

BUSINESS REPORT

MONTANA HOUSE OF REPRESENTATIVES
61st LEGISLATURE - REGULAR SESSION

HOUSE JUDICIARY COMMITTEE

Date: Thursday, February 12, 2009
Place: Capitol

Time: 8:00 am
Room: 137

BILLS and RESOLUTIONS HEARD:

Prefix (HB, HR, HJR, SB, SR, or SJR) and number. Add Postponed (PP) when appropriate:

HB 227, ~~HB 347~~, HB 427, HJ 14

HB 489

EXECUTIVE ACTION TAKEN:

Prefix (HB, HR, HJR, SB, SR, or SJR) and number. Enter P(pass) F(failed) DPAA (do pass as amended) BC(be concurred in) BCAA (be concurred in as amended):

HB 303 (Table) HB 342 (F)

HB 339 (Table) HB 403 (P)

HB 235 (DPAA) HB 288 (DPAA)

HB 376 (Table) HB 246 (DPAA)

COMMENTS:



REP. Ron Stoker, Chairman

HOUSE OF REPRESENTATIVES
Roll Call
JUDICIARY COMMITTEE

DATE: 2/12/09

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
Rep. Peterson	X	
Rep. Kottel	X	
Rep. Kerns	X	
Rep. Sands	X	
Rep. Bennett	X	
Rep. MacDonald	X	
Rep. More	X	
Rep. Ebinger	X	
Rep. Wagner	X	
Rep. Becker	X	
Rep. Driscoll	X	
Rep. Regier	X	
Rep. McClafferty		X (EXCUSED)
Rep. Howard	X	
Rep. Blewett	X	
Rep. Warburton	X	
Rep. Menahan	X	
Rep. Stoker	X	



HOUSE STANDING COMMITTEE REPORT

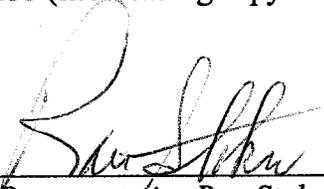
February 12, 2009

Page 1 of 4

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 235** (first reading copy – white) do pass as amended.

Signed:


Representative Ron Stoker, Chair

And, that such amendments read:

1. Title, line 7.

Following: "15-30-101,"

Insert: "15-31-101, 15-31-102,"

2. Page 6.

Following: line 13

Insert: "Insert: "Section 2. Section 15-31-101, MCA, is amended to read:

"15-31-101. Organizations subject to tax. (1) The term "corporation" includes an association, joint-stock company, common-law trust or business trust that does business in an organized capacity, all other corporations whether created, organized, or existing under and pursuant to the laws, agreements, or declarations of trust of any state, country, or the United States, and any limited liability company, low-profit limited liability company, limited liability partnership, partnership, or other entity that is treated as an association for federal income tax purposes and that is not a disregarded entity.

(2) The terms "engaged in business" and "doing business" both mean actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(3) Except as provided in 15-31-103 or 33-2-705(4) or as may be otherwise specifically provided, every corporation engaged

Committee Vote:

Yes 14, No 4

Fiscal Note Required ___

HB0235001SC.hjd

in business in the state of Montana shall annually pay to the state treasurer as a license fee for the privilege of carrying on business in this state the percentage or percentages of its total net income for the preceding taxable year at the rate set forth in this chapter. In the case of corporations having income from business activity which is taxable both within and outside of this state, the license fee must be measured by the net income derived from or attributable to Montana sources as determined under part 3. Except as provided in 15-31-502, this tax is due and payable on the 15th day of the 5th month following the close of the taxable year of the corporation. However, the tax becomes a lien as provided in this chapter on the last day of the taxable year in which the income was earned and is for the privilege of carrying on business in this state for the taxable year in which the income was earned.

(4) Every bank organized under the laws of the state of Montana, of any other state, or of the United States and every savings and loan association organized under the laws of this state or of the United States is subject to the Montana corporation license tax provided for under this chapter. For taxable years beginning on and after January 1, 1972, this subsection is effective in accordance with Public Law 91-156, section 2 (12 U.S.C. 548)."

Insert: "Section 3. Section 15-31-102, MCA, is amended to read:

"15-31-102. Organizations exempt from tax -- unrelated business income not exempt. (1) Except as provided in subsection (3), there may not be taxed under this title any income received by any:

- (a) labor, agricultural, or horticultural organization;
- (b) fraternal beneficiary, society, order, or association operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of the society, order, or association or their dependents;
- (c) cemetery company owned and operated exclusively for the benefit of its members;
- (d) corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;
- (e) business league, chamber of commerce, or board of trade not organized for profit, no part of the net income of which inures to the benefit of any private stockholder or individual;
- (f) civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;
- (g) club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;
- (h) farmers' or other mutual hail, cyclone, or fire

insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or similar organization of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses;

(i) cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis;

(j) corporations or associations organized for the exclusive purpose of holding title to property, collecting income from the property, and turning over the entire amount of the income, less expenses, to an organization that itself is exempt from the tax imposed by this title;

(k) wool and sheep pool, which is an association owned and operated by agricultural producers organized to market association members' wool and sheep, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses. Income, for this purpose, does not include expenses and money distributed to members contributing wool and sheep.

(l) corporation that qualifies as a domestic international sales corporation (DISC) under the provisions of section 991, et seq., of the Internal Revenue Code, 26 U.S.C. 991, et seq., and that has in effect for the entire taxable year a valid election under federal law to be treated as a DISC. If a corporation makes that election under federal law, each person who at any time is a shareholder of the corporation is subject to taxation under Title 15, chapter 30, on the earnings and profits of this DISC in the same manner as provided by federal law for all periods for which the election is effective.

(m) farmers' market association not organized for profit, no part of the net income of which inures to the benefit of any member, but that is organized for the sole purpose of providing for retail distribution of homegrown vegetables, handicrafts, and other products either grown or manufactured by the seller;

(n) common trust fund as defined in section 584(a) of the Internal Revenue Code, 26 U.S.C. 584(a).

(2) In determining the license fee to be paid under this part, there may not be included any earnings derived from any public utility managed or operated by any subdivision of the state or from the exercise of any governmental function.

(3) Any unrelated business taxable income, as defined by section 512 of the Internal Revenue Code, 26 U.S.C. 512, as amended, earned by any exempt corporation entity resulting in a federal unrelated business income tax liability of more than \$100 must be taxed as other corporation income is taxed under this title. An exempt corporation entity subject to taxation on unrelated business income under this section shall file a copy of its federal exempt organization business income tax return on which it reports its unrelated business income with the

department of revenue.""

"

Renumber: subsequent sections

3. Page 8, lines 2 and 3.

Following: "not" on line 2

Strike: remainder of line 2 through "170(c)(2)(D)" on line 3

Insert: "attempt to influence legislation or participate or
intervene in any political campaign, including publishing or
distributing statements, on behalf of or in opposition to
any candidate for public office"

- END -



HOUSE STANDING COMMITTEE REPORT

February 12, 2009

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 403** (first reading copy – white) **do pass.**

Signed: _____

A handwritten signature in cursive script, appearing to read "Ron Stoker".

Representative Ron Stoker, Chair

- END -

Committee Vote:

Yes 16, No 2

Fiscal Note Required

HB0403001SC.hjd



HOUSE STANDING COMMITTEE REPORT

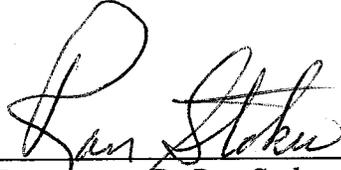
February 12, 2009

Page 1 of 2

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 288** (first reading copy – white) do pass as amended.

Signed:


Representative Ron Stoker, Chair

And, that such amendments read:

1. Title, line 4.

Following: "BANNING"

Insert: "REPRODUCTIVE"

2. Page 1.

Following: line 20

Insert: "(6) "Reproductive human cloning" means human cloning intended to result in the gestation or birth of a child who is genetically identical to another conceptus, embryo, fetus, or human being, living or dead."

Renumber: subsequent subsection

3. Page 1, line 26.

Following: the second "perform"

Insert: "reproductive"

4. Page 1, line 27.

Following: "perform"

Insert: "reproductive"

Committee Vote:

Yes 18, No 0

Fiscal Note Required

HB0288001SC.hjd

5. Page 1, line 28.

Strike: "produced by"

Insert: "for reproductive"

6. Page 1, line 30.

Following: "of"

Insert: "reproductive"

- END -



HOUSE STANDING COMMITTEE REPORT

February 12, 2009

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 246** (first reading copy – white) **do pass as amended.**

Signed: _____

Ron Stoker
Representative Ron Stoker, Chair

And, that such amendments read:

1. Page 3, line 26 through line 30.

Following: "general."

Strike: subsection (1) in its entirety

2. Page 4, line 1.

Strike: "(2)"

- END -

Committee Vote:

Yes 12, No 6

Fiscal Note Required

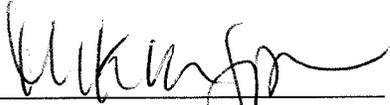
HB0246001SC.hjd

COMMITTEE FILE COPY

TABLED BILL

The **HOUSE JUDICIARY COMMITTEE** TABLED **HB 303, HB 339, HB 376**, by motion, on **Thursday, February 12, 2009**.

(For the Committee)



(Chief Clerk of the House)

(Time)

2:12

(Date)

February 12, 2009

Jennifer L. Eck, Secretary

Phone: 444-4832

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/12/09 BILL NO HB 246 MOTION NO. _____
 MOTION: _____

DO PASS HB 246 as amended.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>If Proxy Vote, check here & include signed Proxy Form with minutes</u>
Ken Peterson	X		
Deborah Kottel	X		
Krayton Kerns	X		
Diane Sands		X	
Gerald Bennett	X		
Margaret MacDonald		X	
Michael More	X		
Bob Ebinger	X		
Bob Wagner	X		
Arlene Becker	X		
Robyn Driscoll		X	
Keith Regier	X		
Edith McClafferty		X	
David Howard	X		
Anders Blewett		X	
Wendy Warburton	X		
Mike Menahan		X	
Ron Stoker	X		

12 6

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/12/09 BILL NO HB 235 MOTION NO. _____
 MOTION: _____

DO PASS HB 235 AS AMENDED.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>If Proxy Vote, check here & include signed Proxy Form with minutes</u>
Ken Peterson		X	
Deborah Kottel	X		
Krayton Kerns	X		
Diane Sands	X		
Gerald Bennett	X		
Margaret MacDonald	X		
Michael More	X		
Bob Ebinger	X		
Bob Wagner	X		
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier	X		
Edith McClafferty	X		X
David Howard		X	
Anders Blewett	X		
Wendy Warburton		X	
Mike Menahan	X		
Ron Stoker		X	

14 4

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/12/09 BILL NO HB 342 MOTION NO. _____
 MOTION: _____

DO PASS HB 342.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson		X	
Deborah Kottel		X	
Krayton Kerns	X		
Diane Sands		X	
Gerald Bennett	X		
Margaret MacDonald		X	
Michael More		X	
Bob Ebinger		X	
Bob Wagner		X	
Arlene Becker		X	
Robyn Driscoll		X	
Keith Regier	X		
Edith McClafferty		X	
David Howard	X		
Anders Blewett		X	
Wendy Warburton		X	
Mike Menahan	X		
Ron Stoker		X	

5 13

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/12/99 BILL NO HC 103 MOTION NO. _____
 MOTION: _____

DO PASS HC 103.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>If Proxy Vote, check here & include signed Proxy Form with minutes</u>
Ken Peterson		X	
Deborah Kottel	X		
Krayton Kerns	X		
Diane Sands	X		
Gerald Bennett	X		
Margaret MacDonald	X		
Michael More	X		
Bob Ebinger	X		
Bob Wagner	X		
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier	X		
Edith McClafferty	X		
David Howard	X		
Anders Blewett	X		
Wendy Warburton		X	
Mike Menahan	X		
Ron Stoker	X		

16 2

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/12/09 BILL NO HB 288 MOTION NO. _____
 MOTION: _____

DO PASS HB 288 AS AMENDED.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson	X		
Deborah Kottel	X		
Krayton Kerns	X		
Diane Sands	X		
Gerald Bennett	X		
Margaret MacDonald	X		
Michael More	X		
Bob Ebinger	X		
Bob Wagner	X		
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier	X		
Edith McClafferty	X		
David Howard	X		
Anders Blewett	X		
Wendy Warburton	X		
Mike Menahan	X		
Ron Stoker	X		

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE _____ BILL NO HB 246 MOTION NO. _____
 MOTION: _____

DO PASS Amendment HB024605.ada
(Rep. Regier)

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson	X		
Deborah Kottel	X		
Krayton Kerns	X		
Diane Sands		X	
Gerald Bennett	X		
Margaret MacDonald		X	
Michael More	X		
Bob Ebinger	X		
Bob Wagner	X		
Arlene Becker	X		
Robyn Driscoll		X	
Keith Regier	X		
Edith McClafferty	X		
David Howard	X		
Anders Blewett		X	
Wendy Warburton	X		
Mike Menahan		X	
Ron Stoker	X		

13 5

**Montana House of Representatives
Visitors Register**

JUDICIARY COMMITTEE Date 2/12/09

Bill No. HB 427 Sponsor(s) Rep. Borwick

PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
RICK LEPAGE EAST WELLS	SELF	✓		
GARY MARBUT	MSSA GOA CERKBA WCSM MRPCLA WMA			
DENG NELLE	SELF	✓		
George Golie	MWF		X	
JENN JOHNSON	MT Outfitters		X	
	Guides, MT Game			
	Writers, self			
Jim Kropp	FWP		X	
JEFF DARRAIT	FWP		X	
Lita Phillips				
477				

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

**Montana House of Representatives
Visitors Register**

JUDICIARY COMMITTEE Date 2/12/09

Bill No. HB 227 Sponsor(s) Rep. McNutt

PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
<i>[Handwritten]</i>	<i>WHLF</i>	<i>[Handwritten]</i>		
<i>[Handwritten]</i>	<i>" "</i>	<i>[Handwritten]</i>		
Mike Foster	WMH & all Catholic hosp	X		
John Amsden	Self		X	
Al Smith	MTLA		X	
Mary Jaraman	DOCTORS CO.	X		
Daryl Easton	Farmers Inc Corp	X		
Greg Van Horn	State Farm Ins	X		
Brian Scherer	PCI	X		
Jackie [unclear]	A 3 A	X		
Amel Gerasimov	Binnings Church	X		
	Yellowstone Ins Exchange	X		
John Flink	MHA	X		
Tom Beers	Self		X	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

**Montana House of Representatives
Visitors Register**

JUDICIARY COMMITTEE

Date 2/12/09

Bill No. HB 489 Sponsor(s) Rep. Kottel

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Marty Lambert 1705 W College, Bozeman	MCAA		X	
Bill Case	Open Doors	✓		
Steve Case	Open Doors	✓		
Jerry McKinney	Open Doors	✓		
Tom Beers	Self		X	
Pat Melby	Mt Med. Ass'n	✓		
Ken Alshuler	Doc			-
John Frank	MHA			
Kelan Young	MCADSV		X	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

