylor, referred to Energy and Telecommunications.

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- SB 387**, introduced by Cobb, referred to Energy and Telecommunications.
- SB 388**, introduced by Tash, referred to Judiciary.
- SB 389**, introduced by McGee, F. Thomas, referred to Judiciary.
- SB 390**, introduced by Mangan, referred to Business and Labor.
- SB 391**, introduced by Mangan, referred to Business and Labor.
- SB 392**, introduced by Bales, J. Andersen, Barrett, E. Clark, Curtiss, Devlin, Hedges, Lambert, A. Olson, Peterson, Ripley, Rome, Ross, Steinbeisser, Stoker, Tash, Taylor, Witt, Zook, referred to Fish and Game.
- SB 393**, introduced by Kitzenberg, referred to Local Government.
- SB 394**, introduced by Perry, Cohenour, S. Anderson, Barkus, Black, Bohlinger, R. Brown, Fuchs, Gebhardt, Glaser, Grimes, Keenan, Laible, Lewis, McGee, McNutt, A. Olson, Ripley, Shea, Sprague, F. Thomas, Zook, referred to Judiciary.
- SB 395**, introduced by Perry, J. Andersen, S. Anderson, Balyeat, Barkus, Bookout-Reinicke, Brueggeman, Cohenour, Curtiss, Everett, Fuchs, Gallus, Gebhardt, Haines, Hawk, Hurwitz, Jackson, Kasten, Laible, Lake, Lambert, Laszloffy, Lawson, Lewis, Maedje, McGee, Mendenhall, Mood, A. Olson, B. Olson, Pattison, Rice, Ripley, Ross, Sales, Schrupf, Sinrud, Steinbeisser, Stoker, Stonington, B. Thomas, Wagman, Witt, referred to Fish and Game.
- SB 396**, introduced by Perry, referred to Local Government.
- SB 397**, introduced by Curtiss, J. Andersen, Bales, D. Brown, Butcher, Kasten, Laible, Maedje, Perry, Rice, F. Thomas, referred to Judiciary.
- SB 398**, introduced by Cromley (by request of the Senate Judiciary Standing Committee), referred to Judiciary.
- SB 399**, introduced by Bohlinger, Bookout-Reinicke, referred to Local Government.
- SB 400**, introduced by Toole, Facey, referred to Judiciary.
- SB 401**, introduced by Wheat, Roush, Shea, Sprague (by request of the Senate State Administration Standing Committee), referred to State Administration.
- SB 402**, introduced by Cocchiarella, Younkin, Bergren, Bohlinger, Brueggeman, Harris, Keenan, Malcolm, Mangan, Matthews, Mood, Musgrove, Nelson, Roush, D. Ryan, Sprague, Tash, Tester, F. Thomas, Wagman, referred to Business and Labor.
- SB 403**, introduced by Barkus, S. Anderson, Black, Sinrud, referred to Fish and Game.

**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 241** 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, 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 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Elliott, Mangan.

Total 2

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**HB 93** concurred in as follows:

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

Nays: Curtiss.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Elliott, Mangan.  
Total 2

**HB 168** concurred in 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, 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 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Elliott, Mangan.  
Total 2

**HB 208** concurred in 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, 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 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

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Excused: Elliott, Mangan.  
Total 2

**HB 209** concurred in 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, 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 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Elliott, Mangan.  
Total 2

**HB 233** concurred in 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, 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 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Elliott, Mangan.  
Total 2

**SPECIAL ORDERS OF THE DAY**

Consul General Moon of the Republic of Korea was introduced to the Senate. He acknowledged the seven astronauts that recently perished, and gave a short speech to the Senate. President Keenan also thanked other members of the Korean delegation for their presence in the Senate and welcomed them to the State of Montana.

**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 Tropila in the chair.

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

**HB 114** - Senator D. Ryan moved **HB 114** be concurred in. Motion carried unanimously.

**SB 168** - Senator Stonington moved **SB 168** do pass. Motion carried unanimously.

**SB 190** - Senator Bohlinger moved **SB 190**, second reading copy, be amended as follows :

1. Page 2, line 7.

**Strike:** "schools;"

2. Page 2, line 14 through line 15.

**Following:** "facility" on line 14

**Strike:** "that" on line 14 through "staff" on line 15

Amendment **adopted** unanimously.

**SB 190** - Senator Bohlinger moved **SB 190**, as amended, do pass. Motion carried with Senators Grimes and Kitzenberg voting nay.

**SB 209** - Senator Tester moved **SB 209** do pass. Motion carried unanimously.

**SB 281** - Senator Butcher moved **SB 281** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cooney, Cromley, Curtiss, DePratu, Ellingson, Esp, Gebhardt, Glaser, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Pease, Perry, Roush, Schmidt, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Tester, Toole, Tropila, Zook, Mr. President.  
Total 39

Nays: Cobb, Cocchiarella, Grimes, Nelson, O'Neil, Ryan, Thomas, Wheat.  
Total 8

Absent or not voting: Stonington.  
Total 1

Excused: Elliott, Mangan.  
Total 2

**SB 283** - Senator O'Neil moved **SB 283**, second reading copy, be amended as follows :

1. Title, line 4.

**Strike:** "CLARIFYING"

**Insert:** "REVISING"

2. Page 1, line 23.

**Following:** "petitioner"

**Insert:** "or the respondent"

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3. Page 1, line 24.

**Following:** "action."

**Insert:** "Upon agreement of the parties, an action brought pursuant to Title 40, chapter 4, may be brought in any county."

Senator O'Neil further moved to **segregate** No. 1 and No. 2 from No. 3, striking No. 3 of the amendment. **Numbers 1 and 2** of above amendment **adopted** unanimously.

**SB 283** - Senator Wheat moved **SB 283**, as amended, do pass. Motion carried unanimously.

**SB 325** - Senator McGee moved **SB 325** do pass. Motion carried unanimously.

**HB 79** - Senator Barkus moved **HB 79** be concurred in. Motion carried unanimously.

**HB 238** - Senator Story moved **HB 238** be concurred in. Motion carried unanimously.

**HB 248** - Senator Barkus moved **HB 248** be concurred in. Motion carried unanimously.

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

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Friday, February 14, 2003. Motion carried.

Senate adjourned at 2:35 p.m.

ROSANA SKELTON  
Secretary of the Senate

BOB KEENAN  
President of the Senate