

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

Helena, Montana
February 18, 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 Schmidt and Stapleton, excused. Quorum present.

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

REPORTS OF STANDING COMMITTEES

Correctly printed: **SB 423, SB 424, SB 425, SB 426, SB 427, SB 428, SB 429, SB 430, SB 431.**
Correctly enrolled: **SB 7.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
SB 383, introduced bill, be amended as follows:

2/17/2003

1. Page 2, line 3.

Following: "system"

Strike: "or interfere with the use"

Insert: ". The diversion"

2. Page 2, line 4.

Following: "chapter 2"

Insert: ", is not a prohibited activity under this chapter"

And, as amended, do pass. Report adopted.

HB 181, be concurred in. Report adopted.

HB 311, be concurred in. Report adopted.

BUSINESS AND LABOR (Mahlum, Chairman):
SB 344, introduced bill, be amended as follows:

2/17/2003

1. Page 2, line 18.

Strike: "or renewed"

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):

2/18/2003

SB 183, do pass. Report adopted.

SB 210, introduced bill, be amended as follows:

1. Title, line 6.

Following: "BENEFIT"

Insert: "AND ON THE NUMBER AWARDED ANNUALLY"

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2. Title, line 7.

Following: "REGENTS"

Insert: "AND THE DEPARTMENT OF ADMINISTRATION"

3. Page 2, line 21.

Following: "for"

Insert: "up to 20 eligible veterans in each fiscal year. To be eligible, a person must be"

4. Page 3, line 16.

Following: "rulemaking."

Insert: "(1) The veteran, the veteran's spouse, or the veteran's child shall apply to the department of administration for the tuition benefit on a form supplied by the department. The application must be submitted by June 30 of each year. By a drawing, the department shall select up to 20 applicants to receive the tuition benefit. The department shall adopt rules to implement this subsection."

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

2/18/2003

SB 308, introduced bill, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "AUTHORIZING" on line 6 through "TELEMARKETERS;" on line 7

2. Title, page 1, line 14.

Following: "TELEMARKETER"

Insert: "IF THE CONSUMERS ASK"

3. Page 1, line 29.

Strike: "-- disapproval of scripts"

4. Page 2, line 30 through page 3, line 2.

Strike: "The" on page 2, line 30 through "30-14-1411(1)(g)." on page 3, line 2

5. Page 3.

Following: line 2

Insert: "(e) A registered seller or telemarketer shall send to the department a copy of any script, outline, or presentation before it is used for soliciting purposes."

6. Page 3, line 28.

Strike: "been disapproved by"

Insert: "not been sent to"

7. Page 4, line 26 through line 28.

Following: "state"

Strike: ", unless" on line 26 through "entity" on line 28

8. Page 6, line 18.

Following: "address"

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Insert: "; or
(17) a business that is regulated by the federal government and is engaged in selling telephone services"

9. Page 7, line 30.

Strike: "regardless of whether"

Insert: "if"

10. Page 8, line 17.

Following: "unless"

Insert: ": (i)"

11. Page 8.

Following: line 17

Insert: "(ii) the automatic dialing-announcing device is being used by a school district to contact students, parents, or employees;

(iii) the seller or telemarketer has had a business relationship within the last 18 months with the person being called;

(iv) the message is advising employees of work schedules; or

(v) the use of the automatic dialing-announcing device is by a governmental entity;"

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman):

2/18/2003

SB 243, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman):

2/14/2003

SB 295, introduced bill, be amended as follows:

1. Title, page 1, lines 6 and 7.

Strike: "INSTRUCTION " on page 1, line 6 through "LICENSES" on line 7

Insert: "AN ALTERNATIVE DRIVER'S EDUCATION LEARNING PERMIT"

2. Title, page 1, line 7.

Strike: "13"

Insert: "14 1/2"

3. Title, page 1, line 8.

Following: "PARENT"

Insert: ", GRANDPARENT,"

4. Title, page 1, line 9.

Following: "PARENT"

Insert: ", GRANDPARENT,"

5. Title, page 1, line 11.

Strike: "AN"

Insert: "A DELAYED"

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6. Page 2, line 17.

Following: "licenses"

Insert: "-- alternative driver's education learning permits"

7. Page 2, line 18.

Strike: "(b)"

8. Page 2, lines 26 through 27.

Strike: "or who" on line 26 through "(7)" on line 27

9. Page 3, line 21 through page 4, line 9.

Strike: subsection (7) in its entirety

Insert: "(7) (a) The department may issue a 24-month alternative driver's education learning permit to a student who is at least 14 1/2 years of age and who is being educated in a home school or a nonpublic school, as described in 20-5-102(2)(e), if the student has registered with the county superintendent of the county in which the student lives. A student in a nonpublic school that offers a state-accredited driver's education program is not eligible for a permit under this subsection (7). The student may operate a motor vehicle using the alternative driver's education learning permit only when the student is under the direct supervision of a parent, grandparent, or legal guardian who is certified and whose names are listed on the learning permit.

(b) In order to be certified as an instructor for an alternative driver's education learning permit, the student's parent, grandparent, or legal guardian:

(i) must be a currently licensed driver;

(ii) may not have accumulated 5 or more habitual traffic offender points under 61-11-203 within the 36-month period preceding certification;

(iii) must have passed the knowledge test and the driving test, as provided in 61-5-110, within the 12-month period preceding certification or possess a current commercial driver's license;

(iv) shall pay a \$25 certification fee, which the department shall deposit in the general fund, after the department verifies that each instructor:

(A) has complied with subsections (7)(b)(i), (7)(b)(ii), and (7)(b)(iii);

(B) has provided a sample of the driver's education curricula to be used; and

(C) has vehicle liability insurance that covers the student.

(c) The training period for a student receiving an alternative driver's education learning permit pursuant to subsection (7)(a) is up to 24 months. A student receiving a permit shall maintain a log signed and dated by the certified supervising parent, grandparent, or legal guardian. The log must indicate that the student has driven under direct supervision on a roadway, as defined in 61-1-206, under the following conditions:

(i) for a minimum of 12 months of the training period;

(ii) 5 hours each month or 250 miles each month;

(iii) at least 60 hours or 3,000 miles during the training period;

(iv) in residential areas one-fourth of the total time; and

(v) during hours of darkness at least 10% of the total time."

10. Page 5, line 13.

Following: "parent"

Insert: ", grandparent,"

11. Page 6, line 27.

Following: "61-5-106(7)"

Insert: "and shall:

(a) require a student who is issued an alternative driver's education learning permit under 61-5-106(7) to keep

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a certified commercial driver's log book in which the student records driving hours, miles, time spent driving in residential areas, and time spent driving during hours of darkness;

(b) develop a 24-month alternative driver's education learning permit for use under 61-5-106(7). The learning permit must contain the names of the supervising parent, grandparent, or legal guardian who completed the requirements for certification as a supervising driver"

12. Page 6, line 29.

Strike: "July 1, 2003"

Insert: "January 1, 2004"

And, as amended, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):

2/17/2003

SB 356, introduced bill, be amended as follows:

1. Title, line 5 through line 6.

Following: "RESOLUTIONS THAT" on line 5

Strike: remainder of line 5 through "PENALTIES" on line 6

Insert: "ARE MORE RESTRICTIVE AS TO PUBLIC NUDITY"

2. Page 1, line 25 through line 26.

Following: "that" on line 25

Strike: remainder of line 25 through "penalties" on line 26

Insert: "are more restrictive as to public nudity"

3. Page 1, line 27.

Following: line 26

Insert: "(4) As used in this section, "public nudity" means the showing of the human male or female genitals, pubic hair, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple."

And, as amended, do pass. Report adopted.

SB 398, do pass. Report adopted.

SJR 10, be adopted. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (O'Neil, Chairman):

2/18/2003

SB 364, introduced bill, be amended as follows:

1. Page 2, line 21.

Strike: " 1 "

Insert: ": (i) "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2; and

(ii)"

2. Page 2, line 23.

Strike: "(i)"

Insert: "(A)"

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Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

SJR 11, be adopted. Report adopted.

SJR 14, be adopted. Report adopted.

SJR 18, introduced joint resolution, be amended as follows:

1. Page 2, line 4.

Following: "members"

Insert: "and others"

And, as amended, be adopted. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

2/18/2003

SB 355, introduced bill, be amended as follows:

1. Page 1, line 9.

Strike: "Prior to the time that a"

Insert: "A"

2. Page 1, line 10.

Strike: "engages"

Insert: "shall, before engaging"

3. Page 1, line 11.

Strike: "the entity or person shall engage a registered surveyor to"

Insert: "require the following activities to be performed by a professional land surveyor, as defined in 37-67-101, or a qualified person under the direct supervision of a professional land surveyor"

4. Page 1, line 15.

Strike: "Within 30 days after an"

Insert: "A public or private"

Strike: "has completed"

Insert: "shall, within 30 days of completing"

5. Page 1, line 16.

Strike: "the entity or person shall engage a registered surveyor to"

Insert: "require the following activities to be performed by a professional land surveyor, as defined in 37-67-101, or a qualified person under the direct supervision of a professional land surveyor"

6. Page 1, line 19.

Following: "70-22-104"

Insert: "and 70-22-105"

And, as amended, do pass. Report adopted.

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MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/17/2003

HB 277, introduced by Lindeen
HB 373, introduced by A. Olson
HB 427, introduced by Gutsche
HB 435, introduced by Sinrud
HB 436, introduced by A. Olson
HB 451, introduced by E. Clark
HB 456, introduced by Parker
HB 471, introduced by Wanzenried
HB 478, introduced by Peterson
HB 521, introduced by Balyeat
HB 525, introduced by Keane
HB 555, introduced by Bitney

House joint resolutions passed and transmitted to the Senate for concurrence:

2/17/2003

HJR 3, introduced by Barrett
HJR 4, introduced by Lange
HJR 10, introduced by Lawson
HJR 15, introduced by Wagman
HJR 20, introduced by Roberts

FIRST READING AND COMMITMENT OF BILLS

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

SB 432, introduced by Grimes, referred to Business and Labor.
SB 433, introduced by D. Ryan, Cobb, referred to Taxation.
SB 434, introduced by Tropila, referred to Judiciary.
SB 435, introduced by Keenan, referred to Highways and Transportation.

**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 Roush in the chair.

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

HB 80 - Senator DePratu moved **HB 80** be concurred in. Motion carried unanimously.

HB 22 - Senator Butcher moved **HB 22** be concurred in. Motion carried unanimously.

HB 51 - Senator Esp moved **HB 51** be concurred in. Motion carried unanimously.

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HB 112 - Senator Butcher moved **HB 112** be concurred in. Motion carried unanimously.

HB 121 - Senator Bohlinger moved **HB 121** be concurred in. Motion carried unanimously.

SB 316 - Senator Grimes moved **SB 316** do pass. Motion carried unanimously.

SB 204, requiring 2/3 of entire Legislature - Senator Taylor moved **SB 204** do pass. Motion received the following vote:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 34

Nays: Butcher, Cooney, Cromley, Ellingson, Elliott, Johnson, Mangan, O'Neil, Ryan, Stonington, Tester, Toole, Tropila, Wheat.

Total 14

Absent or not voting: None.

Total 0

Excused: Schmidt, Stapleton.

Total 2

SB 247 - Senator Cobb introduced **SB 247**. After introduction of the bill, Senator Stonington moved **SB 247**, second reading copy, be amended as follows:

1. Page 3, line 21 through line 23.

Strike: "To" on line 21 through "purposes." on line 23

Amendment **adopted** unanimously.

SB 247 - Senator Cobb moved **SB 247**, as amended, do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Shea, Sprague, Squires, Story, Tash, Taylor, Thomas, Tropila, Zook.

Total 36

Nays: Cooney, Ellingson, Elliott, Hansen, Harrington, Johnson, McNutt, Stonington, Tester, Toole, Wheat, Mr. President.

Total 12

Absent or not voting: None.

Total 0

Excused: Schmidt, Stapleton.

Total 2

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Senators Johnson and McCarthy excused at this time.

HB 151 - Senator Gebhardt moved **HB 151** be concurred in. Motion carried unanimously.

HB 406 - Senator Toole moved consideration of **HB 406** be placed at the bottom of the second reading board. Motion carried.

HJR 6 - Senator D. Ryan moved **HJR 6** be concurred in. Motion carried unanimously.

HB 406 - Senator Toole moved **HB 406** 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 Roush 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 62 passed as follows:

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

Total 37

Nays: Bales, Barkus, Black, Butcher, DePratu, Gebhardt, Glaser, McGee, Zook, Mr. President.

Total 10

Paired: McCarthy, Aye; DePratu, No.

Absent or not voting: None.

Total 0

Excused: Johnson, Schmidt, Stapleton.

Total 3

SB 327 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Laible, Mahlum, Mangan, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 31

Nays: Butcher, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Kitzenberg, McCarthy, Pease, Roush, Ryan, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 17

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Paired: Johnson, Aye; McCarthy, No.

Absent or not voting: None.

Total 0

Excused: Schmidt, Stapleton.

Total 2

MOTIONS

Senator Thomas moved to suspend the rules for one (1) day to allow bills that are being engrossed this legislative day, to be heard the next legislative day, February 19, 2003. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Wednesday, February 19, 2003. Motion carried.

Senate adjourned at 2:44 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate