

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 28, 2005

SENATE JOURNAL
59TH LEGISLATURE
TWENTY-SECOND LEGISLATIVE DAY

Helena, Montana
January 28, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. 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, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Esp, Gebhardt, O'Neil, Shockley, Stapleton.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/28/2005
Correctly printed: **SB 8, SB 45, SB 109, SB 134, SB 149, SB 254, SB 320, SB 321, SB 322, SB 323, SB 324, SB 325, SB 326, SB 327, SB 328, SB 329, SB 330, SB 331, SB 332, SJR 1, SJR 13.**
Correctly engrossed: **SB 41, SB 67, SB 104, SB 110, SB 112, SB 119, SB 127, SB 137, SB 143, SB 151, SB 162, SB 197, SB 206, SB 244, SB 248.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 1/28/2005
SB 134, do pass. Report adopted.
SB 254, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman): 1/28/2005
SB 143, introduced bill, be amended as follows:

1. Page 6, line 1.
Following: "(10)"
Insert: "(a)"

2. Page 6, line 3.
Following: "studies"
Strike: "for"
Insert: "of"

3. Page 6, line 5.

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Insert: "(b) The money spent pursuant to subsection (10)(a) must be credited against the amount owed by the state agency in a judgment or settlement agreement for payment of the remedial action costs at the facility for which the money was spent."

4. Page 6.

Following: line 22

Insert: "NEW SECTION. Section 4. Contingent voidness. If House Bill No. 2 is passed and approved and contains an appropriation from the general fund to the department of environmental quality to pay its costs for investigations and preparation of feasibility studies of releases at the Kalispell pole and timber, reliance refinery, and yale refinery state superfund sites, then [section 2(10)] is void."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):
SB 244, introduced bill, be amended as follows:

1/28/2005

1. Page 1, line 14.

Strike: "45"

Insert: "40"

And, as amended, do pass. Report adopted.

SB 248, introduced bill, be amended as follows:

1. Title, line 8.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 2.

Following: line 14

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):
SB 104, introduced bill, be amended as follows:

1/28/2005

1. Page 1, line 25.

Page 2, line 18.

Page 2, line 20.

Page 3, line 6.

Page 3, line 7.

Page 3, line 9.

Page 3, line 12.

Page 3, line 13.

Page 3, line 14.

Page 3, line 16.

Strike: "21"

Insert: "18"

2. Page 2, line 5.

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Following: "(3)"
Insert: "(a)"

3. Page 2, line 8.

Following: line 7

Insert: "(b) The requirements of subsections (1)(a) and (1)(c) do not apply to a person under 18 years of age who, at the time of application for a driver's license, is an enrollee of a job corps program located in Montana. The department may require the applicant to provide current documentation of the applicant's job corps program enrollment status."

4. Page 2, line 18 through line 19.

Following: "older" on line 18

Strike: remainder of line 18 through "vehicle" on line 19

5. Page 3, line 5.

Following: "(c)(i)"

Strike: "For"

Insert: "Except as provided in subsection (1)(d), for"

6. Page 3, line 7 through line 8.

Following: "age" on line 7

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

7. Page 3, line 9 through line 10.

Following: "family" on line 9

Strike: remainder of line 9 through "licensee" on line 10

8. Page 3, line 11.

Following: "(ii)"

Strike: "For"

Insert: "Except as provided in subsection (1)(d), for"

9. Page 3, line 17.

Following: line 16

Insert: "(d) A restricted licensee who is a current enrollee of a job corps program located in Montana may operate a motor vehicle with more than one passenger who is under 18 years of age without being supervised by a licensed driver who is at least 18 years of age if the restricted licensee is operating the motor vehicle as part of the restricted licensee's job corps training program."

10. Page 3, line 25.

Following: "report of"

Insert: "a second or subsequent"

11. Page 3, line 26.

Following: "license for"

Strike: "90 days upon a first conviction and for"

Following: "6 months"

Strike: "upon a second or subsequent conviction"

12. Page 4, line 20.

Page 4, line 25.

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Strike: "21"
Insert: "18"

13. Page 5, line 5.

Following: "instruction"

Insert: "and that is available to all who meet the age requirements specified in 20-7-503 and reside within the geographical boundaries of the school district that offers the course"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):
SB 162, introduced bill, be amended as follows:

1/28/2005

1. Title, line 5.

Following: "EMPLOYEES"

Insert: "AND CITY OR TOWN OFFICERS AND EMPLOYEES"

2. Title, line 7.

Following: "ATTORNEY"

Insert: "OR CITY OR TOWN ATTORNEY"

Following: "RECORDER"

Insert: "OR CITY OR TOWN CLERK"

3. Title, line 13.

Following: "2-9-703,"

Insert: "2-9-803, 2-9-804,"

4. Page 1, line 26.

Following: "bonded"

Insert: "for the faithful performance of all official duties required by law"

5. Page 2.

Following: line 12

Insert: "Section 4. Section 2-9-803, MCA, is amended to read:

"2-9-803. Form -- coverage -- approval City and town officers and employees to be bonded. (1) A bond may cover an individual officer or employee or a blanket bond may cover all officers and employees or any group or combination of officers and employees.

(2) All official bonds covering a group of elected and appointed city or town officers or employees shall be made upon the same conditions as are required of a principal under subsections (1) through (3) of 2-9-504, except that the bond need not be signed by each officer and employee must be bonded for the faithful performance of all official duties required by law.

~~(3) The form of bonds for city or town officers and employees must be approved by the city or town attorney and filed and recorded in the office of the city or town clerk."~~

Insert: "Section 5. Section 2-9-804, MCA, is amended to read:

"2-9-804. Purchase -- responsible surety. (1) The city or town council or commissioners shall purchase all surety bonds for city officers and employees.

(2) Bonds purchased by the city or town council or commission must be executed by responsible insurance or surety companies authorized and admitted to execute surety bonds in this state or by a self-insurance pool insuring cities or towns as authorized under 2-9-211."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

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PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
SB 110, introduced bill, be amended as follows:

1/28/2005

1. Page 3, line 13.

Following: "existing"

Insert: "managed care or access"

2. Page 3, line 14.

Strike: "1915"

Insert: "1915(b)"

3. Page 7, line 2.

Following: "groups."

Insert: "In adopting financial participation requirements for enrollees selecting coverage as provided in subsection (11)(b)(iv), the department may not adopt cost-sharing amounts that exceed the nominal deductible, coinsurance, copayment, or similar charges adopted by the department to apply to categorically or medically needy persons for a service pursuant to the state medicaid plan."

4. Page 8.

Following: line 2

Insert: "(18) The department shall present a section 1115 waiver proposal to the house appropriations committee or, during the interim, the legislative finance committee prior to the submission of the proposal to the federal government for formal approval.

(19) The department shall provide for a public comment period on the proposed section 1115 waiver at least 60 days before the submission of the section 1115 waiver application to the federal government for formal approval. The department shall give notice of the proposal by announcing the pending submittal, stating its general purpose, and informing the public that a synopsis of the proposal is available on the department's website and shall provide for public comment through electronic means or mail. The department shall consider comments received and make any appropriate changes to the waiver request before submitting it to the federal government."

And, as amended, do pass. Report adopted.

SB 112, introduced bill, be amended as follows:

1. Title, line 7.

Following: "WARD"

Insert: "UNDER LIMITED CONDITIONS"

2. Title, line 8.

Strike: "IN"

Insert: "CONSISTENT WITH"

Strike: "BEST INTEREST"

Insert: "SUBSTITUTED JUDGMENT"

3. Title, line 9.

Strike: "SECTION"

Insert: "SECTIONS 72-5-101 AND"

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4. Page 1, line 12.

Following: the enacting clause

Insert: "Section 1. Section 72-5-101, MCA, is amended to read:

"72-5-101. **Definitions.** Unless otherwise apparent from the context, in this code, the following definitions apply:

(1) "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, ~~(except minority)~~, to the extent that ~~he~~ the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning ~~his~~ the person or which cause has so impaired the person's judgment that ~~he~~ the person is incapable of realizing and making a rational decision with respect to ~~his~~ the person's need for treatment.

(2) "Protected person" means a minor or other person for whom a conservator has been appointed or other protective order has been made.

(3) "Protective proceeding" means a proceeding under the provisions of 72-5-409 to determine that a person cannot effectively manage or apply ~~his~~ the person's estate to necessary ends, either because ~~he~~ the person lacks the ability or is otherwise inconvenienced or because ~~he~~ the person is a minor, and to secure administration of ~~his~~ the person's estate by a conservator or other appropriate relief.

(4) "Substituted judgment" means the judgment that an incapacitated person would make if restored to capacity based upon:

(a) the person's present preference or, if the person is incapable of indicating a preference, the person's prior expressed interest;

(b) the person's personal, moral, and religious convictions;

(c) the person's relationship with family members;

(d) the consequences if the proposed action is not taken;

(e) the consequences if the proposed action is taken; and

(f) other relevant factors.

~~(4)~~(5) "Ward" means a person for whom a guardian has been appointed. A "minor ward" is a minor for whom a guardian has been appointed solely because of minority."

Renumber: subsequent section

5. Page 2, line 20.

Following: "(g)"

Strike: "A"

Insert: "If a ward is a victim of abuse, neglect, or financial exploitation by a spouse and the ward, through a full guardian, is seeking public assistance, then the"

6. Page 2, line 22.

Following: "separation is"

Strike: "in"

Insert: "consistent with"

Following: "ward's"

Strike: "best interest"

Insert: "substituted judgment"

Following: "determines"

Insert: ", by clear and convincing evidence,"

7. Page 2, line 23.

Following: "separation is"

Strike: "in"

Insert: "consistent with"

Following: "ward's"

Strike: "best interest"

Insert: "substituted judgment"

And, as amended, do pass. Report adopted.

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SB 119, introduced bill, be amended as follows:

1. Page 4, line 23.

Following: "(7)"

Strike: "In all cases"

Insert: "Following the permanency hearing"

And, as amended, do pass. Report adopted.

SB 127, introduced bill, be amended as follows:

1. Title, page 1, line 10.

Strike: "AND ANNUAL RESIDENT REVIEW"

2. Page 4, line 18 through line 22.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

3. Page 5, line 22.

Strike: "and annual resident review"

4. Page 7, line 8.

Strike: "with chronic mental illness"

Following: "who are"

Insert: "emotionally disturbed and"

5. Page 7, line 14.

Strike: "or"

Insert: "and"

6. Page 7, line 23.

Strike: "or"

7. Page 7, line 24.

Strike: the first "or"

Insert: "and"

8. Page 7, line 26.

Following: "situations"

Insert: "; or

(j) persons 18 years of age and older with chronic mental illness who are in need, on an ongoing or frequent basis, of specialized health services and other supportive services necessary to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations"

9. Page 8, lines 20 and 21.

Strike: "and annual resident reviews"

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10. Page 8, lines 28 and 29.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

11. Page 9, line 4.

Strike: "and annual resident reviews"

12. Page 9, line 10.

Strike: "screenings and annual resident"

13. Page 9, line 11.

Strike: "review"

Insert: "screening"

14. Page 9, lines 13 and 14.

Strike: "and annual resident reviews"

And, as amended, do pass. Report adopted.

SB 137, introduced bill, be amended as follows:

1. Page 2, line 27.

Following: "Section 4."

Strike: "Powers and duties of"

Insert: "Licensure and regulation by"

2. Page 2, lines 27 and 28.

Following: "(1)" on line 27

Strike: remainder of line 27 through "50-2-130, a" on line 28.

Insert: "A"

3. Page 2, line 29.

Strike: "separate from" on line 29

Insert: "for tattooing and body-piercing establishments independent of"

Strike: "and"

Insert: ". A local board of health's licensure and regulatory program must be operated in lieu of the department's licensure and regulatory program.

(2) Subject to the restrictions in 50-2-130, a local board of health that operates its own licensure and regulatory program pursuant to subsection (1)"

Renumber: subsequent subsection

4. Page 5.

Following: line 17

Insert: "(3) If a local board of health inspection and regulatory program is being operated in lieu of a department program, the local board of health and not the department has the duty and authority provided in this section."

5. Page 6, line 3.

Following: "(e) tattoos"

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Insert: "or provides a body piercing on"

6. Page 6, line 4.

Strike: "has"

Insert: "and "body piercing" have"

And, as amended, do pass. Report adopted.

RULES (Ellingson, Chairman):

1/28/2005

SJR 1, be adopted. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

1/28/2005

SB 109, do pass. Report adopted.

SB 197, introduced bill, be amended as follows:

1. Page 2, line 16 through line 17.

Strike: "who" on line 16 through "and" on line 17

2. Page 2, line 17.

Strike: "continues"

Insert: "continued"

Following: "member"

Insert: "after completing 20 years of service"

3. Page 2, line 18.

Following: "active service"

Insert: "the member"

And, as amended, do pass. Report adopted.

SB 206, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "EMPLOYEES;"

Insert: "ENSURING THAT STATE EMPLOYEES WHO WERE PAID LESS THAN 25 CENTS PER HOUR LESS THAN THE MAXIMUM SALARY ACCORDING TO THE PAY SCHEDULE CONTAINED IN 2-18-312, MCA, WILL CONTINUE TO RECEIVE THE FULL BENEFIT OF THE PAY INCREASE FOR ALL STATE EMPLOYEES THAT OCCURRED ON JANUARY 1, 2005;"

2. Page 1, line 26.

Following: "amount"

Insert: "plus an amount equal to 25 cents an hour"

And, as amended, do pass. Report adopted.

TAXATION (Elliott, Chairman):

1/28/2005

SB 67, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "BE DIVIDED BETWEEN THE STATE GENERAL FUND AND"

Insert: "IS FOR"

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2. Page 9, line 1.

Strike: "\$50"

Insert: "\$40"

3. Page 9, line 7.

Strike: "\$50"

Insert: "\$40"

4. Page 9, line 15.

Following: "administrator"

Insert: "as specified by the supreme court administrator"

5. Page 10, line 5.

Strike: "\$40 must be deposited in the state general fund and"

6. Page 10, line 14.

Strike: "\$50"

Insert: "\$40"

7. Page 11, line 5.

Strike: "\$50"

Insert: "\$40"

And, as amended, do pass. Report adopted.

SB 151, introduced bill, be amended as follows:

1. Title, line 8.

Following: "REQUIREMENT"

Insert: "FOR RESORT AREAS AND DELETING THE POPULATION REQUIREMENT FOR RESORT COMMUNITIES"

2. Page 2, line 2.

Strike: ", especially vacationers,"

3. Page 2, lines 9 and 10.

Strike: subsection (b) in its entirety

Renumber: subsequent subsections

4. Page 2, line 12.

Strike: ", especially vacationers,"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/28/2005

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HB 70, introduced by Stahl
HB 187, introduced by Bergren
HB 215, introduced by Caferro
HB 224, introduced by Ross
HB 254, introduced by Harris
HB 275, introduced by Jacobson

MOTIONS

Senator Laible moved SB 194 be re-referred to the Senate Highways and Transportation Committee. Motion carried.

Senator Barkus moved Senate Rules be suspended (requiring 2/3 of Senators voting in favor) in order to draft a resolution commemorating the 100th anniversary of Rotary International. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, 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 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

Senator Cooney moved action taken on the adoption of the committee of the whole report be reconsidered. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Essmann, Gebhardt, Hansen, Lewis, O'Neil, Steinbeisser.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Cooney moved that SB 5 be segregated from the Committee of the Whole report. Motion carried as follows:

Yeas: Bales, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Balyeat, Barkus, Black, Brueggeman, Gebhardt, Hansen, Laible, Lewis, Mangan, O'Neil, Steinbeisser.

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Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Cooney moved that SB 5 be referred to Senate Finance and Claims Committee for the purpose of examining the fiscal note. Motion carried as follows:

Yeas: Bales, Barkus, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Balyeat, Black, Brueggeman, Gebhardt, Hansen, Laible, Lewis, Mangan, O'Neil, Smith, Steinbeisser.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Schmidt moved Senate Rules be suspended (requiring 2/3 of Senators voting in favor) in order to draft a resolution commemorating the Lewis and Clark Bicentennial. Motion carried as follows:

Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, 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 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

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

SJR 13, introduced by Tester, Wanzenried, referred to Public Health, Welfare and Safety.

SJR 320, introduced by Bales, Barrett, Peterson, Ripley, Steinbeisser, Story, Witt, referred to Agriculture, Livestock and Irrigation.

SJR 321, introduced by Toole, referred to Energy and Telecommunications.

SJR 322, introduced by Gillan, Lind, referred to Public Health, Welfare and Safety.

SJR 323, introduced by Black, referred to Taxation.

SJR 324, introduced by Tester, Roberts, referred to Public Health, Welfare and Safety.

SJR 325, introduced by Gebhardt, referred to Business, Labor, and Economic Affairs.

SJR 326, introduced by Laslovich, Keane, Matthews, Villa, Wells, referred to Business, Labor, and Economic Affairs.

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SJR 327, introduced by Joe Balyeat, referred to Business, Labor, and Economic Affairs.

SJR 328, introduced by Squires, referred to Public Health, Welfare and Safety.

SJR 329, introduced by Tester, Cooney, Wanzenried, referred to Business, Labor, and Economic Affairs.

SJR 330, introduced by Grimes, referred to Judiciary.

SJR 331, introduced by Kitzenberg, referred to Local Government.

SJR 332, introduced by Ryan, referred to Taxation.

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

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

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

SB 80 - Senator Ellingson moved consideration of **SB 80** be placed below SB 208 on the second reading board. Motion carried.

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

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

Total 45

Nays: Barkus, Lind, Moss, Shockley, Weinberg.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 8 - Senator Roush moved **SB 8** do pass. 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

SB 41 - Senator Keenan moved **SB 41** do pass.

SB 41 - Senator Keenan moved **SB 41**, second reading copy, be amended as follows:

1. Page 1, line 17.

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Following: "or"
Insert: "increasing or"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cooney, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Laible, Lewis, Lind, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg.
Total 26

Nays: Cobb, Cocchiarella, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 41 - Senator Keenan moved **SB 41**, as amended, do pass. Motion carried as follows:

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

Nays: Gillan, Smith.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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

Yeas: Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 149 - Senator Laslovich moved **SB 149** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Pease, Perry, Roush, Ryan,

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Schmidt, Shockley, Smith, Squires, Steinbeisser, Toole, Tropila, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Cooney, Cromley, Esp, Essmann, Laible, McGee, Moss, O'Neil, Stapleton, Story, Tash, Weinberg.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 5 - Senator Cooney made a **substitute motion** that **SB 5** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Ryan, Schmidt, Shockley, Smith, Stapleton, Weinberg, Wheat, Williams, Mr. President.
Total 22

Nays: Bales, Balyeat, Barkus, Black, Cobb, Cromley, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Squires, Steinbeisser, Story, Tash, Toole, Tropila.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Black 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 150 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, 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 49

Nays: Ellingson.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 171 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gebhardt, Gillan, Hansen, Harrington, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Ryan, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 31

Nays: Bales, Balyeat, Curtiss, Elliott, Esp, Essmann, Grimes, Hawks, Keenan, Laible, Mangan, McGee, O'Neil, Schmidt, Shockley, Steinbeisser, Story, Tash, Wheat.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 182 passed as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Barkus, Grimes, Keenan, McGee, Perry.
Total 6

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 adjourn until 8:00 a.m., Saturday, January 29, 2005. Motion carried.

Senate adjourned at 3:17 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate