

**SENATE JOURNAL
61ST LEGISLATURE
TWENTY-SECOND LEGISLATIVE DAY**

Helena, Montana
January 30, 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 Senator J. Peterson, excused. Quorum present.

BILLS AND JOURNALS:

1/30/2009

Correctly printed: **SB 49, SB 123, SB 170, SB 173, SB 219, SB 224, SB 252, SB 262, SB 306, SB 307, SB 308, SB 309, SB 310, SB 311, SB 312, SB 313, SJR 5.**

Correctly engrossed: **SB 62, SB 71, SB 132.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):
SB 214, introduced bill, be amended as follows:

1/29/2009

1. Page 7, line 5.

Strike: "at least 1 year"

Insert: "416 hours"

2. Page 7, line 6.

Following: "service"

Insert: "during a 1-year period, in the offender's county of residence"

3. Page 7, line 26.

Strike: "at least 1 year"

Insert: "416 hours"

Following: "community service"

Insert: "during a 1-year period, in the offender's county of residence"

And, as amended, do pass. Report adopted.

SJR 11, do pass. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
SB 247, introduced bill, be amended as follows:

1/30/2009

1. Title, page 1, line 6.

Following: the second "RECORDS;"

Insert: "AND"

2. Title, page 1, line 7.

Following: "MISDEMEANOR"

Strike: ";" through "DATE"

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3. Page 2, line 15.

Following: "seller"

Insert: ", except that the identification copies required under this subsection (2)(d) do not apply if a check for payment is provided to a seller"

4. Page 2, line 25.

Strike: section 5 in its entirety

And, as amended, do pass. Report adopted.

SB 253, do pass. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

1/30/2009

SB 18, introduced bill, be amended as follows:

1. Page 3, line 7 through line 8.

Strike: "The source" on line 7 through "estimate." on line 8

And, as amended, do pass. Report adopted.

SB 157, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):

1/30/2009

SB 184, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "SPECIAL"

2. Page 1, line 11.

Following: "licenses"

Insert: "-- availability of bear and mountain lion licenses"

3. Page 1, line 29.

Strike: "Special licenses"

Insert: "Licenses"

4. Page 1, line 30.

Following: "purchases a"

Strike: "special"

5. Page 2, line 2.

Strike: "Special licenses"

Insert: "Licenses"

6. Page 2, line 3.

Following: "purchases a"

Strike: "special"

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7. Page 2, line 5.

Strike: "Special licenses"

Insert: "Licenses"

8. Page 2, line 6.

Following: "purchases a"

Strike: "special"

And, as amended, do pass. Report adopted.

SB 185, do pass. Report adopted.

SB 188, do pass. Report adopted.

SB 202, introduced bill, be amended as follows:

1. Page 1, line 26.

Following: "garden,"

Insert: "in the normal recreational feeding of birds,"

2. Page 2, line 3.

Following: "animals."

Insert: "The term does not include growing plants or plants harvested for the feeding of livestock."

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

1/30/2009

SB 64, introduced bill, be amended as follows:

1. Page 1, line 24.

Strike: "previous"

2. Page 1.

Following: line 26

Insert: "(2) Hours spent on call are not considered to be hours providing care for the purposes of this section."

Renumber: subsequent subsections

3. Page 2, line 12.

Strike: "(3)(c)"

Insert: "(4)(c)"

4. Page 2, line 20.

Strike: "has served, in the previous calendar year,"

Insert: "during the tax year purchased a license plate and provided"

Following: "120 hours"

Insert: "of emergency medical care"

5. Page 2, line 23.

Strike: "previous calendar"

Insert: "tax"

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6. Page 2, line 24.

Strike: "previous calendar"

Insert: "tax"

7. Page 2, line 27.

Strike: "calendar"

Insert: "tax"

8. Page 3, line 1.

Strike: "previous calendar"

Insert: "tax"

9. Page 3, line 4.

Strike: "in the previous year"

10. Page 3.

Following: line 5

Insert: "(6) If a tax credit is claimed under this section for a license plate issued for a vehicle registered to more than one volunteer emergency medical technician, only one registered owner may claim the tax credit."

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

SB 222, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "REQUIRED"

2. Page 1, line 13.

Strike: "shall"

Insert: "may"

3. Page 1, line 16.

Strike: "must"

Insert: "may"

And, as amended, do pass. Report adopted.

SB 237, introduced bill, be amended as follows:

1. Page 5, line 8.

Following: "vehicle"

Strike: "or aircraft"

2. Page 5, line 23.

Following: "or"

Insert: "the appropriate use of a"

3. Page 5, line 24 through line 25.

Following: "product"

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Strike: "and as is appropriate for the age, weight, and height of a minor child"

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

1/30/2009

SB 249, introduced bill, be amended as follows:

1. Title, line 6.

Following: "61-5-103"

Strike: ", "

Insert: "AND"

2. Title, line 7.

Strike: "AND 61-5-125,"

3. Page 1, line 12.

Strike: "4"

Insert: "3"

4. Page 2, line 5.

Strike: "4"

Insert: "3"

5. Page 3, line 1 through page 4, line 17.

Strike: section 3 in its entirety

Renumber: subsequent sections

6. Page 4, line 26.

Following: "least"

Strike: "7"

Insert: "8"

7. Page 5, line 9.

Strike: "1-year"

Insert: "3-year"

8. Page 5, line 29 through page 6, line 1.

Following: "register." on line 29

Strike: remainder of line 29 through "series." on page 6, line 1

9. Page 6, line 3.

Following: "[Section"

Strike: "4"

Insert: "3"

10. Page 6, line 4.

Following: "[section"

Strike: "4"

Insert: "3"

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And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/29/2009

HB 13, introduced by Hunter

HB 129, introduced by Getz

HB 205, introduced by Ebinger

HB 221, introduced by Cohenour

MOTIONS

Senator Esp moved to confirm the appointments of Senator Gillan and Senator Balyeat to the Economic Development Advisory Council. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 314, introduced by Laible, referred to Natural Resources.

SB 315, introduced by Zinke, Arntzen, Blasdel, Brenden, T. Brown, Brueggeman, Essmann, Hollandsworth, Jackson, Kasten, Laible, Lewis, McGee, McGillvray, Mendenhall, More, Nooney, Perry, K. Peterson, Ripley, Sales, Smith, Stahl, Steinbeisser, Taylor, Tutvedt, Vincent, Washburn, referred to Taxation.

SB 316, introduced by Essmann, referred to Judiciary.

SB 317, introduced by Kaufmann, Caferro, referred to Taxation.

SB 318, introduced by Kaufmann, Caferro, referred to Judiciary.

SB 319, introduced by Keane, Hendrick, Windy Boy, referred to Highways and Transportation.

SB 320, introduced by Williams, referred to State Administration.

SB 321, introduced by Williams, referred to Judiciary.

**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 T. Brown in the chair.

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

SB 92 - Senator Jent moved **SB 92** do pass. Motion carried as follows:

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

Total 46

Nays: Erickson, Juneau, Kaufmann.

Total 3

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Absent or not voting: None.
Total 0

Excused: Peterson.
Total 1

SB 164 - Senator Debby Barrett moved **SB 164** do pass.

SB 164 - Senator Shockley moved **SB 164**, second reading copy, be amended as follows:

1. Page 4, line 6.

Strike: "40%"

Insert: "20%"

Amendment adopted 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, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Tutvedt.
Total 1

Absent or not voting: None.
Total 0

Excused: Peterson.
Total 1

SB 164 - Senator Debby Barrett moved **SB 164**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: Peterson.
Total 1

SB 189 - Senator Balyeat moved **SB 189** do pass.

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SB 189 - Senator Laslovich moved **SB 189**, second reading copy, be amended as follows:

1. Title, line 7 through line 8.

Following: "PROCEEDS" on line 7

Strike: remainder of line 7 through "MADE" on line 8

2. Page 1, line 22.

Following: "of consumers"

Strike: "to the consumers on whose behalf the settlement is made"

3. Page 1, line 23.

Following: "distributed"

Strike: "to consumers pursuant to this subsection (1)(b) within 1 year after the proceeds are received"

Insert: "for the benefit of consumers pursuant to the terms of the settlement"

4. Page 1, line 25.

Following: line 24

Insert: "(2) The procedures adopted by the department pursuant to subsection (1)(b) must include the establishment of a consumer advisory council by the attorney general in accordance with 2-15-122. The consumer advisory council must include five members consisting of one consumer advocate, two legislative members representing both elected parties, and two citizens at large. The consumer advisory council shall review settlements obtained by the department and shall provide recommendations to the attorney general to ensure that the proceeds of any settlement are distributed to consumers or consumer groups on whose behalf the settlement was obtained.

(3) The attorney general shall provide an annual report to the legislative audit committee describing the settlements obtained by the department and how the settlement proceeds were distributed."

Renumber: subsequent subsection

5. Page 2, line 7.

Following: "of consumers"

Strike: "to the consumers on whose behalf the settlement is made"

6. Page 2, line 8.

Following: "distributed"

Strike: "to consumers pursuant to this subsection within 1 year after the proceeds are received"

Insert: "for the benefit of consumers pursuant to the terms of the settlement"

7. Page 2, line 10.

Following: line 9

Insert: "(3) The procedures adopted by the department pursuant to subsection (2) must include the establishment of a consumer advisory council by the attorney general in accordance with 2-15-122. The consumer advisory council must include five members consisting of one consumer advocate, two legislative members representing both elected parties, and two citizens at large. The consumer advisory council shall review settlements obtained by the department and shall provide recommendations to the attorney general to ensure that the proceeds of any settlement are distributed to consumers or consumer groups on whose behalf the settlement was obtained.

(4) The attorney general shall provide an annual report to the legislative audit committee describing the settlements obtained by the department and how the settlement proceeds were distributed."

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Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, Wanzenried, Williams, Windy Boy.

Total 21

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SB 189 - Motion that **SB 189** do pass carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke, Mr. President.

Total 30

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, Wanzenried, Williams, Windy Boy.

Total 19

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

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

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

Total 48

Nays: Gallus.

Total 1

Absent or not voting: None.

Total 0

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Excused: Peterson.
Total 1

Sen. Story introduced former U.S. Senator Conrad Burns to the Senate.

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 123 passed 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, Laslovich, Lewis, McGee, Moss, Murphy, Perry, 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: Peterson.
Total 1

SB 170 passed 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, Laslovich, Lewis, McGee, Moss, Murphy, Perry, 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: Peterson.
Total 1

SB 173 passed 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, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley,

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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: Peterson.

Total 1

SB 219 passed 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, Laslovich, Lewis, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SJR 5 passed as follows:

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

Total 44

Nays: Essmann, Hinkle, Jent, McGee, Ripley.

Total 5

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

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ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Senator Barkus moved that the Senate adjourn until 8:00 a.m., Saturday, January 31, 2009. Motion carried.

Senate adjourned at 3:04 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate