

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 16, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTY-EIGHTH LEGISLATIVE DAY

Helena, Montana
February 16, 2005

Senate Chambers
State Capitol

Senate convened at 12:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Balyeat, Gebhardt, O'Neil, and Shockley, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, 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 45

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

2/16/2005

Correctly printed: **SB 279, SB 294, SB 295, SB 304, SB 318, SB 320, SB 354, SB 355, SB 365, SB 369, SB 410, SB 411, SB 456, SB 493, SB 494, SB 495, SB 496, SB 497, SB 498, SB 499, SB 500, SJR 11, SJR 17, SJR 21, SJR 22, SJR 25, SJR 26, SJR 27, SJR 28, HB 38.**

Correctly engrossed: **SB 143, SB 199, SB 218, SB 285, SB 289, SB 290, SB 308, SB 321, SB 356, SB 357, SB 368, SB 381, SR 3.**

Examined by the sponsor and found to be correct: **SB 240.**

Signed by the President at 12:05 a.m., February 16, 2005: **SB 240.**

Signed by the Speaker at 11:45 a.m., February 16, 2005: **SB 240.**

Signed by the Secretary of the Senate at 11:59 a.m., February 16, 2005: **SB 240.**

Delivered to the Governor for approval at 12:32 p.m., February 16, 2005: **SB 240.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 411, do pass. Report adopted.

2/16/2005

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman):
SB 143, introduced bill, be amended as follows:

2/16/2005

1. Title, page 1, line 5 through line 8.

Strike: "AUTHORIZING" on line 5 through "ACT;" on line 8

2. Page 4, line 6.

Following: "in"

Strike: "subsections"

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Insert: "subsection"

Following: "(9)"

Strike: "and (10)"

3. Page 6, line 1 through line 7.

Strike: subsection 10 in its entirety

4. Page 6, line 27 through 30

Strike: section 4 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 321, introduced bill, be amended as follows:

1. Page 1, line 12.

Strike: "5"

Insert: "7"

2. Page 1, line 29.

Insert: "(3) This section does not apply to rural telephone companies as defined in 69-3-803."

3. Page 2, line 6.

Strike: "1985"

Insert: "1998"

And, as amended, do pass. Report adopted.

SB 356, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "CAN"

Insert: "MUST"

2. Page 1, line 14.

Following: "public"

Strike: "at reasonable times"

Insert: "during regular business hours, as defined in 2-16-117"

3. Page 1, line 18.

Strike: "can"

Insert: "must"

And, as amended, do pass. Report adopted.

SJR 17, be adopted. Report adopted.

FISH AND GAME (Tropila, Chairman):

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SB 410, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):
SB 285, introduced bill, be amended as follows:

2/16/2005

1. Title, page 1, line 14.
Strike: "20-25-1002,"

2. Title, page 2, line 16.
Strike: "AND A TERMINATION DATE"

3. Page 8, line 16.
Following: "facilities,"
Insert: "5.2% in fiscal year 2006 and"
Following: "4.8%"
Insert: "in fiscal year 2007 and succeeding years"

4. Page 8, line 17.
Following: line 16
Insert: "(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 20.8% in fiscal year 2006 and 19.1% in fiscal year 2007 and succeeding years;"
Renumber: subsequent subsections

5. Page 8, line 21.
Following: "23-1-105"
Insert: "in an amount equal to 43.8% in fiscal year 2006 and 48.3% in fiscal year 2007 and succeeding fiscal years"

6. Page 9, line 15.
Following: "year"
Insert: "with 21.30% in fiscal year 2006 and 24.55% in fiscal year 2007 and succeeding fiscal years"

7. Page 9, line 17.
Following: "and"
Insert: "with 78.70% in fiscal year 2006 and 75.45% in fiscal year 2007 and succeeding fiscal years to be deposited in"

8. Page 9, line 27.
Following: ";"
Insert: "and"

9. Page 10, line 4.
Strike: "; and"
Insert: "."

10. Page 10, line 7.
Strike: subsection (g) in its entirety

11. Page 32, lines 21 through 28.

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Strike: section 20 in its entirety
Renumber: subsequent sections

12. Page 95, line 25.
Strike: "under 2,850 pounds"

13. Page 97, line 14.
Strike: "4"
Insert: "5"

14. Page 97, line 15.
Strike: "4"
Insert: "5"
Strike: "7"
Insert: "8"

15. Page 97, line 16.
Strike: "7"
Insert: "8"

16. Page 97, line 22.
Following: "(8)"
Insert: "(a)"

17. Page 97, line 25.
Strike: "\$69.25"
Insert: "\$53.25"

18. Page 97, line 26.
Strike: "\$130.50"
Insert: "\$114.50"
Following: "This fee is"
Insert: "(b) An additional fee of \$5 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, an additional fee of \$16 must be collected for the registration of each motorcycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002. (c)"

19. Page 97, lines 27 and 28.
Following: "quadricycle." on line 27
Strike: remainder of line 27 through "20-25-1002." on line 28

20. Page 98, line 13.
Following: "(10)"
Insert: "(a)"

21. Page 98, line 19.
Strike: "(a)"

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Insert: "(i)"
Renumber: subsequent subsections

22. Page 98, line 24.

Following: line 23

Insert: "(b) This fee is a one-time fee, except upon transfer of ownership of the motorboat, sailboat, personal watercraft, or motorized pontoon."

23. Page 100, lines 4 through 6.

Following: "(14)" on line 4

Strike: remainder of line 4 through "." on line 6

Insert: "When the license plates for a registered motor vehicle are transferred to a replacement vehicle under 61-3-317, 61-3-332, or 61-3-335, the owner of the motor vehicle shall pay a registration fee as follows:

(a) heavy trucks, buses, and logging trucks in excess of 1 ton, 75 cents;

(b) light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton:

(i) if the vehicle is 4 years old or less, \$195.75;

(ii) if the vehicle is 5 years old through 10 years old, \$65.75; and

(iii) if the vehicle is 11 years old or older, \$6.75;

(c) motor homes:

(i) less than 2 years old, \$250.50;

(ii) 2 years old and less than 5 years old, \$192.25;

(iii) 5 years old and less than 8 years old, \$100.50; and

(iv) 8 years old and older, \$65.50;

(d) motorcycles and quadricycles registered for use on the public highways, \$42, and motorcycles and quadricycles registered for both off-road use and for use on the public highways, \$103.25. This fee is a one-time fee, except upon transfer of ownership.

(e) travel trailers under 16 feet in length, \$50.50, and travel trailers 16 feet in length or longer, \$130.50. This fee is a one-time fee, except upon transfer of ownership.

(f) trailers, semitrailers, or pole trailers with a declared weight of less than 6,000 pounds, \$52. This fee is a one-time fee, except upon transfer of ownership.

(g) trailers, semitrailers, or pole trailers with a declared weight of 6,000 pounds or more, \$139. This fee is a one-time fee, except upon transfer of ownership."

24. Page 100, line 17.

Strike: "as provided in 15-1-122(3)(c)(vii)"

25. Page 199, line 5.

Strike: "204"

Insert: "203"

26. Page 199, line 21.

Strike: "204"

Insert: "203"

27. Page 199, line 30.

Strike: "204"

Insert: "203"

28. Page 229, line 4.

Strike: "204"

Insert: "203"

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29. Page 229, line 6.

Strike: "204"

Insert: "203"

30. Page 229, lines 12 through 14.

Strike: section 244 in its entirety

And, as amended, do pass. Report adopted.

SJR 21, be adopted. Report adopted.

SJR 22, be adopted. Report adopted.

SB 304, introduced bill, be amended as follows:

2/16/2005

1. Title, line 5 through line 6.

Following: "CORRIDOR"

Strike: "; DIRECTING" on line 5 through the first "HIGHWAY" on line 6

2. Title, line 7.

Following: "RAYMOND"

Strike: "; AND AMENDING SECTION 60-2-110, MCA"

3. Page 1, line 12.

Strike: "direct" through "highway"

Insert: "designate a route"

4. Page 1, line 15.

Strike: "and"

Following: "route"

Insert: ", as appropriate, and to support region connectivity"

5. Page 1, line 16.

Strike: "project"

Insert: "improvements"

Following: "included"

Insert: ", as appropriate,"

6. Page 1, line 18 through page 2, line 7.

Strike: section 2 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SR 3, introduced resolution, be amended as follows:

1. Page 1, line 16.

Following: "Transportation"

Insert: "be encouraged to"

And, as amended, be adopted. Report adopted.

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JUDICIARY (Wheat, Chairman):

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SB 218, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

Following: "DEFINITIONS;" on line 6

Strike: remainder of line 6 through "CONTRACTS;" on line 7

2. Page 2, line 6.

Following: "by the"

Strike: "patent holder"

Insert: "manufacturer of genetically engineered wheat"

3. Page 3, line 17.

Strike: "Proper venue for an action under this section is the county where the injury is alleged to have occurred."

4. Page 4, line 4.

Following: "purchase of"

Insert: "genetically engineered wheat"

5. Page 5, line 3.

Following: "instruction."

Strike: "(1)"

Following: "through"

Strike: "3"

Insert: "4"

6. Page 5, line 5.

Following: "through"

Strike: "3"

Insert: "4"

7. Page 5, line 6 through line 7.

Strike: subsection (2) in its entirety

And, as amended, do pass. Report adopted.

SB 357, introduced bill, be amended as follows:

1. Page 4, line 8 through line 9.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

2. Page 4, line 16.

Following: "subsection"

Strike: "(9)"

Insert: "(8)"

3. Page 4, line 30.

Following: "subsection"

Strike: "(11)(a)"

Insert: "(10)(a)"

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And, as amended, do pass. Report adopted.

SB 381, introduced bill, be amended as follows:

1. Page 11, line 4.

Following: the first "child"

Insert: "under 16 years of age"

Following: the second "child"

Insert: "under 16 years of age"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):
SB 289, introduced bill, be amended as follows:

2/16/2005

1. Title, line 4.

Strike: "PROHIBITING"

Insert: "PROVIDING THAT"

2. Title, line 5.

Strike: "FROM IMPOSING"

Insert: "MAY NOT IMPOSE"

Following: "FEE OR"

Insert: "LICENSE"

3. Title, line 6.

Strike: "SECTIONS 7-1-111 AND"

Insert: "SECTION"

4. Page 1, line 10 through page 2, line 16.

Strike: section 1 in its entirety

Renumber: subsequent section

5. Page 2, line 19.

Following: "~~No~~"

Insert: "(1)"

Following: "fee or"

Insert: "license"

6. Page 2, line 20.

Following: "salesperson"

Insert: "as a condition to the practice of the broker's or salesperson's profession"

7. Page 2.

Following: line 21

Insert: "(2) This section does not prohibit a municipality or other political subdivision of the state from imposing a general business license fee or general business license tax on an establishment as a condition of conducting business in the municipality's or other political subdivision's jurisdiction."

And, as amended, do pass. Report adopted.

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SB 294, do pass. Report adopted.
SB 456, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/16/2005

HB 269, introduced by Clark
HB 345, introduced by Gallik
HB 346, introduced by Golie
HB 386, introduced by Sinrud
HB 478, introduced by Warden
HB 483, introduced by Bergren

MOTIONS

Senator Cooney moved **SB 207**, **SB 238**, and **SB 239** be taken from the 3rd reading calendar and referred to Senate Finance and Claims. Motion carried.

Senator Cooney moved **SB 319** be referred to Senate Finance and Claims. Motion carried.

Senator Roush moved **SB 492** be moved from Senate Natural Resources to Senate Taxation. Motion carried.

Senator Ryan moved **SB 147** be moved from Senate Education and Cultural Resources to Senate Finance and Claims. Motion carried.

Senator Gallus moved **SB 354** be blasted from the table in Senate Business, Labor, and Economic Affairs to the 2nd reading calendar for the 39th Legislative Day. Motion carried as follows:

Yeas: Balyeat, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Kitzenberg, Larson, Laslovich, Lind, Mangan, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Barkus, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Laible, Lewis, McGee, Moss, O'Neil, Perry, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

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

SB 493, introduced by Laslovich, referred to Judiciary.
SB 494, introduced by Bales, referred to Natural Resources.
SB 495, introduced by Grimes, referred to State Administration.
SB 496, introduced by Cooney, referred to Education and Cultural Resources.
SB 497, introduced by Tropila, referred to Business, Labor, and Economic Affairs.
SB 498, introduced by Black, Bales, L. Jones, Witt, referred to Finance and Claims.
SB 499, introduced by Keenan, referred to Public Health, Welfare and Safety.
SB 500, introduced by Cobb, referred to State Administration.

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

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SJR 25, introduced by Elliott, Wheat, referred to Judiciary.

SJR 26, introduced by Curtiss, Heinert, Maedje, referred to Judiciary.

SJR 27, introduced by Harrington, Bixby, Branae, Callahan, Campbell, Clark, Cohenour, Cooney, Eaton, Ellingson, Elliott, Gallus, Galvin-Halcro, Golie, Grinde, Groesbeck, Hansen, Jacobson, Jopek, Juneau, Larson, Laslovich, Lindeen, Maedje, Matthews, McAlpin, Moss, Noonan, Raser, Squires, Toole, Villa, Wanzenried, Williams, Wilson, referred to Judiciary.

SJR 28, introduced by Squires, referred to Public Health, Welfare and Safety.

**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 Grimes in the chair.

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

SB 279 - Senator Moss moved **SB 279** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Barkus, Laible, Lewis, Steinbeisser, Story, Tash.

Total 8

Absent or not voting: None.

Total 0

Excused: Cobb, Schmidt, Stapleton.

Total 3

SB 290 - Senator Mangan moved **SB 290** do pass.

SB 290 - Senator Esp moved **SB 290**, second reading copy, be amended as follows:

1. Page 6, line 9.

Following: "APPROVED, AND"

Insert: ", for parcels less than 20 acres,"

2. Page 6, line 10.

Strike: "AND"

3. Page 6, line 11.

Following: "(F)"

Insert: "for parcels less than 20 acres,"

4. Page 6.

Following: line 11

Insert: "(g) for parcels 20 acres and over, the analysis performed under subsection (1)(d); and"

Amendment adopted unanimously.

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SB 290 - Senator Mangan moved **SB 290**, as amended, do pass. Motion carried with Senators Curtiss, McGee, and Steinbeisser voting nay.

SB 295 - Senator Gebhardt moved **SB 295** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 41

Nays: Balyeat, Cooney, Cromley, Esp, Laible, O'Neil, Perry, Ryan.

Total 8

Absent or not voting: Mangan.

Total 1

Excused: None.

Total 0

SB 318 - Senator Laible moved **SB 318** do pass. Motion carried with Senators Balyeat, McGee, and Ryan voting nay.

SB 355 - Senator Shockley moved **SB 355** do pass. Motion carried unanimously.

SB 365 - Senator Ellingson moved **SB 365** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 38

Nays: Bales, Balyeat, Barkus, Gebhardt, Keenan, Laible, McGee, O'Neil, Shockley, Story, Tash.

Total 11

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 368 - Senator Cocchiarella moved **SB 368** do pass.

SB 368 - Senator Cocchiarella moved **SB 368**, second reading copy, be amended as follows:

1. Title, page 1, line 6.

Following: "DEPARTMENT;"

Strike: "AND"

Insert: "PROVIDING CONDITIONS FOR SUBSEQUENT INJURY FUND ELIGIBILITY; AMENDING SECTION 39-71-905, MCA;"

2. Title, page 1, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE"

3. Page 1.

Following: line 9

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Insert: "Section 1. Section 39-71-905, MCA, is amended to read:

"39-71-905. Certification as person with a disability -- eligibility for benefits under fund. (1) A person who wishes to be certified as a person with a disability for purposes of this part shall apply to the department on forms furnished by the department. The department shall conduct an investigation and shall issue a certificate to a person who, in the department's discretion, meets the requirements for certification. A person shall apply for certification before employment or within 60 days after the person becomes employed or reemployed and before an injury occurs that is covered by this part. The certification is effective on the date of employment or reemployment. Certification is effective on the date the application is approved for a person who applies for certification more than 60 days after employment or reemployment, but before an injury occurs.

(2) If a claimant has met the provisions of subsection (1) and a subsequent claim has been accepted by an insurer, the claim is eligible for the benefits under the fund."

Renumber: subsequent sections

4. Page 1.

Following: line 11

Insert: "NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval."

Insert: "NEW SECTION. **Section 4. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to workers' compensation claims filed on or after July 1, 2004."

Amendment adopted unanimously.

SB 368 - Senator Cocchiarella moved **SB 368**, as amended, do pass. Motion carried unanimously.

SB 369 - Senator Cocchiarella moved **SB 369** do pass. Motion carried unanimously.

SJR 11 - Senator Laible moved **SJR 11** be adopted. Motion carried as follows:

Yeas: Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 30

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gillan, Grimes, Keenan, Laslovich, Lewis, McGee, O'Neil, Perry, Steinbeisser, Story, Tash, Wheat.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 320 - Senator Bales moved **SB 320** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.

Total 34

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Laslovich, Lind, Moss, Squires, Toole, Weinberg, Wheat, Williams.

Total 16

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 146 - Senator Ellingson moved consideration of **SB 146** be placed below SB 319 on the second reading board. Motion carried.

HB 38 - Senator Black moved **HB 38** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Elliott, Esp, Essmann, Gebhardt, Grimes, Harrington, Hawks, Keenan, Larson, Lewis, McGee, O'Neil, Perry, Roush, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 27

Nays: Cocchiarella, Cooney, Curtiss, Ellingson, Gallus, Gillan, Hansen, Kitzenberg, Laible, Laslovich, Lind, Mangan, Moss, Pease, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 199 - Senator Toole moved **SB 199** do pass.

SB 199 - Senator Toole moved **SB 199**, second reading copy, be amended as follows:

1. Title, line 5.

Following: "LAWS;"

Insert: "DEFINING SEXUAL ORIENTATION;"

2. Page 1, line 22.

Following: line 21

Insert: "(3) For purposes of this title, "sexual orientation" means having a preference for heterosexuality, homosexuality, or bisexuality, having a history of any one or more of these preferences, or being identified with any one or more of these preferences. The use of the term in this title may not be construed to protect or render lawful any conduct otherwise prohibited by law."

Amendment adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Weinberg, Wheat, Williams.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, Pease, Perry, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 21

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

SB 199 - Senator Toole moved **SB 199**, as amended, do pass. Motion carried as follows:

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

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Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams,
Mr. President.
Total 27

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

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 308 - Senator O'Neil moved **SB 308** do pass.

SB 308 - Senator Weinberg moved **SB 308**, second reading copy, be amended as follows:

1. Page 1, line 16.
Strike: "The"
Insert: "After ensuring that the child is safe, the"

2. Page 1, line 19.
Following: "youth"
Insert: "of the placement"

Amendment adopted unanimously.

SB 308 - Senator O'Neil moved **SB 308**, as amended, do pass. Motion carried unanimously.

SB 319 - Senator Ellingson moved **SB 319** do pass. Motion carried as follows:

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

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keenan, Laible, Lewis, McGee,
O'Neil, Perry, Steinbeisser, Story, Tash, Tropila.
Total 19

Absent or not voting: Kitzenberg.
Total 1

Excused: None.
Total 0

Senator McGee made a substitute motion that SB 199 be segregated from the Committee of the Whole Report. Motion failed as follows:

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

Nays: 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, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

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 Grimes moved the Committee of the Whole report be adopted. Report adopted with Senator McGee voting nay.

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:

SB 101 passed as follows:

Yeas: Cooney, Cromley, Ellingson, Esp, 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 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gebhardt, 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 177 passed as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Balyeat, Barkus, Gebhardt, Grimes, Keenan, McGee, O'Neil, Perry, Shockley, Stapleton.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 185 passed as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan,

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Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Grimes, Keenan, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 191 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, 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 47

Nays: Gallus, Hansen, Laslovich.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 255 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, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Shockley.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Thursday, February 17, 2005. Motion carried.

Senate adjourned at 3:05 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate