

SENATE JOURNAL  
TWELFTH LEGISLATIVE DAY - JANUARY 17, 2005

SENATE JOURNAL  
59TH LEGISLATURE  
TWELFTH LEGISLATIVE DAY

Helena, Montana  
January 17, 2005

Senate Chambers  
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Anthony Odozi. Pledge of Allegiance to the Flag.

Roll Call. All members present. 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, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

Fr. Odozi was then given a Certificate of Appreciation.

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL:** 1/17/2005  
Correctly printed: **SB 16, SB 23, SB 25, SB 54, SB 56, SB 68, SB 69, SB 81, SB 124, SB 130, SB 140, SB 145, SB 166, SB 169, SB 172, SB 187, SB 238, SB 239, SB 240, SB 241, SB 242, SB 243.**  
Correctly engrossed: **SB 152.**

**EDUCATION AND CULTURAL RESOURCES** (Ryan, Chairman): 1/17/2005  
**SB 152**, introduced bill, be amended as follows:

1. Title, line 7 through line 8.

**Strike:** "REVISING" on line 7 through "PROGRAM" on line 8

**Insert:** "REQUIRING THE LEGISLATURE TO DETERMINE THE COSTS OF THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS THROUGH STUDIES AUTHORIZED AND CONDUCTED BY THE LEGISLATURE OR THROUGH THE ADOPTION OF ANALYSES FROM EXISTING STUDIES CONDUCTED BY REPUTABLE AND RELIABLE EXPERTS; REQUIRING THAT THE LEGISLATURE AUTHORIZE A STUDY EVERY 6 YEARS TO REASSESS THE EDUCATIONAL NEEDS AND COSTS RELATED TO THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS AND INCORPORATE THE RESULTS OF THOSE REASSESSMENTS INTO THE STATE'S FUNDING FORMULA"

2. Title, line 8.

**Strike:** "SECTIONS 20-5-109, 20-7-111, AND"

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**Insert:** "SECTION"

3. Page 1, line 10.

**Insert:** "WHEREAS, Article X, section 1, of the Montana Constitution states, "It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state"; and  
WHEREAS, Article X, section 8, of the Montana Constitution states, "The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law"; and"

4. Page 1, line 12.

**Following:** "and to"

**Insert:** "equitably"

5. Page 1, line 21.

**Strike:** "based on"

**Strike:** "Court's"

**Insert:** "Court in its"

**Strike:** ", it is clear that the court"

6. Page 1, line 24.

**Following:** "funded"

**Insert:** "; and

WHEREAS, a basic system of free quality public elementary and secondary schools intends to provide a quality education, which will promote the full development of a student's potential to deliberate and discern, to acquire a broad knowledge base, and to learn independently; and

WHEREAS, the goal of a quality education is to nurture democratic, productive, and responsible citizenry"

7. Page 1, line 28 through page 2, line 14.

**Strike:** sections 1 and 2 in their entirety

**Renumber:** subsequent sections

8. Page 2, line 25.

**Following:** "(a)"

**Insert:** "(i)"

**Strike:** "basic"

**Following:** "standards"

**Strike:** "pursuant to 20-7-111"

**Insert:** ", which represent the minimum standards upon which a basic system of free quality public elementary and secondary schools is built; and

(i) any other requirements imposed on school districts by local, state, or federal law"

9. Page 2, line 27 through line 28.

**Strike:** "for" on line 27 through "students;" on line 28

**Insert:** "that promote the full development of a student's potential to deliberate and discern, to acquire a broad knowledge base, and to learn independently. These educational programs should address the needs of the full spectrum of students, including but not limited to:

(i) special needs students;

(ii) students with disabilities;

(iii) at-risk students; and

(iv) gifted and talented students."

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10. Page 3, line 3 through line 4.

**Following:** "classroom" on line 3

**Insert:** "or offsite"

**Following:** "setting" on line 3"

**Strike:** remainder of line 3 through "programs" on line 4

11. Page 3, line 5.

**Following:** "textbooks"

**Insert:** ", library materials,"

12. Page 3, line 9.

**Strike:** "distance"

**Insert:** "offsite"

13. Page 3, line 17.

**Following:** "of"

**Insert:** "isolated"

**Strike:** "or"

**Insert:** "and"

**Strike:** "with low"

**Insert:** "based on"

14. Page 3, line 22.

**Strike:** "the ability to recruit and retain"

**Insert:** "incentives to enable the recruitment and retention of"

**Strike:** "areas of the state"

**Insert:** "schools"

15. Page 3, line 26 through page 4, line 1.

**Strike:** subsection (4) in its entirety

**Insert:** "(4) (a) The legislature shall determine the educational needs and costs of the basic system of free quality public elementary and secondary schools through:

(i) studies authorized and conducted by the legislature; or

(ii) the adoption of analyses of educational needs and costs contained in existing studies completed by reputable and reliable experts.

(b) The legislature shall, in an equitable manner and based on the educationally relevant factors identified in subsections (2) and (3), fund and distribute to the school districts the state's share of the cost of the basic system of free quality public elementary and secondary schools through BASE aid to support the BASE funding program, state support for reimbursement of transportation and school facilities, and state support for school employee retirement in the manner established in this title.

(5) Every 6 years following [the effective date of this act], the legislature shall:

(a) authorize a study to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools; and

(b) incorporate the results of those assessments into the state's funding formula."

**Renumber:** subsequent subsections

And, as amended, do pass. Report adopted.

**TAXATION** (Elliott, Chairman):  
**SB 68**, do pass. Report adopted.

1/17/2005

**MESSAGES FROM THE OTHER HOUSE**

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House bills passed and transmitted to the Senate for concurrence:

1/17/2005

**HB 27**, introduced by Noennig  
**HB 67**, introduced by Jent  
**HB 84**, introduced by Kaufmann  
**HB 87**, introduced by Ward  
**HB 168**, introduced by Becker  
**HB 207**, introduced by McKenney  
**HB 223**, introduced by Jent

**MOTIONS**

Senator Laslovich moved that additional sponsors be added to SB 224.

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 238**, introduced by Wheat, referred to Business, Labor, and Economic Affairs.  
**SB 239**, introduced by Wheat, referred to Business, Labor, and Economic Affairs.  
**SB 240**, introduced by Cooney, referred to Finance and Claims.  
**SB 241**, introduced by Keenan, Arntzen, Gillan, Jent, Musgrove, referred to Judiciary.  
**SB 242**, introduced by Cocchiarella, referred to Taxation.  
**SB 243**, introduced by Cocchiarella, referred to Business, Labor, and Economic Affairs.

**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 Brueggeman in the chair.

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

**SB 16** - Senator Tropila moved **SB 16** do pass. Motion carried with Senator McGee voting nay.

**SB 23** - Senator Gillan moved **SB 23** do pass. Motion carried 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, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 49

Nays: McGee.  
Total 1

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 25** - Senator Cocchiarella moved **SB 25** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila,

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Weinberg, Wheat, Williams, Mr. President.  
Total 40

Nays: Bales, Balyeat, Barkus, Esp, Keenan, McGee, O'Neil, Perry, Story, Tash.  
Total 10

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 54** - Senator Squires moved **SB 54** do pass. Motion carried with Senators Barkus and McGee voting nay.

**SB 56** - Senator McGee moved **SB 56** do pass. Motion carried unanimously.

**SB 69** - Senator Cobb moved **SB 69** do pass. Motion carried with Senators Esp, Gebhardt, McGee, O'Neil, and Shockley voting nay.

**SB 81** - Senator Stapleton moved **SB 81** do pass. Motion carried unanimously.

**SB 124** - Senator Roush moved **SB 124** do pass. Motion carried unanimously.

**SB 130** - Senator Ryan moved **SB 130** do pass. Motion carried with Senators Bales, Joe Balyeat, Essmann, McGee, O'Neil, Steinbeisser, and Story voting nay.

**SB 140** - Senator Gebhardt moved **SB 140** do pass. Motion carried unanimously.

**SB 145** - Senator Harrington moved **SB 145** do pass. Motion carried with Senator O'Neil voting nay.

**SB 166** - Senator Black moved **SB 166** do pass. Motion carried unanimously.

**SB 169** - Senator Gallus moved **SB 169** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Essmann, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 41

Nays: Curtiss, Elliott, Gallus, Gebhardt, Keenan, O'Neil, Steinbeisser, Story, Tash.  
Total 9

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 172** - Senator Gebhardt moved **SB 172** do pass. Motion carried unanimously.

**SB 187** - Senator Shockley moved **SB 187** do pass. Motion carried 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, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 49

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Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: McGee.  
Total 1

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

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

**SB 35** 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, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 40** 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, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 50** passed as follows:

Yeas: 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, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 45

Nays: Bales, Balyeat, McGee, O'Neil, Story.  
Total 5

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 83** passed as follows:

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

Nays: Balyeat, Curtiss, Essmann, McGee, O'Neil.  
Total 5

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 96** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, 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, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.  
Total 48

Nays: Curtiss, Williams.  
Total 2

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 98** passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 44

Nays: Balyeat, Cobb, Curtiss, Esp, McGee, O'Neil.  
Total 6

Absent or not voting: None.  
Total 0

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Excused: None.  
Total 0

**SB 117** 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, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SPECIAL ORDERS OF THE DAY**

Senator Tester introduced the performing group Expressions of Silence, from the Montana School of the Deaf and Blind. The group performed two songs and was then thanked for their performance.

Senator Schmidt introduced the new pages, making the following remarks:

**"Whitney Hanson:**

Whitney is from Kremlin and is sponsored by Senator Tester. She attends KG High School. She plays basketball and volleyball, she is also a member of student council and is involved with various performing arts activities. She plans on attending MSU Bozeman after graduation."

**"Kelsey Davis:**

Kelsey is sponsored by Senator Black and lives in Shelby. She is involved in many activities in school such as cheerleading, basketball, and volleyball. She was a Girls' State delegate, and a Make-A-Wish foundation volunteer."

**"John Stene:**

John is from Joliet and is a member of 4H. He is sponsored by Senator Story. He is the president of his 4-H chapter and is a parliamentary procedure team member. He plays the guitar and piano and is the worship team leader for his youth group."

**"Cassie Peter:**

Cassie is from Glendive and attends Dawson County High School. Senator Steinbeisser sponsors her. She is involved in a variety of activities including: Student Council, Z-Club, and is also president of her 4-H club. She works during the summer at a fast food restaurant, and in the winter she is a waitress for a catering company."

**"Raini Way:**

Raini is from Helena and is a student at Helena High. She is sponsored by Senator Gebhardt. Raini has lived in Montana most of her life, except for the few years her mom went back to college. During that time she lived in Springfield, Missouri. She is a fan of science and is involved in science clubs. She is also very active in her church and local youth group, doing various forms of ministry."

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Tuesday, January 18, 2005. Motion carried.



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Senate adjourned at 2:38 a.m.

BILL LOMBARDI  
Secretary of Senate

JON TESTER  
President of the Senate