

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

Helena, Montana
February 3, 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. Quorum present.

BILLS AND JOURNALS:

2/3/2009

Correctly printed: **SB 18, SB 113, SB 202, SB 214, SB 247, SB 252, SB 329, SB 330, SB 331, SB 332, SB 333, SB 334, SB 335, SB 336, SB 337, SB 338, SB 339, SB 340, SB 341, SB 342, SJR 11, SJR 18, SR 2.**
Correctly engrossed: **SB 184, SB 197.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
SB 242, introduced bill, be amended as follows:

2/3/2009

1. Page 1, line 13.

Following: "apply to"

Insert: ":

(a)"

2. Page 1, line 14.

Following: "families"

Insert: "in private residences or apartments of six or fewer families"

3. Page 1, line 16.

Following: "families"

Insert: "in private residences or apartments of six or fewer families; or

(b) a steam heating boiler operated at not over 15 pounds per square inch gauge pressure in a commercial building or to a hot water heating or supply boiler operated at not over 30 pounds per square inch gauge pressure and temperatures not over 190 degrees F in a commercial building when the boiler is the sole boiler of that type in the commercial building and is operated and maintained by the owner"

And, as amended, do pass. Report adopted.

SJR 16, introduced joint resolution, be amended as follows:

1. Title, page 1, line 5.

Strike: "ISSUE OF"

Insert: "ISSUES OF UNDERINSURED AND"

2. Page 1, line 16.

Following: "difficult"

Insert: "and the purchase of adequate coverage above the required limits financially difficult for those who do buy insurance"

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3. Page 1, line 29.

Strike: "issue of"

Insert: "issues of underinsured and"

4. Page 2, line 4.

Following: "by"

Insert: "underinsured and"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

2/2/2009

SB 255, introduced bill, be amended as follows:

1. Page 1, line 13.

Strike: "of annexation"

Insert: "the annexation proceeding was commenced"

And, as amended, do pass. Report adopted.

SB 261, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

2/3/2009

SB 97, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Strike: "75-11-308,"

2. Page 5, line 18.

Strike: "the board determines"

Strike: "or will receive"

3. Page 5, line 19.

Following: "insurer"

Insert: "or other third party"

4. Page 7, line 5 through line 7.

Strike: subsection (6) in its entirety

Renumber: subsequent subsection

5. Page 7, line 13 through page 8, line 14.

Strike: section 3 in its entirety

Renumber: subsequent sections

6. Page 11, line 3.

Strike: "30"

Insert: "120"

Following: the second "the"

Insert: "board' s"

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7. Page 11, line 4.

Following: "mail."

Insert: "The notice of determination must advise the owner or operator of the 120-day time limit for submitting a written request for a hearing to the board. Not less than 50 days or more than 60 days after the board serves the notice of determination, the board shall serve on the owner or operator a second notice by certified mail advising the owner or operator of the deadline for requesting a hearing."

8. Page 11, line 6.

Strike: "30"

Insert: "120"

9. Page 11, line 9.

Strike: "30"

Insert: "120"

10. Page 12, line 18.

Strike: "(1)"

11. Page 12, line 20 through line 21.

Strike: subsection (2) in its entirety

And, as amended, do pass. Report adopted.

SB 102, do pass. Report adopted.

SB 107, introduced bill, be amended as follows:

1. Page 1, line 13.

Following: "school."

Insert: "(1)"

2. Page 1, line 14.

Strike: "(1)"

Insert: "(a)"

Following: "personnel"

Insert: ", including public employees and private contractors,"

3. Page 1, line 16.

Strike: "(2)"

Insert: "(b)"

4. Page 1, line 17.

Strike: "(3)"

Insert: "(c)"

5. Page 1, line 18.

Strike: "(4)"

Insert: "(d)"

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6. Page 1, line 19.

Strike: "(5)"

Insert: "(e)"

7. Page 1.

Following: line 19

Insert: "(2) Unless included in a specific general fund appropriation from the legislature, general fund money may not be used for specific training on mechanized equipment for fuels mitigation and fire suppression provided for in subsection (1)(a).

(3) Nothing in subsection (1)(a) requires the fire services training school to purchase mechanized equipment for training purposes."

And, as amended, do pass. Report adopted.

SB 143, do pass. Report adopted.

SB 201, introduced bill, be amended as follows:

1. Title, line 8.

Strike: "AN"

Insert: "A RETROACTIVE"

2. Page 44, line 25.

Strike: "Applicability"

Insert: "Retroactive applicability"

Following: "applies"

Insert: "retroactively, within the meaning of 1-2-109,"

Strike: "2009"

Insert: "2008"

And, as amended, do pass. Report adopted.

SB 206, do pass. Report adopted.

SB 246, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

2/3/2009

SB 83, do pass. Report adopted.

TAXATION (Essmann, Chairman):

2/3/2009

SB 198, introduced bill, be amended as follows:

1. Page 6, line 13.

Following: the second "gas"

Insert: ", with the use of natural gas or other fuels allowed for ignition and to stabilize boiler operations"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/2/2009

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HB 55, introduced by Hawk
HB 98, introduced by Dick Barrett
HB 109, introduced by Hunter
HB 114, introduced by Henry
HB 193, introduced by Augare
HB 195, introduced by Hamilton
HB 283, introduced by Himmelberger

FIRST READING AND COMMITMENT OF BILLS

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

SB 343, introduced by Jackson, Ankney, Bales, B. Beck, Belcourt, Bennett, Black, Blasdel, Calf Boss Ribs, Brenden, D. Brown, Brueggeman, Butcher, Driscoll, Glaser, Hinkle, Ingraham, MacLaren, Nooney, Pease-Lopez, Pomnichowski, Regier, Reichner, Roberts, Taylor, Wanzenried, Zinke, referred to Agriculture, Livestock and Irrigation.
SB 344, introduced by J. Peterson, Bales, Balyeat, Debby Barrett, Brenden, T. Brown, Brueggeman, Gebhardt, Lewis, Ripley, Stahl, Steinbeisser, Tutvedt, referred to Fish and Game.
SB 345, introduced by Tutvedt, referred to Local Government.
SB 346, introduced by Laible, referred to Judiciary.
SB 347, introduced by Laible, referred to Highways.
SB 348, introduced by Essmann, Mendenhall, Williams, Wilmer, referred to Judiciary.
SB 349, introduced by Tutvedt, referred to Judiciary.
SB 350, introduced by Gillan, referred to Public Health, Welfare and Safety.
SB 351, introduced by Essmann, Augare, Reichner, J. Tropila, referred to Business, Labor, and Economic Affairs.

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

SJR 19, introduced by J. Peterson, Bales, Debby Barrett, Brenden, T. Brown, Brueggeman, Gebhardt, Lewis, Ripley, Stahl, Steinbeisser, Zinke, referred to Fish and Game.

**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 Wanzenried in the chair.

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

SB 90 - Senator Jackson moved **SB 90** 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, Laslovich, 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 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 185 - Senator Balyeat moved **SB 185** 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, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 48

Nays: McGee, Zinke.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 208 - Senator Lewis moved **SB 208** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, 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 47

Nays: Barkus, Esp, Hinkle.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 222 - Senator Hansen moved **SB 222** do pass. Motion carried as follows:

Yeas: Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 29

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Nays: Bales, Balyeat, Barkus, Barrett, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 224 - Senator R. Brown moved **SB 224** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Williams, Zinke, Mr. President.
Total 32

Nays: Branae, Erickson, Gallus, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Windy Boy.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 253 - Senator Steinbeisser moved **SB 253** do pass. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 21

Nays: Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 29

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 253 - Senator J. Peterson moved **SB 253** be **indefinitely postponed**. Motion carried as follows:

Yeas: Barrett, Black, Branae, R. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 36

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Nays: Bales, Balyeat, Barkus, Brenden, T. Brown, Curtiss, Gallus, Hinkle, Jackson, McGee, Perry, Shockley, Steinbeisser, Mr. President.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 275 - Senator Squires moved **SB 275** do pass. Motion carried as follows:

Yeas: Bales, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.

Total 31

Nays: Balyeat, Barkus, Barrett, Black, Brenden, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Perry, Peterson, Ripley, Steinbeisser, Zinke, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 3 - Senator Laible moved **SJR 3** do pass. Motion carried as follows:

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

Total 40

Nays: Balyeat, Esp, Gebhardt, Hinkle, Jackson, McGee, Steinbeisser, Tutvedt.

Total 8

Absent or not voting: Gallus, Jent.

Total 2

Excused: None.

Total 0

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

MOTIONS

Sen. Bales moved to re-refer SB 224 to Finance and Claims. Motion carried.

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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 18 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, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, 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: Jent.

Total 1

SB 113 passed as follows:

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

Total 46

Nays: Balyeat, Hinkle, Shockley.

Total 3

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 202 passed as follows:

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

Total 45

Nays: Balyeat, Curtiss, Esp, Steinbeisser.

Total 4

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Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 214 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, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 46

Nays: Kaufmann, Shockley, Windy Boy.

Total 3

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 247 passed as follows:

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

Total 44

Nays: Balyeat, R. Brown, Esp, Keane, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 252 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, 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: Curtiss.

Total 1

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Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SJR 11 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 42

Nays: Balyeat, Curtiss, Esp, Essmann, Hinkle, Shockley, Tutvedt.
Total 7

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, February 4, 2009. Motion carried.

Senate adjourned at 2:33 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate