

**SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
February 1, 1999

Senate Chambers
State Capitol

Senate convened at 1:30 p.m. President Crippen presiding. Invocation by Father Lowney. Pledge of Allegiance to the Flag.

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

Mr. President: We, your committee on Bills and Journal, having examined the daily journal for the twenty-fourth legislative day, find the same to be correct.

Miller, Chairman

Senator Thomas introduced the Senate pages for the week of February 1 - 6, 1999.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 2/1/1999

Correctly printed: SB 99, SB 114, SB 180, SB 205, SB 207, SB 210, SB 214, SB 225, SB 226, SB 270, SB 338, SB 339, SB 340, SB 341, SB 342, SB 343, SB 344, SB 345, SB 346, SB 347, SB 348, SB 349, SB 350, SB 351, SB 352, SB 353, SB 354, SB 355, SB 356, SB 357.

Correctly engrossed: SB 89, SB 90, SB 113, SB 133, SB 142, SB 206, SB 219.

Signed by the Speaker at 11:20 a.m., February 1, 1999: SB 80.

Delivered to the Governor for his approval at 1:08 p.m., February 1, 1999: SB 80.

EDUCATION AND CULTURAL RESOURCES (Toews, Chairman): 2/1/1999

SB 3, introduced bill, be amended as follows:

1. Page 1, line 14.

Following: "means"

Insert: "to"

2. Page 1, line 15.

Strike: "inflicting"

Insert: "inflict"

Following: "prolonged"

Insert: "maintenance of"

And, as amended, do pass. Report adopted.

SB 150, introduced bill, be amended as follows:

1. Title, line 4.

Following: "REIMBURSEMENT"

Strike: "WITHIN THE 3-MILE LIMIT"

2. Title, line 5.

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 1999

Following: "CONTRACTS"

Insert: "FOR TRANSPORTING AN ELIGIBLE TRANSPORTEE FROM THE RESIDENCE TO A BUS STOP OF AN APPROVED BUS ROUTE"

3. Page 1, line 23.

Following: "~~product~~"

Insert: "subtracting 6 miles from the product"

Following: "difference"

Strike: "~~product~~"

Insert: "difference"

And, as amended, do pass. Report adopted.

SB 246, introduced bill, be amended as follows:

1. Page 4, line 4.

Strike: "~~may~~"

Insert: "shall"

2. Page 4, line 6.

Strike: "~~may~~"

Insert: "shall either"

3. Page 4, line 8.

Strike: "~~and may~~"

Insert: "or shall"

And, as amended, do pass. Report adopted.

SB 288, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Following: "OF THE"

Insert: "TAXABLE VALUE OF THE"

2. Page 1, line 23.

Following: "~~within~~ the"

Insert: "taxable value of the"

And, as amended, do pass. Report adopted.

JUDICIARY (Grosfield, Chairman):

1/29/1999

SB 36, introduced bill, be amended as follows:

1. Title, line 5.

Following: "PRACTITIONERS"

Insert: "AND DENTAL HYGIENISTS"

2. Page 1, line 12.

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 1999

Strike: "dentist or"
Following: "practitioner"
Insert: "or dental hygienist"

3. Page 1, line 13.

Following: "A"
Strike: "dentist, dental surgeon, or oral surgeon"
Insert: "medical practitioner, as defined in 37-2-101, or a dental hygienist"

4. Page 1, line 13 through line 14.

Following: "who" on line 13
Strike: remainder of line 13 through "assistance" on line 14
Insert: "renders, at any site, any health care within the scope of the provider's license, voluntarily and"

5. Page 1, line 15.

Following: "supplies,"
Insert: "to a patient of a clinic or to a patient referred by a clinic"
Following: "liable"
Insert: "to a person"
Following: the first "damages"
Strike: "for acts or omissions other than damages occasioned by"
Insert: "resulting from the rendering of the care, unless the damages were the result of"

6. Page 1, line 16.

Strike: the first "by"
Following: "the"
Strike: "dentist, dental surgeon, or oral surgeon"
Insert: "medical practitioner or dental hygienist"

7. Page 1, line 17 through line 20.

Strike: subsection (2) in its entirety
Insert: "(2) For purposes of this section:
(a) "clinic" means a place for the provision of health care to patients that is organized in whole or in part for the delivery of health care without compensation, except for reimbursement for supplies;
(b) "health care" has the meaning provided in 50-16-504;
(c) "without compensation" means that the provider and the patient have agreed before any services are provided that the patient will pay no reimbursement or compensation for the services rendered, except for reimbursement for supplies."

And, as amended, do pass. Report adopted.

SB 75, introduced bill, be amended as follows:

1. Title, line 5 through line 10.

Following: "AN ACT" on line 5
Strike: remainder of line 5 through "RECORDS" on line 10
Insert: "AUTHORIZING THE MEDICAID FRAUD CONTROL UNIT TO INVESTIGATE COMPLAINTS ABOUT PATIENT ABUSE AND NEGLECT AND MISAPPROPRIATION OF PATIENT PROPERTY"

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 1999

BY ANY PERSON"

2. Title, line 10.

Strike: "SECTIONS 52-3-811 AND"

Insert: "SECTION"

3. Page 1, line 14 through page 2, line 20.

Strike: section 1 in its entirety

Renumber: subsequent section

4. Page 4, line 7 through page 5, line 13.

Strike: section 3 through section 5 in their entirety

And, as amended, do pass. Report adopted.

SB 163, introduced bill, be amended as follows:

1. Page 2, line 4.

Strike: "fishing,"

Following: "camping,"

Insert: "or"

2. Page 2, line 5.

Following: "skiing"

Strike: ", horseback riding, or hunting"

3. Page 4, line 23.

Following: "transportation,"

Insert: "the public service commission,"

4. Page 4, line 25 through line 26.

Strike: subsection (8) in its entirety

Insert: "(8) an official of a rail union acting in an official capacity."

And, as amended, do pass. Report adopted.

SB 203, do pass. Report adopted.

SB 215, do pass. Report adopted.

SB 221, introduced bill, be amended as follows:

1. Page 1, line 27.

Following: "of"

Insert: "such"

Following: "shall"

Strike: "᠚"

2. Page 1, line 28.

Strike: "(a)"

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 1999

Following: "facts"
Insert: "and circumstances"
Following: "that"
Insert: ": (a)"
Following: "committed:"
Insert: "and"

3. Page 1, line 29 through line 30.
Following: "(b)" on line 29
Strike: remainder of line 29 through "are" on line 30
Insert: "the information"

4. Page 2, line 1.
Following: "offense"
Strike: "and are"
Insert: "is"
Following: "in"
Insert: "the"

5. Page 2, line 2.
Following: "directed"
Strike: "; and"
Insert: "."

6. Page 2, line 3.
Strike: subsection (c) in its entirety

And, as amended, do pass. Report adopted.

RULES (Harp, Chairman):
SR 2, introduced resolution, be amended as follows:

1/29/1999

1. Page 2, lines 23 through 28.
Following: "(2)"
Strike: remainder of line 23 through "reading" on line 28
Insert: "A motion on second reading must be disposed of by a positive vote"

And, as amended, be adopted. Report adopted.

STATE ADMINISTRATION (Cole, Chairman):
SB 291, do pass. Report adopted.

2/1/1999

TAXATION (Devlin, Chairman):
SB 274, introduced bill, be amended as follows:

2/1/1999

1. Page 3, lines 16 and 17.
Strike: "engaged in the support of" on line 16
Insert: "directly used for"

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 1999

Strike: "manufacturing and launching" on lines 16 and 17
Insert: "design, manufacture, launch, repair, and maintenance"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/30/1999

HB 35, introduced by C. Ahner
HB 113, introduced by C. Younkin
HB 120, introduced by R. Brown
HB 121, introduced by B. Krenzler
HB 245, introduced by B. Simon

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 99 passed as follows:

Yeas: Bartlett, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Beck.
Total 1

SB 114 passed as follows:

Yeas: Bartlett, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 1999

Total 0

Excused: Beck.

Total 1

SB 133 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Waterman, Wilson, Mr. President.

Total 48

Nays: Toews, Wells.

Total 2

Paired: Beck, Aye; Toews, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 180 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Crismore, DePratu, Eck, Ekegren, Ellis, Glaser, Grimes, Halligan, Hargrove, Hertel, Holden, Lynch, Mahlum, McCarthy, Mesaros, Miller, Mohl, Shea, Sprague, Stang, Swysgood, Tester, Thomas, Waterman, Wilson, Mr. President.

Total 33

Nays: Cole, Devlin, Doherty, Ellingson, Franklin, Grosfield, Harp, Jabs, Jergeson, Keating, Keenan, McNutt, Nelson, Roush, Taylor, Toews, Wells.

Total 17

Paired: Beck, Aye; Toews, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 207 passed as follows:

Yeas: Bartlett, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson,

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 1999

Keating, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Tester, Thomas, Waterman, Wilson, Mr. President.
Total 43

Nays: DePratu, Glaser, Keenan, Taylor, Toews, Wells.
Total 6

Absent or not voting: None.
Total 0

Excused: Beck.
Total 1

MOTIONS

SB 220 - Senator Devlin moved that SB 220 be taken from the Taxation Committee and rereferred to the Committee on Finance and Claims. Motion carried as follows:

Yeas: Berry, Bishop, Bohlinger, Christiaens, Cole, DePratu, Devlin, Eck, Ekegren, Ellis, Franklin, Grimes, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Lynch, Mahlum, McCarthy, Mesaros, Miller, Mohl, Shea, Sprague, Swysgood, Taylor, Thomas, Waterman, Wells, Wilson, Mr. President.
Total 33

Nays: Bartlett, Cocchiarella, Crismore, Doherty, Ellingson, Glaser, Grosfield, Halligan, Jergeson, Keenan, McNutt, Nelson, Roush, Stang, Tester, Toews.
Total 16

Absent or not voting: None.
Total 0

Excused: Beck.
Total 1

SB 273 - Senator Jabs moved that Bishop, Bohlinger, Cole, Crippen, Crismore, DePratu, Doherty, Ellis, Halligan, Harp, Keating, Keenan, Miller, Mohl, Sprague, M. Taylor, F. Thomas, Sliter, S. Fisher, Mercer, Noennig, Fuchs, Eggers, Simon, Bitney, Lawson, L. Taylor, Gillan, Hurdle, Johnson, Krenzler, J. Andersen, Soft, R. Somerville, be added as sponsors to SB 273. Motion carried.

SB 156 - Senator Sprague moved that the Senate reconsider its action in adopting the Adverse Committee Report on SB 156 on the 24th legislative day, January 30, 1999. After discussion, Senator Sprague withdrew his motion.

FIRST READING AND COMMITMENT OF BILLS

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

SB 358, introduced by M. Cole, referred to Business and Industry.

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 1999

SB 359, introduced by E. Franklin, M. Halligan, referred to Public Health, Welfare and Safety.

SB 360, introduced by E. Franklin, G. Golie, T. Schmidt, referred to Natural Resources.

SB 361, introduced by K. Mesaros, S. Anderson, J. Barnett, T. Beck, R. Clark, M. Cole, W. Crismore, A. Curtiss, R. Dale, G. Devlin, P. Ekegren, A. Ellis, B. Glaser, G. Golie, L. Grinde, M. Hanson, J. Harp, D. Hedges, J. Hertel, J. Holden, R. Jabs, B. Keenan, S. Kitzenberg, B. Krenzler, R. Lenhart, W. McNutt, A. Mohl, L. Nelson, S. Orr, R. Peck, B. Rehbein, S. Rose, G. Roush, P. Sliter, B. Story, J. Stovall, C. Swysgood, B. Tash, J. Tester, B. Thomas, J. Witt, referred to Agriculture, Livestock and Irrigation.

SB 362, introduced by T. Keating, referred to Natural Resources.

SB 363, introduced by D. Eck, S. Bartlett, C. Christiaens, J. Ellingson, R. Lenhart, C. Williams, referred to Judiciary.

SB 364, introduced by D. Eck, B. Barnhart, S. Bartlett, C. Christiaens, J. Cobb, E. Franklin, B. Glaser, B. Krenzler, B. Lawson, B. McCarthy, L. Soft, M. Waterman, referred to Public Health, Welfare and Safety.

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

HB 35, introduced by C. Ahner (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

HB 113, introduced by C. Younkin (by request of the Department of Environmental Quality), referred to Natural Resources.

HB 120, introduced by R. Brown (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

HB 121, introduced by B. Krenzler (by request of the State Auditor), referred to Business and Industry.

HB 245, introduced by B. Simon, referred to Business and Industry.

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

Senator Harp moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Bartlett in the chair.

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

SB 27 - Senator Hertel moved SB 27, second reading copy, be amended as follows :

1. Page 4, line 30.

Following: "for"

Strike: "the"

Following: "indemnification"

Strike: "of"

Insert: "to the state of Montana for"

2. Page 5, lines 6 and 11.

Strike: "3 years"

Insert: "1 year"

3. Page 5, line 20.

Following: "to"

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 1999

Insert: "the state of Montana for"

Amendment **adopted** unanimously.

SB 27 - Senator J. Hertel moved SB 27, as amended, do pass. Motion carried unanimously.

SB 89 - Senator S. Stang moved SB 89 do pass. Motion carried unanimously.

SB 90 - Senator B. Stang moved SB 90, second reading copy, be amended as follows:

1. Title, page 1, line 9 through page 1, line 11.

Following: "~~POSITION;~~"

Strike: remainder of line 9 through "QUALIFICATIONS;" on line 11

Insert: "REQUIRING PROOF OF THE USE OF A SUBSTANTIALLY EQUIVALENT SELECTION PROCEDURE TO APPLY VETERANS' PREFERENCE WHENEVER A SCORED PROCEDURE IS NOT USED; REQUIRING A PUBLIC EMPLOYER TO APPLY VETERANS' PREFERENCE WHEN NO APPLICANT MEETS THE MINIMUM QUALIFICATIONS AND THE PUBLIC EMPLOYER FILLS A TRAINING POSITION;"

2. Page 1, line 30.

Following: "~~applied.~~"

Insert: "If no applicant meets the minimum qualifications and the public employer fills a training position, veterans' preference must be applied."

3. Page 2, line 7 through line 9.

Following: "~~subsection (1)~~"

Strike: remainder of line 7 through "39-30-103" on line 9

Insert: "provide proof that the procedure used to apply veterans' preference was substantially equivalent to the scored procedure. As used in this subsection, "substantially equivalent" means a procedure under which an applicant receives from the public employer a weighted preference factor similar to the percentage points provided for in subsection (1)"

Amendment **adopted** with Senators Bartlett, Grimes and Waterman voting nay.

SB 90 - Senator S. Stang moved SB 90, as amended, do pass. Motion carried with Senators Bartlett and Grimes voting nay.

SB 113 - Senator D. Mahlum moved SB 113 do pass. Senator DePratu expressed a conflict of interest in SB 113 due to the fact he has an auto dealership and a used auto dealership. Senator Mahlum's motion carried as follows:

Yeas: Bartlett, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Mohl, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Thomas, Waterman, Wilson, Mr. President.

Total 42

Nays: Glaser, Keenan, Miller, Nelson, Tester, Toews, Wells.

Total 7

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 1999

Absent or not voting: None.
Total 0

Excused: Beck.
Total 1

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

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Harp moved that the Senate adjourn until 1:00 p.m., Tuesday, February 2, 1999. Motion carried.

Senate adjourned at 2:55 p.m.

ROSANA SKELTON
Secretary of Senate

BRUCE CRIPPEN
President of the Senate