

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

Helena, Montana  
March 14, 2003

Senate Chambers  
State Capitol

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

Roll Call. All members present except Senator Cromley, excused. Quorum present.

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

**MOTIONS**

**HB 264** - Senator Tropila moved he be allowed to change his vote on **HB 264**, second reading the fifty-third legislative day, from nay to yea. Motion carried.

**REPORTS OF STANDING COMMITTEES**

**BILL REPORT**

Correctly engrossed: **HB 76, HB 98, HB 170.**

Correctly enrolled: **SB 3, SB 10, SB 14, SB 17, SB 21, SB 27, SB 32, SB 33, SB 38, SB 40, SB 49, SB 51, SB 69.**

**BUSINESS AND LABOR** (Mahlum, Chairman):

3/14/2003

**HB 172**, be concurred in. Report adopted.

**COMMITTEE ON COMMITTEES** (Zook, Chairman):

3/13/2003

The Senate Committee on Committees has met and reappointed the following Senators to the Environmental Quality Council for a two year term:

Senator Walt McNutt  
Senator Jon Tester  
Senator Ken Toole  
Senator Dan McGee  
Senator Bob Story

The Committee appointed the following member to replace Senator McCarthy, who has served the maximum three terms.

Senator Glenn Roush

Report adopted.

**JUDICIARY** (Grimes, Chairman):

3/14/2003

**HB 211**, be amended as follows:

1. Title, lines 7 through 9.

**Following:** "MEMBERS;" on line 7

**Strike:** remainder of line 7 through "MONTANA;" on line 9

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2. Page 1, line 24 through line 26.

**Following:** "board." on line 24

**Strike:** remainder of line 24 through "MONTANA." on line 26

3. Page 6, line 10.

**Following:** "**adopt rules**"

**Insert:** "-- purpose for training"

**Following:** "rules."

**Insert:** "(1)"

4. Page 6, line 16.

**Following:** line 15

**Insert:** "(2) The legislature finds that American Indians incarcerated in state prisons constitute a disproportionate percentage of the total inmate population when compared to the American Indian population percentage of the total state population. The training of board members regarding American Indian culture and problems is necessary in order for the board to deal appropriately with American Indian inmates appearing before the board."

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

**HB 224**, be concurred in. Report adopted.

**HB 350**, be amended as follows:

1. Title, line 5.

**Following:** "DRUGS"

**Strike:** ", "

**Insert:** "OR"

2. Title, line 5 through line 6.

**Following:** "PARAPHERNALIA" on line 5

**Strike:** remainder of line 5 through the first "DRUGS" on line 6

3. Page 1, line 30.

**Following:** "PARAPHERNALIA:"

**Insert:** "or"

4. Page 2, line 1.

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

**Renumber:** subsequent subsection

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

**HB 402**, be concurred in. Report adopted.

**HB 478**, be amended as follows:

1. Title, line 8 and 9.

**Following:** "PROVIDING" on line 8

**Strike:** remainder of line 8 through "AND" on line 9

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2. Page 3, line 22 through line 23.

**Following:** "61-5-217" on line 22

**Strike:** remainder of line 22 through "ISSUED" on line 23

3. Page 4, line 23.

**Strike:** section 3 in its entirety

**Renumber:** subsequent section

4. Page 4, line 26.

**Following:** "committed"

**Insert:** "on or"

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

**HB 578**, be concurred in. Report adopted.

**LOCAL GOVERNMENT** (Bohlinger, Chairman):

3/13/2003

**HB 339**, be concurred in. Report adopted.

**HB 520**, be concurred in. Report adopted.

**HB 583**, be concurred in. Report adopted.

**HB 635**, be concurred in. Report adopted.

**TAXATION** (DePratu, Chairman):

3/13/2003

**SB 460**, introduced bill, be amended as follows:

1. Title, page 1, line 9.

**Strike:** "A RETROACTIVE"

**Insert:** "AN"

2. Page 1, line 19.

**Strike:** "and employee benefits"

**Insert:** ", including wages, salaries, and fringe benefits"

3. Page 1, line 20.

**Following:** "utility"

**Insert:** "and fuel"

4. Page 1, line 21.

**Following:** "(c)"

**Insert:** "costs of"

**Strike:** "and administrative services costs"

**Insert:** ", repairs, and supplies"

5. Page 1, line 23.

**Following:** "depreciation"

**Insert:** "computed on a straight-line basis with a 20-year life for buildings and improvements and a 7-year life for all other depreciable assets"

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6. Page 1.

**Following:** line 23

**Insert:** "(f) equipment and machinery rental;"

**Renumber:** subsequent subsections

7. Page 1, line 24.

**Following:** "(f)"

**Insert:** "costs of"

**Following:** "control"

**Insert:** ", "

**Strike:** "costs"

**Insert:** "environmental testing, and slag removal"

**Strike:** "and"

8. Page 1.

**Following:** line 24

**Insert:** "(h) costs incurred for training, freight, engineering services, insurance, and license fees directly attributable to smelting or refining;

(i) administrative services in Montana, including that portion of accounting, laboratory, purchasing, human resources, and warehouse allocable to smelting or refining; and"

**Renumber:** subsequent subsection

9. Page 1, line 26.

**Following:** "ore"

**Insert:** ", concentrate, dore, bullion, matte, or other form of processed concentrate"

10. Page 3, lines 8 and 9.

**Strike:** "Retroactive applicability" on line 8

**Insert:** "Applicability"

**Strike:** "retroactively" on line 8 through "1-2-109," on line 9

**Strike:** "2002" on line 9

**Insert:** "2003"

And, as amended, do pass. Report adopted.

**HB 391**, be concurred in. Report adopted.

**HB 429**, be concurred in. Report adopted.

**HB 667**, be amended as follows:

3/14/2003

1. Title, page 1, line 7.

**Strike:** "FRAUDULENT" through "PRACTICES AND"

2. Title, page 1, line 9.

**Strike:** "30-10-301,"

**Following:** "30-10-324"

**Strike:** ", "

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3. Page 1, line 13 through page 3, line 3.

**Strike:** section 1 in its entirety

**Renumber:** subsequent sections

4. Page 5, line 7 through line 8.

**Strike:** "PURPOSELY" on line 7 through "KNOWINGLY" on line 8

5. Page 5, line 9.

**Following:** "who"

**Insert:** "willfully"

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

**MESSAGES FROM THE OTHER HOUSE**

**Senate bills** concurred in and returned to the Senate:

3/13/2003

**SB 19**, introduced by Grimes

**SB 20**, introduced by Grimes

**SB 31**, introduced by Cobb

**SB 45**, introduced by Gebhardt

**SB 68**, introduced by Cromley

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

3/13/2003

**SB 75**, introduced by Stapleton

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 475**, introduced by Esp, Story, 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 71** concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, 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: None.

Total 0

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Absent or not voting: None.  
Total 0

Excused: Cromley.  
Total 1

**HB 89** concurred in as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 42

Nays: Barkus, Butcher, Esp, Hansen, Laible, McGee, O'Neil.  
Total 7

Absent or not voting: None.  
Total 0

Excused: Cromley.  
Total 1

**HB 104, as amended by the Senate**, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, 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: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Cromley.  
Total 1

**HB 110, as amended by the Senate**, concurred in as follows:

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

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Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Cromley.  
Total 1

**HB 144** concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.  
Total 45

Nays: Curtiss, Hansen, Nelson, Stapleton.  
Total 4

Absent or not voting: None.  
Total 0

Excused: Cromley.  
Total 1

**HB 161, as amended by the Senate**, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, 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: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Cromley.  
Total 1

**HB 178** concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, 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.

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Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Cromley.

Total 1

**HB 212** concurred in as follows:

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

Total 42

Nays: Butcher, Gebhardt, McNutt, Perry, Stapleton, Zook, Mr. President.

Total 7

Absent or not voting: None.

Total 0

Excused: Cromley.

Total 1

**HB 264** concurred in as follows:

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

Total 43

Nays: Barkus, Butcher, Johnson, McGee, Stapleton, Mr. President.

Total 6

Absent or not voting: None.

Total 0

Excused: Cromley.

Total 1

**HB 292, as amended by the Senate,** concurred in as follows:

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



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McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Tropila, Wheat, Zook, Mr. President.  
Total 48

Nays: Toole.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Cromley.  
Total 1

**HB 403, as amended by the Senate**, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat.  
Total 44

Nays: Esp, Johnson, Stapleton, Zook, Mr. President.  
Total 5

Absent or not voting: None.  
Total 0

Excused: Cromley.  
Total 1

**HJR 21** concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, 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 48

Nays: Esp.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Cromley.  
Total 1

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**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 Schmidt in the chair.

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

**HB 105** - Senator Cocchiarella moved **HB 105**, second reading copy, be amended as follows:

1. Page 5, line 1.

**Following:** "contest"

**Insert:** "on a highway as defined in 61-1-201"

2. Page 5, line 2.

**Following:** "street"

**Insert:** "on a highway as defined in 61-1-201"

Amendment **adopted** unanimously.

**Senators Harrington, Kitzenberg and McCarthy excused at this time.**

**HB 105** - Senator Cocchiarella moved **HB 105**, as amended, be concurred in. Motion carried as follows:

Yeas: Anderson, Barkus, Bohlinger, Butcher, Cocchiarella, Cooney, DePratu, Ellingson, Gebhardt, Glaser, Grimes, Mangan, McNutt, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Toole, Tropila, Wheat, Zook.  
Total 26

Nays: Bales, Black, Cobb, Curtiss, Elliott, Esp, Hansen, Johnson, Laible, Mahlum, McGee, Nelson, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Mr. President.  
Total 20

Absent or not voting: None.  
Total 0

Excused: Cromley, Harrington, Kitzenberg, McCarthy.  
Total 4

**Senator Kitzenberg present at this time.**

**HB 428** - Senator Grimes moved **HB 428**, second reading copy, be amended as follows:

1. Page 3, line 5.

**Insert:** "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 366 and [this act] are both passed and approved, then [this act] is void."

**Renumber:** subsequent sections

Amendment **adopted** unanimously.

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**Senator Harrington present at this time.**

**HB 428** - Senator Shea moved **HB 428**, as amended, be concurred in. Motion carried as follows:

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

Total 44

Nays: Bohlinger, Johnson, Story, Tropila.

Total 4

Absent or not voting: None.

Total 0

Excused: Cromley, McCarthy.

Total 2

**Senator Cobb excused at this time.**

**HB 134** - Senator Mangan moved **HB 134** 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 Schmidt moved the Committee of the Whole report be adopted. Report adopted unanimously.

**MOTIONS**

**HB 105** - Senator Thomas moved **HB 105** be taken from third reading and rereferred to the committee on Highways and Transportation. Motion carried.

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Saturday, March 15, 2003. Motion carried.

Senate adjourned at 2:10 p.m.

ROSANA SKELTON  
Secretary of the Senate

BOB KEENAN  
President of the Senate