

SENATE JOURNAL
FIFTY-SECOND LEGISLATIVE DAY - MARCH 9, 2005

SENATE JOURNAL
59TH LEGISLATURE
FIFTY-SECOND LEGISLATIVE DAY

Helena, Montana
March 9, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Rev. Bob Holmes. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Brueggeman, Cobb, Moss, and Shockley, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Gebhardt, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Brueggeman, Cobb, Moss, Shockley.
Total 4

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/9/2005
Correctly printed: **SB 442, SB 480, HB 14, HB 24, HB 25, HB 26, HB 54, HB 56, HB 64, HB 79, HB 110, HB 112, HB 114, HB 131, HB 138, HB 139, HB 144, HB 154, HB 158, HB 160, HB 178, HB 187, HB 215, HB 242, HB 255, HB 266, HB 298, HB 308, HB 312, HB 313, HB 400, HB 401, HB 439, HB 508, HB 564, HB 609, HJR 4, HJR 11, HJR 22, HJR 24.**
Correctly engrossed: **HB 55, HB 208, HB 218, HB 254.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/9/2005
HB 400, be concurred in. Report adopted.
HB 401, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman): 3/9/2005
SB 442, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman): 3/9/2005
HB 79, be concurred in. Report adopted.
HB 131, be concurred in. Report adopted.
HB 208, be amended as follows:

1. Page 2, line 28.
Following: "access"
Insert: "if the full market value of the interest to be acquired is less than \$20,000"

And, as amended, be concurred in. Report adopted.

HB 242, be concurred in. Report adopted.
HB 298, be concurred in. Report adopted.

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HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 3/9/2005
HB 55, be concurred in. Report adopted.
HB 114, be concurred in. Report adopted.
HB 187, be concurred in. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman): 3/9/2005
HB 218, be amended as follows:

1. Title, line 9.
Following: "~~DISTRICT~~;"
Insert: "REDUCING THE PERCENTAGE OF ELECTORS OR PROPERTY OWNERS REQUIRED TO SUBMIT A PETITION FOR THE ANNEXATION OF LAND INTO AN EXISTING DISTRICT;"

2. Title, line 11.
Following: "~~7-22-2441~~;"
Insert: "7-22-2441,"
Following: "MCA;"
Strike: "AND"

3. Title, line 12.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

4. Page 3.
Following: line 13
Insert: "**Section 4.** Section 7-22-2441, MCA, is amended to read:
"**7-22-2441. Annexation of land to mosquito control district.** ~~Any such~~ A district at any time subsequent to its creation may be enlarged to include adjacent land upon the presentation to the board of county commissioners of a petition signed by not less than ~~25%~~ 10% of the electors within the adjacent land or ~~25%~~ 10% of the owners of any property lying within the boundaries of the area proposed to be annexed to the district whose names appear as ~~such~~ the property owners upon the last-completed assessment role of the county in which the ~~said~~ proposed area is situated.""
Renumber: subsequent sections

5. Page 3.
Following: line 21
Insert: "NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

HB 508, be concurred in. Report adopted.
HB 564, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman): 3/9/2005
HB 254, be amended as follows:

1. Title, line 5.
Strike: "OR"
Insert: ","
Following: "DOSAGE"
Insert: ", INSTRUCTIONS, OR IDENTIFIERS OF THE PRESCRIBING MEDICAL PRACTITIONER"

2. Title, line 6.

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Following: ";

Insert: "PROVIDING FOR ENFORCEMENT; REQUIRING ADOPTION OF RULES;"

And, as amended, be concurred in. Report adopted.

TAXATION (Elliott, Chairman): 3/9/2005
HB 158, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate: 3/9/2005

SB 14, introduced by Cooney
SB 20, introduced by Roush

House bills passed and transmitted to the Senate for concurrence: 3/9/2005

HB 34, introduced by McNutt
HB 272, introduced by Lambert
HB 505, introduced by Matthews
HB 550, introduced by Windy Boy

House joint resolution passed and transmitted to the Senate for concurrence: 3/9/2005

HJR 9, introduced by Barrett

MOTIONS

Senator Cromley moved **HB 318** be taken from 2nd Reading and re-referred to Senate Public Health, Welfare and Safety. Motion carried.

Senator Cooney moved **HB 203** be taken from 3rd Reading and referred to Senate Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

HB 34, introduced by McNutt (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.
HB 272, introduced by Lambert, referred to Fish and Game.
HB 505, introduced by Matthews, referred to Finance and Claims.
HB 550, introduced by Windy Boy, Wanzenried, Small-Eastman, referred to Finance and Claims.

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

HJR 9, introduced by Barrett, B, Olson, Ripley, D. Brown, Himmelberger, Peterson, McNutt, Maedje, Rice, Stahl, Jackson, Lambert, Arntzen, Witt, Wagman, 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 Lind in the chair.

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

HB 14 - Senator Balyeat moved **HB 14** be concurred in. Motion carried with Senators Cobb and Laible voting nay.

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- HB 56** - Senator Balyeat moved **HB 56** be concurred in. Motion carried unanimously.
- HB 138** - Senator Esp moved **HB 138** be concurred in. Motion carried unanimously.
- HB 139** - Senator Tropila moved **HB 139** be concurred in. Motion carried unanimously.
- HB 144** - Senator Gebhardt moved **HB 144** be concurred in. Motion carried with Senator Balyeat voting nay.
- HB 178** - Senator Toole moved **HB 178** be concurred in. Motion carried unanimously.
- HB 255** - Senator Weinberg moved **HB 255** be concurred in. Motion carried unanimously.
- HB 308** - Senator Tester moved **HB 308** be concurred in. Motion carried unanimously.
- HB 347** - Senator Ellingson moved consideration of **HB 347** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.
- HB 312** - Senator Ryan moved **HB 312** be concurred in. Motion carried with Senators Esp, McGee, and O'Neil voting nay.
- HJR 4** - Senator Perry moved **HJR 4** be concurred in. Motion carried unanimously.
- HJR 24** - Senator Larson moved **HJR 24** be concurred in. Motion carried unanimously.
- HB 24** - Senator Moss moved **HB 24** be concurred in. Motion carried unanimously.
- HB 25** - Senator Wheat moved **HB 25** be concurred in. Motion carried unanimously.
- HB 26** - Senator Wheat moved **HB 26** be concurred in. Motion carried unanimously.
- HB 54** - Senator Pease moved **HB 54** be concurred in. Motion carried unanimously.
- HB 64** - Senator Perry moved **HB 64** be concurred in. Motion carried with Senators Cromley and O'Neil voting nay.
- HB 110** - Senator Laslovich moved **HB 110** be concurred in. Motion carried unanimously.
- HB 112** - Senator Cooney moved **HB 112** be concurred in. Motion carried with Senator McGee voting nay.
- HB 154** - Senator Lewis moved **HB 154** be concurred in. Motion carried unanimously.
- HB 160** - Senator Tropila moved **HB 160** be concurred in. Motion carried with Senators Balyeat, Curtiss, Laible, and Stapleton voting nay.
- HB 203** - Senator Shockley moved **HB 203** be concurred in. Motion carried unanimously.
- HB 215** - Senator Pease moved **HB 215** be concurred in. Motion carried unanimously.
- HB 266** - Senator Bales moved **HB 266** be concurred in. Motion carried unanimously.
- HB 313** - Senator Lewis moved **HB 313** be concurred in. Motion carried with Senator Esp voting nay.
- HB 439** - Senator Harrington moved **HB 439** be concurred in. 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, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29
- Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis,

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McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 609 - Senator Brueggeman moved **HB 609** be concurred in. Motion carried unanimously.

SB 480 - Senator Cromley moved **SB 480** do pass. Motion carried as follows:

Yeas: Barkus, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Balyeat, Black, Brueggeman, Curtiss, Esp, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Shockley, Steinbeisser, Tash.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 11 - Senator Smith moved **HJR 11** be concurred in. Motion carried unanimously.

HJR 22 - Senator Bales moved **HJR 22** be concurred in. Motion carried unanimously.

HB 347 - Senator Ellingson moved consideration of **HB 347** be passed for the day. Motion carried.

HB 250 - Senator Moss moved consideration of **HB 250** be passed for the day. Motion carried.

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

HB 43 concurred in 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

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Excused: None.
Total 0

HB 67 concurred in 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

HB 70 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Gillan, Smith, Steinbeisser, Story.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 78 concurred in as follows:

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

Nays: Balyeat, Barkus, Black, Esp, Gebhardt, McGee, O'Neil, Stapleton, Steinbeisser, Tash.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 87 concurred in 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,

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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

HB 101 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Curtiss, Keenan, McGee, Stapleton.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 107 concurred in 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

HB 197 concurred in as follows:

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

Nays: Bales, Balyeat, Barkus, Curtiss, Gebhardt, Keenan, O'Neil, Shockley, Story, Tash.
Total 10

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 498 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

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Thursday, March 10, 2005. Motion carried.

Senate adjourned at 3:03 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate