

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 15, 2005

SENATE JOURNAL
59TH LEGISLATURE
FIFTY-SEVENTH LEGISLATIVE DAY

Helena, Montana
March 15, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Rep. Windy Boy and Rep. Bob Bergren. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Balyeat and Shockley, excused. 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, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/15/2005
Correctly printed: **SB 511, HB 50, HB 88, HB 97, HB 116, HB 147, HB 157, HB 161, HB 162, HB 180, HB 191, HB 196, HB 209, HB 262, HB 285, HB 345, HB 349, HB 367, HB 631, HB 638.**
Correctly engrossed: **HB 30, HB 318, HB 332, HB 502.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/15/2005
HB 502, be amended as follows:

1. Title, page 1, line 11.
Strike: "AND"

2. Title, page 1, line 12.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 3.
Following: line 7
Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval."

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

HB 631, be concurred in. Report adopted.
HB 638, be concurred in. Report adopted.

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JUDICIARY (Wheat, Chairman): 3/15/2005
HB 191, be concurred in. Report adopted.
HB 196, be concurred in. Report adopted.
HB 262, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman): 3/15/2005
HB 88, be concurred in. Report adopted.
HB 162, be concurred in. Report adopted.
HB 318, be amended as follows:

1. Page 2, line 14.
Strike: "EQUIPMENT"
Insert: "education, treatment, services,"

2. Page 2, line 15.
Strike: "(3)"

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

HB 332, be amended as follows:

1. Page 1, line 10.
Strike: "\$1,185,504"
Insert: "\$903,255"

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

MESSAGES FROM THE GOVERNOR

March 15, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

Please be informed that I have signed **Senate Bill 14** sponsored by Senator Cooney and **Senate Bill 20** sponsored by Senator Roush on March 15, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

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Senate bills concurred in and returned to the Senate: 3/15/2005

SB 53, introduced by Squires
SB 54, introduced by Squires
SB 106, introduced by Brueggeman
SB 141, introduced by Laible
SB 454, introduced by Gebhardt

House bill passed and transmitted to the Senate for concurrence: 3/15/2005

HB 671, introduced by Musgrove

MOTIONS

Senator Mangan moved that **SB 133** be passed for the day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 511, introduced by Mangan, referred to Taxation.

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

HB 18, introduced by Juneau (by request of the State-Tribal Relations Committee), referred to Business, Labor, and Economic Affairs.

HB 671, introduced by Musgrove, Brueggeman, Schmidt, Witt, referred to Highways and Transportation.

**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 Gebhardt in the chair.

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

HB 30 - Senator Esp moved consideration of **HB 30** be placed below HB 345 on the second reading board. Motion carried.

HB 50 - Senator Bales moved **HB 50** be concurred in. Motion carried unanimously.

HB 180 - Senator Laible moved **HB 180** be concurred in. Motion carried unanimously.

HB 97 - Senator Wheat moved **HB 97** be concurred in. Motion carried with Senator Shockley voting nay.

HB 116 - Senator Bales moved **HB 116** be concurred in. Motion carried unanimously.

HB 147 - Senator Tash moved **HB 147** be concurred in. Motion carried unanimously.

HB 157 - Senator Steinbeisser moved **HB 157** be concurred in. Motion carried unanimously.

HB 161 - Senator Cocchiarella moved **HB 161** be concurred in. Motion carried unanimously.

HB 209 - Senator Steinbeisser moved **HB 209** be concurred in. Motion carried unanimously.

HB 285 - Senator Cocchiarella moved **HB 285** be concurred in. Motion carried unanimously.

HB 345 - Senator Laslovich moved **HB 345** be concurred in. Motion carried with Senator Stapleton voting nay.

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HB 30 - Senator Shockley moved **HB 30** be concurred in.

HB 30 - Senator Esp moved **HB 30**, second reading copy, be amended as follows:

1. Page 1, line 20.

Following: "section"

Strike: " "

Insert: " (a) "holdover senator" means a senator who was not required to seek election at the general election held immediately prior to the pre-session caucus; and
(b)"

Following: "representative-elect"

Insert: "who is eligible to serve in the ensuing legislative session"

Amendment adopted unanimously.

HB 30 - Senator Shockley moved **HB 30**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, 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 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gallus, Laible.
Total 2

HB 349 - Senator Mangan moved **HB 349** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Steinbeisser, Story, Tash, Tropila, Williams, Mr. President.
Total 39

Nays: Cocchiarella, Curtiss, Gallus, Keenan, O'Neil, Smith, Stapleton, Toole, Weinberg, Wheat.
Total 10

Absent or not voting: None.
Total 0

Excused: Black.
Total 1

HB 367 - Senator Mangan moved **HB 367** be concurred in.

HB 367 - Senator O'Neil moved **HB 367**, second reading copy, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "PROVIDING" on line 6 through "RECORD;" on line 7

2. Title, page 1, line 11.

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Strike: "25-31-601,"

3. Page 5, line 2 through line 5.

Strike: section 10 in its entirety

Renumber: subsequent sections

Amendment **not** adopted as follows:

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

Total 24

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

Total 25

Absent or not voting: None.

Total 0

Excused: Wheat.

Total 1

HB 367 - Senator O'Neil moved **HB 367**, second reading copy, be further amended as follows:

1. Title, page 1, line 7.

Following: "RECORD;"

Insert: "PROVIDING THAT AN APPEAL FROM A JUSTICE'S COURT OF RECORD TO THE DISTRICT COURT IS ON THE RECORD AND NOT DE NOVO ONLY IF ALL THE PARTIES WERE REPRESENTED BY AN ATTORNEY IN THE JUSTICE'S COURT OF RECORD;"

2. Page 5, line 17.

Following: "3-10-115"

Insert: "if all parties were represented by an attorney in the justice's court of record"

Amendment **not** adopted as follows:

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

Total 24

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

Total 25

Absent or not voting: None.

Total 0

Excused: Wheat.

Total 1

HB 367 - Senator Mangan moved **HB 367** be concurred in. Motion carried as follows:

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

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Mr. President.
Total 26

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

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

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

SB 48 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

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

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Harrington announced the newest addition to his family, grandson Daniel Ryan Harrington, was born March 11, 2005.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Wednesday, March 16, 2005. Motion carried.

Senate adjourned at 3:07 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate