

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

Helena, Montana
March 9, 2007

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Cooney presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call: Senators Gillan, Cobb excused. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Gallus, Hansen, Harrington, Hawks, Jent, Juneau, 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 41

Nays: Balyeat, Esp, Essmann, Gebhardt, Jackson, O'Neil, Shockley.

Total 7

Absent or not voting: None.

Total 0

Excused: Cobb, Gillan.

Total 2

The Senate presented the following proclamation to the Montana National Guard for its 120th birthday:

WHEREAS, the Montana National Guard will celebrate its 120th Birthday on March 10, 2007; and

WHEREAS, on this date in 1887 the organization of the Montana National Guard was effected under a Territorial Legislative Act entitled "An Act to Organize and Regulate the Militia Approval March 10, 1887"; and

WHEREAS, two years earlier, House Bill No. 20 was passed authorizing the organization of a National Guard for the Territory; and

WHEREAS, the Montana National Guard has served the United States during the Philippine Insurrection in the Spanish-American War, the Mexican Border Incident of 1916, World Wars I & II, Operation Desert Storm and now Operations Noble Eagle, Enduring Freedom and Iraqi Freedom; and

WHEREAS, there have been numerous other Federal operations including deployments to Bosnia, Macedonia, Kuwait, Somalia and numerous other smaller deployments; and

WHEREAS, the Montana Air National Guard came into being on June 27, 1947, when the 186th Fighter Squadron was formed, and the 186th later transformed into the 120th Fighter Wing, and

WHEREAS, the Montana National Guard has provided support to the citizens of Montana to deal with state emergencies and natural disaster; and

WHEREAS, of its approximately 3,500 members, the Montana National Guard has deployed over 80% of its Soldiers and Airman serving on Federal active duty in the United States and around the world.

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 9, 2007

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA; That the Senate of the State of Montana, on this 10th day of March, 2007, hereby expresses our deepest appreciation to our Montana National Guard Soldiers and Airman on their 120th birthday and our deepest thanks to the families of these soldiers and airman for the sacrifices they make.

REPORTS OF SELECT COMMITTEES

The Committee on Committees has made the following appointments effective immediately, as authorized by statute:

Legislative Consumer Committee

Senator Joe Tropila
Senator Terry Murphy

Environmental Quality Council

Senator Dan McGee
Senator Jim Shockley
Senator Bob Story
Senator David Wanzenried
Senator Bob Hawks
Senator Christine Kaufmann

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/9/2007
HB 65, be concurred in. Report adopted.
HB 156, be concurred in. Report adopted.
HB 244, be concurred in. Report adopted.

FISH AND GAME (Tropila, Chairman): 3/9/2007
HB 264, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 3/9/2007
HB 31, be amended as follows:

1. Title, line 8.

Following: "FEES;"

Insert: "INCREASING CONSUMER AND MANUFACTURER ARBITRATION FILING FEES;"

2. Title, line 8.

Strike: "SECTION"

Insert: "SECTIONS"

3. Title, line 8.

Following: "~~AND 61-4-517~~"

Insert: "AND 61-4-517"

4. Page 2.

Following: line 29

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 9, 2007

Insert: "Section 2. Section 61-4-517, MCA, is amended to read:

"61-4-517. Implementation of arbitration. (1) A consumer may initiate a request for arbitration by filing a notice with the department. The consumer shall file, on a form prescribed by the department, any information considered relevant to the resolution of the dispute and shall return the form, along with a ~~\$50~~ \$100 filing fee, within 5 days after receiving the form. The form must offer the consumer the choice of presenting any subsequent testimony orally or in writing, but not both.

(2) The department shall determine whether the complaint alleges the violation of any applicable warranty under this part. If the department determines that a complaint does not allege a warranty violation, it shall refund the filing fee.

(3) Upon acceptance of a complaint, the department shall notify the manufacturer of the filing of a request for arbitration and shall obtain from the manufacturer, on a form prescribed by the department, any information considered relevant to the resolution of the dispute. The manufacturer shall return the form within 15 days of receipt, with a filing fee of ~~\$250~~ \$750.

(4) Fees collected under this section must be deposited in a special revenue account for the use of the department in administering this part.

(5) The manufacturer's fee provided in subsection (3) is due only if the department's arbitration procedures are used."

Renumber: subsequent section

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

HB 143, be concurred in. Report adopted.

HB 334, be concurred in. Report adopted.

JUDICIARY (Laslovich, Chairman):

3/9/2007

HB 20, be concurred in. Report adopted.

HB 149, be amended as follows:

1. Title, line 5.

Strike: "\$350,000"

Insert: "\$250,000"

2. Page 1, line 11.

Strike: "\$350,000"

Insert: "\$250,000"

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

LOCAL GOVERNMENT (Gillan, Chairman):

3/9/2007

HB 145, be concurred in. Report adopted.

HB 290, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence:

3/8/2007

HB 96, introduced by Kerns

House joint resolution passed and transmitted to the Senate for concurrence:

3/8/2007

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 9, 2007

HJR 28, introduced by Cohenour

House joint resolution passed and transmitted to the Senate for concurrence:

3/8/2007

HJR 43, introduced by Rice

MESSAGES FROM THE GOVERNOR

On Thursday, March 1, 2007, **HB 121** introduced by Rep. McChesney was delivered to the Secretary of State.

MOTIONS

SEN. MITCH TROPILA, SD 12, GREAT FALLS moved to change his vote from "yes" to "no". Motion carried.

SEN. LYNDA MOSS, SD 26, BILLINGS moved **SB 345** and **SB 201** be re-referred to the Local Government Committee. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 549, introduced by Story, referred to Taxation.

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

- HB 35**, introduced by Keane, referred to Judiciary.
- HB 37**, introduced by Reinhart, referred to Natural Resources and Energy.
- HB 40**, introduced by Gallik, referred to Taxation.
- HB 58**, introduced by Keane, referred to Business, Labor, and Economic Affairs.
- HB 77**, introduced by Clark, referred to Public Health, Welfare and Safety.
- HB 105**, introduced by Windy Boy, referred to State Administration.
- HB 112**, introduced by Arntzen, referred to Local Government.
- HB 154**, introduced by Clark, referred to Public Health, Welfare and Safety.
- HB 198**, introduced by W. Jones, referred to Public Health, Welfare and Safety.
- HB 214**, introduced by Windy Boy, referred to Finance and Claims.
- HB 235**, introduced by Dutton, referred to Local Government.
- HB 253**, introduced by Ross, referred to State Administration.
- HB 256**, introduced by Lake, referred to Judiciary.
- HB 265**, introduced by Ebinger, referred to Local Government.
- HB 300**, introduced by Gallik, referred to Judiciary.
- HB 305**, introduced by Thomas, referred to Judiciary.
- HB 310**, introduced by Dutton, referred to Judiciary.
- HB 337**, introduced by Cohenour, referred to Taxation.
- HB 341**, introduced by Gallik, referred to Judiciary.
- HB 397**, introduced by Ward, referred to Judiciary.
- HB 414**, introduced by Reinhart, referred to Public Health, Welfare and Safety.
- HB 426**, introduced by Ross, referred to Local Government.
- HB 450**, introduced by Pomnichowski, referred to Fish and Game.

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 9, 2007

HB 459, introduced by Heinert, referred to Public Health, Welfare and Safety.
HB 467, introduced by K. Peterson, referred to Judiciary.
HB 468, introduced by McGillvray, referred to Judiciary.
HB 487, introduced by Hiner, referred to State Administration.
HB 490, introduced by French, referred to Taxation.
HB 496, introduced by French, referred to Business, Labor, and Economic Affairs.
HB 503, introduced by Gallik, referred to Agriculture, Livestock and Irrigation.
HB 510, introduced by Stahl, referred to Local Government.
HB 521, introduced by Arntzen, referred to Judiciary.
HB 579, introduced by Olson, referred to Judiciary.
HB 585, introduced by Keane, referred to Judiciary.
HB 594, introduced by Stahl, referred to Education and Cultural Resources.
HB 616, introduced by McChesney, referred to Business, Labor, and Economic Affairs.
HB 633, introduced by Dutton, referred to Business, Labor, and Economic Affairs.

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

HJR 5, introduced by Lange, referred to Natural Resources and Energy.
HJR 8, introduced by Hendrick, referred to Natural Resources and Energy.
HJR 13, introduced by Ankney, referred to Natural Resources and Energy.
HJR 16, introduced by Ripley, referred to Natural Resources and Energy.
HJR 19, introduced by Morgan, referred to Public Health, Welfare and Safety.

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

**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 Kaufmann in the chair.

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

HB 333 - Governor's Amendments - Senator Larson moved Governor's amendments to **HB 333** be concurred in. Motion carried unanimously.

HB 18 - Senator Jent moved **HB 18** be concurred in. Motion carried unanimously.

HB 402 - Senator Shockley moved **HB 402** be concurred in. Motion carried with Senator O'Neil, Brown voting nay.

HB 162 - Senator Jent moved **HB 162** be concurred in. Motion carried unanimously.

HB 48 - Senator McGee moved **HB 48** be concurred in. Motion carried unanimously.

HB 46 - Senator J. Tropila moved **HB 46** be concurred in. Motion carried unanimously.

HB 274 - Senator Black moved **HB 274** be concurred in. Motion carried unanimously.

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 9, 2007

HB 158 - Senator Steinbeisser moved **HB 158** be concurred in. Motion carried unanimously.

HB 106 - Senator Brueggeman moved **HB 106** be concurred in. Motion carried with Senator Story voting nay.

HB 76 - Senator Cocchiarella moved **HB 76** be concurred in. Motion carried unanimously.

Senator Williams moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Cooney in the chair. Chairman Kaufmann 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 72 concurred in as follows:

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, 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 45

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Cobb, Gillan.
Total 2

HB 115 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, 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 46

Nays: Brown, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: Cobb, Gillan.
Total 2

HB 127 concurred in as follows:

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 9, 2007

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, 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, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb, Gillan.
Total 2

HB 219 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 47

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb, Gillan.
Total 2

HB 292 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, 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, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb, Gillan.
Total 2

HB 44 concurred in as follows:

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 9, 2007

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 45

Nays: Lind, Ryan, J.Tropila.
Total 3

Absent or not voting: None.
Total 0

Excused: Cobb, Gillan.
Total 2

HB 419 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gebhardt, 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, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 47

Nays: Gallus.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb, Gillan.
Total 2

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Williams moved that the Senate adjourn until 8:00 a.m., Saturday, March 10, 2007. Motion carried.

Senate adjourned at 2:04 p.m.

JOHN MUDD
Secretary of the Senate

MIKE COONEY
President of the Senate