

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 8, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTY-FIRST LEGISLATIVE DAY

Helena, Montana
February 8, 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 Gallus, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, 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, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/8/2005
Correctly printed: **SB 278, SJR 13, SJR 388, SJR 389, SJR 390, SJR 391, SJR 392, SJR 393, SJR 394, SJR 395, SJR 396, SJR 397, SJR 398, SJR 399, SJR 400, SJR 401, SJR 402, SJR 403, SJR 404, SJR 405.**
Correctly engrossed: **SB 21, SB 203, SB 245, SB 259, SB 299, SB 316, SB 340, SB 352.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 2/8/2005
SB 259, introduced bill, be amended as follows:

1. Title, line 9.
Strike: "IMMEDIATE"

2. Page 1, line 20.
Following: "program."
Insert: "However, unless the parties agree otherwise, a seller or grantor is obligated by a noxious weed agreement only until the property sale or transfer is completed."

3. Page 1, line 22.
Strike: line 22 in its entirety
Insert: "(3) The provisions of this section do not apply to:
(a) the state acquisition or disposition of a public right-of-way pursuant to Title 60, chapter 4; or
(b) lands sold or purchased through land banking pursuant to 77-2-361 through 77-2-367."

4. Page 1, line 27.
Strike: "on passage and approval"
Insert: "July 1, 2005"

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And, as amended, do pass. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):

2/8/2005

SB 278, do pass. Report adopted.

SB 299, introduced bill, be amended as follows:

1. Page 1, line 21.

Following: "(3)"

Insert: "(a)"

2. Page 1.

Following: line 25

Insert: "(b) The term does not include contracting with the private sector to provide services on a temporary or emergency basis."

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

2/8/2005

SB 21, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "AN"

Insert: "EFFECTIVE DATE AND AN"

2. Page 1, line 23 through line 25.

Strike: subsection (3) in its entirety

Insert: "(3)(a) If the evidence establishes that the chance of recovering prior to the negligent act or omission was more likely than not, the damages awarded must be 100% of the damages determined under subsection (2).

(b) If the evidence establishes that the chance of recovering prior to the negligent act or omission was not more likely than not, the damages awarded must be the difference between the chance of recovering prior to the negligent act or omission and the chance of recovering after the negligent act or omission multiplied by the total damages determined under subsection (2)."

3. Page 1, line 26.

Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2005."

Renumber: subsequent section

4. Page 1, line 27.

Strike: "malpractice claims that arise"

Insert: "causes of action that arise on or"

And, as amended, do pass. Report adopted.

SB 316, introduced bill, be amended as follows:

1. Title, line 6.

Following: "INSURANCE"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Page 2, line 10.

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Following: line 9

Insert: "NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2005."

And, as amended, do pass. Report adopted.

SB 352, introduced bill, be amended as follows:

1. Title, line 6.

Following: "PROVIDING"

Insert: "AN EFFECTIVE DATE AND"

2. Page 1, line 17.

Following: line 16

"NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2005."

Renumber: subsequent section

3. Page 1, line 18.

Following: "arise"

Insert: "on or"

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
SJR 13, be adopted. Report adopted.

2/8/2005

TAXATION (Elliott, Chairman):
SB 340, introduced bill, be amended as follows:

2/8/2005

1. Title, line 7.

Strike: "AN IMMEDIATE"

Insert: "A DELAYED"

Strike: "A RETROACTIVE"

Insert: "AN"

2. Page 1, line 17.

Following: "\$1,500."

Insert: "Only one credit may be claimed for a residence."

3. Page 1, line 18.

Following: "30"

Insert: "or 31"

4. Page 1, line 30.

Strike: "on passage and approval"

Insert: "January 1, 2006"

5. Page 2, lines 2 and 3.

Strike: "**Retroactive applicability**" on line 2

Insert: "**Applicability**"

Strike: "retroactively" on line 2 through "1-2-109," on line 3

Strike: "2004" on line 3

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Insert: "2005"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/8/2005

HB 46, introduced by Parker
HB 98, introduced by Lange
HB 104, introduced by Lenhart
HB 182, introduced by Roberts
HB 192, introduced by Waitschies
HB 197, introduced by Jayne
HB 213, introduced by Gallik
HB 234, introduced by Lange
HB 297, introduced by Wiseman
HB 400, introduced by Keane

FIRST READING AND COMMITMENT OF BILLS

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

SB 388, introduced by Keenan, referred to Business, Labor, and Economic Affairs.
SB 389, introduced by Joe Balyeat, referred to State Administration.
SB 390, introduced by Joe Balyeat, referred to State Administration.
SB 391, introduced by Joe Balyeat, referred to Judiciary.
SB 392, introduced by Joe Balyeat, referred to Judiciary.
SB 393, introduced by Joe Balyeat, referred to Judiciary.
SB 394, introduced by Joe Balyeat, referred to Judiciary.
SB 395, introduced by Joe Balyeat, referred to Judiciary.
SB 396, introduced by Joe Balyeat, referred to State Administration.
SB 397, introduced by Joe Balyeat, referred to Judiciary.
SB 398, introduced by Joe Balyeat, referred to State Administration.
SB 399, introduced by Joe Balyeat, referred to Judiciary.
SB 400, introduced by Joe Balyeat, referred to Judiciary.
SB 401, introduced by Laslovich, referred to Business, Labor, and Economic Affairs.
SB 402, introduced by Perry, referred to Judiciary.
SB 403, introduced by Roush, Waitschies, referred to Judiciary.
SB 404, introduced by Ryan, referred to Highways and Transportation.
SB 405, introduced by Bales, referred to Fish and Game.

**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 Barkus in the chair.

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

SB 245 - Senator Elliott moved **SB 245** do pass.

SB 245 - Senator Elliott moved **SB 245**, second reading copy, be amended as follows:

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1. Page 2, line 12.
Strike: "PLURALITY"
Insert: "majority"

2. Page 2, line 24.
Strike: "plurality"
Insert: "majority"

Amendment adopted unanimously.

SB 245 - Senator Elliott moved **SB 245**, as amended, do pass. Motion carried unanimously.

SB 250 - Senator Ellingson moved **SB 250** do pass. Motion **failed** as follows:

Yeas: Cooney, Ellingson, Elliott, Hansen, Harrington, Larson, Laslovich, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 20

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Keenan, Kitzenberg, Laible, Lewis, Lind, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 30

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 250 - Senator Story moved **SB 250** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 27

Nays: Cooney, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 203 - Senator Lind moved **SB 203** do pass.

SB 203 - Senator Lind moved **SB 203**, second reading copy, be amended as follows:

1. Page 2, line 3.
Following: line 2
Insert: "(5) This section does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, specific disease, or long-term care policies."

Amendment adopted unanimously.

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SB 203 - Senator Lind moved **SB 203**, as amended, do pass. Motion carried as follows:

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

Total 31

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

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted with Senator McGee voting nay.

SPECIAL ORDERS OF THE DAY

President Tester appointed Senator Story and Senator Ryan to the newly formed Joint Select Committee on the Education Funding Formula.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Wednesday, February 9, 2005. Motion carried.

Senate adjourned at 2:45 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate