

**SENATE JOURNAL
57TH LEGISLATURE
SIXTH LEGISLATIVE DAY**

Helena, Montana
January 9, 2001

Senate Chambers
State Capitol

Senate convened at 1:30 p.m. President Beck presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Grosfield, Chairman):

1/9/2001

SB 20, do pass. Report adopted.

SB 23, introduced bill, be amended as follows:

1. Title, line 7.

Following: "30-9-124,"

Insert: "30-9-129,"

2. Page 28, line 19.

Insert: "**Section 5.** Section 30-9-129, MCA, is amended to read:

"30-9-129. (Effective July 1, 2001) Scope. (1) Except as otherwise provided in subsections (3) and (4), this chapter applies to:

(a) any transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(b) an agricultural lien;

(c) a sale of an account, chattel paper, payment intangible, or promissory note;

(d) a consignment;

(e) a security interest arising under 30-2-401, 30-2-505, 30-2-711(3), or 30-2A-508(5), to the extent provided in 30-9-130; and

(f) a security interest arising under 30-4-208 or 30-5-118.

(2) The application of this chapter to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this chapter does not apply.

(3) This chapter does not apply to the extent that:

(a) a statute, regulation, or treaty of the United States preempts this chapter;

(b) another statute of this state expressly governs the creation, perfection, priority, or enforcement of a security interest created by this state or a governmental unit of this state;

(c) a statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or

(d) the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under 30-5-134.

(4) This chapter does not apply to:

(a) a landlord's lien, other than an agricultural lien;

(b) a lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but 30-9-353 applies with respect to priority of the lien;

(c) an assignment of a claim for wages, salary, or other compensation of an employee;

(d) a sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business

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out of which they arose;

(e) an assignment of accounts, chattel paper, payment intangibles, or promissory notes that is for the purpose of collection only;

(f) an assignment of a right to payment under a contract to an assignee that is also obliged to perform under the contract;

(g) an assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(h) a transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but 30-9-335 and 30-9-342 apply with respect to proceeds and priorities in proceeds;

(i) an assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(j) a right of recoupment or setoff, but:

(i) 30-9-360 applies with respect to the effectiveness of rights of recoupment or setoff against deposit accounts; and

(ii) 30-9-444 applies with respect to defenses or claims of an account debtor;

(k) the creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

(i) liens on real property in 30-9-213 and 30-9-328;

(ii) fixtures in 30-9-354;

(iii) fixture filings in 30-9-521, 30-9-522, 30-9-532, 30-9-536, and 30-9-539; and

(iv) security agreements covering personal and real property in 30-9-604;

(l) an assignment of a claim arising in tort, other than a commercial tort claim, but 30-9-335 and 30-9-342 apply with respect to proceeds and priorities in proceeds; or

(m) a transfer by a government or governmental subdivision or agency; or

~~(m)~~(n) an assignment of a deposit account in a consumer transaction, except that 30-9-335 and 30-9-342 apply with respect to proceeds and priorities in proceeds.""

Renumber: subsequent sections

3. Page 48, line 24.

Insert: "NEW SECTION. Section 25. Codification instruction. [Section 24] and sections 161 through 167, Chapter 305, Laws of 1999, are intended to be codified as an integral part of Title 30, chapter 9, and the provisions of Title 30, chapter 9, apply to [section 24] and sections 161 through 167, Chapter 305, Laws of 1999."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

TAXATION (DePratu, Chairman):

1/9/2001

SB 45, do pass. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

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

SB 119, introduced by Berry (by request of the Department of Revenue and the Governor), referred to Taxation.

SB 208, introduced by Stonington, referred to Highways and Transportation.

SB 209, introduced by Waterman, referred to Judiciary.

SB 210, introduced by Waterman, referred to Local Government.

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SB 211, introduced by Shea, referred to Business and Labor.

SB 212, introduced by Shea, Bixby, Buzzas, Callahan, Cocchiarella, Cyr, Doherty, Franklin, Fritz, Gallus, Harrington, Jent, Jergeson, Juneau, Keane, Kitzenberg, Laszlovich, McCarthy, Nelson, Pease, Roush, Smith, Toole, Tramelli, Tropicola, referred to Legislative Administration.

SB 213, introduced by Glaser, referred to Taxation.

SB 214, introduced by Tash, referred to Education and Cultural Resources.

SB 215, introduced by Berry, referred to Local Government.

SB 216, introduced by Berry, referred to Local Government.

SB 217, introduced by Cobb, referred to Judiciary.

SB 218, introduced by Ryan, Galvin-Halcro, referred to Education and Cultural Resources.

**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 Crismore in the chair.

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

SJR 2 - Senator Waterman moved SJR 2 be adopted. Motion carried unanimously.

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

THIRD READING OF BILLS

The following bill having been read three several times, title and history agreed to, was disposed of in the following manner:

SB 55 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0
Excused: None.
Total 0

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ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 1:30 p.m., Wednesday, January 10, 2001. Motion carried.

Senate adjourned at 1:48 p.m.

ROSANA SKELTON
Secretary of Senate

TOM BECK
President of the Senate