

**SENATE JOURNAL  
58TH LEGISLATURE  
EIGHTY-FIFTH LEGISLATIVE DAY**

Helena, Montana  
April 22, 2003

Senate Chambers  
State Capitol

Senate convened at 8:00 a.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 eighty-fourth legislative day.

**REPORTS OF STANDING COMMITTEES**

**BILL REPORT**

Correctly printed: **SB 493**.

Correctly enrolled: **SB 155, SB 414, SB 484, SJR 18, SR 7, SR 8, SR 9**.

Examined by the sponsor and found to be correct: **SB 95, SB 231, SB 348, SB 401, SB 402, SB 442, SB 454, SB 484, SJR 22, SR 7, SR 8, SR 9**.

Signed by the President at 9:00 a.m., April 22, 2003: **SB 95, SB 231, SB 348, SB 401, SB 402, SB 442, SB 454, SB 484, SJR 22, SR 7, SR 8, SR 9**.

Signed by the Secretary of the Senate at 10:00 a.m., April 22, 2003: **SB 95, SB 231, SB 348, SB 401, SB 402, SB 442, SB 454, SB 484, SJR 22, SR 7, SR 8, SR 9**.

Signed by the Speaker at 10:30 a.m., April 22, 2003: **SB 95, SB 231, SB 348, SB 401, SB 402, SB 442, SB 454, SB 484, SJR 22**.

Delivered to the Secretary of State at 11:09 a.m., April 22, 2003: **SJR 22, SR 7, SR 8, SR 9**.

Delivered to the Governor for approval at 11:30 a.m., April 22, 2003: **SB 95, SB 231, SB 348, SB 401, SB 402, SB 442, SB 454, SB 484**.

**LEGISLATIVE ADMINISTRATION** (Grimes, Chairman):

4/22/2003

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 12:00 noon, Thursday, April 17, 2003:

TITLE

NAME

Pages:

Halley Montalban, Billings, MT  
Brad Foster, Townsend, MT  
Alexandra Lane, Missoula, MT  
Heather Stricker, Laurel, MT  
Hannah Lee, Missoula, MT

Report Adopted.

**MOTIONS**

**HB 608** - Senator Thomas moved consideration of **HB 608** be moved to the afternoon session this legislative day. Motion carried.

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**SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)**

Session 1

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:

**SB 360 - Free Conference Committee Report No. 1** - Senator F. Thomas moved the **Free** Conference Committee report to **SB 360** be adopted. Motion carried unanimously.

**SB 325 - Governor's Amendments** - Senator McGee moved Governor's amendments to **SB 325** be concurred in. Motion carried unanimously.

**HB 720 - Free Conference Committee Report No. 1** - Senator Tash moved the **Free** Conference Committee report to **HB 720** be adopted. Motion carried unanimously.

**HJR 36** - Senator McGee moved **HJR 36** be concurred in. Motion carried 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, Tester, Thomas, Tropila, Zook, Mr. President.

Total 45

Nays: Cromley, Ellingson, Mangan, Toole, Wheat.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise, report progress, and beg leave to sit again. 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.

**SPECIAL ORDERS OF THE DAY**

**SR 10** - Senator Cobb moved **SR 10**, concurring in, confirming, and consenting to the nominations and appointments made by the Governor and submitted by written communication to the Senate, of Mr. Steve Johnson, Mr. Patrick Dudley and Mr. Joe Dwyer, as members of the Board of Personnel Appeals be adopted, and that the yeas and nays be spread upon the journal. Motion carried 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

**MOTIONS**

**SB 487**- Senator Thomas moved the President be authorized to appoint a **Free** Conference Committee, and request the House to appoint a like committee to confer on **SB 487**. Motion carried. The President appointed the following members:

Senator Johnson, Chair  
Senator Laible  
Senator Pease

Majority Leader Thomas moved the Senate stand in recess until the hour of 1:00 p.m. this day. Motion carried.

**Senate recessed at 8:35 p.m.**  
**Senate reconvened at 1:00 p.m.**

Roll call. All members present. Quorum present.

**REPORTS OF SELECT COMMITTEES**

**FREE CONFERENCE COMMITTEE**  
**on House Bill 13**  
Report No. 1, April 22, 2003

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 13** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 13** (reference copy -- salmon) be accepted by the House.

For the House:

A. Olson, Chairman  
Barrett  
Kaufmann (unsigned)

For the Senate:

Zook, Chairman  
Tash  
Cooney (unsigned)

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**MESSAGES FROM THE GOVERNOR**

April 21, 2003

The Honorable Bob Keenan  
President of the Senate  
State Capitol  
Helena, Montana 59620

Dear Senator Keenan:

Please be informed that I have signed **Senate Bill 35** sponsored by Senator Grimes, **Senate Bill 209** sponsored by Senator Tester et al., **Senate Bill 363** sponsored by Senator McNutt et al., **Senate Bill 366** sponsored by Senator Grimes et al., **Senate Bill 392** sponsored by Senator Bales et al., **Senate Bill 423** sponsored by Senator Black et al., **Senate Bill 447** sponsored by Senator Grimes et al., and **Senate Bill 450** sponsored by Senator Cocchiarella et al. on April 21, 2003.

Sincerely,

JUDY MARTZ  
Governor

April 21, 2003

The Honorable Doug Mood  
Speaker of the House  
State Capitol  
Helena, Montana 59620

The Honorable Bob Keenan  
President of the Senate  
State Capitol  
Helena, Montana 59620

**Re: HB 218**

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 218, **"AN ACT REQUIRING THAT THE OWNER OF HIGH-LEVEL RADIOACTIVE WASTE OR TRANSURANIC WASTE PAY FEES, SUBMIT A SAFETY PLAN, AND OBTAIN A PERMIT BEFORE SHIPPING THE WASTE THROUGH MONTANA; DEFINING TERMS; CREATING THE RADIOACTIVE WASTE TRANSPORTATION MONITORING, EMERGENCY RESPONSE, AND TRAINING ACCOUNT IN THE STATE SPECIAL REVENUE FUND; SPECIFYING HOW MONEY IN THE ACCOUNT MUST BE USED; REQUIRING THAT INITIAL NOTICE OF SHIPMENTS BE PROVIDED TO THE DISASTER AND EMERGENCY SERVICES DIVISION OF THE DEPARTMENT OF MILITARY AFFAIRS AND TO THE DEPARTMENT OF TRANSPORTATION; REQUIRING THAT THE DISASTER AND EMERGENCY SERVICES DIVISION NOTIFY CERTAIN OTHER AGENCIES AND PERSONS WHEN IT IS INFORMED THAT WASTE WILL BE ROUTED**

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**THROUGH MONTANA; PROVIDING RESPONSIBILITIES FOR OWNERS; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO COLLECT THE FEES AND ISSUE PERMITS; REQUIRING INSPECTIONS; REQUIRING THAT THE PERMIT REMAIN WITH THE TRANSPORTER OF WASTE AS IT TRAVELS THROUGH THE STATE; REQUIRING THE HIGHWAY PATROL TO MONITOR OR ESCORT MOTOR CARRIERS THAT ARE CARRYING THE WASTE; PROVIDING FOR THE COORDINATION OF INSPECTIONS OF MOTOR CARRIERS; ALLOWING THE HIGHWAY PATROL TO BE REIMBURSED FOR COSTS INCURRED IN MONITORING OR ESCORTING THE MOTOR CARRIERS; SPECIFYING THAT THE PUBLIC SERVICE COMMISSION IS RESPONSIBLE FOR INSPECTING RAILS OR TRAINS THAT WILL BE INVOLVED IN CARRYING THE WASTE; PROVIDING CERTAIN RECOMMENDATIONS FOR TRANSPORT OF THE WASTE; ALLOWING THE PUBLIC SERVICE COMMISSION TO ENTER INTO RECIPROCAL AGREEMENTS WITH ADJACENT STATES AND CANADIAN PROVINCES FOR INSPECTION; REQUIRING THE PUBLIC SERVICE COMMISSION TO ESTABLISH RULES FOR CARRYING OUT THESE PROVISIONS; ASSIGNING LIABILITY; PROVIDING A PENALTY; AND PROVIDING A DELAYED EFFECTIVE DATE" without my signature and recommend the attached amendment for the following reason:**

I have no concerns with the objectives of House Bill No. 218, nor with its specific measures. I recommend, however, that Section 8 (5) be amended, for clarification purposes, to read that the routing of the transport by motor carrier of high-level radioactive waste and transuranic waste must be determined by the Department of Transportation and the appropriate regulating federal authority.

I have enclosed my amendment to that effect. Please be advised that Senator Bookout-Reinicke, the sponsor of the bill, has been informed of my recommendation and has no objections.

I urge your concurrence in the amendment.

Sincerely,

JUDY MARTZ  
Governor

GOVERNOR'S AMENDMENTS  
TO HOUSE BILL 218

1. Page 7, line 3.  
Strike: "TRANSPORT"  
Insert: "The routing of the transport"

April 18, 2003

The Honorable Doug Mood  
Speaker of the House  
State Capitol  
Helena, Montana 59620

The Honorable Bob Keenan  
President of the Senate  
State Capitol

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Helena, Montana 59620

**Re: HB 247**

Dear Speaker Mood and President Keenan:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 247, "**AN ACT PROHIBITING LOCAL GOVERNMENTS FROM ENACTING ORDINANCES CONCERNING VAGRANCY; REMOVING EXISTING STATUTORY PROVISIONS CONCERNING VAGRANCY; AMENDING SECTIONS 7-1-111, 7-21-3322, 7-32-4304, AND 53-21-138, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE**" for the following reasons.

House Bill No. 247, as it stands, would prohibit vagrancy ordinances to include aggressive solicitation. Further, House Bill No. 247, as it stands, would not prohibit (1) panhandlers from following citizens down a public sidewalk until they respond affirmatively to the solicitation; (2) panhandlers from approaching cars stopped at a traffic light; or (3) panhandlers from blocking the safe or free passage of a person on a sidewalk.

The proposed amendments would allow cities to enact an aggressive solicitation ordinance while still prohibiting non-aggressive panhandling.

For these reasons, I recommend that Section 1 (14) be amended as follows: **7-1-111. Powers defined.** A local government unit with self-government powers is prohibited from exercising the following: (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy. And, I recommend that Section 3, be amended as follows: 7-32-4304. Control of disorderly conduct and aggressive solicitation. The city or town council has power to restrain and punish persons guilty of disorderly conduct and aggressive solicitation as defined by ordinance.

I have enclosed my amendments to that effect. Please be advised that Representative Harris, the sponsor of the bill, has been informed of my recommendation.

Sincerely,

JUDY MARTZ  
Governor

GOVERNOR'S AMENDMENTS  
TO HOUSE BILL 247

1. Title, line 5.

**Following:** "VAGRANCY;"

**Insert:** "CLARIFYING THAT VAGRANCY DOES NOT INCLUDE AGGRESSIVE SOLICITATION;"

2. Page 2, line 15.

**Following:** "(14)"

**Insert:** "subject to 7-32-4304,"

3. Page 3, line 13.

**Following:** "conduct"

**Insert:** "and aggressive solicitation"

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4. Page 3, line 14.

**Following:** "conduct"

**Insert:** "and aggressive solicitation as defined by ordinance"

**MOTIONS**

**SB 461** - Senator Thomas moved the President be authorized to appoint a **Conference** Committee, and request the House to appoint a like committee, to confer on House amendments to **SB 461**. Motion carried. The President appointed the following members:

Senator Story, Chair  
Senator DePratu  
Senator Stonington

**HB 559** - Senator Thomas moved the Senate accede to the request of the House that the Conference Committee to **HB 559** be dissolved, and that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on **HB 559**. Motion carried. The President appointed the following members:

Senator Glaser, Chair  
Senator Story  
Senator Elliott

Session 2

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Keenan retained the chair.

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

**SB 362 - Free Conference Committee Report No. 1** - Senator Grimes moved the **Free** Conference Committee report to **SB 362** be adopted. Motion carried with Senator Bales, Cocchiarella and Shea voting nay.

**Senator Grimes assumed the chair.**

**SB 408 - Governor's Amendments** - Senator Nelson moved Governor's amendments to **SB 408** be concurred in. Motion carried unanimously.

**SB 429 - Governor's Amendments** - Senator Esp moved Governor's amendments to **SB 429** be concurred in. Motion carried unanimously.

**SB 464 - House Amendments** - Senator Keenan moved House amendments to **SB 464** be concurred in. Motion carried unanimously.

**SB 493** - Senator Keenan moved **SB 493** do pass. Motion carried unanimously.

**HB 608** - Senator Elliott moved **HB 608**, second reading copy, be amended as follows:

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1. Title, line 11.

**Strike:** "QUARTERLY"

**Insert:** "ANNUAL"

2. (Deleted per clerical dated 4/22/2003)

3. (Deleted per clerical dated 4/22/2003)

**Section 1 deleted by Sen. Thomas' Committee of the Whole amendment**

4. Page 2, line 22.

**Strike:** "Quarterly"

**Insert:** "At least annually"

Amendment **adopted** unanimously.

**HB 608** - Senator F. Thomas moved **HB 608**, second reading copy, be further amended as follows:

1. Title, line 8.

**Strike:** "REQUIRING"

**Insert:** "PROVIDING FOR"

2. Title, line 10.

**Strike:** "REQUIRING"

**Insert:** "AUTHORIZING"

3. Title, line 11.

**Strike:** "REQUIRING"

**Insert:** "PROVIDING FOR"

4. Page 1, line 13.

**Insert:** "WHEREAS, the Legislature recognizes the right of tribes to self-government; and  
WHEREAS, the Legislature supports tribal sovereignty and self-determination; and  
WHEREAS, the Legislature recognizes the fundamental principle and integrity of the  
government-to-government relationship between the State of Montana and the Indian Nations of Montana; and  
WHEREAS, the Legislature supports strengthening communications and building collaborative relationships  
that will benefit both the Indian Nations and the State of Montana."

5. Page 1, line 16 through line 24.

**Strike:** section 1 in its entirety

**Renumber:** subsequent sections

6. Page 1, line 26.

**Strike:** "5"

**Insert:** "3"

7. Page 2, line 6.

**Strike:** "must be guided by"

**Insert:** "should consider"



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8. Page 2, line 14 through line 15.

**Strike:** section 4 in its entirety

**Renumber:** subsequent sections

9. Page 2, line 22.

**Strike:** "shall"

**Insert:** "may"

10. Page 3, line 10.

**Strike:** "5"

**Insert:** "3"

11. Page 3, line 12.

**Strike:** "5"

**Insert:** "3"

Amendment **adopted** with Senator Mangan voting nay.

**HB 608** - Senator Elliott moved **HB 608**, as amended, 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 Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

**MOTIONS**

**HB 558** - Senator Thomas moved the Senate accede to the request of the House and that the President be authorized to appoint a **Conference** Committee to meet with a like committee from the House to confer on Senate amendments to **HB 558**. Motion carried. The President appointed the following members:

Senator Mahlum, Chair  
Senator Sprague  
Senator Shea

**MESSAGES FROM THE OTHER HOUSE**

**SB 314** - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 314**:

4/22/2003

Representative E. Clark, Chair  
Representative B. Thomas  
Representative Raser

**SB 424** - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 424**:

4/22/2003

Representative Andersen, Chair  
Representative Jackson  
Representative Fritz

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**SB 487** - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free Conference Committee** to meet with a like committee from the Senate to confer on **SB 487**:

4/22/2003

Representative Bitney, Chair  
Representative Mendenhall  
Representative Small-Eastman

**SB 407** - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference Committee** to meet with a like committee from the Senate to confer on House amendments to **SB 407**:

4/22/2003

Representative Devlin, Chair  
Representative Balyeat  
Representative Laslovich

**SB 461** - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Conference Committee** to meet with a like committee from the Senate to confer on House amendments to **SB 461**:

4/22/2003

Representative Devlin, Chair  
Representative Lake  
Representative Forrester

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 8:00 a.m., Wednesday, April 23, 2003. Motion carried.

Senate adjourned at 1:46 p.m.

ROSANA SKELTON  
Secretary of the Senate

BOB KEENAN  
President of the Senate