

SENATE JOURNAL
EIGHTH LEGISLATIVE DAY - JANUARY 12, 2005

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59TH LEGISLATURE
EIGHTH LEGISLATIVE DAY

Helena, Montana
January 12, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding.

Fr. Jerry Lowney introduced Tribal Leader and member of the Confederated Salish and Kootenai Tribes of the Flathead Nation, Mr. Tony Incashola.

Mr. Incashola made the following remarks and led the chamber in an invocation:

"Good Afternoon. I am honored to do an opening prayer for this assembly today.

God, Creator, I come before you today to ask that you look upon the members of the Senate and gift them with your knowledge and wisdom. Creator, I pray for those who have gone before us, our ancestors and forefathers who with their mighty words, deeds and sacrifices made this the great State it is. I especially ask you, Creator, to wrap your loving arms around those whose lives have been forever altered by all the wars in this world. We truly are one nation under God, and seek your guidance in all decisions, small and large, that affect the diverse peoples of Montana.

We have reached a point in our history, Creator, where your guidance and wisdom are of great importance. I ask members of the Senate to look to you for the path to follow, so that justice and righteousness will be served. I implore you to listen to the prayers and needs of these men and women who have been chosen to lead this state. Give them the strength to make decisions, popular or not, to lead the State of Montana into the 21st century. Now is the time for people of all races, colors, origins, and religions to come together to stand and show our strengths as one. We must remember, as we move forward, that united we stand, one nation, under God, indivisible, with liberty and justice for all. I ask this in your name, God, Creator, and thank you for the many blessings you have already bestowed upon us."

Incashola then recited those same remarks in his native tongue.

Pledge of Allegiance to the Flag.

Roll Call. All members present, except Roush, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

Correctly printed: **SB 1, SB 6, SB 9, SB 26, SB 30, SB 33, SB 47, SB 53, SB 58, SB 64, SB 75, SB 77, SB 79, SB 92, SB 93, SB 99, SB 100, SB 135, SB 138, SB 214, SB 215, SB 216, SB 217, SB 218, SB 219, SB**

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220, SB 221, SB 222, SB 223, SB 224, SJR 3, SJR 6, SJR 7.
Correctly engrossed: **SB 20, SB 32, SB 61, SB 74, SB 102.**

BUSINESS AND LABOR (Cocchiarella, Chairman): 1/12/2005
SB 64, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman): 1/12/2005
SB 47, do pass. Report adopted.
SB 77, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 1/12/2005
SB 1, do pass. Report adopted.
SB 9, do pass. Report adopted.
SB 79, do pass. Report adopted.
SB 102, introduced bill, be amended as follows:

1. Title, line 5.
Following: "THAN"
Insert: "GOVERNMENT OR"

2. Page 1, line 14.
Following: "except a"
Insert: "government or"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman): 1/12/2005
SB 20, introduced bill, be amended as follows:

1. Title, line 7.
Strike: "IN CONJUNCTION WITH A REGIONAL WATER SUPPLY"
Insert: "AS APPROVED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION"

2. Page 2, lines 11 and 12.
Strike: subsection (4)(d)(iii) in its entirety
Insert: "(iii) any other use approved by the department under Title 85, chapter 2, part 4."

And, as amended, do pass. Report adopted.

SB 32, introduced bill, be amended as follows:

1. Page 1, line 18.
Strike: "and"
Following: "sinking"
Insert: ", and replacement of not more than 6 feet of sidewalk in any 100-foot portion of sidewalk"

And, as amended, do pass. Report adopted.

TAXATION (Elliott, Chairman): 1/12/2005
SB 74, introduced bill, be amended as follows:

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1. Page 3, line 18 through line 19.

Strike: "is" on line 18 through "it" on line 19

2. Page 3, line 19 through line 20.

Strike: "in whole" on line 19 through "part" on line 20

3. Page 3, line 20 through line 21.

Strike: "For" on line 20 through "purposes." on line 21

And, as amended, do pass. Report adopted.

SB 75, do pass. Report adopted.

MOTIONS

Senator Harrington moved that additional sponsors be added to SB 78. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 214, introduced by Gebhardt, Barkus, Noennig, referred to Natural Resources.

SB 215, introduced by McGee, referred to Agriculture, Livestock and Irrigation.

SB 216, introduced by Lind, referred to Natural Resources.

SB 217, introduced by Larson, Bergren, Cocchiarella, Cohenour, Jacobson, Keane, Kitzenberg, Lange, Wilson, referred to Business and Labor.

SB 218, introduced by Tester, Butcher, Cobb, Lenhart, Musgrove, Parker, Wheat, referred to Judiciary.

SB 219, introduced by Brueggeman, Bixby, Buzzas, Cocchiarella, Eaton, Facey, Furey, Gallus, Gillan, Hamilton, Henry, Juneau, Kitzenberg, Laslovich, Lindeen, Raser, Small-Eastman, Squires, Tester, Villa, Windham, Wiseman, referred to Taxation.

SB 220, introduced by Barkus, Dowell, B. Olson, referred to Judiciary.

SB 221, introduced by Barkus, Gebhardt, referred to Fish and Game.

SB 222, introduced by Barkus, referred to Local Government.

SB 223, introduced by Barkus, B. Olson, referred to Fish and Game.

SB 224, introduced by Laslovich, referred to Education and Cultural Resources.

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

Senator Ellingson 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 6 - Senator Esp moved **SB 6** do pass. Motion carried unanimously.

SB 26 - Senator Story moved **SB 26** do pass. Motion carried unanimously.

SB 30 - Senator Laslovich moved **SB 30** do pass. Motion carried unanimously.

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SB 33 - Senator Cobb moved **SB 33** do pass. Motion carried unanimously.

SB 53 - Senator Squires moved **SB 53** do pass. Motion carried unanimously.

SB 58 - Senator Barkus moved **SB 58** do pass. Motion carried unanimously.

SB 61 - Senator Cocchiarella moved **SB 61**, second reading copy, be amended as follows:

1. Title, page 1, line 4.

Strike: "FOUR"

Insert: "TWO"

2. Page 2, line 3.

Following: "be"

Strike: "four"

Insert: "two"

3. Page 2, line 3 through line 5.

Strike: ":" on line 3 through "senate" on line 5

Following: "senate"

Insert: "members of the economic affairs interim committee, provided for in 5-5-223, appointed by the presiding officer of the economic affairs interim committee"

4. Page 2, line 6 through line 8.

Following: "(9)" on line 6

Strike: "Except" through "practicable." on line 8

Insert: "Legislative liaisons shall serve from appointment at the first meeting of the economic affairs interim committee through each biennium."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Mangan.

Total 1

Absent or not voting: Black.

Total 1

Excused: Roush.

Total 1

SB 61 - Senator Cocchiarella moved **SB 61**, as amended, do pass. Motion carried unanimously.

SB 92 - Senator Toole moved **SB 92** do pass. Motion carried unanimously.

SB 93 - Senator Cobb moved **SB 93** do pass. Motion carried unanimously.

SB 99 - Senator Mangan moved **SB 99** do pass. Motion carried unanimously.

SB 100 - Senator Mangan moved **SB 100** do pass. Motion carried unanimously.

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SB 135 - Senator Squires moved **SB 135** do pass. Motion carried unanimously.

SB 138 - Senator Weinberg moved **SB 138** do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Bales, McGee, Story.
Total 3

Absent or not voting: Cobb.
Total 1

Excused: Roush.
Total 1

SJR 3 - Senator Mangan moved **SJR 3** be adopted. Motion carried with Senator Esp voting nay.

SJR 6 - Senator Wheat moved **SJR 6** be adopted. Motion carried with Senator Bales voting nay.

SJR 7 - Senator Weinberg moved **SJR 7** be adopted. Motion carried with Senators Bales, Esp, and McGee voting nay.

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

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 14 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

SB 17 passed as follows:

Yeas: Bales, Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Toole,

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Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Barkus, Black, Curtiss, Esp, Essmann, McGee, Tash.
Total 7

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

SB 36 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

SB 37 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Gebhardt, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

SB 51 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Esp, Story.
Total 2

Absent or not voting: None.

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Total 0

Excused: Roush.
Total 1

SB 62 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

SB 107 passed as follows:

Yeas: Bales, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Balyeat, Barkus, Cobb, Curtiss, Esp, Gebhardt, Grimes, Laible, McGee, O'Neil, Steinbeisser, Story, Tash.
Total 13

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

SB 136 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

SPECIAL ORDERS OF THE DAY

President Tester presented Mr. Incashola with a Resolution of Appreciation in recognition of the First Nations of

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Montana.

President Tester announced flu shots would be available tomorrow from 11a.m. until 1 p.m.

President Tester notified the body that former Rep. Bruce Simon would be available Saturday, January 15, upon adjournment to make a presentation on reading and interpreting legislation and also becoming a good legislator.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Minority Leader Keenan questioned Senator Ryan and President Tester as to the Education Input Meeting scheduled for 3:30p.m. to 5:00p.m. tomorrow, January 13th. Minority Leader Keenan asked if all Senators were welcome and President Tester replied that all Senators were indeed invited to attend.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Thursday, January 13, 2005. Motion carried.

Senate adjourned at 2:25 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate