

**SENATE JOURNAL
61ST LEGISLATURE
TENTH LEGISLATIVE DAY**

Helena, Montana
January 16, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan and Laslovich, excused. Quorum present.

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

Senator Curtiss, Chair

BILLS AND JOURNAL (Senator Curtiss, Chairman):

1/16/2009

Correctly printed: **SB 29, SB 35, SB 47, SB 74, SB 91, SB 117, SB 133, SB 139, SB 227, SB 228, SB 229, SB 230, SB 231, SB 232, SB 233, SB 234, SJR 15.**

Correctly engrossed: **SB 2, SB 157.**

Correctly enrolled: **SR 1.**

Delivered to the Secretary of State at 8:28 a.m., January 16, 2009: **SR 1.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

1/16/2009

SB 68, do pass. Report adopted.

SB 104, introduced bill, be amended as follows:

1. Page 1, line 17.

Strike: "a period of not"

Following: "~~less~~"

Insert: "at least 10 days and not"

Following: "30 days"

Insert: "after public notice is published as provided in subsection (2)"

2. Page 1, line 18.

Strike: "30-day"

Insert: "holding"

And, as amended, do pass. Report adopted.

SB 126, do pass. Report adopted.

SB 130, do pass. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

1/16/2009

SB 150, introduced bill, be amended as follows:

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1. Title, page 1, line 10.
Strike: "MODIFYING" through the second "EMPLOYMENT;"
2. Title, page 1, line 16.
Strike: "39-51-204,"
3. Page 3, line 16 through page 7, line 28.
Strike: section 6 in its entirety
Renumber: subsequent sections
4. Page 19, line 11.
Following: "amount"
Insert: "of the overpaid benefits"
5. Page 19, line 12.
Following: "any"
Insert: "
(a) penalty established in accordance with 39-51-3201; and
(b)"

6. Page 21, line 16.
Following: "[Sections"
Strike: "7" through "22"
Insert: "6 through 8, 10, 14, 15, and 20"

7. Page 21, line 17.
Strike: "13, and 14"
Insert: "12, 13, 19, and 21"

And, as amended, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):
SB 31, do pass. Report adopted.
SB 32, introduced bill, be amended as follows:

1/16/2009

1. Title, line 6.
Following: "CHIROPRACTOR"
Insert: "AND A LICENSED PHYSICAL THERAPIST"
2. Page 3, line 8.
Following: "chiropractor,"
Insert: "a licensed physical therapist,"
3. Page 3, line 12.
Following: "chiropractor,"
Insert: "a licensed physical therapist,"
4. Page 3, line 15.
Following: "chiropractor,"
Insert: "a licensed physical therapist,"

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And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):
SB 96, introduced bill, be amended as follows:

1/16/2009

1. Page 1, line 29.

Following: "defendant."

Strike: "Costs related to the evaluation must be paid in accordance with 46-14-202."

And, as amended, do pass. Report adopted.

SB 160, do pass. Report adopted.

SB 169, do pass. Report adopted.

SB 182, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/15/2009

HB 23, introduced by Himmelberger

HB 101, introduced by Welborn

HB 116, introduced by McNutt

HB 144, introduced by McAlpin

MOTIONS

Senator Esp. moved that Senator Williams and Senator Laslovich fill the vacancies on the Legislative Council. Motion carried unanimously.

Senator Esp moved that Senator Ripley fill the vacancy on the Legislative Finance Committee. Motion carried unanimously.

FIRST READING AND COMMITMENT OF BILLS

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

SB 235, introduced by Murphy, Ripley, Bales, Branae, J. Peterson, Campbell, Hunter, referred to Public Health, Welfare and Safety.

SB 236, introduced by Wanzenried, Williams, Erickson, Steinbeisser, R. Brown, Larsen, Kaufmann, French, Augare, Villa, Welborn, referred to Judiciary.

SB 237, introduced by Lewis, Cooney, McAlpin, MacDonald, Ebinger, K. Peterson, Furey, Driscoll, Sands, A. Noonan, Cohenour, Hendrick, O'Hara, French, Branae, Juneau, referred to Highways and Transportation.

SB 238, introduced by Brueggeman, referred to Finance and Claims.

SB 239, introduced by R. Brown, referred to State Administration.

SB 240, introduced by Brenden, T. Brown, Balyeat, Perry, Hinkle, Tutvedt, Debby Barrett, Ripley, Brenden, Murphy, Gebhardt, Lewis, Bales, Barkus, J. Peterson, referred to State Administration.

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SPECIAL ORDERS OF THE DAY

Senator Brueggeman provided detailed instructions regarding access to the electronic agenda.

Sen. Cooney stated he is carrying a bill at the request of the family and friends of former Lieutenant Governor Karl Ohs to name a building at the Law Enforcement Academy after former Lieutenant Governor Ohs. Sen. Cooney invited anyone who was interested to sign the legislation.

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

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

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

SB 5 - Senator Erickson moved **SB 5** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laslovich.

Total 1

SB 33 - Senator Lewis moved **SB 33** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laslovich.

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Total 1

SB 45 - Senator McGee moved **SB 45** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laslovich.

Total 1

SB 55 - Senator Steinbeisser moved **SB 55** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

SB 103 - Senator Moss moved **SB 103** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

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Total 0

Excused: Gillan, Laslovich.

Total 2

SB 108 - Senator Jent moved **SB 108** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

Senator Peterson moved passing SB 72 for the day. Motion carried unanimously.

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Gallus 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 35 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

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SB 40 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Cooney, Juneau, Kaufmann, Moss, Stewart-Peregoy, M. Tropila, Wanzenried.

Total 7

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

SB 47 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

SB 74 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

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Total 2

SB 91 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

SB 133 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a. m., Saturday, January 17, 2009. Motion carried.

Senate adjourned at 1:52 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

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