

SENATE JOURNAL  
TWENTY-FOURTH LEGISLATIVE DAY - JANUARY 31, 2005

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59TH LEGISLATURE  
TWENTY-FOURTH LEGISLATIVE DAY

Helena, Montana  
January 31, 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 Senators Esp and Grimes, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 43

Nays: Balyeat, Gebhardt, O'Neil, Shockley, Steinbeisser.  
Total 5

Absent or not voting: None.  
Total 0

Excused: Esp, Grimes.  
Total 2

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL:** 1/31/2005  
Correctly printed: **SB 67**, **SB 127**, **SB 277**.  
Correctly engrossed: **SB 78**.

**AGRICULTURE, LIVESTOCK AND IRRIGATION** (Hansen, Chairman): 1/31/2005  
**SB 277**, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

**House bills** passed and transmitted to the Senate for concurrence: 1/31/2005

**HB 158**, introduced by McKenney  
**HB 211**, introduced by Parker  
**HB 216**, introduced by Caferro  
**HB 244**, introduced by Lambert  
**HB 255**, introduced by Roberts  
**HB 283**, introduced by Jopek  
**HB 300**, introduced by Gallik  
**HB 302**, introduced by Driscoll  
**HB 306**, introduced by Gallik  
**HB 318**, introduced by McKenney

**MOTIONS**

Senator Cromley moved **SB 137** be taken from 2nd reading and re-referred to Senate Public Health, Welfare, and Safety Committee. Motion carried.

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Senator Cooney moved **SB 233** and **SB 109** be referred to Senate Finance and Claims Committee. Motion carried.

Minority Leader Keenan moved his vote be change on **SB 80** from "nay" to "aye". Motion carried.

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 341**, introduced by Gillan, Cocchiarella, Smith, Williams, referred to Education and Cultural Resources.

**SB 342**, introduced by Laslovich, Brueggeman, referred to Local Government.

**SB 343**, introduced by Wheat, Ellingson, Toole, referred to Taxation.

**SB 344**, introduced by Wheat, referred to Judiciary.

**SB 345**, introduced by Mangan, referred to Taxation.

**SB 346**, introduced by Toole, referred to Taxation.

**SB 347**, introduced by Lind, A. Olson, referred to State Administration.

**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 Tropila in the chair.

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

**SB 78** - Senator Harrington moved **SB 78** do pass.

**SB 78** - Senator Wheat moved **SB 78**, second reading copy, be amended as follows:

1. Title, page 1, line 4.

**Strike:** "\$6.00"

**Insert:** "\$6.25"

2. Page 1, line 16.

**Strike:** "\$6.00"

**Insert:** "\$6.25"

Amendment adopted as follows:

Yeas: Cobb, 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 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 78** - Senator Cocchiarella moved **SB 78**, second reading copy, be amended as follows:

1. Page 1, line 17.

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**Following:** "(2)"

**Strike:** "The"

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

2. Page 1.

**Following:** line 18

**Insert:** "(b) If congress or the Montana legislature increases the minimum wage to more than \$6 an hour, an employer of a tipped employee may use the formula for a quality service allowance provided in subsection (2)(c) to equal the amount of increase provided by congress or the Montana legislature.

(c) Under the formula for a quality service allowance, the employer shall:

(i) increase the wage to the tipped employee by 50% of the amount of the increase approved by congress or the Montana legislature pursuant to subsection (2)(b); and

(ii) guarantee that the tipped employee will receive the remaining 50% in tips."

Amendment adopted as follows:

Yeas: Barkus, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hawks, Keenan, Kitzenberg, Laible, Larson, Lind, Mangan, O'Neil, Perry, Roush, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Tropila, Weinberg, Wheat, Mr. President.

Total 30

Nays: Bales, Balyeat, Black, Cooney, Ellingson, Elliott, Grimes, Hansen, Harrington, Laslovich, Lewis, McGee, Moss, Pease, Schmidt, Smith, Story, Tash, Toole, Williams.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 78** - Senator Harrington moved **SB 78**, as amended, do pass. Motion carried as follows:

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

Total 30

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

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 67** - Senator Cromley moved **SB 67** do pass. Motion carried with Senators Joe Balyeat, Barkus, McGee, and O'Neil voting nay.

**SB 109** - Senator Cobb moved **SB 109** do pass. Motion carried unanimously.

**SB 119** - Senator Schmidt moved **SB 119** do pass.

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**SB 119** - Senator Weinberg moved **SB 119**, second reading copy, be amended as follows:

1. Page 3, line 6.  
**Strike:** "an interest in"  
**Insert:** "knowledge of"

2. Page 4, line 26.  
**Following:** "HEARING"  
**Insert:** "before the court"

Amendment adopted unanimously.

**SB 119** - Senator O'Neil moved the amendment (amendment #2 section #1) be divided.

**SB 119** - Senator O'Neil moved **SB 119**, second reading copy, be amended as follows:

1. Page 1, line 18.  
**Strike:** "who has a direct conflict of interest"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.  
Total 20

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 30

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 119** - Senator Schmidt moved consideration of **SB 119** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

**SB 127** - Senator Keenan moved **SB 127** do pass. Motion carried unanimously.

**SB 109** - Senator Cooney made a **substitute motion** that **SB 109** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Tropila 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:

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**SB 80** passed as follows:

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

Nays: Elliott, Gallus, Gebhardt, Shockley, Steinbeisser.  
Total 5

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 181** passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Ellingson, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 41

Nays: Balyeat, Cooney, Curtiss, Elliott, Esp, Gillan, Laible, McGee, Toole.  
Total 9

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SPECIAL ORDERS OF THE DAY**

Senator Squires introduced the pages for the week by reading the following remarks:

**"Greg Hamblock:** Greg is a Senior at Butte high school. He is sponsored by Senator Harrington. Greg is involved in Art Club and Student Council. He'll be attending U of M in the fall."

**"Luke Larson:** Luke is sponsored by his dad Senator Larson. He is a senior at Billings Skyview and is involved in industrial education. He is active in Career Center Welding and Machining."

**"Kerri Keller:** Kerri Keller is from Three Forks and attends Willow Creek High School. She is sponsored by Senator Perry. She is a junior and plans on graduating in December next year. She wants to attend a university overseas with the intension for a science Ph.D. She's a band geek and academic nerd, and she is at the top of her graduating class of six. Her many hobbies include fiddling, teaching fiddle, reading, playing computer games and spending time with friends."

**"Kelsey Bjelland:** Kelsey is a senior at Conrad High School. She is a member of the National Honor society and the FFA. Her other activities include playing on the golf team, cheerleading, playing the piano, editing the school newspaper skiing and mentoring students in project PALS program. She is also the co-editor of the school annual. Next year Kelsey will attend Carroll College and study pre-med."

**"Andrea Boysun:** Andrea is sponsored by Senator Tropilla. She is a junior at CM Russell high school. She is a member of Leadership High School, and her favorite thing to do is play softball. She is a pitcher for the Rustlers. At school she is involved with the yearbook, honor English and honors Algebra and Trig. Later in life Andrea would like to be involved with public relations and advertising."

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**"Kerensa Loucks:** Kerensa is a senior at Hamilton high school. She is a member of National Honors society, Key Club, SADD, Choir, Student Council, Culture Club and was a girls state delegate. She is one of 5 4-H ambassador officers. Kerensa hopes to attend a school in the west studying Business Administration, Advertising or Marketing."

**"Ouisha Toenyes:** Ouisha Toenys is a student at Billings Senior High School. She is involved in Sennonettes an honors choir, and Speech and Debate. She is also involved in a program around the Billings area where she speaks to local elementary students about being drug and alcohol free. She also plays tennis and is captain of the JV cheerleading squad."

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

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

Senate adjourned at 3:00 p.m.

BILL LOMBARDI  
Secretary of Senate

JON TESTER  
President of the Senate