

SENATE JOURNAL  
FIFTEENTH LEGISLATIVE DAY - JANUARY 20, 2005

SENATE JOURNAL  
59TH LEGISLATURE  
FIFTEENTH LEGISLATIVE DAY

Helena, Montana  
January 20, 2005

Senate Chambers  
State Capitol

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

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

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, 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 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Grimes.  
Total 1

REPORTS OF STANDING COMMITTEES

**BILLS AND JOURNAL:** 1/20/2005  
Correctly printed: **SB 57, SB 120, SB 171, SB 175, SB 214, SB 215, SB 257, SB 258, SB 259, SB 260, SB 261, SB 262, SB 263, SB 264, SB 265, SB 266, SB 267, SB 268, SB 269, SB 270, SB 271, SJR 9, HB 1.**  
Correctly engrossed: **SB 95, SB 129, SB 142, SB 212.**

Correctly printed: **SB 60, SB 82, SB 85, SB 87, SB 106, SB 121, SB 180.**  
Correctly engrossed: **SB 49, SB 152.**

**AGRICULTURE, LIVESTOCK AND IRRIGATION** (Hansen, Chairman): 1/20/2005  
**SB 215**, do pass. Report adopted.

**EDUCATION AND CULTURAL RESOURCES** (Ryan, Chairman): 1/20/2005  
**SB 57**, do pass. Report adopted.  
**SB 171**, do pass. Report adopted.

**FINANCE AND CLAIMS** (Cooney, Chairman): 1/20/2005  
**SB 120**, do pass. Report adopted.  
**HB 1**, be concurred in. Report adopted.

**LOCAL GOVERNMENT** (Mangan, Chairman): 1/20/2005  
**SB 129**, introduced bill, be amended as follows:

1. Page 6, line 1.  
**Strike:** "27" in both places  
**Insert:** "22" in both places

And, as amended, do pass. Report adopted.

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**SB 175**, do pass. Report adopted.

**NATURAL RESOURCES** (Roush, Chairman):  
**SB 95**, introduced bill, be amended as follows:

1/20/2005

1. Page 3.

**Following:** line 12

**Insert:** "(c) The term does not include equipment such as compressor engines used for transmission of oil or natural gas."

And, as amended, do pass. Report adopted.

**SB 142**, introduced bill, be amended as follows:

1. Title, page 1, line 6.

**Following:** "PURPOSES"

**Insert:** "FOR A TERM NOT TO EXCEED 10 YEARS"

2. Title, page 1, line 9.

**Following:** "DATE"

**Insert:** "AND A TERMINATION DATE"

3. Page 1, line 19.

**Following:** "state land"

**Insert:** ", not to exceed 30,000 acres,"

4. Page 1, line 20.

**Strike:** "25"

**Insert:** "10"

5. Page 3, line 7.

**Strike:** "8"

**Insert:** "9"

6. Page 3, line 15.

**Strike:** "applications"

**Insert:** "nominations"

7. Page 3.

**Following:** line 16

**Insert:** "(2) The department shall review each nomination and determine if a forest management license or lease is appropriate for the nominated parcel. If the department determines that it is appropriate, the department shall accept applications from one or more entities."

**Renumber:** subsequent subsections

8. Page 3, line 20.

**Strike:** "subsections (2)(c) and (3)"

**Insert:** "subsection (4)"

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9. Page 3, lines 21 through 25.

**Strike:** subsection (2)(c) in its entirety

**Renumber:** subsequent subsections

10. Page 3, line 30.

**Strike:** "development"

**Insert:** "management"

11. Page 4, line 3.

**Strike:** "higher and better"

**Insert:** "other compatible"

12. Page 4, line 4.

**Following:** "(e)"

**Insert:** "net"

13. Page 4.

**Following:** line 4

**Insert:** "(5) The department or its contractor shall conduct an environmental analysis on the proposed application and develop alternatives for additional applications received for the same tract pursuant to Title 75, chapter 1, part 2. The department may conduct the environmental analysis or hire a contractor. If the department hires a contractor, the department shall maintain oversight of the process."

**Renumber:** subsequent subsections

14. Page 4, line 6.

**Following:** "board"

**Insert:** ", including the results of any environmental analysis conducted pursuant to subsection (5)"

15. Page 4.

**Following:** line 10

**Insert:** "(8) If an application is modified, the department shall evaluate the need for additional environmental analysis."

16. Page 4, line 23.

**Following:** "application and the"

**Insert:** "department for all costs"

17. Page 4, line 24.

**Following:** "associated"

**Insert:** "with the"

18. Page 5, line 1.

**Strike:** "25"

**Insert:** "10"

19. Page 7, line 1.

**Following:** ";

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**Insert:** "and"

20. Page 7, line 2 through line 4.

**Following:** "(b)"

**Strike:** "the procedure" on line 2 through "(c)" on line 4

21. Page 7, line 6.

**Following:** "(2)"

**Insert:** "(a)"

22. Page 7.

**Following:** line 7

**Insert:** "(b) The board shall adopt the rules by January 1, 2007."

**Insert:** "NEW SECTION. Section 9. Term of license or lease. Licenses or leases entered into pursuant to [sections 3 through 8] remain in effect until the termination of the license or lease or December 31, 2021, whichever is earlier."

**Renumber:** subsequent sections

23. Page 7, line 11.

**Strike:** "[sections 9 and 10]"

**Insert:** "[section 11] and this section,"

24. Page 8, line 6.

**Strike:** "8"

**Insert:** "9"

25. Page 8, line 8.

**Strike:** "8"

**Insert:** "9"

26. Page 8, line 9.

**Strike:** "9"

**Insert:** "10"

**Strike:** "10"

**Insert:** "11"

27. Page 8, line 10.

**Strike:** "9"

**Insert:** "10"

**Strike:** "10"

**Insert:** "11"

28. Page 8, line 17.

**Insert:** "NEW SECTION. Section 15. Termination. The amendments to 77-5-201(1) and (4) through (6) and 77-5-202(1) and [sections 3 through 9] and this section terminate December 31, 2011."

And, as amended, do pass. Report adopted.

**SB 212**, introduced bill, be amended as follows:

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1. Page 1, line 11.

**Strike:** "All"

**Insert:** "Except as provided in subsection (2),"

2. Page 1, line 19.

**Following:** "(1)"

**Insert:** "must be deposited in the mineral impact account established in 17-3-241 and"

3. Page 1, line 22.

**Strike:** "to the mineral impact account established in 17-3-241"

4. Page 1, line 23.

**Strike:** "allocated"

And, as amended, do pass. Report adopted.

**SB 214**, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

**House bills** passed and transmitted to the Senate for concurrence:

1/20/2005

**HB 20**, introduced by Dickenson

**HB 68**, introduced by Andersen

**HB 90**, introduced by Kaufmann

**HB 107**, introduced by Jent

**HB 128**, introduced by Jent

**HB 190**, introduced by Becker

**MOTIONS**

Senator Elliott moved SB 246 be re-referred from the Senate Local Government committee to the Senate Taxation committee. Motion carried.

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 257**, introduced by Grimes, Becker, Caferro, referred to Public Health, Welfare and Safety.

**SB 258**, introduced by Wheat, Bergren, Bixby, Hansen, Lenhart, Malcolm, Musgrove, Stahl, Villa, Witt, referred to Judiciary.

**SB 259**, introduced by Lewis, referred to Agriculture, Livestock and Irrigation.

**SB 260**, introduced by Perry, referred to Judiciary.

**SB 261**, introduced by Perry, referred to Taxation.

**SB 262**, introduced by Curtiss, D. Brown, Heinert, Hendrick, Laible, Maedje, referred to Local Government.

**SB 263**, introduced by Squires, referred to Education and Cultural Resources.

**SB 264**, introduced by Smith, Brueggeman, Campbell, Cohenour, Golie, Hansen, Jayne, Kitzenberg, Klock, Pease, Small-Eastman, referred to Judiciary.

**SB 265**, introduced by Larson, Bergren, Golie, Harrington, Jacobson, Keane, Kitzenberg, Lange, Lindeen, Tropila, Villa, Wilson, referred to Business, Labor, and Economic Affairs.

**SB 266**, introduced by Tester, referred to Agriculture, Livestock and Irrigation.

**SB 267**, introduced by Schmidt, referred to Public Health, Welfare and Safety.

**SB 268**, introduced by Shockley, referred to Judiciary.

**SB 269**, introduced by Wheat, Clark, Ellingson, Golie, Wiseman, referred to Natural Resources.

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**SB 270**, introduced by Grimes, referred to Judiciary.

**SB 271**, introduced by Elliott, referred to Taxation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

**SJR 9**, introduced by Tester, referred to Natural 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 Wheat in the chair.

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

**SB 152** - Senator Mangan moved **SB 152**, second reading copy, be amended as follows:

1. Page 4, line 21.

**Strike:** "INCENTIVES TO ENABLE THE RECRUITMENT AND RETENTION OF"

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

Amendment adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 152** - Senator Keenan moved **SB 152**, second reading copy, be amended as follows:

1. Title, line 15.

**Following:** "MCA;"

**Insert:** "PROVIDING A CONTINGENT VOIDNESS PROVISION;"

2. Page 5, line 29.

**Insert:** "NEW SECTION. Section 2. Contingent voidness. If a specific appropriation for [this act] is not made in an amount that funds [this act], then [this act] is void."

**Renumber:** subsequent section

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible,

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Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.  
Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 28

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 152** - Senator Story moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 14.  
**Strike:** "(I)"

2. Page 3, line 16.  
**Strike:** "AND"

3. Page 3, line 17.  
**Strike:** subsection (II) in its entirety

4. Page 3, line 22.  
**Strike:** "SHOULD"  
**Insert:** "must"

5. Page 3, line 28 through line 29.  
**Strike:** "salaries" on line 28 through "district-classified" on line 29  
**Insert:** "certified and classified"

6. Page 4, line 9.  
**Following:** "the"  
**Insert:** "construction,"

7. Page 4, line 22.  
**Following:** ";"  
**Strike:** "and"

8. Page 4, line 24.  
**Following:** "constitution"  
**Insert:** "; and

(f) the ability of a school district's tax base to support the basic system of free quality public elementary and secondary schools"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.  
Total 22

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Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 28

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 152** - Senator Story moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 28.  
**Strike:** "insurance"

Amendment adopted unanimously.

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair.

Majority Leader Ellingson moved that the Senate recess for committee meetings and reconvene at 6:00 p.m. on the same Legislative Day. Motion carried.

**Senate recessed at 3:00 p.m.**

**Senate reconvened at 6:00 p.m.**

**SB 152** - Senator Esp moved **SB 152**, second reading copy, be amended as follows:

1. Page 4.  
**Following:** line 15  
**Insert:** "(a) the number of students in a school district;"  
**ReNUMBER:** subsequent subsections

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hawks, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.  
Total 38

Nays: Cooney, Gillan, Hansen, Harrington, Kitzenberg, Larson, Lind, Mangan, Moss, Schmidt, Smith, Mr. President.  
Total 12

Absent or not voting: None.  
Total 0



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Excused: None.  
Total 0

**SB 152** - Senator Stapleton moved **SB 152**, second reading copy, be amended as follows:

1. Page 1, line 30 through page 2, line 8.  
**Strike:** "WHEREAS" on page 1, line 30 through "AND" on page 2, line 8

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.  
Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.  
Total 27

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 152** - Senator Essmann moved **SB 152**, second reading copy, be amended as follows:

1. Title, line 9 through line 11.  
**Strike:** "STUDIES" on line 9 through "EXPERTS" on line 11  
**Insert:** "AN INTERIM STUDY TO BE CONDUCTED BY THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE"

2. Title, line 11 through line 12.  
**Strike:** "LEGISLATURE" on line 11 through "AUTHORIZE" on line 12  
**Insert:** "EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE CONDUCT"

3. Title, line 14.  
**Strike:** "INCORPORATE"  
**Insert:** ", IF APPROPRIATE, RECOMMEND THE INCORPORATION OF"

4. Page 5, line 1 through line 6.  
**Strike:** "(A)" on line 1 through "(B)" on line 6

5. Page 5, line 11 through line 14.  
**Strike:** subsection (5) in its entirety  
**Renumber:** subsequent subsections

6. Page 5.

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**Following:** line 28

**Insert:** "NEW SECTION. **Section 2. Interim study to determine educational needs and costs -- periodic reassessment.** (1) (a) The education and local government interim committee shall conduct a study to:

- (i) assess the educational needs of K-12 public education;
- (ii) determine the costs of the basic system of free quality public elementary and secondary schools; and
- (iii) design a school funding formula that reflects educationally relevant factors.

(b) (i) The committee may review existing studies or commission new studies of educational needs and costs.

The committee shall review all studies of educational needs and costs with respect to the:

(A) strengths and weaknesses of the study methodology for each reviewed study;

(B) validation of each study by peer review, a demonstrable correlation to student outcomes, or demonstrated duplication of study results; and

(C) applicability of each study to the varied conditions of the Montana educational environment.

(ii) In conducting these reviews, the committee shall contract for the services of an independent consulting firm to advise the committee on the assessments required in subsection (1)(b)(i).

(c) The committee shall hold at least 10 public hearings across the state in areas representing the educational and geographical diversity of the educational environment in Montana.

(d) All aspects of the study must be completed by September 15, 2006.

(e) The final results of the study, including any findings, conclusions, comments, or recommendations of the committee must be reported to the 60th legislature.

(2) Every 6 years, the education and local government interim committee shall repeat the study process described in subsection (1) to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools and, if appropriate, recommend to the legislature the incorporation of those reassessed needs and costs into the state's funding formula."

**Renumber:** subsequent sections

7. Page 5, line 30.

**Strike:** "-- applicability"

8. Page 5, line 30 through page 6, line 1.

**Following:** "2005"

**Strike:** ", " on page 5, line 30 through "2006" on page 6, line 1

9. Page 6.

**Following:** line 1

**Insert:** "NEW SECTION. **Section 4. Applicability.** [Section 1] applies to school fiscal years beginning on or after July 1, 2006."

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 152** - Senator Shockley moved **SB 152**, second reading copy, be amended as follows:

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1. Page 3, line 14 through line 17.

**Following:** "(a)" on line 14

**Strike:** remainder of line 14 through "OTHER" on line 17

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 152** - Senator Grimes moved **SB 152**, second reading copy, be amended as follows:

1. Page 2, line 12.

**Following:** line 11

**Insert:** "WHEREAS, the Montana Legislature affirms and recognizes the necessity and right of parents to direct the upbringing of their children by choosing to enroll the children in public education programs or in a public school of their choice, to the extent practicable, or to choose to educate their children in a nonpublic school; and"

2. Page 4, line 17.

**Following:** line 16

**Insert:** "(b) addressing the needs and rights of parents to make choices in educating their children, including the selection of the appropriate setting and the choice regarding the appropriate school district;"

**Renumber:** subsequent subsections

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 22

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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**SB 152** - Senator Grimes moved **SB 152**, second reading copy, be amended as follows:

1. Page 2, line 12.

**Following:** line 11

**Insert:** "WHEREAS, the Montana legislature recognizes and respects the importance of values and religious convictions of families in Montana in the education of their children and will defer to the convictions of those families as much as practicable; and"

2. Page 3, line 22.

**Strike:** "ADDRESS"

**Insert:** "fulfill"

3. Page 2, line 24.

**Following:** "(I)"

**Insert:** "addressing the needs of"

4. Page 3, line 25.

**Following:** "(II)"

**Insert:** "addressing the needs of"

5. Page 3, line 26.

**Following:** "(III)"

**Insert:** "addressing the needs of"

**Following:** ";

**Strike:** "AND"

6. Page 3, line 27.

**Following:** "(IV)"

**Insert:** "addressing the needs of"

**Following:** "STUDENTS"

**Insert:** "; and"

(v) respecting the religious tenets and beliefs of students

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.  
Total 24

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.  
Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 152** - Senator Joe Balyeat moved **SB 152**, second reading copy, be amended as follows:

1. Page 2, line 13.

**Following:** "CITIZENRY"

**Insert:** "; and"

WHEREAS, education research concludes that local funding and local control lead to better quality schools and better student performance; and

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WHEREAS, more state centralization of funding and more state centralized control of decisionmaking will actually lead to lower quality education for Montana's students

2. Page 3, line 14.

**Strike:** "the accreditation standards"

**Insert:** "each local school board elected as provided by law"

3. Page 3, line 15.

**Following:** "WHICH"

**Insert:** "must"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.  
Total 23

Nays: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 27

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 152** - Senator Joe Balyeat moved **SB 152**, second reading copy, be amended as follows:

1. Page 2, line 13.

**Following:** "CITIZENRY"

**Insert:** "and;"

WHEREAS, the Montana Supreme Court did not order the Legislature to develop a wish list of spending requirements to satisfy the education bureaucracy; and

WHEREAS, the Montana Supreme Court has ordered that the Legislature base its funding on educationally relevant factors; and

WHEREAS, "quality" should be defined by outputs rather than inputs; and

WHEREAS, the best measure of "quality" is achievement; and

WHEREAS, the scientific education research has conclusively determined that, within certain universally recognized parameters, the level of funding has no statistically significant correlation to quality of education or level of achievement

2. Page 3, line 28 through page 4, line 11.

**Following:** (d) on page 3, line 28

**Strike:** line 28 through "chapter 10" on page 4, line 11

**Renumber:** subsequent subsection

3. Page 3, line 14.

**Following:** line 13

**Insert:** "(3) The measure of whether or not a local school is providing quality education and equality of educational opportunity to its students must be the comparative results of student achievement tests. If a local school is failing to provide equal quality education to its students, the state shall provide the assistance needed to bring that school up to an acceptable level."

**Renumber:** subsequent subsections

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4. Page 5, line 7.

**Strike:** "(3)"

**Insert:** "(4)"

5. Page 5, line 15.

**Strike:** "(4)"

**Insert:** "(5)"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 152** - Senator Joe Balyeat moved **SB 152**, second reading copy, be amended as follows:

1. Title, page 1, line 8 through line 11.

**Following:** "COSTS"

**Strike:** remainder of line 8 through "EXPERTS" on line 11

**Insert:** "THROUGH STUDIES"

2. Title, page 1, lines 12 through 14.

**Following:** line 11

**Strike:** line 12 through "TO" on line 12

**Following:** "COSTS" on line 12

**Strike:** remainder of line 12 through "SCHOOLS" on line 13

**Insert:** "EVERY 6 YEARS"

**Following:** "RESULTS" on line 14

**Strike:** "OF" through "REASSESSMENTS"

3. Title, page 1, line 15.

**Following:** line 14

**Insert:** "PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA;"

4. Title, page 1, line 16.

**Following:** the first "DATE"

**Strike:** "AND" through "DATE"

5. Page 2, line 13.

**Following:** "CITIZENRY"

**Insert:** "; and

WHEREAS, the citizens of Montana should be the final arbiters of any dispute between the Legislature and the Montana Supreme Court; and

WHEREAS, the parents of Montana should decide for themselves what constitutes quality education for their children; and

WHEREAS, the taxpayers of Montana should be the final arbiters of whether or not the state should adopt

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education spending requirements which may cost as much as \$450 million dollars per year and may require 75% increases in all current taxes, including property taxes, income taxes, selected sales taxes, and other miscellaneous taxes

6. Page 5, line 30 through page 6, line 1.

**Strike:** "--applicability" on line 30

**Following:** "."

**Strike:** remainder of line 30 through "2006" on page 6, line 1

**Insert:** "If approved by the electorate, this act is effective January 1, 2007.

**"NEW SECTION. Section 3. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2006 by printing on the ballot the full title of this act and the following:

- FOR defining a basic system of free quality public elementary and secondary schools and identifying educationally relevant factors.
- AGAINST defining a basic system of free quality public elementary and secondary schools and identifying educationally relevant factors."

Amendment **not** adopted as follows:

Yeas: Balyeat, Barkus, Curtiss, Esp, Gebhardt, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser.  
Total 12

Nays: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 38

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 152** - Senator Esp moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 19.

**Following:** "of"

**Insert:** "efficient and accountable"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.  
Total 24

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 26

Absent or not voting: None.  
Total 0

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Excused: None.  
Total 0

**SB 152** - Senator Esp moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 28 through line 29.  
**Strike:** "salaries" on line 28 through "required" on line 29  
**Insert:** "resources to provide the staff necessary"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.  
Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 28

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 152** - Senator Esp moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 19.  
**Following:** "programs"  
**Insert:** "proven to have effective student outcomes in existing Montana schools"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.  
Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 28

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 152** - Senator Esp moved **SB 152**, second reading copy, be amended as follows:



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1. Page 4.

**Following:** line 15

**Insert:** "(a) addressing the needs and the ability of Montana families to finance this basic system;"

**Renumber:** subsequent subsections

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 152** - Senator Keenan moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 8 through line 9.

**Strike:** "is" on line 8 through "maintain" on line 9

**Insert:** "shall provide"

2. Page 3, line 11.

**Strike:** "all school-age children"

**Insert:** "each person"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 152** - Senator Ryan moved **SB 152**, as amended, do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks,

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Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.  
Total 21

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 49** - Senator McGee moved **SB 49**, second reading copy, be amended as follows:

1. Page 4, line 11.

**Following:** "regarding"

**Insert:** "that person's involvement with"

Amendment adopted unanimously.

**SB 49** - Senator McGee moved **SB 49**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Gebhardt, Hansen, Laible, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Wheat, Mr. President.  
Total 28

Nays: Balyeat, Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Ryan, Smith, Squires, Toole, Tropila, Weinberg, Williams.  
Total 22

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 60** - Senator Esp moved **SB 60** do pass. Motion carried unanimously.

**SB 82** - Senator Cobb moved **SB 82** do pass. Motion carried unanimously.

**SB 85** - Senator Squires moved **SB 85** do pass. Motion carried unanimously.

**SB 87** - Senator Elliott moved **SB 87** do pass. Motion carried unanimously.

**SB 106** - Senator Brueggeman moved **SB 106** do pass. Motion carried unanimously.

**SB 121** - Senator Keenan moved **SB 121** do pass. Motion carried unanimously.

**SB 180** - Senator Cooney moved **SB 180** do pass. Motion carried unanimously.

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

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**UNFINISHED BUSINESS**

Minority Leader Keenan thanked the body for delaying placement of SB 152 on second reading for two days, allowing extended consideration to be given to the bill.

**SPECIAL ORDERS OF BUSINESS**

President Tester requested that Senate Sergeant-at-Arms Ted Dick escort Chief Master Sergeant Roger Hagan into the Senate Chambers. Chief Master Sergeant Hagan then presented Senator Roush with the First Montana Volunteer Award.

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Friday, January 21, 2005. Motion carried.

Senate adjourned at 1:43 a.m.

BILL LOMBARDI  
Secretary of Senate

JON TESTER  
President of the Senate