

SENATE JOURNAL
THIRTIETH LEGISLATIVE DAY - FEBRUARY 7, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTIETH LEGISLATIVE DAY

Helena, Montana
February 7, 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. Quorum present.

Yeas: Bales, 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, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/7/2005
Correctly printed: **SB 200, SB 229, SB 261, SB 269, SB 292, SB 329, SB 385, SB 386, SB 387, SJR 9.**
Correctly engrossed: **SB 154, SB 217, SB 224, SB 274, SB 275, SB 286.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 2/7/2005
SB 217, introduced bill, be amended as follows:

1. Title, page 1, line 5.
Following: the second "RATE"
Insert: "FOR CONSTRUCTION SERVICES"
2. Title, page 1, line 6.
Following: "SECTIONS"
Strike: "18-2-401,"
3. Page 1, line 19.
Following: "employed"
Insert: "for construction services, as defined in 18-2-401,"
4. Page 1, line 20.
Strike: "this part"
Insert: "Title 18, chapter 2, part 4,"
5. Page 1, line 21.

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Following: "wages"

Insert: "for construction services, as defined in 18-2-401,"

6. Page 1, line 23.

Following: "than"

Strike: "an applicable"

Insert: "the employer' s"

7. Page 1, line 25.

Following: "wage"

Strike: "may"

Insert: "must"

8. Page 1, line 26.

Following: "federal"

Strike: "or"

Insert: "law, by"

Following: "state law"

Insert: ", or by contract. If the apprentice performs labor in more than one locality, the apprentice must be paid based on the progressive wage schedule for the journeyman wage rate in the area in which the apprentice is working"

9. Page 1, line 27.

Following: "allowance"

Insert: "or benefits. Benefits must be paid to an apprentice if work is being performed on a project that is covered by requirements to pay the Montana prevailing wage or a project covered by the federal Davis-Bacon Act, pursuant to 29 CFR, parts 1, 3, and 5"

10. Page 1.

Following: line 27

Insert: "(3) For purposes of this section, "apprentice" means a worker employed to learn a skilled trade under a written apprenticeship agreement registered with the department of labor and industry."

11. Page 1, line 29 through page 5, line 5.

Strike: section 2 in its entirety

Renumber: subsequent sections

12. Page 5, line 21.

Following: "wages for"

Strike: "employees"

Insert: "construction services"

13. Page 6, line 7.

Following: the first "rate"

Insert: "for construction services, as defined in 18-2-401,"

14. Page 7, line 20.

Strike: the first "18"

Insert: "39"

Strike: the first "2"

Insert: "6"

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Strike: the first "part 4,"

Strike: the second "18"

Insert: "39"

Strike: the second "2"

Insert: "6"

Strike: "part 4,"

And, as amended, do pass. Report adopted.

SB 274, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "BROKERS;"

Insert: "EXPANDING CERTAIN EXEMPTIONS;"

2. Page 1, line 24.

Following: "(2)"

Insert: "(a)"

3. Page 1.

Following: line 28

Insert: "(b) any employee of an entity listed in subsection (2)(a); or

(c) any subsidiary of an entity listed in subsection (2)(a) and any employee of the subsidiary if the subsidiary is subject to the examination and supervision of:

(i) the department;

(ii) the federal deposit insurance corporation;

(iii) the federal reserve system;

(iv) the national credit union administration; or

(v) the department of the treasury through its office of the comptroller of the currency or office of thrift supervision;"

And, as amended, do pass. Report adopted.

SB 286, introduced bill, be amended as follows:

1. Page 1, line 17.

Strike: "(a)"

2. Page 1, lines 25 through 26.

Strike: subsection (b) in its entirety

3. Page 3, line 10.

Following: "upon the"

Strike: "substantial completion"

Insert: "final acceptance"

4. Page 3, lines 11 through 12.

Following: "contract"

Strike: remainder of line 11 through "values" on line 12

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And, as amended, do pass. Report adopted.

SB 329, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):
SB 224, introduced bill, be amended as follows:

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1. Title, line 5.

Strike: "OFFSITE"

Insert: "AT AN OFFSITE INSTRUCTIONAL SETTING"

Strike: "WHO ARE RESIDENTS OF"

Insert: "ATTENDING SCHOOL IN"

2. Title, line 7.

Following: " ;"

Insert: "DEFINING "OFFSITE INSTRUCTIONAL SETTING";"

3. Page 1, line 14.

Strike: "offsite"

Insert: "at an offsite instructional setting"

4. Page 1, line 16.

Strike: "offsite"

Insert: "at an offsite instructional setting"

Strike: "Except as provided in subsection (2), the"

Insert: "The"

5. Page 1, line 17.

Strike: "offsite"

Insert: "at an offsite instructional setting"

Following: "pupils"

Insert: ": (a)"

6. Page 1, line 18.

Following: "1-1-215"

Insert: " ;

(b) living in the district and eligible for educational services under the Individuals with Disabilities Education Act or under 29 U.S.C. 794; or

(c) attending school in the district under a mandatory attendance agreement as provided in 20-5-321"

7. Page 1, line 19 through line 21.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

8. Page 2, line 1.

Strike: "offsite"

Insert: "at an offsite instructional setting"

9. Page 2.

Following: line 21

Insert: "(9) "Offsite instructional setting" means an instructional setting at a location separate from the main school site where an accredited school delivers instruction to a student who is enrolled in the district."

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
SB 154, introduced bill, be amended as follows:

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1. Page 1, line 28.

Strike: "88%"

Insert: "90%"

Strike: "12%"

Insert: "10%"

And, as amended, do pass. Report adopted.

SB 275, introduced bill, be amended as follows:

1. Title, line 5.

Following: "FEE;"

Insert: "CREATING A STATE SPECIAL REVENUE ACCOUNT FOR DEPOSIT OF THE FEE;"

2. Page 1, line 15.

Strike: "the general"

Insert: "an account in the state special revenue"

Following: "fund"

Insert: "provided for in [section 3]"

3. Page 2, line 4.

Following: "services"

Insert: "under this section"

4. Page 2, line 5.

Following: "program."

Insert: "The department and the contractor shall administer the contract in the most cost-effective means practicable."

5. Page 2, line 6.

Insert: "NEW SECTION. Section 3. State special revenue account. There is an account in the state special revenue fund to the credit of the department to be used solely for the purposes provided in 50-19-211."

Insert: "NEW SECTION. Section 4. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 50, chapter 19, part 2, and the provisions of Title 50, chapter 19, part 2, apply to [section 3]."

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/7/2005

HB 220, introduced by Lake

HB 371, introduced by Lambert

HB 411, introduced by Wells

HB 447, introduced by Gallik

MOTIONS

Senator Toole moved that **SB 336** be moved from Senate Energy and Telecommunications to Senate Natural Resources. Motion carried.

Senator Toole moved refer **SB 256** from 2nd reading back to Senate Energy and Telecommunications for the purpose of amendment. Motion carried.

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Senator Cromley moved to take **SB 380** from Senate Public Health, Welfare, and Safety to Senate Business, Labor, and Economic Affairs. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 385, introduced by Esp, referred to Judiciary.

SB 386, introduced by Pease, Bergren, Campbell, Harrington, Jacobson, Kitzenberg, Smith, Toole, referred to Public Health, Welfare and Safety.

SB 387, introduced by Schmidt, Gutsche, referred to Judiciary.

**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 Elliott in the chair.

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

SJR 9 - Senator Tester moved **SJR 9** be adopted. Motion carried unanimously.

SB 200 - Senator Wheat moved **SB 200** do pass. Motion carried with Senators Bales, Curtiss, Grimes, and Lewis voting nay.

SB 229 - Senator Cobb moved **SB 229** do pass. Motion carried as follows:

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

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Smith, Stapleton, Steinbeisser, Tash.
Total 19

Absent or not voting: Kitzenberg.
Total 1

Excused: None.
Total 0

SB 245 - Senator Ellingson moved consideration of **SB 245** be passed for the day. Motion carried.

SB 261 - Senator Perry moved **SB 261** do pass. Motion carried unanimously.

SB 269 - Senator Wheat moved **SB 269** do pass. Motion carried unanimously.

SB 292 - Senator Barkus moved **SB 292** 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 Elliott moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

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

SB 231 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Bales, Cromley, Curtiss, Esp, Gebhardt, Grimes, Keenan, Kitzenberg, McGee, Steinbeisser, Story, Tash.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 260 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 277 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 206 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.

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Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 235 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 314 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

UNFINISHED BUSINESS

Senator Laible moved that his vote on **SB 231** be changed from "aye" to "nay". Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Squires introduced that pages by reading the following remarks:

"Breland Cederberg: Breland is sponsored by Senator Cocchiarella. She is a junior at Missoula Sentinel High School. She is involved in various sports including volleyball, basketball, softball, and tennis. She is also a member of Student Government, DECA and prom committee."

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"Jonna Jones: Jonna is sponsored by Senator Smith. She's a senior at Nashua High School in Fort Peck. She is involved in her church's youth group, and has helped with food banks and blood drives. She is a member National Honors Society, volleyball and basketball. She also enjoys helping younger children at school."

"Ben McChesney: Ben is a junior at Bozeman Senior High School, he is sponsored by Senator Wheat. At school he is involved in GVLC Lacrosse Club, and DECA. He is also involved in St. James Episcopal Church youth group. He serves on the Worship Committee and Community Service Committee at the church as well."

"Sadie Patrick: Sadie is a junior at Blue Sky High School and lives in Hingham. She is sponsored by Senator Hansen. Sadie is involved in Business Professionals of America, Schience Club, Student Council, and her local youth group. She also plays volleyball and is the statistician for the basketball team."

"Sarah Simonsen: Sarah is from Victor and is a senior at Victor High School. She is sponsored by Senator Shockley. Sarah is involved in 4-H, FCCLA, Pep Club, and Band."

"Jake Thielen: Jake is a junior at Helena High School. He is sponsored by Senator Harrington. He is involved in Junior Leadership Helena and Business Professionals of America. At the moment he is running unopposed for his student council seat as Student Body President."

"Christer Wheat: Christer is a junior at Bozeman Senior High School. He is sponsored by Senator Wheat. He is a 4-H skateboard leader, and is a member of the GVLC Lacrosse Club."

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Tuesday, February 8, 2005. Motion carried.

Senate adjourned at 2:56 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate