

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

Helena, Montana
February 14, 2003

Senate Chambers
State Capitol

MOTIONS

Majority Leader Thomas moved that the Senate proceed to the House of Representatives for the purpose of receiving the State of Education Address, and further, that the Senate reconvene upon adjournment of the joint session. Motion carried.

SPECIAL ORDERS OF THE DAY

Sergeant-at-arms Clark escorted the Senate into the House chamber.

Speaker Mood recognized President Keenan and yielded the chair to him.

Representative Brown moved the body resolve itself into a joint session for the purpose of receiving the State of Education Address from the Superintendent of Public Instruction, Linda McCulloch. Motion carried.

Representative Brown moved the President be authorized to appoint a committee of four to notify the Superintendent of Public Instruction that we are in joint session and ready to receive the State of Education Address. Motion carried.

The President appointed Senator Story, Senator Shea, Representative Schrupf and Representative Facey to escort the Superintendent of Public Instruction into the House chambers.

Sergeant-at-arms Cramer admitted the escort committee and Superintendent of Public Instruction, Linda McCulloch, into the House chamber.

Invocation was given by Pastor Jim Stumbo of the Helena Alliance Church, followed by the Pledge of Allegiance.

President Keenan welcomed Superintendent McCulloch, who gave the following address:

Good afternoon. I am happy to be here today. I want to thank President Keenan, Speaker Mood, Senator Tester and Representative Wanzenried for the opportunity to deliver the State of Education address that brings us together to focus on the future of Montana's children.

In addition, I'd like to recognize Governor Martz, and my other colleagues and friends in the Executive and Judicial branches of Montana government. And welcome to Allison Morrison, who has joined her father, our State Auditor.

Special thank you to my husband Bill for being here – my Valentine for 32 years.

I begin my address today with sincere words of thanks for the thousands of dedicated teachers, administrators, staff and trustees. You work tirelessly helping students learn and prepare for successful lives. Every day, your investment of time and love makes a difference in the lives of Montana's treasure — our children. Would all educators, staff or trustees in the audience, both in the gallery and on the floor, please stand?

One of those educators is Jay Erdie, Superintendent in Roundup who has been an educator for almost 40 years. I am pleased to announce that Jay will be bringing his experience and expertise to Helena as my new Deputy Superintendent. Jay, my sincere thanks.

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

Today I greet students, educators, and friends of education watching this address live. From Westby to Bonner and everywhere in between, OPI's video streaming technology makes this broadcast possible with the simple use of a personal computer.

Today's historic moment with technology is one small example of many changes taking place all around us. A lot has happened since I spoke two years ago. On September 11, 2001, our lives changed forever. We have all taken time since then to re-evaluate our priorities, how precious our families are, and how precious our children are.

In a single moment, educators across the country were called upon to help find answers to their student's grief and fear. Montana's educators rose to the challenge with compassion and dignity. Students wrote letters and poems, raised funds, and organized blood drives.

Fortunately, incidences of violence in Montana are rare. But we are not immune from the safety concerns we, as a nation, face. We are prepared. Crisis response plans are in place to help in the event of a tragedy. Montana's educators' role in healing and keeping communities together in a time of crisis is indispensable. We can't thank them enough.

I know it can sometimes be difficult to see children through the numbers, charts and graphs. That is why I have invited a special guest to join me today. Let me tell you a little bit about her. She is a fourth grader at Jefferson Elementary School here in Helena. She is studious, an adoring big sister, takes ballet lessons and sells me Girl Scout cookies. And like thousands of other students, she rides a bus to school.

When we have tea together, she keeps me in touch with what is going on in our schools, what we can do better and what we do very well. Today, she represents 150,000 Montana students in K-12. Please join me in welcoming my friend and neighbor, Ellie Tinsley, to the Montana Legislature.

Ellie represents our Montana students who rank among the top in the nation. For two years in a row, Montana students scored well above national averages in all grades and subject areas. Montana students in 8th grade nationally rank number 1 in Science and number 2 in Math. However, I am concerned that our high test scores are leveling. While other states that have significantly invested in education are seeing gains in their student scores, our scores aren't improving.

I am incredibly proud of our students. And I'm proud of parents, educators, and communities that support them. To the many communities across Montana who consistently vote to increase tax burdens that maintain quality public schools -- you need to know that our schools are preparing students, like Ellie and Allison, for the future.

I genuinely believe we all want the same thing for Montana's students. We want educated and caring children. We want informed, responsible citizens. We want our students to achieve their dreams and lead productive lives. And perhaps most importantly, we want our kids to believe they can stay, live and work in Montana.

Our commitment to our kids -- and to providing resources to help them succeed -- is about to be truly tested. We face a very real budget crisis. As a former legislator, I understand the difficult decisions that lay ahead. I also know as the State Superintendent and as a long time teacher, decisions made this legislative session will greatly affect our children's future.

There are those who would question our investment in education. I know:

When we invest in education, pre-school through college ... we build a stronger Montana for our children to live, work and raise a family.

When we invest in our children's education ... we build Montana's economy.

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

When we Invest in public schools ... we create an incentive for businesses to locate in Montana.

We must invest in our school kids today.

School budgets are stretched to the breaking point. Montana's school enrollment is declining, because of a decline in birth rates. State support is then reduced due to our current funding formula. If a school loses as few as 8 kids, the school essentially has lost revenue equal to a teacher's salary. But what happens when the classroom teacher is still needed?

The reality is, schools must make cuts to balance budgets. While the number of kids goes down, the school's operating budget does not drop in proportion. Many classroom costs, like utilities and building maintenance are fixed and ongoing.

Let me tell you what cuts to school budgets mean.

Classes will have more students, and our kids will get less personal attention in crucial early grades when kids are learning to read and write. At-risk kids will have fewer opportunities to keep them from dropping out of school.

Our young people will have limited vocational training to prepare them for the work force.

Students will have more out-of-date textbooks and library books, and our kids will have fewer class offerings: from music to math.

Each school is finding its own solutions. I'm constantly amazed at the sheer will of educators, schools boards, and parents to find creative ways to make ends meet. We have a responsibility to our children that cannot be ignored.

As a whole, Montana educators are aging. Many retire; some move out of the state or leave the profession. In addition, Montana schools are not able to compete with the enticing salaries and employment benefits that other states offer our new teacher education graduates. We literally do not have enough new teachers staying in Montana to fill the job openings.

Without qualified teachers to replace them, the high quality education offered by our schools is in jeopardy. We need long-term solutions to our shortage of educators.

I am proud of the positive steps the Office of Public Instruction has taken:

Our website helps teachers find jobs and schools find teachers. More than 1100 job openings are currently posted on our Montana Jobs for Teachers site.

We are in the final stages of creating an on-line educator license renewal system to eliminate the paper intensive process that exists today.

And a teacher internship program is in the works so teachers can more easily master new subject areas.

I am committed to finding solutions to our school funding problems. Working together with the education community, as State Superintendent, I proposed a school funding package last April. The package includes:

ANB averaging to help schools with a declining enrollment.

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

Student loan repayments, and increased retirement benefits for teachers who teach 30 or more years to help schools recruit and retain highly qualified teachers.

A per-educator entitlement to create a new way to fund schools without relying on student count.

Increase in the basic and per ANB entitlements, and

Increase in special education funding.

This package reflects the full range of challenges facing schools.

I understand school funding increases will not happen without an increase in state revenues. An average week-long tourist visit to Montana generates only \$34 in taxes. Our neighbors in Wyoming collect \$122, and Utah \$239 for the same seven day period. I have advocated this session for tourists visiting Montana to pay their fair share for upkeep to our state, through a car rental tax and an increase in the bed tax. To prevent the decline of our public school system, we must identify long-term revenues that invest in education.

I have the honor of being elected by the people of Montana to make sure our state is providing services their children and grandchildren need. I am responsible for ensuring teachers are qualified, schools are accountable, and funds are distributed to schools, on time, every time, and much, much more. I take these responsibilities very seriously.

This past year I visited many Montana schools and communities traveling in a yellow school bus along with members of my staff. I wanted to know how we could better deliver services and resources to Montana schools. Yes, the bus seats are still hard. But the travel is safe and reliable in all weather. The Yellow School Bus Tour was an opportunity to hear firsthand the strengths and challenges facing our public schools.

Here is a snapshot of a small part of what we learned:

Schools are the heart and soul of Montana communities. They serve as the hub of activity for local sports, arts and community events.

Pride extends everywhere in our schools and communities. Classrooms are full of students deeply immersed in learning. Parents are ready to lend "helping hands" in the classroom.

Our educators are community leaders.

Retired senior citizens are actively volunteering their time and talents to make a difference in children's lives.

Kids in our small and medium size schools need and deserve the same opportunities as kids in larger cities.

School and business partnerships are strong. Businesses support school-to-work partnerships, loan their employees to volunteer in schools and frequently provide needed resources and support.

Montana's economy lays front and center in school concerns. Nearly one quarter of all children in our state are from families living below the poverty level.

Every school is unique. We were grateful for the opportunity to dine on buffalo stew, learn traditional Indian dancing and drumming and hand games.

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

The very best way to learn the strengths and challenges of K-12 education is to spend time in your local school. They will be honored to have you visit.

Today is "I love to read day" in Montana. There is no issue closer to my heart than reading and literacy. We know that if a child is not reading at grade level by the end of third grade, it is very difficult for them to catch up. I'm proud that Montana children rank high in the nation for reading, but too many children are still left behind.

In response, I launched a Montana Literacy Initiative. This summer will be our third Literacy Summit to bring together parents, educators, community and business leaders, and higher education to focus on the importance of literacy.

Montana responded to these summits with renewed energy and commitment to improve reading instruction for all our students. I pledge to continue these efforts!

We must address the challenges facing American Indian students in Montana. Thanks to Representative Juneau's leadership in research, we can no longer ignore the facts -- Montana's American Indian students drop out of school at a rate more than three times that of non-Indian students.

A generation of young men and women are left with little prospect for a future that an education can provide. It is expensive for Montana to support school dropouts. It is more expensive for our state to lose the potential of our youth.

I am committed to finding solutions. The Office of Public Instruction competed for and received three federal grants to invest in American Indian students.

Through a Reading Excellence Act grant, we now fund 30 schools to help them implement successful reading strategies for their students, of which nearly half are American Indian.

A federal school dropout grant is funding six school districts in Box Elder, Browning, Heart Butte, Lame Deer, Poplar and Rocky Boy to identify community strategies that will help their youth stay in school. We are also developing a statewide dropout plan.

We know that students drop out of school for many reasons. A character education grant helps schools create a positive, respectful school setting that promotes kids staying in school.

All Montana students deserve the opportunity to understand the rich American Indian culture and history in Montana. I commend Representative Norma Bixby for her dedication to obtain funds so all Montana students and schools can understand the culture and heritage of Montana's Indian people. Without financial support, our Constitutional promise of "Indian Education for All" will remain only a paper promise.

One year ago, President Bush signed into law his No Child Left Behind Act. This federal law places a high priority on education and a commitment to educate all children. But it comes with extensive and expensive accountability and state and local responsibilities. These have created new challenges, especially to rural states. The good news is this new federal law brings resources for Montana's K-12 public education system. BUT these resources come with many requirements. For example, this federal law requires much more testing of our students than is currently required by our Montana Board of Public Education. Student assessment decisions should be left to individual states.

When student test scores do not improve enough, President Bush's No Child Left Behind law requires the state to take actions regarding a school's curriculum and staffing. This greatly concerns me, as it does local school trustees. While being accountable is a good thing, we have always believed that decisions should be made at the local level. Those beliefs have served us well.

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

These are just a couple of my concerns. We will need to work together throughout the coming years to make this new federal law beneficial to all of Montana's students.

In the past 50 years science and technology has radically changed our lifestyle and economy. It used to be simple to look under the hood of your car to figure out what was wrong. Not any more. Today's specialized diagnostic equipment is essential to root out computer-based engine solutions. Gone is the day that all you needed was a toolbox with a couple of wrenches.

Since 1950, the demand for skilled labor has more than tripled. Businesses now expect a workforce to have a set of skills that were unimaginable even 30 years ago. Think about it, teachers prepare students for career options that do not even exist today.

Education will prepare our children and grandchildren for this new century. Education allows them to compete in a world where all sectors of the economy – from microchips to mining – depend on high tech skills and training.

Education is the engine that drives economic development. Businesses will absolutely not locate in Montana if we do not provide a well-educated workforce, and a place where they will want their own children to go to school. Education is the key to moving Montana's economy forward.

I have great faith in the collective commitment of Montana's parents, educators, school staff, school boards, senior citizens, business partners and community members. Together we will invest in building a bright future for our children.

We Montanans can do whatever we put our minds to. Let me tell you about a very special senior citizen who didn't let anything stop him from making his dreams a reality.

This gentleman, a retired Bonner millworker, began volunteering many years ago at the local elementary school. The students already knew him as his barbecue grill fed many hamburgers for years to the neighborhood kids. He helped students, kindergarten through 8th grade, with their reading skills and learning to use the computer. After a number of years, the 8th grade class asked him to be their graduation speaker. He said he couldn't possibly speak in front of all those people. Yet, it nagged at him -- he had encouraged the kids to reach for high goals. To be a better role model, eventually he agreed to be the speaker. It was the best graduation speech I've ever heard.

Later we learned that he had dropped out of college in 1948, during a required speech class. And he often thought about not finishing his education. So, 50 years after dropping out of college, he enrolled in a speech class and returned to the University of Montana. He passed, took more classes, and then he enrolled in the teacher education program.

Today, at 75 years young, he is finishing up his last classes and will do his student teaching next school year. Help me welcome an inspiration to education, my friend Mr. Arnold "ODE" Odegaard. Please stand up and be recognized, Ode.

Ode is an example of an amazing talent pool Montana has in its school volunteers, our educators and our emerging new teachers. Without a doubt, "Ode" deserves our deep appreciation for his investment in Montana's children. Just seeing both Ellie and Ode side by side reminds me what Montana is really all about, generations working together for a better future for our children.

I'd like to thank the kids watching this on the Internet. Knowing you are out there helped me focus my thoughts and keep my priorities straight. Perhaps, that is what Montanans can ask of all of us over the remainder of this session. To remember our children are listening to the priorities we set. The decisions we make will shape their lives.

Today's students will become tomorrow's business, spiritual, community and school leaders. They will also become Montana's legislators, governors, judges and state superintendents. Montana students are our greatest treasure; when

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

we invest in them, there is no telling where they can take this state.

On behalf of Montana's 150,000 school children and all who work on behalf of public education in our state, I thank you for your time today and your interest in Montana's public schools. My door is always open and I look forward to your visit.

President Keenan thanked Superintendent McCulloch for her address, and requested the committee to escort Superintendent McCulloch and dignitaries from the House chambers.

Representative Brown moved the joint session of the 58th Legislature, convened to receive the State of Education Address, be adjourned. Motion carried.

Joint session adjourned at 1:42 p.m.

Senate convened at 1:45 p.m.

Roll Call. All members present. Quorum present.

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

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 384, SB 385, SB 386, SB 387, SB 388, SB 389, SB 390, SB 391, SB 392, SB 393, SB 394, SB 395, SB 396, SB 397, SB 398, SB 399, SB 400, SB 401, SB 402, SB 403.**

Correctly engrossed: **SB 190, SB 283, SB 300, SB 311.**

BUSINESS AND LABOR (Mahlum, Chairman):

2/13/2003

SB 273, do pass. Report adopted.

SB 292, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "STUDENT"

2. Page 1, line 14.

Strike: "student"

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

2/13/2003

SB 259, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

2/14/2003

SB 62, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "ATTORNEY GENERAL"

Insert: "DEPARTMENT OF ADMINISTRATION"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

2. Title, page 1, line 10 through line 12.

Strike: "CREATING" on line 10 through "LIST;" on line 12

3. Page 1.

Following: line 15

Insert: "NEW SECTION. Section 1. Findings and purpose. (1) The legislature finds that there is a compelling state interest in limiting commercial telephone solicitation because:

(a) commercial telephone solicitation invades and disrupts the privacy and tranquility of Montana residences;
(b) Montanans depend on their telephones to access essential emergency services, and Montanans cannot realistically give up their telephones in order to prevent commercial telephone solicitation calls;

(c) commercial telephone solicitation calls often scare Montana residents and can endanger the well-being of infirm residents who often hurt themselves in the attempt to answer telephone solicitation calls;

(d) every year Montanans fall victim to telephone solicitation fraud and abuse; and

(e) Montanans pay for their own telephones, and Montanans should have the ability to decide who uses those telephones.

(2) The purpose of [sections 1 through 7] is to protect Montanans' health, safety, and welfare by limiting commercial telephone solicitation calls."

Renumber: subsequent sections

4. Page 1.

Following: line 20

Insert: "(2) "Department" means the department of administration provided for in 2-15-1001."

Renumber: subsequent subsections

5. Page 1, line 30 through page 2, line 3.

Strike: "an" on page 1, line 30 through "communication" on page 2, line 3

Insert: "a nonprofit entity"

6. Page 2, line 9.

Following: "person"

Insert: "or an employee of that person"

7. Page 2, line 15.

Strike: "attorney general"

Insert: "department"

8. Page 2, line 16.

Strike: "3"

Insert: "4"

9. Page 2, line 19.

Strike: "Attorney general"

Insert: "Department"

10. Page 2, line 20.

Strike: "attorney general"

Insert: "department"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

11. Page 2, line 22.

Strike: "attorney general"

Insert: "department"

12. Page 2, line 23.

Strike: "data base"

Insert: "database"

13. Page 2, line 25.

Strike: "attorney general"

Insert: "department"

14. Page 2, line 28.

Strike: "attorney general"

Insert: "department"

15. Page 2, line 29.

Strike: "attorney general"

Insert: "department"

16. Page 3, line 9.

Strike: "attorney general"

Insert: "department"

17. Page 3, line 10.

Strike: "the federal communications commission"

Insert: "an agency of the United States government"

18. Page 3, line 11 through line 12.

Strike: "pursuant" on line 11 through "227(c)(3)" on line 12

Strike: "attorney general" on line 12

Insert: "department"

19. Page 3, line 15.

Strike: "2"

Insert: "3"

20. Page 3, line 16.

Strike: "5"

Insert: "6"

21. Page 3, line 17.

Strike: "attorney general"

Insert: "department"

22. Page 3, line 28.

Strike: "attorney general"

Insert: "department"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

23. Page 3, line 29.

Strike: "attorney general"

Insert: "department"

24. Page 3, line 30.

Strike: "2 or 4"

Insert: "3 or 5"

25. Page 4, line 6.

Strike: "2 or 4"

Insert: "3 or 5"

26. Page 4, line 7.

Strike: "4"

Insert: "5"

27. Page 4, line 12.

Strike: "2 or 4"

Insert: "3 or 5"

28. Page 4, line 20.

Strike: "2 or 4"

Insert: "3 or 5"

29. Page 5, line 2.

Strike: "2 or 4"

Insert: "3 or 5"

30. Page 5, line 4 through line 17.

Strike: section 6 in its entirety

Renumber: subsequent sections

31. Page 5, line 21.

Strike: "office of the attorney general"

Insert: "department"

32. Page 5, line 23.

Strike: "attorney general"

Insert: "department"

Strike: "5"

Insert: "6"

And, as amended, do pass. Report adopted.

SB 316, introduced bill, be amended as follows:

1. Page 3, line 7.

Strike: "The"

Insert: "A"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

Following: "credit"

Insert: "for each distinct mining operation"

And, as amended, do pass. Report adopted.

SB 327, introduced bill, be amended as follows:

1. Title, line 9.

Following: "SERVICES;"

Insert: "PROHIBITING THE TRANSFER OF CUSTOMER LISTS FOR TELEPHONE SOLICITATION PURPOSES;"

2. Page 1.

Following: line 14

Insert: "NEW SECTION. Section 1. Findings and purpose. (1) The legislature finds that there is a compelling state interest in limiting commercial telephone solicitation because:

(a) commercial telephone solicitation invades and disrupts the privacy and tranquility of Montana residences;
(b) Montanans depend on their telephones to access essential emergency services, and Montanans cannot realistically give up their telephones in order to prevent commercial telephone solicitation calls;

(c) commercial telephone solicitation calls often scare Montana residents and can endanger the well-being of infirm residents who often hurt themselves in the attempt to answer telephone solicitation calls;

(d) every year Montanans fall victim to telephone solicitation fraud and abuse; and

(e) Montanans pay for their own telephones, and Montanans should have the ability to decide who uses those telephones.

(2) The purpose of [sections 1 through 7] is to protect Montanans' health, safety, and welfare by limiting commercial telephone solicitation calls."

Renumber: subsequent sections

3. Page 1, line 16.

Strike: "6"

Insert: "7"

4. Page 1, line 26.

Following: "include"

Insert: ": (a)"

Following: "law"

Insert: ";

(b) communications by or on behalf of any person or entity with whom a residential subscriber has had a business contact within the past 18 months or has a current business or personal relationship. The term "business contacts" does not include unsolicited:

(i) mailings;

(ii) telephone calls made in the 18 months prior to [effective date of this act]; or

(iii) e-mails originating from a business"

5. Page 2, line 1.

Strike: "attorney general"

Insert: "department"

Strike: "3"

Insert: "4"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

6. Page 2, line 11.

Strike: "6"

Insert: "7"

7. Page 2, line 25.

Strike: "2"

Insert: "3"

8. Page 2, line 26.

Strike: "5"

Insert: "6"

9. Page 2, line 28.

Following: "prohibited"

Insert: "-- transfer of customer list for telephone solicitation prohibited"

10. Page 3.

Following: line 3

Insert: "(3) A person or entity may not transfer its customer lists to an affiliate or subsidiary for telephone solicitation purposes."

11. Page 3, line 7.

Strike: "2 or 4"

Insert: "3 or 5"

12. Page 3, line 13.

Strike: "2 or 4"

Insert: "3 or 5"

13. Page 3, line 14.

Strike: "4"

Insert: "5"

14. Page 3, line 18.

Strike: "2 or 4"

Insert: "3 or 5"

15. Page 4, line 2.

Strike: "6"

Insert: "7"

16. Page 4, line 4.

Strike: "2 or 4"

Insert: "3 or 5"

17. Page 4, line 9.

Strike: "6"

Insert: "7"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

18. Page 4, line 11.

Strike: "5"

Insert: "6"

19. Page 4, line 14.

Strike: "6"

Insert: "7"

20. Page 4, line 16.

Strike: "6"

Insert: "7"

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):
SB 217, introduced bill, be amended as follows:

2/14/2003

1. Title, page 1, line 5.

Following: "POUNDS;"

Insert: "ASSIGNING THE RESPONSIBILITY FOR USE OF CHILD SAFETY RESTRAINTS TO THE DRIVER;"

2. Title, page 1, line 10.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "61-9-420"

Insert: "AND 61-13-103"

3. Page 1, line 29.

Insert: "**Section 2.** Section 61-13-103, MCA, is amended to read:

"61-13-103. Seatbelt use required -- exceptions. (1) ~~No~~ A driver may not operate a motor vehicle upon a highway of the state of Montana unless each occupant of a designated seating position is wearing a properly adjusted and fastened seatbelt or, if 61-9-420 applies, is properly restrained in a child safety restraint.

(2) The provisions of this section do not apply to:

(a) an occupant of a motor vehicle who possesses a written statement from a licensed physician that ~~he~~ the occupant is unable to wear a seatbelt for medical reasons;

(b) an occupant of a motor vehicle in which all seatbelts are being used by other occupants;

(c) an operator of a motorcycle as defined in 61-1-105 or a motor-driven cycle as defined in 61-1-106;

(d) an occupant of a vehicle licensed as special mobile equipment as defined in 61-1-104;

~~(e)~~ children subject to the provisions of 61-9-420; or

~~(f)~~(e) an occupant who makes frequent stops with a motor vehicle ~~in his~~ during official job duties and who may be exempted by the department.

(3) The department may adopt rules to implement subsection ~~(2)(f)~~ (2)(e).

(4) The department or its agent may not require a driver who may be in violation of this section to stop except upon reasonable cause to believe that ~~he~~ the driver has violated another traffic regulation or that ~~his~~ the driver's vehicle is unsafe or not equipped as required by law."

And, as amended, do pass. Report adopted.

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

SB 223, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "USE"

Insert: "NONUSE"

2. Title, page 1, lines 5 through 7.

Strike: "PROPERTY" on line 5 through "ACTION" on line 7

Insert: "DEATH OF THE DRIVER OR PASSENGERS FOR THE PURPOSE OF REDUCING OTHERWISE RECOVERABLE DAMAGES"

3. Page 1, line 12.

Strike: "admissible"

Insert: "of seatbelt nonuse -- what is admissible -- what is nonadmissible"

4. Page 1, lines 12 through 15.

Strike: "Evidence" through "action"

Insert: "With the exception of passengers who are incapacitated persons, as defined in 72-5-101, passengers under 18 years of age who have not been issued a driver's license, and occupants described in 61-13-103(2), an occupant who fails to use a properly adjusted and fastened seatbelt is negligent. Evidence of this negligence is admissible in any civil action for personal injury or death of an occupant to whom this section applies, but only for the purpose of reducing the occupant's recovery by an amount not to exceed 25% of recoverable damages. Except as otherwise provided in this section, failure to comply with 61-13-103 does not constitute negligence, and evidence of failure to comply with 61-13-103 is not admissible in any civil action"

And, as amended, do pass. Report adopted.

HB 80, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman):

2/7/2003

SB 25, introduced bill, be amended as follows:

1. Page 1, line 26.

Following: "facility"

Strike: "UNLESS THE COURT FINDS THAT THE YOUTH POSES A SIGNIFICANT DANGER TO THE COMMUNITY"

2. Page 4, line 21.

Following: "from a"

Strike: "mental disorder, as defined in 53-21-102"

Insert: "disorder in thought or mood so substantial that it impairs judgment, behavior, perceptions of reality, and the ability to cope with the ordinary demands of life"

And, as amended, do pass. Report adopted.

TAXATION (DePratu, Chairman):

2/13/2003

SB 138, do pass. Report adopted.

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

SB 294, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "PROTEST;"

Insert: "PROVIDING THAT THE STATE SHARE OF PROTESTED PROPERTY TAXES MUST BE REMITTED TO THE STATE TREASURER; PROVIDING THAT A GOVERNING BODY OF A TAXING JURISDICTION MAY ACCESS PROTESTED PROPERTY TAXES; PROVIDING THAT REFUNDS OF PROTESTED PROPERTY TAXES TO TAXPAYERS THAT ARE CENTRALLY ASSESSED MAY BE MADE UP TO 10 YEARS FOLLOWING RESOLUTION OF THE PROTEST;"

2. Page 1, line 28.

Strike: "All"

Insert: "(a) Except as provided in subsection (4)(b), all"

3. Page 2.

Following: line 4

Insert: "(b) (i) Property taxes that are levied by the state must be remitted by the county treasurer to the state treasurer.
(ii) The state treasurer shall deposit that portion of the funds levied pursuant to 15-10-107 in the state special revenue fund. The remainder of the funds must be deposited in the state general fund."

4. Page 2, line 6.

Strike: "in" through "unresolved"

5. Page 2, line 8.

Strike: ", except" through "protest"

6. Page 2, line 10.

Strike: ", except the first-year protest amount"

7. Page 2, line 17 through line 26.

Strike: subsection (b) in its entirety

Insert: "(b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under protest.

(ii) The taxing jurisdiction shall pay interest at the rate of interest generated from the pooled investment fund provided for in 17-6-203 for the applicable period."

8. Page 3, line 5.

Strike: "1 year"

Insert: "10 years"

Following: "protest"

Insert: "for property centrally assessed pursuant to 15-23-101 and not more than 1 year for all other property"

9. Page 3, line 9.

Strike: "four"

Insert: "two"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

10. Page 3, line 25.

Strike: "December 31, 2001"

Insert: "October 31, 2000"

11. Page 3, line 26.

Strike: "December 31, 2001"

Insert: "October 31, 2000"

And, as amended, do pass. Report adopted.

SB 302, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "IS"

Insert: "MAY BE"

2. Title, page 1, line 8.

Following: "OWNERS"

Insert: "OR THAT A PAYING CO-OWNER MAY, AFTER 3 YEARS OF PAYMENTS AND NOTICES TO THE NONPAYING CO-OWNER, TAKE A PROPERTY TAX LIEN ON THE NONPAYING CO-OWNER'S INTEREST"

3. Page 1, line 15.

Following: "payments."

Insert: "(1)"

Strike: "Payment"

Insert: "Except as provided in subsection (2), payment"

4. Page 1, line 21.

Insert: "(2) (a) A co-owner may receive a tax lien on property in which the co-owner has an undivided interest if:

(i) the co-owner pays the proportional amount of taxes on that co-owner's interest and on another co-owner's interest;

(ii) the paying co-owner has notified the nonpaying co-owner of the property tax payments and annually demands reimbursement in writing by certified mail, return receipt requested, addressed to the nonpaying co-owner's last-known mailing address; and

(iii) the paying co-owner has paid the property taxes for 3 consecutive years without reimbursement.

(b) Upon proof that a co-owner has complied with the provisions of this subsection (2), the paying co-owner is considered the purchaser of a tax lien on the ownership interest of the nonpaying co-owner and the county treasurer shall prepare a tax sale certificate with the paying co-owner as the purchaser. The certificate shall conform to the provisions of 15-17-212, except the certificate need not contain the information required in 15-17-212(1)(a) and (1)(b). The treasurer shall comply with the provisions of 15-17-212(2) regarding the certificate.

(c) For the purposes of this subsection (2), if there are more than two co-owners, single and multiple paying co-owners can receive a tax lien on the undivided interests of single and multiple nonpaying co-owners."

5. Page 1, line 27.

Following: "request of"

Insert: "all"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

6. Page 1, line 28.

Following: "15-7-102"

Insert: "and separate assessments"

7. Page 1, line 30.

Strike: "January 1"

Insert: "or prior to April 30"

8. Page 2, line 1.

Strike: "January 1"

Insert: "April 30"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/13/2003

HB 56, introduced by B. Thomas

HB 185, introduced by Wilson

HB 186, introduced by Matthews

HB 194, introduced by Barrett

HB 269, introduced by Bergren

HB 305, introduced by Peterson

HB 331, introduced by Gallus

HB 372, introduced by Cyr

HB 384, introduced by McKenney

MOTIONS

SB 222 - Senator Tash moved that his name be removed as sponsor to **SB 222**. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 404, introduced by Toole, Butcher, referred to Business and Labor.

SB 405, introduced by Laible, referred to State Administration.

SB 406, introduced by McGee, referred to Local Government.

SB 407, introduced by DePratu, referred to Taxation.

SB 408, introduced by Nelson, referred to Taxation.

SB 409, introduced by Stapleton, S. Anderson, Bales, Barkus, Butcher, Curtiss, DePratu, Esp, Forrester, Gillan, Laible, Lambert, Lenhart, Matthews, Noennig, A. Olson, Perry, Shea, F. Thomas, referred to Natural Resources.

SB 410, introduced by Taylor, referred to Natural Resources.

SB 411, introduced by Glaser, referred to Education and Cultural Resources.

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

**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 Kitzenberg in the chair.

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

SB 89 - Senator Tash moved **SB 89** do pass. Motion carried as follows:

Yeas: Bohlinger, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat.

Total 28

Nays: Anderson, Bales, Barkus, Black, Butcher, Cobb, DePratu, Esp, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Pease, Sprague, Stapleton, Taylor, Thomas, Zook, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Schmidt excused at this time.

SB 112 - Senator McCarthy moved **SB 112** do pass. Motion carried as follows:

Yeas: Anderson, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.

Total 36

Nays: Bales, Barkus, DePratu, Esp, Glaser, Johnson, McGee, McNutt, Perry, Stapleton, Story, Zook, Mr. President.

Total 13

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

SB 334 - Senator Sprague moved **SB 334** do pass. Motion carried with Senator Johnson voting nay.

SB 191 - Senator O'Neil moved **SB 191** do pass. Motion carried with Senators Cocchiarella and Shea voting nay.

SB 198 - Senator Stonington moved **SB 198** do pass. Motion carried with Senator Anderson voting nay.

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

SB 246 - Senator Glaser moved **SB 246** do pass. Motion carried unanimously.

SB 288 - Senator Mangan moved **SB 288** do pass. Motion carried unanimously.

Senator Schmidt present at this time.

SB 320 - Senator Tester moved **SB 320** do pass. Motion carried unanimously.

SB 328 - Senator Mangan moved **SB 328** do pass. Motion carried with Senator O'Neil voting nay.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Kitzenberg 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 160 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 168 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, 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: Butcher, Esp, Glaser, Johnson, McNutt.

Total 5

Absent or not voting: None.

Total 0

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

Excused: None.
Total 0

SB 209 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, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Story.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 281 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, 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, Tester, Thomas, Toole, Tropila, Zook, Mr. President.
Total 45

Nays: Cobb, Gebhardt, Grimes, Nelson, Wheat.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 325 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

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 79 concurred in 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, 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 49

Nays: Mangan.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 114 concurred in 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

HB 238 concurred in 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

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 14, 2003

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 248 concurred in 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 388 - Senator Tash moved **SB 388** be taken from the committee on Judiciary and rereferred to the committee on Finance and Claims. Motion carried.

SB 89 - Senator Gebhardt moved he be allowed to change his vote on **SB 89**, second reading this day, from nay to yea. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 9:00 a.m., Saturday, February 15, 2003. Motion carried.

Senate adjourned at 3:00 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate