

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

Helena, Montana  
January 17, 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.

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, 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: Steinbeisser.

Total 1

Quorum present.

**REPORTS OF STANDING COMMITTEES**

**BUSINESS, LABOR, AND ECONOMIC AFFAIRS** (Cocchiarella, Chairman):

1/17/2007

**SB 92**, introduced bill, be amended as follows:

1. Title, line 10.

**Following:** "REQUIREMENTS;"

**Insert:** "CLARIFYING WHO PAYS CERTAIN FEES;"

2. Title, line 14.

**Following:** "32-9-124,"

**Insert:** "32-9-125,"

3. Page 9, line 17.

**Following:** "services and"

**Insert:** "three"

**Following:** "choose"

**Insert:** ", each within a 100-mile radius of the property subject to being mortgaged, if available"

4. Page 9, line 19.

**Insert:** "**Section 12.** Section 32-9-125, MCA, is amended to read:

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**"32-9-125. Trust accounts -- fees other than bona fide third-party fees.** (1) Every mortgage broker doing business in this state shall:

(a) maintain a trust account at a financial institution located in this state whose deposits or shares are insured, and the trust account funds may not be commingled with any other funds of the mortgage broker;

(b) deposit into the trust account any bona fide third-party fee that the mortgage broker receives ~~unless the borrower pays the bona fide third party directly~~; and

(c) pay third-party fees to a bona fide third party from the mortgage broker's trust account unless the borrower, the seller, or another person involved in the transaction pays the bona fide third party directly.

(2) A mortgage broker may not charge or receive, directly or indirectly, fees for assisting a borrower in obtaining a mortgage until all of the services that the mortgage broker has agreed to perform for the borrower are completed. A mortgage broker may not charge a residential loan application fee in excess of the amount allowed by federal law. Prior to completion of services, the fees provided for in subsection (3) incurred by a bona fide third party in assisting the borrower to obtain a mortgage must be paid.

(3) The following fees must be paid ~~directly~~ by the borrower, ~~the seller, or another person involved in the transaction directly~~ to the bona fide third party providing the services or must be ~~deposited~~ paid by the borrower, ~~if applicable, into the mortgage broker's trust account~~ ~~the seller, or another person involved in the transaction to the mortgage broker~~ for payment of services performed by the bona fide third party:

(a) credit report fees;

(b) notary fees;

(c) title search, appraisal, or survey fees;

(d) rate-lock fees not exceeding 3% of the mortgage loan amount; and

(e) fees paid directly by the borrower, ~~the seller, or another person involved in the transaction~~ to a state or federal government agency or instrumentality for purposes of processing a mortgage application relating to a government-sponsored or guaranteed mortgage program.

(4) The department shall by rule define the meaning of "another person involved in the transaction"."

**Renumber:** subsequent sections

5. Page 9, line 24.

**Following:** "provision"

**Insert:** "of"

6. Page 13, line 11.

**Strike:** "A"

**Insert:** "In addition to the penalties in subsection (1), a"

7. Page 13, line 18.

**Following:** "10,"

**Strike:** "12"

**Insert:** "13"

**Following:** "and"

**Strike:** "13"

**Insert:** "14"

8. Page 13, line 20.

**Following:** "10,"

**Strike:** "12"

**Insert:** "13"

**Following:** "and"

**Strike:** "13"

**Insert:** "14"

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And, as amended, do pass. Report adopted.

**FISH AND GAME** (Tropila, Chairman):  
**SB 112**, introduced bill, be amended as follows:

1/17/2007

1. Title, line 4.

**Strike:** "LICENSES"

**Insert:** "PRIVILEGES"

2. Title, line 6.

**Following:** "RECOUP THE"

**Insert:** "LICENSE"

**Following:** "COSTS"

**Strike:** "OF"

3. Title, line 7.

**Strike:** "THE LICENSES ON A BIENNIAL"

**Insert:** "ASSOCIATED WITH THE FISHING AND HUNTING PRIVILEGES ON A QUARTERLY"

4. Page 1, line 23 through line 24.

**Strike:** "department" on line 23 through "biennium" on line 24

**Insert:** "department's general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account"

5. Page 1, line 24.

**Following:** "with the"

**Strike:** "free"

**Following:** "bird"

**Strike:** "licenses"

**Insert:** "hunting privileges"

6. Page 1, line 25.

**Strike:** "biennium"

**Insert:** "calendar quarter"

**Following:** " \_"

**Insert:** "Reimbursement costs must be designated as license revenue."

And, as amended, do pass. Report adopted.

**SB 126**, do pass. Report adopted.  
**SB 139**, introduced bill, be amended as follows:

1. Title, line 5.

**Following:** "TO"

**Insert:** "A TOTAL OF"

2. Title, line 7.

**Following:** "2006"

**Insert:** "AND OF CERTAIN 2005 AND 2004 MONTANA REAL PROPERTY TAXES PAID ON THE PRINCIPAL RESIDENCE"

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3. Page 1, line 16.

**Strike:** "2006"

4. Page 1, line 19.

**Following:** "assessed in"

**Insert:** "the specified"

**Strike:** "2006"

5. Page 1, line 23.

**Following:** "(1)"

**Insert:** "(a)"

6. Page 1, line 27.

**Following:** line 26

**Insert:** "(b) If the 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence they owned and occupied as their principal residence for at least 7 months during 2006 were more than \$25 and less than \$400, a refund of the 2005 Montana property taxes assessed to and paid by the taxpayer or taxpayers on the principal residence, if they owned and occupied it as their principal residence for at least 7 months during 2005, may be claimed as provided in subsection (2), subject to the limitations provided in subsection (3), in an amount that together with the refund under subsection (1)(a) does not exceed \$400.

(c) If the 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence they owned and occupied as their principal residence for at least 7 months during 2006, together with the 2005 Montana property taxes allowed as a refund under subsection (1)(b), were more than \$50 and less than \$400, a refund of the 2004 Montana property taxes assessed to and paid by the taxpayer or taxpayers on the principal residence, if they owned and occupied it as their principal residence for at least 7 months during 2004, may be claimed as provided in subsection (2), subject to the limitations provided in subsection (3), in an amount that together with the refund under subsections (1)(a) and (1)(b) does not exceed \$400."

7. Page 2, line 6.

**Insert:** "(c) The claims by a taxpayer or taxpayers for 2006, 2005, and 2004 must be for the same property."

8. Page 2, line 18.

**Strike:** "2007"

**Insert:** "2008"

And, as amended, do pass. Report adopted.

**LOCAL GOVERNMENT** (Gillan, Chairman):

1/17/2007

**SB 35**, do pass. Report adopted.

**TAXATION** (Elliott, Chairman):

1/17/2007

**SB 99**, introduced bill, be amended as follows:

1. Title, line 6.

**Strike:** "OR"

**Insert:** ", "

**Following:** "COLLECTION"

**Insert:** ", OR REFUND"

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2. Page 1, line 28.

**Strike:** "3"

**Insert:** "5"

3. Page 2, line 5 through line 7.

**Strike:** "in lieu" on line 5 through "carryback" on line 7

**Insert:** "the overpayment may be refunded or credited within the period that expires on the 15th day of the 41st month following the close of the tax year of the net operating loss if that period expires later than 5 years from the due date of the return for the year to which the net operating loss is carried back"

And, as amended, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

**House bills** passed and transmitted to the Senate for concurrence: 1/17/2007

**HB 111**, introduced by Furey

**House bill** passed and transmitted to the Senate for concurrence: 1/17/2007

**HB 140**, introduced by Ingraham

**House joint resolution** passed and transmitted to the Senate for concurrence: 1/17/2007

**HJR 3**, introduced by Musgrove

**MOTIONS**

**SEN. COREY STAPLETON, SD 27, BILLINGS** moved to place **SB 13** on second reading for the 12th Legislative day. Motion carried as follows:

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

Total 39

Nays: Hansen, Harrington, Juneau, Kaufmann, Larson, Moss, Schmidt, Squires, Wanzenried, Williams.

Total 10

Absent or not voting: None.

Total 0

Excused: Steinbeisser.

Total 1

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 284**, introduced by Moss, Perry, referred to Local Government.

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**SB 285**, introduced by Cooney, referred to State Administration.  
**SB 286**, introduced by Cooney, referred to State Administration.  
**SB 287**, introduced by Weinberg, Arntzen, Jopek, Harrington, O'Hara, Williams, Murphy, Lewis, Becker, Wanzenried, Cobb, Kaufmann, Sonju, Lind, Noonan, referred to Public Health, Welfare and Safety.  
**SB 288**, introduced by Schmidt, Perry, Clark, Sesso, referred to Public Health, Welfare and Safety.  
**SB 289**, introduced by Gallus, Becker, referred to Public Health, Welfare and Safety.  
**SB 290**, introduced by Laible, McNutt, Jacobson, Laslovich, referred to State Administration.  
**SB 291**, introduced by Perry, Ryan, Tash, Koopman, referred to Education and Cultural Resources.  
**SB 292**, introduced by Ryan, referred to Local Government.  
**SB 293**, introduced by Laible, referred to Natural Resources and Energy.  
The following House bills were introduced, read first time, and referred to committees:  
**HB 111**, introduced by Furey, referred to Business, Labor, and Economic Affairs.  
**HB 140**, introduced by Ingraham, referred to State Administration.  
The following House joint resolution was introduced, read first time, and referred to committee:  
**HJR 3**, introduced by Musgrove, referred to Highways and Transportation.

**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 Wanzenried in the chair.

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

**SB 23** - Senator Moss moved **SB 23** do pass. Motion carried as follows:

Yeas: Black, Brown, Brueggeman, Cobb, Cocchiarella, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Murphy, Pease, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Barkus, Curtiss, Gebhardt, Jackson, McGee, O'Neil, Perry, Stapleton.

Total 10

Absent or not voting: None.

Total 0

Excused: Steinbeisser.

Total 1

**SB 48** - Senator Esp moved **SB 48** do pass. Motion carried unanimously.

**SB 72** - Senator Squires moved **SB 72** do pass. Motion carried unanimously.

**SB 82** - Senator Brueggeman moved **SB 82** do pass. Motion carried unanimously.

**SB 85** - Senator Schmidt moved **SB 85** do pass for the day.

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Senator Williams moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Cooney in the chair. Chairman Wanzenried 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 37** passed as follows:

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

Total 1

**SB 90** passed as follows:

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

Total 47

Nays: Esp, Gebhardt.

Total 2

Absent or not voting: None.

Total 0

Excused: Steinbeisser.

Total 1

**SB 94** passed as follows:

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

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Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Steinbeisser.

Total 1

**SB 163** passed as follows:

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

Total 38

Nays: Gallus, Hawks, Jackson, Kaufmann, Laslovich, Lind, Squires, Wanzenried, Weinberg, Williams, Mr. President.

Total 11

Absent or not voting: None.

Total 0

Excused: Steinbeisser.

Total 1

**SB 170** passed as follows:

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

Total 1

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Williams moved that the Senate adjourn until 1 p.m., Friday, January 19, 2007. Motion carried.



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Senate adjourned at 1:51 p.m.

JOHN MUDD  
Secretary of the Senate

MIKE COONEY  
President of the Senate