

**SENATE JOURNAL  
60TH LEGISLATURE  
TENTH LEGISLATIVE DAY**

Helena, Montana  
January 16, 2007

Senate Chambers  
State Capitol

Senate convened at 1 p.m. President Cooney presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. Senator Juneau excused. Quorum present.

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 44

Nays: Balyeat, Gebhardt, Jackson, O'Neil, Shockley.  
Total 5

Absent or not voting: None.  
Total 0

Excused: Juneau.  
Total 1

**REPORTS OF STANDING COMMITTEES**

**Correctly printed: SB 23, SB 37, SB 72, SB 82, SB 90, SB 94, SB 123, SB 163, SB 170, SB 265, SB 266, SB 267, SB 268, SB 269, SB 270, SB 271, SB 272, SB 273, SB 274, SB 275, SB 276, SB 277, SB 278, SB 279, SB 280, SB 281, SB 282, SB 283.**

**Correctly engrossed: SB 70, SB 83, SB 104, SB 150.**

**Signed by the President at 4:00 p.m., January 15, 2007: SR 1.**

**Signed by the Secretary of the Senate at 3:45 p.m., January 15, 2007: SR 1.**

**Delivered to the Secretary of State at 2:13 p.m., January 16, 2007: SR 1.**

**EDUCATION AND CULTURAL RESOURCES** (Ryan, Chairman): 1/16/2007  
**SB 23**, do pass. Report adopted.  
**SB 123**, do pass. Report adopted.

**PUBLIC HEALTH, WELFARE AND SAFETY** (Weinberg, Chairman): 1/16/2007  
**SB 83**, introduced bill, be amended as follows:

1. Page 2, line 16.

**Strike:** "by the department, is"

**Insert:** "and"

2. Page 2, line 17.

**Following:** "court"

**Strike:** "₂"

3. Page 2, line 17.

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**Following:** "who"  
**Insert:** "who"

And, as amended, do pass. Report adopted.

**STATE ADMINISTRATION** (Squires, Chairman):  
**SB 70**, introduced bill, be amended as follows:

1/16/2007

1. Page 1, line 12.  
**Strike:** "28"  
**Insert:** "29"

2. Page 1, line 21.  
**Following:** "industry,"  
**Insert:** "Montana's insurance industry,"

And, as amended, do pass. Report adopted.

**JUDICIARY** (Laslovich, Chairman):  
**SB 104**, introduced bill, be amended as follows:

1/16/2007

1. Title, line 5.  
**Following:** "SPECIFYING"  
**Strike:** "THAT"  
**Following:** "WHICH"  
**Strike:** "TO BEGIN"

2. Title, line 6.  
**Following:** "OFFENSES"  
**Strike:** "INCLUDES"  
**Insert:** "MAY BE COMMENCED"

3. Page 1, line 12 through page 3, line 4.  
**Strike:** everything after the enacting clause  
**Insert:** "Section 1. Section 45-1-205, MCA, is amended to read:

"**45-1-205. General time limitations.** (1) (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) ~~Except as provided in subsection (9),~~ a prosecution for a felony offense under 45-5-502, 45-5-503, or 45-5-507(4) may be commenced within 10 years after it is committed, except that it may be commenced within 10 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred. A prosecution for a misdemeanor offense under those provisions may be commenced within 1 year after the offense is committed, except that it may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

(c) ~~Except as provided in subsection (9),~~ a prosecution under 45-5-504, 45-5-505, 45-5-507(1), (2), (3), or (5), 45-5-625, or 45-5-627 may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

(2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

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- (b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.
- (3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:
- (a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination of the minority or incompetency;
- (b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.
- (4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.
- (5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.
- (6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be brought within 3 years after an offense is committed.
- (7) (a) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.
- (b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over the property, except that the prosecution must be commenced within 1 year after the investigating officer discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.
- (8) A prosecution is commenced either when an indictment is found or an information or complaint is filed.
- (9) If after a time period prescribed in subsection (1)(b) or (1)(c) has expired a suspect is conclusively identified by DNA testing, a prosecution may be commenced within 1 year after a suspect is conclusively identified by DNA testing."

And, as amended, do pass. Report adopted.

**STATE ADMINISTRATION** (Squires, Chairman):

1/16/2007

**SB 72**, do pass. Report adopted.

**SB 82**, do pass. Report adopted.

**TAXATION** (Elliott, Chairman):

1/16/2007

**SB 150**, introduced bill, be amended as follows:

1. Page 1, line 24.

**Strike:** "asset"

**Insert:** "assets"

And, as amended, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

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House bills passed and transmitted to the Senate for concurrence:

1/15/2007

**HB 1**, introduced by Sinrud  
**HB 18**, introduced by W. Jones  
**HB 23**, introduced by Hiner  
**HB 41**, introduced by Augare  
**HB 42**, introduced by McChesney  
**HB 43**, introduced by McChesney  
**HB 51**, introduced by Pomnichowski  
**HB 62**, introduced by Jacobson  
**HB 67**, introduced by Heinert  
**HB 70**, introduced by Clark  
**HB 106**, introduced by Cordier

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 265**, introduced by Kitzenberg, referred to Public Health, Welfare and Safety.  
**SB 266**, introduced by Shockley, referred to Judiciary.  
**SB 267**, introduced by Shockley, referred to State Administration.  
**SB 268**, introduced by Bales, referred to Taxation.  
**SB 269**, introduced by Larson, referred to State Administration.  
**SB 270**, introduced by Larson, referred to State Administration.  
**SB 271**, introduced by Brown, Essmann, Becker, Ross, Butcher, Cocchiarella, Himmelberger, Arntzen, Gillan, Laslovich, Story, Jackson, Black, Pease, Branae, Moss, Brueggeman, referred to Highways and Transportation.  
**SB 272**, introduced by O'Neil, Jackson, Tash, Groesbeck, Everett, Curtiss, Gebhardt, Beck, Lewis, Ripley, Wanzenried, Steinbeisser, W. Jones, Barkus, Balyeat, Perry, Larson, Ryan, referred to State Administration.  
**SB 273**, introduced by Jent, referred to State Administration.  
**SB 274**, introduced by Laible, referred to Natural Resources and Energy.  
**SB 275**, introduced by Kitzenberg, referred to Taxation.  
**SB 276**, introduced by Steinbeisser, McChesney, Black, referred to Business, Labor, and Economic Affairs.  
**SB 277**, introduced by Laible, referred to Judiciary.  
**SB 278**, introduced by Gillan, Raser, referred to Judiciary.  
**SB 279**, introduced by Balyeat, Himmelberger, Koopman, Wells, Kitzenberg, Jackson, Murphy, Heinert, Dutton, Lewis, Curtiss, J. Peterson, K. Peterson, Story, Brown, Steinbeisser, Glaser, Cobb, Perry, McGillvray, Hendrick, Lambert, Barkus, Rice, Essmann, Lake referred to State Administration.  
The following Senate bill was introduced, read first time, and referred to committee:  
**SB 280**, introduced by Balyeat, Jackson, Himmelberger, Rice, Curtiss, Brown, Wells, McGillvray, K. Peterson, Brueggeman, Glaser, referred to State Administration.  
**SB 281**, introduced by Balyeat, Hendrick, Koopman, Himmelberger, Steinbeisser, Heinert, Morgan, Barkus, Jent, Brown, Curtiss, Dutton, J. Peterson, K. Peterson, Lewis, McNutt, Story, Glaser, Lambert, Gebhardt, Wells, Rice, Ingraham, Ripley, Brueggeman, McGillvray, Lake, referred to Taxation.  
**SB 282**, introduced by Lind, referred to Judiciary.  
**SB 283**, introduced by Lind, referred to Judiciary.  
**HB 1**, introduced by Sinrud, referred to Finance and Claims.  
**HB 18**, introduced by W. Jones, referred to State Administration.  
**HB 23**, introduced by Hiner, referred to Highways and Transportation.  
**HB 41**, introduced by Augare, referred to Natural Resources and Energy.

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**HB 42**, introduced by McChesney, referred to Finance and Claims.  
**HB 43**, introduced by McChesney, referred to State Administration.  
**HB 46**, introduced by Gallik, referred to State Administration.  
**HB 48**, introduced by Jacobson, referred to State Administration.  
**HB 51**, introduced by Pomnichowski, referred to State Administration.  
**HB 62**, introduced by Jacobson, referred to State Administration.  
**HB 67**, introduced by Heinert, referred to State Administration.  
**HB 70**, introduced by Clark, referred to State Administration.  
**HB 106**, introduced by Cordier, referred to Business, Labor, and Economic Affairs.

**SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)**

Senator Williams moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Story in the chair.

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

**SB 85** - passed consideration for the day.

**SB 37** - Senator Gebhardt moved **SB 37** do pass. Motion carried unanimously.

**SB 104** - Senator Squires moved **SB 104** do pass. Motion carried unanimously.

**SB 163** - Senator Shockley moved **SB 163** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Gillan, Harrington, Jent, Kitzenberg, Laible, Larson, Lewis, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, J.Tropila.

Total 34

Nays: Balyeat, Elliott, Gallus, Hansen, Hawks, Jackson, Kaufmann, Laslovich, Lind, Squires, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 15

Absent or not voting: None.

Total 0

Excused: Juneau.

Total 1

**SB 170** - Senator Perry moved **SB 170** do pass. Motion carried unanimously.

**SB 90** - Senator Laslovich moved **SB 90** do pass. Motion carried with Senator McGee voting nay.

**SB 94** - Senator Esp moved **SB 94** do pass. Motion carried unanimously.

Senator Williams moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Cooney in the chair. Chairman Story moved the Committee of the Whole report be adopted. Report

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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 44** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 48

Nays: Kaufmann.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Juneau.  
Total 1

**SB 66** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 46

Nays: Esp, McGee, Stapleton.  
Total 3

Absent or not voting: None.  
Total 0

Excused: Juneau.  
Total 1

**SB 69** passed as follows:

Yeas: Bales, Black, Brueggeman, Cocchiarella, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Steinbeisser, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 38

Nays: Balyeat, Barkus, Brown, Cobb, Curtiss, Esp, McGee, O'Neil, Shockley, Stapleton, Story.

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Total 11

Absent or not voting: None.

Total 0

Excused: Juneau.

Total 1

**SB 97** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J. Tropila, M. Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Juneau.

Total 1

**SB 119** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J. Tropila, M. Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Juneau.

Total 1

**SB 131** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J. Tropila, M. Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: Juneau.

Total 1

**SB 178** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J. Tropila, M. Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Juneau.

Total 1

**SB 187** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J. Tropila, M. Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Juneau.

Total 1

**SB 188** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J. Tropila, M. Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0



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Absent or not voting: None.  
Total 0

Excused: Juneau.  
Total 1

**MOTIONS**

**SEN. TRUDI SCHMIDT, SD 11, GREAT FALLS** moved discussion of **SB 85** be postponed. Motion carried.

**SEN. JESSE LASLOVICH, SD 43, ANACONDA** noted **SB 5** was tabled in committee requesting that it be referred to Judiciary Committee. Motion carried.

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Williams moved that the Senate adjourn until 1:00 p.m., Wednesday, January 17, 2007. Motion carried.

Senate adjourned at 1:54 p.m.

JOHN MUDD  
Secretary of the Senate

MIKE COONEY  
President of the Senate