

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
April 23, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President pro tem McGee presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Hansen, Kaufmann, Story, and Windy Boy, excused. Quorum present.

BILLS AND JOURNALS:

4/23/2009

Correctly printed: **HB 154, SR 36.**

Correctly enrolled: **SB 117, SB 164, SB 263, 268, SB 399, SB 507, SR 35, SR 36.**

Signed by the Speaker at 2:30 p.m., April 22, 2009: **SB 18, SB 38, SB 48, SB 131, SB 176, SB 204, SB 260, SB 264, SB 271, SB 291, SB 300, SB 303, SB 305, SB 310, SB 369, SB 404, SB 427, SB 457, SB 460, SB 467, SB 491, SB 508, SB 511.**

Signed by the President at 10:30 a.m., April 21, 2009: **SB 18, SB 38, SB 48, SB 131, SB 176, SB 204, SB 260, SB 264, SB 271, SB 291, SB 300, SB 303, SB 305, SB 310, SB 369, SB 404, SB 427, SB 457, SB 460, SB 467, SB 491, SB 508, SB 511.**

Signed by the Secretary of the Senate at 9:00 a.m., April 21, 2009: **SB 18, SB 38, SB 48, SB 131, SB 176, SB 204, SB 260, SB 264, SB 271, SB 291, SB 300, SB 303, SB 305, SB 310, SB 369, SB 404, SB 427, SB 457, SB 460, SB 467, SB 491, SB 508, SB 511.**

Delivered to the Governor for approval at 3:20 p.m., April 22, 2009: **SB 18, SB 38, SB 48, SB 131, SB 176, SB 204, SB 260, SB 264, SB 271, SB 291, SB 300, SB 303, SB 305, SB 310, SB 369, SB 404, SB 427, SB 457, SB 460, SB 467, SB 491, SB 508, SB 511.**

Signed by the Speaker at 11:25 a.m., April 23, 2009: **SB 507.**

Signed by the President at 11:25 a.m., April 23, 2009: **SB 507.**

Signed by the Secretary of the Senate at 11:25 a.m., April 23, 2009: **SB 507.**

Delivered to the Governor for approval at 12:00 p.m., April 23, 2009: **SB 507.**

Examined by the sponsor and found to be correct: **SB 117, SB 164, SB 263, SB 268, SB 399, SB 507, SJR 35, SR 36.**

MESSAGES FROM THE OTHER HOUSE

Governor's amendments to Senate bill not concurred in and returned to the Senate:

4/22/2009

SB 171, introduced by Barkus

SJR 30 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free Conference Committee** to meet with a like committee from the Senate to confer on **SJR 30**:

4/22/2009

Representative Hunter, Vice Chair
Representative B. Beck
Representative Boland
Representative Mendenhall

Senator Windy Boy present at this time.

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

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

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

HB 3 - Free Conference Committee Report No. 1 - Senator Ripley moved the Free Conference Committee report to **HB 3** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Hansen, Mr. President.
Total 2

HB 602 - Free Conference Committee Report No. 1 - Senator Shockley moved the Free Conference Committee report to **HB 602** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 47

Nays: Gallus.
Total 1

Absent or not voting: None.
Total 0

Excused: Hansen, Mr. President.
Total 2

SB 349 - Governor's Amendments - Senator Tutvedt moved Governor's amendments to **SB 349** not be concurred in.

SB 349 - Governor's Amendments - Senator Cooney made a substitute motion the Governor's amendments to **SB 349** be concurred in. Motion **failed** as follows:

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Yeas: Cooney, Erickson, Gallus, Hawks, Jent, Juneau, Kaufmann, Keane, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 16

Nays: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke.

Total 32

Absent or not voting: None.

Total 0

Excused: Hansen, Mr. President.

Total 2

SB 349 - Governor's Amendments - Original motion that Governor's amendments to **SB 349** **not** be concurred in carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke.

Total 33

Nays: Cooney, Erickson, Gillan, Hawks, Jent, Juneau, Kaufmann, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 15

Absent or not voting: None.

Total 0

Excused: Hansen, Mr. President.

Total 2

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus 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 465, as amended by the Governor, passed as follows:

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

Total 48

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Hansen, Larsen.
Total 2

HB 154 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Balyeat, Barkus, Brenden, R. Brown, Hinkle, Jackson, McGee.
Total 7

Absent or not voting: None.
Total 0

Excused: Hansen, Larsen.
Total 2

HB 331, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jackson, Jent, Juneau, Keane, Laible, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Mr. President.
Total 33

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, Curtiss, Esp, Hinkle, Kaufmann, McGee, Perry, Shockley, Tutvedt, Windy Boy, Zinke.
Total 15

Absent or not voting: None.
Total 0

Excused: Hansen, Larsen.
Total 2

HB 536, as amended by the Governor, concurred in as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

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Nays: Bales, Brenden, Gebhardt, Juneau.
Total 4

Absent or not voting: None.
Total 0

Excused: Hansen, Larsen.
Total 2

SPECIAL ORDERS OF THE DAY

SR 36 - Mr. President, I move that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 36, and that the ayes and nays be spread upon the journal.

Dan Bucks, Helena--Director, Department of Revenue

Yeas: Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Bales, Balyeat, Brenden, R. Brown, Gebhardt, McGee.
Total 6

Absent or not voting: None.
Total 0

Excused: Hansen.
Total 1

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 119**
Report No. 1, April 22, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 119** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 119** (reference copy -- salmon) be amended as follows:

1. Page 6, line 18.

Strike: "AND AVAILABLE RESOURCES"

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For the Senate:

Esp, Chair
Lewis
Schmidt

For the House:

McAlpin, Vice Chair
Furey
Howard
Morgan

Senator Peterson moved the Senate recess until 1:30 p.m. this day. Motion carried.

Senate in recess.

Senate reconvened at 1:30 p.m.

Roll Call: All members present, except Senator Hansen, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

4/23/2009

HB 158, be concurred in. Report adopted.
HB 213, be concurred in. Report adopted.
HB 644, be concurred in. Report adopted.
HJR 43, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 418**
Report No. 1, April 23, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 418** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 418** (reference copy -- salmon) be amended as follows:

1. Page 9.

Following: line 13

Insert: "NEW SECTION. Section 9. Coordination instruction. If House Bill No. 261 is not passed and approved, then [section 3 of this act], amending 15-30-136, is void."

2. Page 9, line 17.

Strike: "10(2)"

Insert: "11(2)"

For the Senate:

T. Brown, Chair
Branae
Essmann

For the House:

Cohenour, Vice Chair
Dick Barrett
Lake
Taylor

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MESSAGES FROM THE OTHER HOUSE

HB 171 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **HB 171**:

4/23/2009

Representative Kottel, Vice Chair
Representative Blewett
Representative K. Peterson
Representative Regier

Conference Committee Report No.1 adopted:

4/23/2009

HB 602, introduced by Cohenour

HB 676 - The House dissolved the **Free** Conference Committee on House amendments to **HB 676**.

4/23/2009

MESSAGES FROM THE GOVERNOR

April 23, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 123, "**AN ACT REDUCING THE STATUTORY APPROPRIATIONS FOR THE GROWTH THROUGH AGRICULTURE PROGRAM AND FOR RESEARCH AND COMMERCIALIZATION PROJECTS; EXTENDING THE TERMINATION DATE FOR CERTAIN ALLOCATIONS AND STATUTORY APPROPRIATIONS OF THE INTEREST INCOME FROM \$140 MILLION OF THE COAL SEVERANCE TAX PERMANENT FUND; AMENDING SECTION 15-35-108, MCA, SECTION 3, CHAPTER 481, LAWS OF 2003, AND SECTION 6, CHAPTER 481, LAWS OF 2003; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.**"

House Bill 123, sponsored by Rep. Llew Jones, extends for 10 years (from 2009 to 2019) the sunset of the growth through agriculture program and the research and commercialization projects funded through interest income from certain of the coal severance tax permanent fund, which otherwise would be deposited in the general fund. The bill also reduces the funding of these programs from their current level by half.

The Senate amended the bill to restore the funding of these programs to their current level beginning July 1, 2012, or for fiscal year 2013. My amendment restores the bill to its introduced version. My amendment will save the

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general fund \$3 million in the 2013 biennium and through the extended life of this legislation. Given our current fiscal challenges, I believe limiting the funding for these valuable but non-essential programs is the economically prudent thing to do.

I ask for your support of my amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to House Bill No. 123
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
April 23, 2009

1. Title, lines 10 and 11.

Following: "DATES" on line 10

Strike: remainder of line 10 through "DATE" on line 11

2. Page 4, line 8.

Following: "2"

Strike: "1"

Insert: "and"

Following: "3"

Strike: ", AND 5"

3. Page 4, line 10.

Strike: section 5 in its entirety

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The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 52, "**AN ACT ESTABLISHING A GROUND WATER**

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INVESTIGATION PROGRAM; PROVIDING FOR PRIORITIZATION OF SUBBASINS BY THE GROUND WATER ASSESSMENT STEERING COMMITTEE; ADDING A MEMBER OF THE DEVELOPMENT COMMUNITY TO THE GROUND WATER ASSESSMENT STEERING COMMITTEE; PROVIDING A CONTINGENT APPROPRIATION FOR THE PROGRAM; AMENDING SECTION 2-15-1523, MCA; AND PROVIDING AN EFFECTIVE DATE."

House Bill 52 establishes a ground water investigation program under the guidance of the existing ground water assessment steering committee. The information collected through this program will be invaluable in developing plans and models for Montana subbasins that are current, comprehensive, and accurate to assist the state in planning for agricultural, industrial, and development uses, as well as conservation and ecological protection.

My proposed amendment restores one-time-only funding in the amount of \$4.2 million, as originally requested by the interim Water Policy Committee, for this important mission.

I have discussed my proposed amendment with the sponsor of the bill, Rep. McNutt, who supports the amendment.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to House Bill No. 52
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Lisa Mecklenberg Jackson
April 23, 2009

1. Page 2, line 25.
Strike: "\$900,000"
Insert: "\$4.2 million"

2. Page 2, line 30.
Strike: "\$900,000"
Insert: "\$4.2 million"

MOTIONS

Senator Peterson moved the Conference Committee on SB 322 be dissolved and that a Free Conference Committee be appointed. Motion carried. President Story appointed Senators Curtiss (Chair), Hinkle, and Windy Boy

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

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

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

SB 119 - Conference Committee Report No. 1 - Senator Esp moved the Conference Committee report to **SB 119** be adopted. Motion carried as follows:

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

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Hansen.

Total 1

HJR 39 - Senator Juneau moved **HJR 39** be concurred in. Motion carried as follows:

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

Total 30

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, McGee, Perry, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: Hansen.

Total 1

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

SPECIAL ORDERS OF THE DAY

Farewell addresses were given by Senators Perry, Black, Barkus, and Bales.

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ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Friday, April 24, 2009. Motion carried.

Senate adjourned at 2:12 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate