

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

Helena, Montana
February 25, 2003

Senate Chambers
State Capitol

Senate convened at 12:04 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except members of the Business and Labor Committee, and Senators Harrington and Schmidt, excused. Quorum present.

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

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 462**.

Correctly engrossed: **SB 239, SB 270, SB 271, SB 282, SB 287, SB 303, SB 304, SB 323, SB 339, SB 366, SB 421, SB 424**.

Correctly enrolled: **SB 164, SB 195**.

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman):
SB 375, introduced bill, be amended as follows:

2/25/2003

1. Page 1, line 11 through line 12.

Following: "used" on line 11

Strike: remainder of line 11 through "devices" on line 12

Insert: "as a boundary fence between adjacent private properties"

2. Page 1, line 13 through 14.

Following: "may" on line 13

Strike: remainder of line 13 through "circumstances" on line 14

Insert: "be used only in commercial applications such as soil erosion control, retaining walls, corrals, interior fencing, safety uses, streambank stabilization, or state civil engineering projects"

3. Page 1, line 18.

Insert: "NEW SECTION. Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 381, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Glaser, Chairman):
SB 267, introduced bill, be amended as follows:

2/25/2003

1. Title, line 5.

Strike: "\$20,000"

Insert: "\$10,000"

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2. Title, line 6.

Strike: "5"

Insert: "3"

3. Title, line 8.

Strike: "4"

Insert: "3"

4. Title, line 9.

Strike: "4"

Insert: "3"

5. Title, line 10.

Strike: "OTHER"

Insert: "300"

6. Title, line 11.

Following: "TEACHING;"

Insert: "IMPOSING A \$10 APPLICATION FEE;"

7. Title, line 13.

Strike: "OR CALCULATION OF SAME SALARY"

8. Page 1, line 22.

Strike: "\$20,000"

Insert: "\$10,000"

9. Page 1, line 24.

Strike: "and"

10. Page 1, line 30.

Following: "41-5-103"

Insert: "; and

(c) employed to teach in the area in which the teacher is certified"

11. Page 2, line 14.

Strike: "and"

12. Page 2, line 22.

Strike: "subsection (2)"

Insert: "this section"

13. Page 2, line 23.

Strike: "\$6,000"

Insert: "\$5,000"

Strike: "and"

14. Page 2, line 24.

Strike: "\$3,500" through "years"

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Insert: "\$3,000 in the second year"

Following: "employment"

Insert: "; and

(c) \$2,000 in the third year of employment"

15. Page 2, line 25 through line 27.

Strike: subsection (6) in its entirety

ReNUMBER: subsequent subsections

16. Page 2, line 30.

Following: "days"

Insert: "and has paid a \$10 application fee"

17. Page 3, line 1.

Following: "(8)"

Insert: "(a)"

18. Page 3, line 3.

Following: "district."

Insert: "(b)"

19. Page 3.

Following: line 6

Insert: "(c) Reassignment of a teacher to another teaching position within the district that is ineligible for a bonus payment does not make the teacher ineligible for the remainder of the bonus payment."

20. Page 3, line 7.

Following: "(9)"

Insert: "(a)"

21. Page 3, line 10.

Strike: "(a)"

Insert: "(i)"

22. Page 3, line 11.

Strike: "(b)"

Insert: "(ii)"

23. Page 3.

Following: line 12

Insert: "(b) The form must be accompanied by the application fee for each eligible teacher as provided in subsection (6)."

24. Page 3, line 13.

Following: "shall"

Insert: "deposit the application fee in the general fund and"

25. Page 3, line 16 through line 17.

Strike: "retirement contributions"

Insert: "the employer's contribution for unemployment insurance"

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26. Page 3, line 18 through line 22.

Strike: subsection (12) in its entirety

Renumber: subsequent subsections

27. Page 3, line 24.

Strike: "a district"

Insert: "the superintendent of public instruction"

28. Page 3, line 24 through line 25.

Following: "state" on line 24

Strike: "to" on line 24 through "district" on line 25

29. Page 3, line 30.

Following: "career."

Insert: "The term includes a person who is assigned some duties as a supervising teacher."

30. Page 4, line 2 through line 6.

Strike: ":" on line 2 through "census" on line 6

Insert: "the following locale codes developed by the U.S. bureau of the census:

(i) locale code 4, except for a school district with more than 500 students assigned to this locale code;

(ii) locale code 7; and

(iii) locale code 8"

And, as amended, do pass. Report adopted.

SB 411, introduced bill, be amended as follows:

1. Page 3, line 10.

Strike: "and knowledge"

Strike: "mental and physical"

2. Page 3, line 13.

Strike: "and political"

3. Page 3, line 14.

Following: "nation;"

Insert: "and"

4. Page 3, line 15.

Strike: "; and"

Insert: "."

5. Page 3, line 16.

Strike: subsection (h) in its entirety

And, as amended, do pass. Report adopted.

SB 441, introduced bill, be amended as follows:

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1. Page 4, line 11.

Strike: "50%"

Insert: "35%"

And, as amended, do pass. Report adopted.

SB 454, introduced bill, be amended as follows:

1. Title, line 4 through line 5.

Strike: "AND" on line 4 through "GRANTS" on line 5

2. Title, line 5.

Strike: "SCHOOL DISTRICTS,"

3. Title, line 6.

Following: "RETIREMENT"

Strike: ", "

4. Title, line 8.

Strike: "25,"

Following: "26"

Strike: ", "

5. Page 1, line 13 through page 2, line 8.

Strike: section 1 in its entirety

Renumber: subsequent sections

6. Page 4, line 2.

Strike: "14,442"

Insert: "117,375"

7. Page 4, line 14.

Strike: "3,798,057"

Insert: "3,900,990"

8. Page 4, line 15 through line 16.

Strike: "used" on line 15 through "be" on line 16

9. Page 4, line 16.

Strike: "2006"

Insert: "2004"

10. Page 6, line 10.

Strike: "173,489"

Insert: "69,930"

11. Page 6, line 22.

Strike: "1,753,647"

Insert: "1,650,088"

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12. Page 6, line 23 through line 24.

Strike: "used" on line 23 through "be" on line 24

13. Page 6, line 24.

Strike: "2006"

Insert: "2004"

14. Page 6, line 27.

Following: "instruction"

Insert: "-- direction to code commissioner"

Following: "."

Insert: "(1)"

Strike: "through 3"

Insert: "and 2"

15. Page 6, line 29.

Strike: "through 3"

Insert: "and 2"

16. Page 6.

Following: line 29

Insert: "(2) The code commissioner is directed to codify section 25, Chapter 13, Special Laws of August 2002, as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to that section."

And, as amended, do pass. Report adopted.

SJR 20, be adopted. Report adopted.

JUDICIARY (Grimes, Chairman):

2/25/2003

SB 18, do pass. Report adopted.

SB 394, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: ":"AN ACT"

Insert: "SEEKING TO ENSURE FAIRNESS IN LITIGATION BY"

And, as amended, do pass. Report adopted.

SB 447, do pass. Report adopted.

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

2/25/2003

SJR 21, be adopted. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/24/2003

HB 42, introduced by Barrett

HB 90, introduced by E. Clark

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HB 144, introduced by Harris
HB 189, introduced by Pattison
HB 222, introduced by Parker
HB 236, introduced by Erickson
HB 283, introduced by Fuchs
HB 298, introduced by Younkin
HB 327, introduced by Harris
HB 358, introduced by Lange
HB 368, introduced by Devlin
HB 407, introduced by Gutsche
HB 417, introduced by Golie
HB 419, introduced by Laszloffy
HB 484, introduced by R. Brown
HB 520, introduced by Erickson
HB 527, introduced by Mendenhall
HB 531, introduced by Hurwitz
HB 538, introduced by Rome
HB 556, introduced by Gallik
HB 557, introduced by Andersen
HB 561, introduced by Bitney
HB 563, introduced by Laszloffy
HB 572, introduced by Lewis
HB 573, introduced by Parker
HB 578, introduced by Shockley
HB 579, introduced by Shockley
HB 585, introduced by Franklin
HB 591, introduced by Fuchs
HB 597, introduced by Wagman
HB 601, introduced by Ripley
HB 615, introduced by Franklin
HB 618, introduced by Dickenson
HB 619, introduced by Maedje
HB 636, introduced by Forrester
HB 639, introduced by Laslovich

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

2/24/2003

HJR 19, introduced by Raser
HJR 21, introduced by Morgan

FIRST READING AND COMMITMENT OF BILLS

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

SB 463, introduced by Black, DePratu, F. Thomas, referred to Taxation.
SB 464, introduced by Keenan, referred to Public Health, Welfare and Safety.

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MOTIONS

SB 18 - Senator McGee moved **SB 18** be taken from the second reading board and rereferred to the committee on Finance and Claims. Motion carried.

SB 239 - Senator Ellingson moved consideration of **SB 239** be passed until the forty-third legislative day, February 26, 2003, to obtain a fiscal note. Motion carried.

HB 465 - Senator Tester moved his name be removed as co-sponsor to **HB 465**. Motion carried.

Senator Thomas moved the Senate stand in recess until the hour of 12:45 p.m. this legislative day, for purpose of party caucuses. Motion carried.

Senate recessed at 12:14 p.m.

Senate reconvened at 12:48 p.m.

Roll call. All members present except Senator Schmidt, excused.

**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 Grimes in the chair.

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

Senator Schmidt present at this time.

SB 426 - Senator Perry moved **SB 426** do pass. Motion **failed** as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.
Total 25

Nays: Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Johnson, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 434 - Senator Tropila moved **SB 434** do pass. Motion carried unanimously.

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SB 426 - Senator Tester moved **SB 426** be **indefinitely postponed**. Motion **failed** as follows:

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

Total 22

Nays: Anderson, Bales, Barkus, Black, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 439 - Senator Thomas moved **SB 439** be placed below SB 366 on the second reading board. Motion carried.

SB 445 - Senator Barkus moved **SB 445** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 13 - Senator Toole moved **SJR 13** be adopted. Motion carried with Senators Bales, Laible, McGee and O'Neil voting nay.

SJR 19 - Senator Curtiss moved **SJR 19** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Roush, Ryan, Shea, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.

Total 33

Nays: Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Mangan, McCarthy, Nelson, Pease, Schmidt, Squires, Stonington, Tester, Toole, Tropila, Wheat.

Total 17

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 23 - Senator Barkus moved **SJR 23** be adopted. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Stapleton, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 27

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 374 - Senator Laible moved consideration of **SB 374** be placed below SB 439 on the second reading board. Motion carried.

Senators Cobb, Keenan and Mangan excused at this time.

SB 337 - Senator Tropila moved **SB 337** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Curtiss, DePratu, 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, Tropila, Zook.
Total 43

Nays: Cromley, Ellingson, Toole, Wheat.
Total 4

Absent or not voting: None.
Total 0

Excused: Cobb, Mangan, Mr. President.
Total 3

Senators Cobb and Keenan present at this time.
Senator Squires excused at this time.

SB 194 - Senator Tash moved **SB 194** do pass. Motion carried as follows:

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Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Perry, Shea, Sprague, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Zook, Mr. President.
Total 38

Nays: Cooney, Ellingson, Hansen, Harrington, Pease, Roush, Ryan, Schmidt, Toole, Wheat.
Total 10

Absent or not voting: None.
Total 0

Excused: Mangan, Squires.
Total 2

Senator Squires present at this time.

SB 347 - Senator Stonington moved **SB 347**, second reading copy, be amended as follows:

1. Page 14, line 18.

Strike: "2004"

Insert: "2005"

Amendment **adopted** unanimously.

SB 347 - Senator Keenan moved **SB 347, as amended**, do pass. Motion carried unanimously.

SB 348 - Senator Keenan moved **SB 348** do pass. Motion carried unanimously.

Senator Stapleton moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Grimes 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 192 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, 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, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 46

Nays: Cromley, Ellingson, Tester.
Total 3

Absent or not voting: None.

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Total 0

Excused: Mangan.

Total 1

SB 270 passed as follows:

Yeas: Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Glaser, Hansen, Harrington, Kitzenberg, Mangan, McCarthy, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat.

Total 27

Nays: Anderson, Bales, Bohlinger, Butcher, Curtiss, Esp, Gebhardt, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Nelson, O'Neil, Perry, Sprague, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.

Total 23

Paired: Mangan, Aye; Thomas, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 287 passed as follows:

Yeas: Barkus, Butcher, Cocchiarella, Cromley, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Hansen, Kitzenberg, Laible, McCarthy, McNutt, Nelson, Pease, Perry, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Toole, Tropila, Wheat, Zook.

Total 30

Nays: Anderson, Bales, Black, Bohlinger, Cobb, Cooney, Curtiss, Esp, Grimes, Harrington, Johnson, Mahlum, McGee, O'Neil, Roush, Stapleton, Tester, Thomas, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: Mangan.

Total 1

SB 304 passed as follows:

Yeas: Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, 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 44

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Nays: Anderson, Barkus, DePratu, Gebhardt, McGee.
Total 5

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

SB 321 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Thomas, Tropila, Wheat, Zook, Mr. President.
Total 44

Nays: Ellingson, Ryan, Schmidt, Tester, Toole.
Total 5

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

SB 339 passed as follows:

Yeas: Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook.
Total 33

Nays: Anderson, Bales, Barkus, Black, Cobb, Curtiss, Elliott, Esp, Gebhardt, Glaser, Laible, McGee, McNutt, O'Neil, Stapleton, Story, Mr. President.
Total 17

Paired: Mangan, Aye; McGee, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 389 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,

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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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

SB 401 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, 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

SB 406 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, 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

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SB 416 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cromley, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, Perry, Shea, Sprague, Squires, Stapleton, Story, Tash, Taylor, Thomas, Zook.

Total 28

Nays: Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Stonington, Tester, Toole, Tropila, Wheat, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: Mangan.

Total 1

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Zook, Chairman):

2/25/2003

SB 314, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "RAISING"

Insert: "ADJUSTING"

2. Title, line 5.

Following: "TO"

Insert: "CHILDREN"

Following: "THAN"

Strike: "200"

Insert: "17 YEARS OF AGE WITH A FAMILY INCOME AT OR BELOW 175"

Following: "LEVEL"

Insert: ", WHICH PERCENTAGE IS SUBJECT TO THE AVAILABILITY OF NONSTATE FUNDS FOR MATCHING PURPOSES"

3. Page 1, line 13.

Strike: "18"

Insert: "17"

4. Page 1, line 14.

Strike: "200%"

Insert: "150%"

5. Page 1, following line 27.

Insert: "(5) (a) Subject to the availability of nonstate matching funds, a child may be considered eligible for the program if the combined family income is above 150% and at or below 175% of the federal poverty level and the criteria in subsections (1)(a) through (1)(e) are met.

(b) "Nonstate matching funds" includes but is not limited to funds from private sources, including grants, gifts,

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and donations, and does not include funds from general or specific taxes or fees."

And, as amended, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):
SB 362, introduced bill, be amended as follows:

2/25/2003

1. Title, line 4 through line 7.

Following: "'AN ACT" on line 4

Strike: remainder of line 4 through "OFFENSE;" on line 7

2. Title, line 8.

Following: "AGE;"

Insert: "REQUIRING CHEMICAL DEPENDENCY ASSESSMENT AND TREATMENT IN CERTAIN CASES;
REQUIRING COURTS TO REPORT THE NAMES OF MINORS WHO ARE ORDERED TO COMPLETE
CHEMICAL DEPENDENCY TREATMENT TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
SERVICES AND REQUIRING THAT DEPARTMENT TO MAKE THE NAMES AVAILABLE UPON
REQUEST TO PEACE OFFICERS AND COURTS;"

3. Page 1, line 14 through line 15.

Following: "substance --" on line 14

Strike: remainder of line 14 through "substance --" on line 15

4. Page 1, line 16.

Following: line 15

Strike: "(a)"

5. Page 1, line 20 through line 22.

Strike: subsection (b) in its entirety

6. Page 1, line 25.

Following: "exceed"

Strike: "\$150"

Insert: "\$300"

7. Page 2, line 1 through line 2.

Following: "the license" on line 1

Strike: remainder of line 1 through "days" on line 2

Insert: "confiscated by the court for 30 days, except as provided in subsection (2)(b)"

8. Page 2, line 3.

Strike: "\$150"

Insert: "\$200"

Strike: "\$250"

Insert: "\$600"

9. Page 2, line 8.

Following: "available;"

Strike: "and"

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10. Page 2, line 9 through line 10.

Following: "the license" on line 9

Strike: remainder of line 9 through "days;" on line 10

Insert: "confiscated by the court for 6 months, except as provided in subsection (2)(b); and

(D) shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (8);"

11. Page 2, line 11.

Strike: "\$500"

Insert: "\$900"

12. Page 2, line 12.

Following: "service,"

Strike: "and"

13. Page 2, line 15.

Following: "available"

Insert: ",and shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (8)"

14. Page 2, line 17 through line 18.

Following: "shall" on line 17

Strike: remainder of line 17 through "days" on line 18

Insert: "confiscate the license for 6 months, except as provided in subsection (2)(b)"

15. Page 2, line 24.

Following: "shall"

Strike: "order"

Insert: "confiscate"

Following: "license"

Strike: "suspended"

16. Page 2, line 25.

Strike: "6"

Insert: "9"

17. Page 2, line 26.

Following: line 25

Insert: "(c) The court shall retain jurisdiction for up to 1 year to confiscate a license under subsection (2)(b)."

18. Page 2, line 27.

Strike: "under this section"

Insert: "of the offense of possession of an intoxicating substance"

19. Page 2, line 28.

Strike: "not less than \$100 and"

Following: "and"

Insert: "and"

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20. Page 2, line 29.

Following: "may"

Strike: "shall"

Insert: "may"

Following: "perform"

Strike: "40 hours of"

21. Page 2, line 29 through line 30.

Following: "service" on line 29

Strike: remainder of line 29 through "days" on line 30

22. Page 3, line 3.

Following: line 2

Insert: "(b) for a second offense, shall be fined an amount not to exceed \$200 and may be ordered to perform community service;"

Renumber: subsequent subsections

23. Page 3, line 3.

Following: "~~third~~"

Strike: "second"

Insert: "third"

Following: "amount"

Strike: "not less than \$150 and"

24. Page 3, line 5.

Following: "may"

Strike: "shall"

Insert: "may"

Following: "perform"

Strike: "60 hours of"

25. Page 3, line 5 through line 6.

Following: "service" on line 5

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

26. Page 3, line 7 through line 8.

Following: "~~to complete~~" on line 7

Strike: remainder of line 7 through "participation in" on line 8

Insert: "to complete"

27. Page 3, line 9.

Following: "services,"

Strike: "if available"

28. Page 3, line 11.

Following: "~~or both~~"

Insert: "which may, in the sentencing court's discretion and upon recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both"

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29. Page 3, line 12.

Following: "6"

Strike: "4"

Insert: "6"

30. Page 3, line 13.

Following: "months"

Strike: ":",

Insert: ":",

31. Page 3, line 14 through line 15.

Strike: subsection (c) in its entirety

32. Page 3, line 28.

Following: "section"

Strike: "may not"

Insert: "must"

33. Page 3, line 29 through line 30.

Following: "department of" on line 29

Strike: remainder of line 29 through "subsection (2)(b)" on line 30

Insert: "public health and human services if treatment is ordered under subsection (8)"

34. Page 4, line 18.

Following: "failure."

Insert: "(f) The court shall report to the department of public health and human services the name of any person who is ordered to complete chemical dependency treatment under this subsection (8). The department of public health and human services shall maintain a list of those persons who have been ordered to complete treatment under this subsection (8). This list must be made available upon request to peace officers and to any court."

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Tash, Chairman):
SB 409, introduced bill, be amended as follows:

2/25/2003

1. Page 2, line 4.

Strike: "productively"

Strike: "property"

Insert: "state coal"

2. Page 2, line 7.

Strike: "reverse"

Insert: "address"

3. Page 2.

Following: line 11

Insert: "WHEREAS, the State of Montana and the Northern Cheyenne have worked together and negotiated the Otter

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Creek Settlement Agreement, and the state recognizes the importance of involving the Northern Cheyenne in cultural resource inventories and assessments; and"

4. Page 2, line 12.

Strike: "state"

Insert: "State"

5. Page 2, line 15.

Following: "generation"

Insert: "and necessary transmission infrastructure"

6. Page 2, line 21.

Following: "agencies"

Insert: "and the Northern Cheyenne tribe"

7. Page 3, line 6.

Insert: "(4) Nothing in this section is intended to alter, diminish, or impair the Otter Creek settlement agreement between the state of Montana and the Northern Cheyenne tribe, and nothing in this section prevents the state from cooperating with the Northern Cheyenne tribe to enforce air and water quality standards through government-to-government reciprocity agreements."

8. Page 3, line 9.

Following: "with"

Insert: "the private surface owners and"

Strike: "mineral interests that were not"

Insert: "coal property interests that are located in a checkerboard arrangement with the mineral interests"

9. Page 3, line 12.

Strike: "maximize"

Insert: "optimize"

10. Page 4, line 18.

Strike: "governments"

Insert: "government"

11. Page 4, line 19 through line 20.

Strike: "each" on line 19 through "Chippewa" on line 20

Insert: "the Northern Cheyenne tribal government"

And, as amended, do pass. Report adopted.

SB 436, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "PROTECTIONS;"

Insert: "REQUIRING THIRD-PARTY CERTIFICATIONS AT CERTAIN STAGES OF THE MINING PROCESS;"

2. Page 2, line 15.

Following: "(3)"

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Insert: "(a)"

3. Page 2, line 17.

Following: "permit."

Insert: "(b) A mandatory independent third-party certification is required to ensure that the mine is constructed, operated, and closed in conformance with the design, safety, and environmental standards required by the state and federal laws and regulations and the operating permit. The certification must occur:

- (i) at critical construction phases;
- (ii) annually during mining operations; and
- (iii) during closure and reclamation phases.

(c) Certifications must be conducted in accordance with rules adopted by the board, certifying that the operation is in conformance with design, safety, and environmental standards.

And, as amended, do pass. Report adopted.

SB 456, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "REVISING BOARD RULEMAKING REQUIREMENTS;"

2. Title, line 7.

Strike: "90-6-305,"

Following: "90-6-307"

Strike: ", "

3. Page 1, line 13 through line 24.

Strike: section 1 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Cobb, Chairman):

2/25/2003

SB 448, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "2-18-702,"

Insert: "2-18-703,"

2. Title, page 1, line 7.

Strike: "2-18-811,"

Following: "2-18-813,"

Insert: "AND"

Strike: "AND 2-18-816,"

3. Page 1, line 12.

Following: "enrollment."

Insert: "(1)"

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4. Page 1, line 13.

Strike: "and local"

5. Page 1, line 14.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsection

6. Page 1, line 16.

Strike: "must"

Insert: "shall"

7. Page 1, line 18.

Insert: "(2) The department shall establish reasonable risk and administrative costs in setting premiums for local government entities. The risk costs apply to any new group for the first 3 years."

8. Page 1, line 27.

Strike: "For each" through "representative"

Insert: "Local government employees are allowed proportional representation"

9. Page 4, line 12.

Strike: "it applies"

Insert: "applied"

10. Page 4, line 12.

Following: "employed"

Insert: "by a local governmental entity, as defined in 2-18-809, or"

11. Page 5, line 10.

Strike: "and local"

12. Page 6, line 3.

Following: "State"

Insert: "and local"

Following: "in state"

Strike: "and local"

13. Page 6, line 16.

Insert: "**Section 6.** Section 2-18-703, MCA, is amended to read:

"2-18-703. Contributions. (1) Each agency, as defined in 2-18-601, and the state compensation insurance fund shall contribute the amount specified in this section toward the group benefits cost.

(2) For state employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is \$295 a month for the period from July 2001 through December 2001, \$325 a month for the period from January 2002 through December 2002, and \$366 a month for January 2003 and for each succeeding month. For employees of the Montana university system, the employer contribution for group benefits is \$325 a month for the period from July 2001 through June 2002 and \$366 a month for the period from July 2002 through June 2003 and for each succeeding month. When a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not

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eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution. A portion of the employer contribution for group benefits may be applied to an employee's costs for participation in Part B of medicare under Title XVIII of the Social Security Act, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school districts and of local government units, the employer's premium contributions may exceed but may not be less than \$10 a month. Subject to the public hearing requirement provided in 2-9-212(2)(b), the increase in a local government's property tax levy for premium contributions for group benefits beyond the amount of contributions in effect on July 1, 1999, is not subject to the mill levy calculation limitation provided for in 15-10-420.

(4) Unused employer contributions for any state employee must be transferred to an account established for this purpose by the department of administration and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member.

(5) Unused employer contributions for any government employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

(6) The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

Renumber: subsequent sections

14. Page 7, line 3.

Following: "state employee"

Insert: "or local employee"

15. Page 7, line 11.

Following: "(5)"

Insert: "(a)"

16. Page 7, following line 11.

Insert: "(b) The term does not include employees of school districts."

17. Page 7, line 14.

Strike: "school districts,"

18. Page 7, line 22.

Strike: "and local"

19. Page 7, line 24.

Strike: "and local"

20. Page 7, line 28 through page 8, line 10.

Strike: section 9 in its entirety

Renumber: subsequent sections

21. Page 8, line 17.

Strike: "and local"

22. Page 8, line 20.

Strike: "and local"

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23. Page 8, line 21.

Strike: "and local"

24. Page 8, line 24.

Strike: "and local"

25. Page 9, line 17.

Following: "state"

Strike: "and local"

26. Page 9, line 23.

Strike: "and local"

27. Page 9, line 27 through page 10, line 1.

Strike: section 13 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 452, introduced bill, be amended as follows:

1. Title, page 1, lines 4 through 6.

Strike: "REQUIRING" on line 4 through "PUBLIC;" on line 6

Insert: "EXPANDING AND"

2. Page 1, lines 12 through 28.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 4, lines 6 and 7.

Strike: section 5 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 455, introduced bill, be amended as follows:

1. Page 2, line 22.

Strike: "and"

2. Page 2, line 23.

Following: "implications"

Insert: "; and"

(d) a fiscal statement, if required pursuant to 13-27-312"

And, as amended, do pass. Report adopted.

SJR 24, be adopted. Report adopted.

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MOTIONS

SB 436 - Senator Shea moved to remove Keenan and Lenhart as sponsors to **SB 436**. Motion carried.

SB 354 - Senator Bohlinger moved **SB 354** be taken from the table in the committee on Business and Labor, printed and placed on the second reading board. Motion **failed** as follows:

Yeas: Anderson, Bohlinger, Butcher, Cobb, Cromley, Glaser, Johnson, Kitzenberg, Perry, Tash, Taylor, Thomas.
Total 12

Nays: Bales, Barkus, Black, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Grimes, Hansen, Harrington, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tester, Toole, Tropila, Wheat, Zook, Mr. President.
Total 37

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

SB 92 - Senator Ryan moved **SB 92** be taken from the Education committee, printed and placed on second reading the forty-third legislative day. Motion **failed** as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Tester, Toole, Tropila, Wheat.
Total 23

Nays: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Gebhardt, Glaser, Grimes, Johnson, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Story, Tash, Taylor, Thomas, Zook, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: Mangan.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Wednesday, February 26, 2003. Motion carried.

Senate adjourned at 3:34 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate