

SENATE JOURNAL
59TH LEGISLATURE / SPECIAL SESSION DECEMBER 2005
FIRST LEGISLATIVE DAY

Helena, Montana
December 14, 2005

Senate Chambers
State Capitol

Senate convened at 9:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. The Montana National Guard Honor Guard presented the colors, followed by the Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Balyeat, Gebhardt, O'Neil, Shockley.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

President Tester welcomed the Senators and speaks about working together for Montana's children.

The Secretary of the Senate reads the Governor's proclamation:

TO: Members of the Montana Senate
Members of the House of Representatives
Secretary of State Brad Johnson
Members of the Montana Supreme Court c/o Clerk of the Court Ed Smith

STATE OF MONTANA
OFFICE OF THE GOVERNOR
PROCLAMATION
CALL TO THE 59TH LEGISLATURE
FOR A SPECIAL SESSION

WHEREAS, pursuant to Article V, section 6 of the Constitution of the State of Montana and § 5-3-101, MCA, the Governor may convene the legislature in special session; and

WHEREAS, pursuant to Article VI, section 11 of the Constitution of the State of Montana, the Governor may convene the legislature whenever he considers it in the public interest; and

WHEREAS, the Montana Supreme Court, in *Columbia Falls Elementary School District No. 6 v. State of Montana*, 2005 MT 69, held that Montana's system for funding its public elementary and secondary schools was unconstitutional in that the funding system was not based on a definition of a quality education and the requirement to recognize the cultural heritage of American Indians was not being fulfilled; and

WHEREAS, the 59th Legislature, through passage of Senate Bill No. 152 (SB 152), defined a "basic system of free quality public elementary and secondary schools," as required by Article X, section 1(3) of the Montana

Constitution and the Montana Supreme Court's ruling; and

WHEREAS, the 59th Legislature, for the first time in Montana history, consistent with the Montana Constitution and the Montana Supreme Court's ruling, appropriated in excess of \$3.4 million for the 2006-07 biennium to fund education related to the preservation of the distinct and unique cultural heritage of American Indians; and

WHEREAS, the 59th Legislature increased funding for Montana's K-12 schools by appropriating more than \$88 million in new money for the biennium – an historic increase; and

WHEREAS, the 59th Legislature, through passage of Senate Bill No. 525 (SB 525), established a quality schools interim committee to devise, by December 1, 2005, a funding formula for Montana's public elementary and secondary schools based on the definition of quality education enacted by the 59th Legislature; and

WHEREAS, the quality schools interim committee has accomplished the tasks assigned to it under SB 525, but has not agreed upon any one school funding formula; and

WHEREAS, in addition to the constitutional requirement that the legislature provide a basic system of free quality public elementary and secondary schools, Article VIII, section 9 of the Constitution of the State of Montana requires the state to maintain a balanced budget by directing that legislative appropriations not exceed anticipated revenue; and

WHEREAS, one component of a quality education system is the ability to recruit and retain qualified teachers, and in order to be able to recruit and retain qualified teachers, schools must be able to offer teachers competitive benefit packages; and

WHEREAS, Montana's teachers' retirement system currently has an unfunded liability exceeding \$900,000,000.00; and

WHEREAS, Montana's public retirement system currently has an unfunded liability exceeding \$500,000,000.00; and

WHEREAS, school boards are beginning the process of preparing their budgets for the 2006-07 academic year; and

WHEREAS, the regular session of the 59th Legislature completed its work in eighty-six days anticipating the likelihood of a special legislative session to enact a school funding system based on the definition of a quality education; and

WHEREAS, it is in the public interest of all Montanans that the 59th Legislature convene in special session to consider these matters.

NOW, THEREFORE, I, BRIAN SCHWEITZER, GOVERNOR OF THE STATE OF MONTANA, pursuant to the authority vested in me by the Constitution and laws of the State of Montana, do hereby convene the Fifty-Ninth Legislature in special session, in Helena, at the Capitol, at the hour of 9:00 a.m., the 14th day of December, 2005, and hereby limit the special session to the following subjects:

1. Legislation to enact a funding system for Montana's public elementary and secondary schools that is based on the definition of a quality education contained in SB 152 and that recognizes the cultural heritage of American Indians, in compliance with Article X, section 1 of the Montana Constitution and in fulfillment of the requirements of the Montana Supreme Court's decision in *Columbia Falls Elementary School v. State of Montana*, and that also remains within a balanced budget, as required by Article VIII, section 9 of the Montana Constitution;
2. An appropriation for the funding system enacted by the Legislature in special session in compliance with the Montana Constitution and the Supreme Court's holding;

3. An appropriation of one-time money from the general fund to Montana's public elementary and secondary schools for recognition of the cultural heritage of American Indians and to address the following needs of schools: facility studies, weatherization for long-term energy savings, deferred maintenance, and assistance with utility and transportation energy costs;
4. An appropriation of \$100 million from the general fund to the teachers' retirement system to both reduce the unfunded liability of the system and to help improve Montana's ability to recruit and retain qualified teachers;
5. An appropriation of \$25 million from the general fund to the public retirement system to help reduce the unfunded liability of the system;
6. LC 2006-2, approved by the State Administration and Veterans' Affairs Interim Committee on November 30, 2005;
7. An updated revenue estimate requested by the revenue and transportation committee;
8. Confirmation of the chief water judge and the workers' compensation judge, as required by § 3-1-1013, MCA;
9. Confirmation of the governor's vacancy appointment of the director of the department of public health and human services; and
10. Any appropriations necessary for the operation of the special legislative session.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Montana to be affixed. DONE at the City of Helena, the Capitol, this 14th day of December, in the year of our Lord, two thousand and five.

 BRIAN SCHWEITZER
 Governor

MOTIONS

Majority Leader Ellingson moved to suspend the Senate Rules for the duration of the Special Session.
 Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
 Total 50

Nays: None.
 Total 0

Absent or not voting: None.
 Total 0

Excused: None.
 Total 0

I move to suspend the Senate Rules as reflected in the document printed and place on members desks for the duration

of the Special Session. Senate Rules not contained in this document remain in effect. December 2005.

SENATE RULES

S30-120. Notice of committee hearings -- exceptions. (1) Notice of a committee hearing must be made by posting the date, time, and subject of the hearing in a conspicuous public place not less than 3 legislative days in advance of the hearing. This 3-day notice requirement does not apply to hearings scheduled:

- ~~_____ (a) prior to the 3rd legislative day;~~
- ~~_____ (b) less than 10 legislative days before the transmittal deadline applicable to the subject of the hearing; or~~
- ~~_____ (c) to consider confirmation of a gubernatorial appointment received less than 10 legislative days before the last scheduled day of a during a special legislative session.~~

(2) When a committee hearing is scheduled with less than 3 days' notice, the committee chair shall use all practical means to disseminate notice of the hearing to the public.

(3) Notice of conference committee hearings must be given as provided in Joint Rule 30-30.

S40-40. Reading limitations. (1) Every bill must be read three times prior to passage, either by title or by summary of title as provided in these rules.

(2) A bill or resolution may ~~not~~ have more than one reading on the same day ~~except the last legislative day.~~

(3) An amendment may not be offered on third reading.

S40-60. Scheduling for second reading. (1) All bills and resolutions that have been reported by a committee, accepted by the Senate, and reproduced must be scheduled for consideration by Committee of the Whole.

(2) ~~Until the 50th legislative day, 1 day must elapse between receiving the legislation from printing and scheduling for second reading for consideration by Committee of the Whole.~~

~~_____ (3) The majority leader shall arrange legislation on the agenda in the order in which the bills will be considered, unless otherwise ordered by the Senate or Committee of the Whole.~~

S50-90. Reconsideration. (1) Any Senator may, on the day the vote was taken or on the next day the Senate is in session, move to reconsider the question. A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider may not address the substance of the matter for which reconsideration is sought.

(2) A motion to reconsider may not be withdrawn after the next legislative day without the unanimous consent of the Senate, and thereafter any Senator may call it up for consideration. However, a motion to reconsider ~~made after the 54th day of the session~~ must be disposed of when made.

(3) A motion to recall a bill from the House of Representatives constitutes notice to reconsider and must be acted on as a motion to reconsider. A motion to reconsider or to recall a bill from the House of Representatives may be made only under Order of Business No. 6 and, under that order of business, takes precedence over all motions except motions to recess or adjourn.

(4) When a motion to reconsider is laid on the table, a two-thirds majority is required to take it from the table. When a motion to reconsider fails, the question is finally and conclusively settled.

~~(5) If a motion to reconsider third reading action is carried, there may not be further action until the succeeding legislative day.~~

S50-170. Third reading procedure. (1) All legislation passing second reading must be placed on third reading ~~the day following the receipt of the engrossing or other appropriate printing report.~~

(2) On Order of Business No. 9 the Secretary shall read the title and the President shall state the question as follows: "Senate bill number (or other appropriate identification).... having been read three several times, the question is, shall the bill (or other appropriate identification) pass the Senate?"

(3) If an electronic voting system is used, the President shall state "Those in favor vote yes and those opposed vote no" and the Secretary will sound the signal and open the board for voting. After a reasonable pause the presiding officer asks "Has every member voted?" (reasonable pause), "Does any member wish to change his or her vote?" (reasonable pause), "The Secretary will record the vote."

S60-10. Senate rules. (1) A motion to amend or adopt a rule of the Senate must be referred to the Rules Committee

without debate. A rule of the Senate may be amended or adopted only with the concurrence of a majority of the Senate and after 1 day's notice.

(2) A rule may be suspended temporarily by a two-thirds vote.

S70-30. Committee process. (1) ~~(a)~~ The committee shall research each nominee and may request biographical information from the Governor for each nominee if none has been provided.

~~(b) The committee chair shall submit a bill draft request for a simple resolution to include the nominees specified by the committee chair. These bill draft requests will not count against any bill draft request limit imposed on members. When the resolution has been prepared and introduced, the committee shall hold a hearing on the resolution after appropriate public notice has been made.~~

(2) Following the hearings, the committee shall issue preliminary standing committee reports to be distributed to each Senator, stating the committee's recommendations concerning the nominees.

(3) ~~(a) If a Senator wishes to have an individual nominee, or group of nominees, considered by the Senate separately from the group of nominees recommended by the committee, the Senator may request of the chair of the committee that the nominee or nominees be considered by a separate resolution.~~

~~(b) A Senator shall request separate consideration of a nominee within 3 days of receipt of the preliminary standing committee report. The committee chair shall honor this request.~~

~~(4) After waiting 3 days from the day of distribution of the preliminary standing committee report, the committee chair shall issue a final standing committee report and deliver the report to the Secretary of the Senate.~~

~~(a) If a nominee is to be separated from the resolution, the final standing committee report must include an amendment deleting that nominee.~~

~~(b) When a nominee has been separated at the request of a Senator, the committee chair shall submit a bill draft request for a simple resolution to include only the nominee so separated. When the resolution has been prepared and introduced, the committee shall take executive action on the resolution. When a hearing on the separated nomination was held prior to the committee's preliminary standing committee report, an additional hearing is not required to be held before the committee takes action on the separate resolution. After the committee's executive action, the committee chair shall issue a standing committee report.~~

~~(5) If a resolution contains only one nominee, the committee shall dispense with the preliminary standing committee report and shall issue a final standing committee report to be distributed to each Senator stating the committee's recommendation concerning the nominee.~~

~~(6) (2)~~ The Secretary will read the reports under Order of Business No. 2, reports of standing committees.

~~(7) (3)~~ After the report has been read, the resolution must be placed on Order of Business No. 11 ~~the next legislative day~~ for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be debated.

Majority Leader Ellingson moved to suspend the Joint Rules of the House and Senate for the duration of the Special Session. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

I move to suspend the Joint Rules as reflected in the document printed and place on members desks for the duration

of the Special Session. Joint Rules not contained in this document remain in effect as provided in 60-40. December 2005.

JOINT RULES

30-50. Committee consideration of appropriation bills. (1) All bills providing for an appropriation of public money may first be considered by a joint committee composed of the members of the Senate Finance and Claims Committee and the House Appropriations Committee, and then by each separately.

~~(2) Meetings of the joint committee must be held upon call of the chair of the House Appropriations Committee, who is chair of the joint committee.~~

~~(3) The committee chair of the Senate Finance and Claims Committee or of the House Appropriations Committee may be a voting member in the joint subcommittees if:~~

~~(a) either house has fewer members on the joint subcommittees;~~

~~(b) the chair represents the house with fewer members on the subcommittees; and~~

~~(c) the chair is present for the vote at the time that a question is called. A vote may not be held open to facilitate voting by a chair.~~

40-40. Bill requests and introduction -- limits and procedures. (1) Prior to a regular ~~the special~~ session, a person entitled to serve in that session, hereafter referred to as a "member", is entitled to request bill drafting services from the Legislative Services Division, ~~subject to the following limits:~~

~~(a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and resolutions to be prepared by the Legislative Services Division for introduction in the regular session.~~

~~(b) After 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Services Division. At least five of the seven bills or resolutions must be requested before the regular session convenes.~~

~~(c) After December 5, a member, in the member's discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator.~~

~~(d) These limitations on bill and resolution requests do not apply to:~~

~~(i) Code Commissioner bills;~~

~~(ii) a bill or resolution requested by a standing committee; and~~

~~(iii) a bill or resolution requested by a member at the request of a newly elected state official if so designated for bills within the call of the special session.~~

(2) The staff of the Legislative Services Division shall work on bill draft requests in the order received. After a member has requested the drafting of five bills, the sixth bill request and all subsequent bill requests of that member must receive a lower drafting priority than all other bills of members not in excess of five per member. The Speaker of the House, the minority leader of the House, the President of the Senate, and the minority leader of the Senate may each direct the staff of the Legislative Services Division to assign a higher priority to 10 draft requests. ~~The staff of the Legislative Services Division shall assign a higher priority to any bill draft request when jointly directed by:~~

~~(a) the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House; or~~

~~(b) the House and the Senate.~~

(3) Bills and resolutions must be reviewed by the staff of the Legislative Services Division prior to introduction for proper format, style, and legal form. The staff of the Legislative Services Division shall store bills on the automated bill drafting equipment and shall print and deliver them to the requesting members. The original bill cover must be signed to indicate review by the Legislative Services Division. A bill may not be introduced unless it is so signed.

(4) ~~(a)~~ During a session, a bill may be introduced by endorsing it with the name of a member and presenting it to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name appears first on the bill is a member. The chief joint sponsor's name must appear immediately to the right of the first sponsor's name. ~~Except as provided in subsection (4)(b), in each session of the~~

~~Legislature, bills Bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.~~

~~(b) The first 15 House bills may be reserved for preintroduced bills.~~

(5) (a) Any bill proposed by an interim or statutory legislative committee or introduced by request of an administrative or executive agency or department must be so indicated by placing after the names of the sponsors the phrase "By Request of the..... (Name of committee or agency)". The phrase may not be added to an introduced bill and may not be placed on a bill whose subject matter was requested by an agency or statutory or interim committee prior to the convening of the session. Unless requested by an individual member, a bill draft request submitted at the request of an agency must be submitted to, reviewed by, and requested by the appropriate interim or statutory committee. ~~Except as provided in subsection (5)(b), an agency or committee bill request must be preintroduced or the request is canceled. Preintroduction must occur no later than 5 p.m. on the fifth working day prior to the convening of a legislative session. Preintroduction is accomplished when the Legislative Services Division receives a signed preintroduction form.~~

~~(b) The preintroduction requirement does not apply to an office held by an elected official during the official's first year in that office or to bills requested by a joint select or joint special committee appointed prior to the convening of the legislative session to address a specific issue.~~

(6) Bills may be preintroduced, numbered, and reproduced prior to a legislative session by the staff of the Legislative Services Division. Actual signatures of persons entitled to serve as members in the ensuing session may be obtained on a consent form from the Legislative Services Division and the sponsor's name printed on the bill. Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Services Division to be included on the face of the bill following standing committee approval.

40-50. Schedules for drafting requests and bill introduction. ~~(1) The following schedule must be followed for submission of drafting requests:~~

	Request Deadline
	5:00 P.M.
	Legislative Day
● General Bills and Resolutions	10
● Revenue Bills	17
● Committee Bills and Resolutions	36
● Committee Revenue Bills	62
● Committee Bills implementing provisions of a general appropriation act	75
● Interim study resolutions	75
● Appropriation Bills	No Deadline
● Resolutions to express confirmation of appointments	No Deadline
● Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules	No Deadline

~~(2) Bills and resolutions must be introduced within 2 legislative days after delivery.~~

40-140. Second reading -- bill reproduction. ~~(1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill must be reproduced on yellow paper with all amendments incorporated into the copies.~~

~~(2) If a bill has been returned from a committee without amendments, only the first sheet must be reproduced on yellow paper, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.~~

~~(3) A bill requested by and heard by a joint select or joint special committee, as provided in 40-40(5)(b), may be referred directly to second reading. If the bill is passed by the house of origin, the bill must be transmitted~~

to the other house, and if the bill was not amended, it may be placed on second reading without the need for referral to a committee.

~~**40-150. Engrossing.** (1) When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed if the bill is amended. Committee of the Whole amendments must be included in the engrossed bill. If the bill is not amended, the bill must be sent to printing. The bill must be placed on the calendar for third reading on the legislative day after receipt.~~

~~(2) Copies of the engrossed bill to be distributed to members are reproduced on blue paper. If a bill is unamended by the Committee of the Whole and contains no clerical errors, it is not required to be reprinted. Only the first sheet must be reproduced on blue paper, with the remainder of the text incorporated by reference to the preceding version of the entire bill.~~

~~(3) If a bill is amended by a standing committee in the second house, the amendments must be included in a tan-colored bill and distributed in the second house for second reading consideration. If the bill is amended in Committee of the Whole, the amendments must be included in a salmon-colored reference bill and distributed in the second house for third reading. If the bill passes on third reading, copies of the reference bill must be distributed in the original house. The original house may request from the second house a specified number of copies of the amendments to be printed.~~

~~**40-200. Transmittal deadlines.** (1) (a) A bill or amendment transmitted after the deadline established in this subsection (1) may be considered by the receiving house only upon approval of two-thirds of its members present and voting. If the receiving house does not so vote, the bill or amendment must be held pending in the house to which it was transmitted.~~

~~(b) (i) A bill, except for an appropriation bill, a revenue bill, an interim study resolution, or amendments considered by joint committee, must be transmitted from one house to the other on or before the 45th legislative day.~~

~~(ii) Amendments, except to appropriation bills, bills implementing the general appropriations bill, the revenue estimating resolution, interim study resolutions, and revenue bills, must be transmitted from one house to the other on or before the 73rd legislative day.~~

~~(c) (i) Revenue bills must be transmitted to the other house on or before the 71st legislative day.~~

~~(ii) Amendments to revenue bills, received from the other house, must be transmitted to the house of origin on or before the 82nd legislative day.~~

~~(iii) A revenue bill is one that either increases or decreases revenue.~~

~~(d) (i) Appropriation bills and any bill implementing provisions of a general appropriation bill must be transmitted to the Senate on or before the 67th legislative day.~~

~~(ii) Senate amendments to appropriation bills must be transmitted by the Senate to the House on or before the 80th legislative day.~~

~~(2) (a) A joint resolution introduced for the purpose of estimating revenue available for appropriation by the Legislature must be transmitted to the Senate no later than the 60th legislative day.~~

~~(b) Amendments to the revenue estimating resolution must be transmitted to the House no later than the 82nd legislative day.~~

~~(3) Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules may be transmitted at any time during a session.~~

~~(4) Interim study resolutions must be transmitted from one house to the other on or before the 85th legislative day.~~

Majority Leader Ellingson moved that members of the press and media be granted access to the Senate floor.
Motion carried.

REPORTS OF STANDING COMMITTEES

LEGISLATIVE ADMINISTRATION (Tropila, Chairman):

12/14/2005

Senator Tropila recommended the employment of attaches to the Senate:

Bill Lombardi, Secretary Of The Senate
Kathy Fabiano, Assistant Secretary
Carolyn Radakovich, Journal Clerk
Ray Peck, Security
Ted Dick, Sergeant At Arms
Matt Jennings, Status Input Technician
Kima Rosling, Word Processing Supervisor
Lois O'Connor, Committee Secretary
Prudence Gildroy, Committee Secretary
Katie Lang, Aide To Senate President
Father Jerry Lowney, Chaplain
Chuck Butler, Aide To Minority Leader
Susie Hamilton, Scanner

Committee report adopted.

MESSAGES FROM THE GOVERNOR

December 14, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

It is my pleasure to submit an individual for confirmation by the Montana State Senate during the 2005 Special Legislative Session. Joan Miles has been appointed as Director of the Department of Public Health and Human Services in accordance with Montana Code Annotated 2-15-111.

Attached to this letter is Joan Miles' resume, as well as a brief biography for distribution to members of the Montana State Senate. Please don't hesitate to contact me if you have any questions regarding this appointment.

Sincerely,

BRIAN SCHWEITZER
Governor

MOTIONS

Senator Ryan moved that additional sponsors be added to SB 1. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 1, introduced by Ryan, Bergren, Cocchiarella, Cohenour, Dickenson, Dowell, Elliott, Gillan, Hamilton, Hawks, Jopek, Larson, Laslovich, Lenhart, Matthews, McAlpin, Parker, Schmidt, Squires, Tester, Tropila,

Wanzenried, Weinberg, Wheat, Windy Boy, Wiseman, referred to Education and Cultural Resources.

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

SR 1, introduced by Wheat, referred to Judiciary.

SR 2, introduced by Wheat, referred to Judiciary.

SR 3, introduced by Squires, referred to State Administration.

SPECIAL ORDERS OF THE DAY

President Tester announced that flu shots would be available Thursday, December 15 for seventeen dollars.

Senator Squires introduced the pages for the week.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate recess until 2:00 p.m. Motion carried.

Senate recessed 9:24 a.m.

Senate reconvened 2:00 p.m.

Roll Call. Senators Schmidt, Smith and Williams excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 42

Nays: Balyeat, Gebhardt, Grimes, O'Neil, Shockley.

Total 5

Absent or not voting: Schmidt, Smith, Williams.

Total 3

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

JUDICIARY (Wheat, Chairman): 12/14/2005
SR 1, be adopted. Report adopted.
SR 2, be adopted. Report adopted.

STATE ADMINISTRATION (Squires, Chairman): 12/14/2005
SR 3, be adopted. Report adopted.

SPECIAL ORDERS OF THE DAY

Senator Wheat moved SR 1 be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Wheat moved SR 2 be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Grimes.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Squires moved SR 3 be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: McGee, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Balyeat moved to allow for a concurrent call of the special session to discuss a constitutional expenditure limit. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate recess until 4:00 p.m. Motion carried.

Senate recessed 2:39 p.m.

Senate reconvened 6:10 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):
SB 1, introduced bill, be amended as follows:

12/14/2005

1. Title, line 17.

Following: "ENTITLEMENT;"

Insert: "INCREASING RATES FOR INDIVIDUAL TRANSPORTATION FROM 25 CENTS A MILE TO 35 CENTS A MILE;"

Following: "SECTIONS"

Insert: "20-5-323,"

Following: "20-9-321,"

Strike: "AND"

Following: "20-9-344,"

Insert: "AND 20-10-142,"

2. Page 1, line 22 through line 29.

Following: "payment." on line 22

Strike: remainder of line 22 through line 29 in its entirety

Insert: "(1)(a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; and

(iv) state youth correctional facilities, as defined in 41-5-103.

(b) A special education cooperative that has not met the requirements of 20-7-453 and 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2)(a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills and Riverside youth correctional facilities must be distributed to those facilities by the department of corrections.

(3) The quality educator payment is \$2,000 times the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in [section 1] in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education; or

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-23-201, 37-24-301, or 37-25-302; and

(ii) is employed by an entity listed in [section 1] to provide services to students."

3. Page 2, line 9.

Following: "status of"

Insert: "standardized"

4. Page 2, line 23.

Following: "(2)"

Insert: "(a)"

Strike: "\$100"

Insert: "\$200"

5. Page 2.

Following: line 25

Insert: "(b) A school district may not require a student to disclose the student's race."

6. Page 2, line 28.

Following: "status of"

Insert: "standardized"

7. Page 2, line 30.

Insert: "**Section 5.** Section 20-5-323, MCA, is amended to read:

"20-5-323. Tuition and transportation rates. (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

(2) The tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;

(b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306, received in the year for which the tuition charges are calculated, must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or ~~25~~ 35 cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

Renumber: subsequent sections

8. Page 3, line 15 and line 29.

Strike: "20-9-306(15)(c)(ii)"

Insert: "20-9-306(14)(c)(ii)"

9. Page 7, line 21.

Strike: subsection (11) in its entirety

Renumber: subsequent subsections

10. Page 7, line 23.

Strike: "\$100"

Insert: "\$200"

11. Page 8, lines 16 and 17.

Following: "of" on line 16

Strike: "quality" on line 16 through "[section 1]" on line 17

Insert: "full-time equivalent educators as provided in [section 1]"

12. Page 10, line 8.

Strike: subsection (11) in its entirety

Renumber: subsequent subsections

13. Page 10, line 10.

Strike: "\$100"

Insert: "\$200"

14. Page 11, lines 3 and 4.

Following: "of"

Strike: "quality" on line 3 through "[section 1]" on line 4

Insert: "full-time equivalent educators as provided in [section 1]"

15. Page 24, line 17.

Insert: "**Section 11.** Section 20-10-142, MCA, is amended to read:

"20-10-142. Schedule of maximum reimbursement for individual transportation. The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146. These rates constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. The schedules provided in this section may not be altered by any authority other than the legislature. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian for actual miles transported on the basis of the following schedule:

(1) When a parent or guardian transports an eligible transportee or transportees from the residence of the parent or guardian to a school or to schools located within 3 miles of one another, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product, and multiplying the difference by ~~25~~ 35 cents, provided that:

(a) if two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if the schools are operated by different school districts, the total amount of the reimbursement must be divided equally between the districts;

(b) if two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian must be separately reimbursed for transporting the eligible transportee or transportees to each school;

(c) if a parent transports two or more eligible transportees to a school and a bus stop that are located within 3 miles of one another, the total reimbursement must be determined under the provisions of this subsection (1) and must be divided equally between the district operating the school and the district operating the bus;

(d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total reimbursement allowed by this section is limited to one round trip a day for each scheduled arrival or departure time;

(e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), a reimbursement may not be less than ~~25~~ 35 cents a day.

(2) When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence

and the bus stop by 2, subtracting 6 miles from the product, and multiplying the difference by ~~25~~ 35 cents, provided that:

- (a) if the eligible transportees attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally; and
- (b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the parent or guardian must be separately reimbursed for transportation to each bus.

(3) When, because of excessive distances, impassable roads, or other special circumstances of isolation, the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, a parent or guardian may request an increase in the reimbursement rate. A request for increased rates because of isolation must be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances that exist to justify the increase. Before an increased rate because of isolation may be paid to the requesting parent or guardian, the rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the committee and the superintendent of public instruction, the trustees shall pay the increased rate because of isolation. The increased rate is 1 1/2 times the rate prescribed in subsection (1).

(4) The state and county transportation reimbursement for an individual transportation contract may not exceed ~~\$9.25~~ \$12.95 for each day of attendance for the first eligible transportee and ~~\$6~~ \$8.40 for each day of attendance for each additional eligible transportee.

(5) When the isolated conditions of the household where an eligible transportee resides require an eligible transportee to live away from the household in order to attend school, the eligible transportee is eligible for the room and board reimbursement. Approval to receive the room and board reimbursement must be obtained in the same manner prescribed in subsection (3). The per diem rate for room and board is ~~\$9.25~~ \$12.95 for one eligible transportee and ~~\$6~~ \$8.40 for each additional eligible transportee of the same household.

(6) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate is the cost of the study, provided that the course of instruction is approved by the trustees and supervised by the district."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence:

12/14/2005

HB 5, introduced by Buzzas

FIRST READING AND COMMITMENT OF BILLS

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

HB 5, introduced by Buzzas, referred to Finance and Claims.

MOTIONS

Majority Leader Ellingson moved the Senate recess to caucus. Motion carried.

Senate recessed 6:12 p.m.

Senate reconvened 6:53 p.m.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Thursday, December 15, 2005. Motion carried.

Senate adjourned at 6:55 p.m.

BILL LOMBARDI
Secretary of the Senate

JON TESTER
President of the Senate