

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2005

SENATE JOURNAL
59TH LEGISLATURE
FIFTY-EIGHTH LEGISLATIVE DAY

Helena, Montana
March 16, 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 Senators McGee, Squires, and Wheat, 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, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 45

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: McGee, Squires, Wheat.
Total 3

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the eighth and ninth legislative days, find the same to be correct.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/16/2005
Correctly printed: **SB 18, SB 333, SB 376, SB 512, SB 513, HB 103, HB 203, HB 223, HB 234, HB 275, HB 283, HB 306, HB 321, HB 370, HB 371, HB 427, HB 428, HB 452, HB 463, HB 493, HB 567, HJR 10, HJR 16, HJR 18.**
Correctly engrossed: **SB 110, SB 238, HB 53, HB 119, HB 301, HB 377.**
Correctly enrolled: **SB 16, SB 170, SB 171, SB 188, SB 189, SB 235, SB 356.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/16/2005
HB 223, be concurred in. Report adopted.
HB 306, be concurred in. Report adopted.
HB 427, be concurred in. Report adopted.
HB 567, be concurred in. Report adopted.
HJR 16, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman): 3/16/2005
SB 110, introduced bill, be amended as follows:

1. Page 3, line 25.
Following: "(5)"
Insert: "(a)"

2. Page 4, line 1.
Following: page 3, line 30

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Insert: "(b) The department shall develop a contingency plan if there is a spending cap as a condition of the waiver and the spending cap is exceeded. The contingency plan must address the effects on new programs, services, or eligibility groups."

3. Page 8, line 7.

Insert: "(18) The department shall present a section 1115 waiver proposal to the appropriate medicaid advisory council, which must include consumer advocates, prior to the submission of the proposal to the federal government."

Renumber: subsequent subsections

4. Page 8, line 8.

Strike: "LEGISLATIVE FINANCE COMMITTEE"

Insert: "children, families, health, and human services interim committee for review and comment at a public hearing"

5. Page 8, line 9.

Following: "APPROVAL"

Insert: "and shall also present the section 1115 waiver after final approval from the federal government"

6. Page 8, line 10.

Following: "(19)"

Insert: "(a)"

7. Page 8, line 12.

Following: "APPROVAL."

Insert: "(b)"

8. Page 8, line 13.

Following: "THAT"

Strike: "A SYNOPSIS OF"

Insert: "information on"

9. Page 8, line 14.

Following: "WEBSITE"

Strike: "AND"

Insert: "

(c) The department"

10. Page 8, line 15.

Following: "MAIL"

Insert: "and shall provide for a public forum in at least one location at which members of the public can submit views on the proposal"

11. Page 8, line 17.

Insert: "(d) The department shall post on its website the waiver concept paper, formal correspondence regarding a waiver proposal, and the final approved waiver, including documents received from the center for medicare and medicaid services."

And, as amended, do pass. Report adopted.

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SB 238, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "FUND;"

Strike: remainder of line 6

2. Page 1, line 13.

Strike: "33-2-705(2)"

Insert: "[section 2]"

3. Page 2, line 7 through page 5, line 2.

Strike: section 2 through section 3 in their entirety

4. Page 5, line 3.

Insert: "NEW SECTION. Section 2. Fund source. On or after July 1 of each odd-numbered year, the commissioner shall transfer sufficient funds from the state special revenue account provided for in 33-2-708(3) to the insurance consumer education fund to implement the provisions of [section 1]. The commissioner shall also transfer sufficient appropriation authority from existing appropriations in the general appropriations act to expend funds in the account."

Insert: "NEW SECTION. Section 3. Performance of required functions. It is the intent of the legislature that the functions required in [section 1] be conducted with existing employees and within existing levels of funding."

5. Page 5, line 4.

Strike: "[SECTION 1] IS"

Insert: "[Sections 1 and 2] are"

6. Page 5, line 5.

Strike: "SECTION 1"

Insert: "sections 1 and 2"

7. Page 5, line 10.

Strike: "JUNE"

Insert: "July"

And, as amended, do pass. Report adopted.

SB 333, do pass. Report adopted.

SB 376, do pass. Report adopted.

HB 53, be amended as follows:

1. Title, page 1, line 8.

Strike: "AND"

2. Title, page 1, line 9.

Following: "MCA"

Insert: "; AND PROVIDING A DELAYED EFFECTIVE DATE"

3. Page 6, following line 3.

Insert: "NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2007."

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

HB 119, be amended as follows:

1. Title, page 1, lines 13 and 14.

Strike: "AN IMMEDIATE"

Insert: "A DELAYED"

2. Page 1, line 21.

Strike: "on passage and approval"

Insert: "June 28, 2006"

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

HB 203, be concurred in. Report adopted.

HB 301, be amended as follows:

1. Page 9, line 3.

Insert: "NEW SECTION. Section 11. Performance of administration. It is the intent of the legislature that costs of administration to implement the functions required in [this act] be funded within existing appropriation levels."

Renumber: subsequent sections

2. Page 9, line 9.

Following: "11,"

Insert: "and 12"

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

HB 452, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

3/16/2005

HB 275, be concurred in. Report adopted.

HB 377, be amended as follows:

1. Page 1.

Following: line 17

Insert: "COORDINATION SECTION. Section 2. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-704 must be amended as follows:

"61-3-704. Penalty. (1) Any person operating a motor vehicle, trailer, semitrailer, or pole trailer in violation of the intent and purpose of 61-3-701 or 61-3-702 shall be is guilty of a misdemeanor and upon conviction of this offense shall be punished by a fine of \$300.

(2) Any person operating a motor vehicle, trailer, semitrailer, or pole trailer in violation of 61-3-702 is guilty of a misdemeanor and upon conviction thereof of this offense shall be punished by a fine of not less than \$10 or more than \$50, or confined in the county jail for not more than 30 days, or both such fine and imprisonment."

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

LOCAL GOVERNMENT (Mangan, Chairman):

3/16/2005

HB 103, be concurred in. Report adopted.

HB 234, be concurred in. Report adopted.

HB 283, be concurred in. Report adopted.

HB 321, be concurred in. Report adopted.

HB 371, be concurred in. Report adopted.

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MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/16/2005

SB 16, introduced by Tropila
SB 170, introduced by Mangan
SB 171, introduced by Gallus
SB 188, introduced by Cocchiarella
SB 189, introduced by Cocchiarella
SB 235, introduced by Mangan
SB 278, introduced by Black
SB 356, introduced by Essmann

House bill passed and transmitted to the Senate for concurrence:

3/16/2005

HB 514, introduced by Gutsche

MOTIONS

Senator Mangan moved **HB 349** be segregated from 3rd Reading. Motion carried.

Senator Mangan moved **HB 349** be referred to Senate Judiciary. Motion carried.

Senator Elliott moved the Senate Rules be suspended for the late introduction of a resolution urging Congress to make the practice of balancing the budget mandatory. Motion carried as follows:

Yeas: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 41

Nays: Bales, Barkus, Black, Ellingson, Esp, Grimes, Mangan, Stapleton, Toole.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Cooney moved **SB 133** be referred to Senate Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 512, introduced by Kitzenberg, referred to Taxation.
SB 513, introduced by Elliott, Branae, Matthews, referred to Taxation.

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

HB 514, introduced by Gutsche, 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 Cocchiarella in the chair.

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

HB 332 - Senator Ellingson moved consideration of **HB 332** be passed for the day. Motion carried.

SB 61 - Senator Ellingson moved consideration of **SB 61** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

HB 638 - Senator Ellingson moved consideration of **HB 638** be placed below SB 61 on the second reading board. Motion carried.

HB 370 - Senator Gebhardt moved **HB 370** be concurred in. Motion carried with Senator McGee voting nay.

HB 428 - Senator Lind moved **HB 428** be concurred in. Motion carried unanimously.

HB 463 - Senator Toole moved **HB 463** be concurred in. Motion carried with Senator Joe Balyeat voting nay.

HB 493 - Senator Gallus moved consideration of **HB 493** be placed below SB 18 on the second reading board. Motion carried.

HJR 10 - Senator Elliott moved **HJR 10** be concurred in. Motion carried unanimously.

HJR 18 - Senator Roush moved **HJR 18** be concurred in. Motion carried unanimously.

SB 18 - Senator Roush moved **SB 18** do pass. Motion carried unanimously.

HB 493 - Senator Gallus moved **HB 493** be concurred in. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: Williams.
Total 1

SB 133 - Senator Mangan moved **SB 133** do pass. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

Nays: Bales, Balyeat, Curtiss, Ellingson, Elliott, Esp, Harrington, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash, Toole.
Total 18

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

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Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Cocchiarella 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 30 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 50 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 97 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, 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: Grimes, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 116 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 147 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 157 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, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 161 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

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 180 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 209 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 285 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

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HB 345 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, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Curtiss, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 367 concurred in as follows:

Yeas: Brueggeman, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Schmidt, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 25

Nays: Bales, Balyeat, Barkus, Black, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Harrington, Keenan, Laible, Lewis, McGee, O'Neil, Ryan, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Students from Rocky Mountain Preschool recited the preamble to the U.S. Constitution and sang the Montana state song.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

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

Senate adjourned at 3:31 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate