

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

Helena, Montana
March 12, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

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

REPORTS OF STANDING COMMITTEES

BILL REPORT

Signed by the President at 1:30 p.m., March 11, 2003: **SB 41, SB 42, SB 43.**

Signed by the Secretary of the Senate at 1:45 p.m., March 11, 2003: **SB 41, SB 42, SB 43.**

Signed by the Speaker at 3:30 p.m., March 11, 2003: **SB 41, SB 42, SB 43.**

Delivered to the Governor for approval at 3:55 p.m., March 11, 2003: **SB 41, SB 42, SB 43.**

Correctly engrossed: **HB 56, HB 104, HB 110, HB 161, HB 218, HB 292, HB 403.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Bales, Chairman): 3/12/2003
HB 455, be concurred in. Report adopted.
HJR 15, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman): 3/12/2003
HB 562, be concurred in. Report adopted.

FINANCE AND CLAIMS (Zook, Chairman): 3/12/2003
HB 152, be amended as follows:

1. Title, line 11.

Strike: "\$25"

Insert: "\$16"

2. Page 2, line 4.

Strike: "\$25"

Insert: "\$16"

And, as amended, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Butcher, Chairman): 3/12/2003
HB 71, be concurred in. Report adopted.
HB 105, be concurred in. Report adopted.
HB 215, be concurred in. Report adopted.
HB 250, be concurred in. Report adopted.
HB 280, be concurred in. Report adopted.

JUDICIARY (Grimes, Chairman): 3/11/2003
HB 134, be amended as follows:

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1. Page 2, line 20.

Following: "use"

Insert: "a portion of the"

2. Page 2, line 24.

Strike: "and"

3. Page 2, line 25.

Following: line 24

Insert: "(d) pay for the inmate's medical and dental expenses and costs of incarceration; and"

Renumber: subsequent subsection

4. Page 4, line 3.

Insert: "NEW SECTION. Section 5. Coordination instruction. If House Bill No. 453 and [section 2 of this act], amending 53-1-107, are both passed and approved, then the amendments to subsections (1) and (2) of 53-1-107 contained in House Bill No. 453 are void."

And, as amended, be concurred in. Report adopted.

HB 171, be amended as follows:

1. Title, line 7 through line 8.

Following: "DATE AND" on line 7

Strike: remainder of line 7 through "RETROACTIVE" on line 8

Insert: "AN"

2. Page 1, line 20.

Following: "judgment"

Strike: "is entered"

Insert: "becomes final"

3. Page 1, line 22.

Following: "substituted."

Insert: "A judgment becomes final for purposes of this subsection (2):

(a) when the time for appeal to the Montana supreme court expires;

(b) if an appeal is taken to the Montana supreme court, when the time for petitioning the United States supreme court for review expires; or

(c) if review is sought in the United States supreme court, on the date that that court issues its final order in the case."

4. Page 2, line 2 through line 4.

Strike: section 3 in its entirety

Insert: "NEW SECTION. Section 3. Applicability. [This act] applies to all offenders who plead guilty on or after [the effective date of this act]."

And, as amended, be concurred in. Report adopted.

HB 212, be concurred in. Report adopted.

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HB 299, be amended as follows:

1. Title, line 5.

Following: "NEGLIGENCE"

Strike: "AND INTENTIONAL MISCONDUCT"

Following: ";

Insert: "CLARIFYING THAT HERD DISTRICT LAW APPLIES TO TRESPASSING ANIMALS IN HERD DISTRICTS;"

2. Page 1, line 15 through line 16.

Following: "negligent" on line 15

Strike: remainder of line 15 through "misconduct" on line 16

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

3/11/2003

HB 264, be concurred in. Report adopted.

HB 333, be amended as follows:

1. Page 1, line 22 through line 23.

Following: "town"

Strike: " " on line 22 through "fund " on line 23

And, as amended, be concurred in. Report adopted.

MOTIONS

HB 218 - Senator Gebhardt moved **HB 218** be taken from second reading and rereferred to the committee on State Administration. Motion carried.

HB 287 - Senator Ellingson moved **HB 287** be taken from second reading and rereferred to the committee on Natural Resources. Motion carried.

Senator Tester excused at this time.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/11/2003

SB 10, introduced by Grimes

SB 17, introduced by McGee

SB 27, introduced by Johnson

SB 38, introduced by Mahlum

SB 40, introduced by Mahlum

SB 51, introduced by Bohlinger

Senate bill concurred in **as amended** and returned to the Senate for concurrence in House amendments:

3/11/2003

SB 47, introduced by Gebhardt

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Senate amendments to House bill concurred in: 3/11/2003

HB 321, introduced by Younkin

House bill passed and transmitted to the Senate for concurrence: 3/11/2003

HB 100, introduced by Jent

House joint resolution passed and transmitted to the Senate for concurrence: 3/11/2003

HJR 34, introduced by Balyeat

FIRST READING AND COMMITMENT OF BILLS

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

SB 471, introduced by Bales, R. Brown, Forrester, Gallus, Keenan, Laszloffy, Mood, Pease, Shea, Stapleton, F. Thomas, referred to Taxation.

SB 472, introduced by F. Thomas, Bales, R. Brown, Forrester, Gallus, Keenan, Laszloffy, Mood, Pease, Shea, Stapleton, referred to Taxation.

SB 473, introduced by Elliott, Roberts, referred to Finance and Claims.

SB 474, introduced by F. Thomas, R. Brown, Brueggeman, Cocchiarella, Forrester, Gallus, Gillan, Golie, Keane, Keenan, Laszloffy, Mangan, McCarthy, Mood, Nelson, Pease, Roush, D. Ryan, Shea, Stapleton, referred to Finance and Claims.

The following House bill was introduced, read first time, and referred to committee:

HB 100, introduced by Jent (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 34, introduced by Balyeat, Andersen, R. Brown, Brueggeman, Curtiss, Devlin, Forrester, Fuchs, Gebhardt, Jackson, Keenan, Lake, Lewis, McGee, Mood, Perry, Ripley, Sales, Sinrud, Sprague, Stoker, F. Thomas, Tropila, Waitschies, Witt, Younkin, referred to Taxation.

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:

HB 49 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, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: Tester.

Total 1

HB 72 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, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Tester.

Total 1

Senator Tester present at this time.

HB 79, as amended by the Governor, 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 135 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,

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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 198 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 325 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 326 concurred in as follows:

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

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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 378 concurred in as follows:

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

Total 45

Nays: Butcher, Curtiss, Gebhardt, McGee, Mr. President.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 427 concurred in as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 45

Nays: Bales, Butcher, Esp, Johnson, McGee.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HJR 3 concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, 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 49

Nays: Butcher.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**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 Harrington in the chair.

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

Senators Cobb, McCarthy and Stonington excused at this time.

HB 117 - Senator Cocchiarella moved **HB 117** be concurred in. Motion carried as follows:

Yeas: Anderson, Bohlinger, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Story, Tash, Taylor, Toole, Tropila, Wheat, Zook.
Total 33

Nays: Bales, Barkus, Black, Butcher, Curtiss, DePratu, Esp, Johnson, Laible, McGee, Stapleton, Tester, Thomas, Mr. President.
Total 14

Absent or not voting: None.
Total 0

Excused: Cobb, McCarthy, Stonington.
Total 3

HB 154 - Senator Johnson moved **HB 154** be concurred in. Motion carried unanimously.

Senator Stonington present at this time.

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HB 156 - Senator Mangan moved **HB 156** be concurred in. Motion carried unanimously.

Senator McCarthy present at this time.

HB 166 - Senator Wheat moved **HB 166** be concurred in. Motion carried unanimously.

Senator Mangan excused at this time.

HB 210 - Senator McGee moved **HB 210** be concurred in. Motion carried unanimously.

HB 178 - Senator Wheat moved **HB 178** be concurred in. After discussion, Senator Wheat made a **substitute motion** to pass consideration for the day. Motion carried unanimously.

HB 305 - Senator Sprague moved **HB 305** be concurred in. Motion carried with Senator Cromley voting nay.

Senator Cobb present at this time.

HB 450 - Senator Shea moved **HB 450** be concurred in. Motion carried unanimously.

HB 542 - Senator Keenan moved **HB 542** be concurred in. Motion carried unanimously.

HJR 9 - Senator Pease moved **HJR 9** be concurred in. Motion carried unanimously.

HJR 13 - Senator Grimes moved **HJR 13** be concurred in. Motion carried unanimously.

HJR 21 - Senator Wheat moved consideration of **HJR 21** be passed for the day. Motion carried unanimously.

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

MOTIONS

SB 474 - Senator Thomas moved he be allowed to delete Squires as sponsor to **SB 474**. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, March 13, 2003. Motion carried.

Senate adjourned at 2:58 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate