

**SENATE JOURNAL
60TH LEGISLATURE
FIFTY-NINTH LEGISLATIVE DAY**

Helena, Montana
March 20, 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. All members present. Quorum present.

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

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

A Proclamation of the Senate and the House of Representatives of the State of Montana

Commending Nicole Winter, a 17-year-old Missoula teenager who was treated at Shodair Children's Hospital, and whose optimism and determination helped her triumph over significant mental health challenges to return to a fruitful life with family and community.

WHEREAS, Children's Miracle Network, the international alliance of premier children's hospitals in the U.S. and abroad, spotlights the heroic battles of children like Nicole with illnesses of all kinds; and

WHEREAS, Nicole Winter will represent Montana in the Children's Miracle Network program honoring remarkable children who have met the challenges of severe medical conditions: Champions Across America presented by CO-OP Financial Services; and

WHEREAS, Nicole has been selected for her courage, tenacity, and perseverance as the sole representative of children's mental health needs, and an ambassador for the 17 million children treated each year at Children's Miracle Network children's hospitals.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA: that the congratulations of all Montanans be extended to Nicole Winter for her positive attitude in the face of a significant medical condition, and convey to her their sincere best wishes for safe travel and memorable experiences during her year as Montana's Champion.

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Senate pictures taken in the chambers.

Roll Call. Senator Squires excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 40

Nays: Balyeat, Brown, Essmann, Gebhardt, Jackson, Lind, McGee, O'Neil, Shockley.
Total 9

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/20/2007
HB 412, be concurred in. Report adopted.
HB 633, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman): 3/20/2007
HB 363, be concurred in. Report adopted.

FINANCE AND CLAIMS (Schmidt, Chairman): 3/20/2007
HB 22, be concurred in. Report adopted.

JUDICIARY (Laslovich, Chairman): 3/20/2007
HB 341, be concurred in. Report adopted.
HB 397, be concurred in. Report adopted.
HB 585, be concurred in. Report adopted.

NATURAL RESOURCES AND ENERGY (Lind, Chairman): 3/20/2007
HB 555, be concurred in. Report adopted.
HB 703, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman): 3/20/2007
HB 129, be concurred in. Report adopted.
HB 153, be amended as follows:

1. Title, line 7.
Strike: "VENUE OR"

2. Page 5, line 3.
Following: "shall"

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Strike: "make" through "record"
Insert: "notify the registered agent"
Following: "practicable"
Strike: "a daily list"

3. Page 5, line 4.
Strike: "a"
Insert: "the"

4. Page 5, line 5.
Following: ";"
Insert: "and"

5. Page 5, line 6.
Strike: "(b)" through "and"
Renumber: subsequent subsection

6. Page 10, line 8.
Strike: "and venue"

7. Page 10, line 10.
Following: "state."
Strike: remainder of line 10 in its entirety

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

HB 242, be concurred in. Report adopted.
HB 253, be concurred in. Report adopted.
HB 260, be concurred in. Report adopted.
HB 570, be concurred in. Report adopted.
HB 789, be concurred in. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

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

SR 8, introduced by Squires, referred to State Administration.
SR 9, introduced by Squires, referred to State Administration.

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

HB 805, introduced by Ripley, referred to Finance and Claims.
HB 806, introduced by Beck, referred to Finance and Claims.
HB 807, introduced by Wells, referred to Finance and Claims.
HB 809, introduced by Glaser, referred to Finance and Claims.
HB 818, introduced by Taylor, referred to Finance and Claims.
HB 819, introduced by Taylor, referred to Finance and Claims.
HB 820, introduced by Taylor, referred to Finance and Claims.

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MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence: 3/19/2007

HB 818, introduced by Taylor

House bill passed and transmitted to the Senate for concurrence: 3/19/2007

HB 819, introduced by Taylor

House bill passed and transmitted to the Senate for concurrence: 3/19/2007

HB 820, introduced by Taylor

MESSAGES FROM THE GOVERNOR

March 16, 2007

The Honorable Mike Cooney
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Cooney:

Please be informed that I have signed **Senate Bill 15** sponsored by Senator J. Tropila on March 16, 2007.

Sincerely,

BRIAN SCHWEITZER
Governor

March 16, 2007

The Honorable Mike Cooney
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Cooney:

Please be informed that I have signed **Senate Bill 54** sponsored by Senator Cocchiarella on March 16, 2007.

Sincerely,

BRIAN SCHWEITZER
Governor

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March 16, 2007

The Honorable Mike Cooney
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Cooney:

Please be informed that I have signed **Senate Bill 97** sponsored by Senator Cocchiarella on March 21, 2007.

Sincerely,

BRIAN SCHWEITZER
Governor

March 16, 2007

The Honorable Mike Cooney
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Cooney:

Please be informed that I have signed **Senate Bill 101** sponsored by Senator Jent on March 16, 2007. I have also signed the following House bills: **HB 44** sponsored by Rep. McChesney, **HB 72** sponsored by Rep. Van Dyk, **HB 115** sponsored by Rep. Cohenour, **HB 122, HB 126 & HB 127** sponsored by Rep. Keane, **HB 219** sponsored by Rep. Ebinger, **HB 292** sponsored by Rep. Stahl, **HB 419** sponsored by Rep. Koopman, & **HB 431** sponsored by Rep. Blasdel.

Sincerely,

BRIAN SCHWEITZER
Governor

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 28 concurred in as follows:

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

Total 46

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Nays: Gallus, Gebhardt, Kaufmann.
Total 3

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 662 concurred in 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, 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: Squires.
Total 1

HB 378 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 42

Nays: Barkus, Lind, McGee, O'Neil, Stapleton, Steinbeisser, Story.
Total 7

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 124 concurred in as follows:

Yeas: Bales, 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, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 46

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

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 357 concurred in as follows:

Yeas: Bales, Balyeat, 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, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 47

Nays: Barkus, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 58 concurred in as follows:

Yeas: Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Murphy, Pease, Ryan, Schmidt, Smith, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Esp, Essmann, McGee, O'Neil, Perry, Peterson, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 75 concurred in 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, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 49

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 623 concurred in 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, 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: Squires.
Total 1

HB 347 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, 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, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 48

Nays: Cobb.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

**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 Harrington 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 64 - Senator Esp moved **HB 64** be concurred in. Motion carried unanimously.

HB 92 - Senator Lind moved **HB 92** be concurred in. Motion carried unanimously.

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

HB 521 - Senator Curtiss moved **HB 521** be concurred in. Motion carried unanimously.

HB 120 - Senator Ryan moved **HB 120**, second reading copy, be amended as follows:

1. Title, line 6.

Following: "EXEMPTING"

Insert: "CERTAIN"

Strike: "PROVIDERS WITH A 2-YEAR OR 3-YEAR LICENSE"

2. Page 1, line 27.

Following: "(4)"

Insert: "(a)"

3. Page 1, line 28.

Strike: "THE"

Insert: "Subject to subsection (4)(b), the"

4. Page 1, line 29.

Following: "BASIS"

Insert: "."

Strike: "AND"

Insert: "(b) The department"

5. Page 1, line 30.

Following: "52-2-721"

Insert: "or that have successfully passed inspections for 10 consecutive years"

Amendment adopted unanimously.

HB 120 - Senator Moss moved **HB 120**, as amended, be concurred in. Motion carried unanimously.

HB 105 - Senator Jent moved **HB 105** be concurred in. Motion carried unanimously.

HB 177 - Senator Essmann moved **HB 177** be concurred in. Motion carried unanimously.

HB 207 - Senator Laible moved **HB 207** be concurred in. Motion carried unanimously.

HB 83 - Senator Shockley moved **HB 83**, second reading copy, be amended as follows:

1. Page 1, line 23.

Following: "death"

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Insert: "or sentence of life imprisonment without possibility of release"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Jackson, Jent, Juneau, Kitzenberg, Laible, Larson, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Perry, Peterson, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, J.Tropila, Weinberg, Williams.
Total 39

Nays: Cocchiarella, Hawks, Kaufmann, Laslovich, Pease, Ryan, Smith, M.Tropila, Wanzenried, Mr. President.
Total 10

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 83 - Senator Perry moved **HB 83**, second reading copy, be amended as follows:

1. Page 1, line 29.

Following: "parole."

Insert: "The provisions of this subsection do not apply to a person who is ineligible for medical parole under subsection (1)(a)."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Hansen, Jackson, Juneau, Kitzenberg, Laible, Lewis, Lind, McGee, Murphy, Perry, Peterson, Schmidt, Shockley, Stapleton, Steinbeisser, Tash, Weinberg, Williams.
Total 30

Nays: Cobb, Cocchiarella, Gallus, Harrington, Hawks, Jent, Kaufmann, Larson, Laslovich, Moss, O'Neil, Pease, Ryan, Smith, Story, J.Tropila, M.Tropila, Wanzenried, Mr. President.
Total 19

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 83 - Senator Lind moved **HB 83**, second reading copy, be amended as follows:

1. Page 3, line 7.

Following: line 6

Insert: "(9) Before July 1 of each even-numbered year, the board shall report to the children, families, health, and human services interim committee and the law and justice interim committee regarding the outcome related to any person released on medical parole since the last report, including health care costs and payments related to the care of the person released on medical parole."

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Amendment adopted as follows:

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Hansen, Hawks, Juneau, Kitzenberg, Laible, Larson, Lewis, Lind, McGee, O'Neil, Perry, Peterson, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg, Williams, Mr. President.
Total 33

Nays: Balyeat, Cocchiarella, Gallus, Harrington, Jackson, Jent, Kaufmann, Laslovich, Moss, Murphy, Pease, Ryan, Smith, J.Tropila, M.Tropila, Wanzenried.
Total 16

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 83 - Senator Laslovich moved **HB 83**, as amended, be concurred in. Motion carried unanimously.

HB 400 - Senator M. Tropila moved **HB 400** be concurred in. Motion carried with Senator Lind, Hansen, McGee, Story voting nay.

HB 120 - Senator Ryan made a **substitute motion** that **HB 120** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried unanimously.

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

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Williams moved that the Senate adjourn until 1:00 p.m., Wednesday, March 21, 2007. Motion carried.

Senate adjourned at 3:01 p.m.

JOHN MUDD
Secretary of the Senate

MIKE COONEY
President of the Senate