SENATE JOURNAL
63RD LEGISLATURE
FOURTEENTH LEGISLATIVE DAY

Helena, Montana — Senate Chambers
January 23, 2013 — State Capitol

Senate convened at 1:01 p.m. President Essmann presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Priest, excused. Quorum present.

Correctly printed: **SB 5**, **SB 12**, **SB 32**, **SB 35**, **SB 36**, **SB 41**, **SB 55**, **SB 61**, **SB 62**, **SB 66**, **SB 87**, **SB 114**, **SB 121**, **SB 170**, **SB 171**, **SB 172**, **SB 175**, **SJR 4**, **SR 3**.
Correctly engrossed: **SB 26**, **SB 69**, **SB 90**, **SB 99**, **SB 116**, **SB 123**.
Transmitted to the House: **SB 15**, **SB 16**, **SB 39**, **SB 43**, **SB 51**, **SB 60**, **SB 72**, **SB 75**, **SB 111**.
Delivered to the Secretary of State at 10:20 a.m., January 23, 2013: **SJR 1**.

MOTIONS

Majority Leader Wittich moved the Senate recess and proceed to the House of Representatives for the purpose of hearing the State of the Judiciary address from Chief Justice Mike McGrath and that, upon adjournment of the joint session, the Senate reconvene. The motion passed.

The Senate recessed at 1:05 p.m.

After the Senate was announced in the House Chambers, President Essmann assumed the chair.

Majority Leader Wittich moved the Senate and House of Representatives resolve into a joint session for the purpose of receiving the State of the Judiciary address. Motion passed.

President Essmann appointed a committee comprised of Senators Buttrey and Jent, and Representatives Blyton and Brockie and requested the committee accompany Chief Justice McGrath into the chambers.

President Essmann introduced the Honorable Mike McGrath, Chief Justice of the Montana Supreme Court, who gave the following address:

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Mr. Speaker, Mr. President, Members of the Court, Honored Guests, Members of this Joint Assembly.

Thank you for giving me this opportunity. It is indeed an honor to be here speaking on behalf of Montana's Judiciary. It is very gracious of you, and appropriate I might add, to provide this opportunity to both the Executive and Judicial Branches of Montana's government.

I also want to acknowledge the work of the Legislative Auditor's office. In the past few years we have had audit reviews of the Water Court, Drug Courts, and Court Help Programs. These reviews are very helpful to us as managers and allow us the opportunity to look at issues that need addressing. So, thank you for providing that service.

This session, the State of the Judiciary is a mixed bag. In Montana, our courts process about 1,000 cases each day, 350,000 per year. It adds up to one case for every three Montana residents. At 1,000 cases per day, our courts are busy and the workload for court employees is very heavy. The District Courts, those are the courts of general jurisdiction that handle the most serious cases, exceeded 50,000 cases last year--a new record.

Many people come to court because their lives are in crisis. They include victims of crime, and people charged with crimes, children suffering from child abuse, ranchers who can't irrigate because of a water dispute, businesses being wrongfully sued by disgruntled employees, workers injured on the job, neighbors fighting over disputed property boundaries, entrepreneurs challenging the government's interpretation of legislation and mothers seeking child support to buy diapers. They come because they know they have rights. They know that there are laws that will protect them. They know they will get an answer to their problem.

And they know they will be treated fairly, by an independent judge--not a person beholden to money interests or partisanship or social status. Rather a judge who will listen to their grievance and make a decision based on the merits of each individual case.

Today in many places throughout the world, governments are in major transition. Citizens have risen up, not only in protest, but in insurrection and civil war. Why? . . . They want what we have. They want a right to be heard by their government. They want a place at the table when major decisions affecting their lives are being made by the government. And they want to be governed by the rule of law.

Our founders developed a system that has become the blueprint for political and economic success for the modern world. In the words of historian Joseph Ellis, American success is: "about the triumph of representative government bottomed on the principle of popular sovereignty, a market economy fueled by the energies of our citizens, a secular state unaffiliated with any official religion, and the rule of law that presumes the equality of all."

What our founders knew was that if this republic they had created was going to succeed, it had to be based upon the rule of law. That rule of law requires an independent and impartial manner of resolving disputes be they commercial matters, family crises, criminal charges or removal of public officers.

Ted Olson served as the U.S. Solicitor General in a Republican Administration. His wife was killed on 9/11. Some of you have heard me quote his remarks, written in the Wall Street Journal, but I think it is worth repetition:

> "Every day, thousands and thousands of judges-jurists whose names we never hear, from our highest court to our most local tribunal-resolve controversies, render justice, and help

> keep the peace by providing a safe, reliable, efficient, and honest dispute resolution process. The pay is modest, the work is frequently quite challenging, and the outcome often controversial. For every winner in these cases, there is a loser. Many disputes are close calls, and the judge's decision is bound to be unpopular with someone.
>
> But in this country we accept the decisions of judges, even when we disagree on the merits, because the process itself is vastly more important than any individual decision. Our courts are essential to an orderly, lawful society. And a robust and productive economy depends upon a consistent, predictable, evenhanded, and respected rule of law. Americans understand that no system is perfect and no judge immune from error, but also that our society would crumble if we did not respect the judicial process."

The Judiciary in Montana understands that we have a tremendous responsibility and strive daily to ensure that we uphold these traditions.

Those 1,000 people per day that end up in our courts know that our justice system is based on the rule of law and not individual whim. Our disputes are resolved within an orderly system that provides all parties the opportunity to be heard, and is based upon law.

In fact, our economy depends on this independent system. Investors and other businesses have the right to rely on an orderly and prompt dispute resolution process. They have the freedom to enter contracts and the ability to have those contracts enforced. They know that even in the most remote courthouse in Montana, they will get a fair hearing and hopefully a timely decision. Individual citizens have the rights enunciated in our Constitution and the ability to enforce those rights whether they are in Libby or Terry, Billings or Butte.

And all of us have the right to expect the courts to make those decisions based on the merits of each individual case-by judges independent of bias, prejudice or political influence.

As an independent third branch of government, our responsibilities are great but our needs are small. Our budget is less than 1 percent of the total state budget. Yet we recognize that with judicial independence comes the corresponding responsibility, to be accountable:

accountable to the people who elect us, and
accountable to the Legislature, especially as to how we spend public funds.

In an effort to be more accountable, the Judicial Branch has undertaken a series of performance measures. Specifically, at the Supreme Court, new procedures have been implemented.

Last session, I told you that the Court is very much aware of the concerns about backlogged cases. Significant improvements have been made. Four years ago there were 71 cases that were more than 1 year old. Our case load is now current. We have no cases over 6 months old and our average time to resolve a case is less than 100 days.

Of course, the Supreme Court takes every case that is appealed. We don't go out and find disputes to resolve. We have the responsibility to determine if laws pass constitutional muster. And, contrary to what some have said, we give great deference to legislative enactments. In the

past four years, 44 cases have come to us seeking to overthrow measures passed by this body. We have upheld your actions in 40 of the 44 cases.

We have taken steps to make our decisions more available to the public and the process more transparent.

We conduct more oral arguments in court rooms and other locations that are available for public viewing. We prepare summaries of those cases and stream the arguments on-line. And we issue a synopsis of complicated cases to make it easier for the media and the public to understand the questions decided.

In the District Courts, even with caseloads dramatically increasing, performance standards are now being implemented. The procedures have been adapted to accurately measure case loads and case timeliness.

But as I mentioned, the State of the Judiciary is good and bad.

In the last two sessions we have experienced significant budget reductions including vacancy savings and across the board cuts. Our branch consists of 54 independently elected officials, 46 of whom are elected from their local community. As the vast majority of our budget consists of personnel costs, it has been hard to find areas to cut. Now, our budget is approaching a crisis level.

We have done a good job of managing our resources; we have found the waste. We cut $100,000 each year for library and computer research; $90,000 each year for dues to national organizations, (I might add, the only branch that has done that); $400,000 for attorneys and guardian ad litems in child custody cases. We have decimated our training program and eliminated out-of-state travel. (I worry that our inability to properly train our personnel will come back to haunt us in the near future.)

We do not have sufficient personnel in our technology department to support the computer and video conferencing equipment that now exists in the 200-plus courts we support throughout Montana.

Additional budget reductions will fall on the backs of an overworked local judiciary and inevitably result in delay and court backlogs. Of course the losers under that scenario are your constituents, especially small business and working people.

We know that backlogged courts are bad for business. It is the commercial litigation that suffers most from court delay. Criminal cases, child abuse or custody cases, mental commitments and youth court cases by law must be given priority. As a result, the building contractor trying to resolve a contract dispute or the small business trying to collect a bad debt gets pushed back.

We do, however, offer some solutions that will help with these backlogs.

We must continue our Court Help Program statewide. Almost 2/3 of the domestic relations cases,

mostly divorces and parenting plans, came to court with at least one party not represented by a lawyer. Well, what's wrong with that you might ask? Delay and insufficiency is the end result here. Family cases are 25% of the case load in District Court.

To put this into real numbers, about 6,500 family law cases each year come to court with pro se litigants (no attorney). So other cases must wait while the judge and court staff work with a party that generally does not understand court procedure, does not know the correct forms or papers that must be filed, does not know the appropriate questions to ask a witness or what information the judge needs to decide that case.

The number of these cases is dramatically increasing. With a staggering number of cases each year, we must recognize this situation as one reason, if not the biggest cause for delay in our system.

And speaking of family law, last year Montana had a 25% increase in child abuse and negligent cases--cases that are difficult, often time consuming, and by law must be given court priority. Most people either cannot afford an attorney, or can't find an attorney to take their case so they come to court without. Fully 30% of our Court's cases at the Supreme Court are presented with at least one party not represented by an attorney. At the trial court level, the domestic relations matters that are pro se tend to be very messy, are time consuming, and are very frustrating not only for the Judge but the parties themselves.

Court help is designed to assist individual Montana citizens with court service areas, places where you can get proper forms and assistance with the court process without unnecessary expense. Not all legal matters need attorneys. There are many ways we simplify the process and provide people with helpful solutions. This program provides some direction, some explanation of how to navigate through the process. It does not offer legal advice.

Since the Legislature created and funded the program in 2007, the Self Help centers have assisted 30,000 individuals and small businesses navigate through the complexity of our court system. Statewide, we do this primarily with volunteers who are recruited and trained by the limited staff that we have. Because of our tiny budget, we leverage staff with volunteer labor, often AmeriCorps volunteers. This program operates in urban and rural counties all across our state. The way our citizens approach the court system is changing dramatically; clearly our courts must adapt to these changing times.

This program does significantly increase judicial efficiency and it does reduce court backlog.

One other point in the area of family law. Some legislators and practitioners have had discussions about whether it is time to review Montana's system in this area of the law. Our adversarial system may not be the best approach especially considering the 6500 pro se cases in this area alone. I understand you may be asked to support a resolution requiring an interim study in the family law area. From my perspective, this may be the time to undertake such a study.

Drug courts and Treatment courts in general can and do save taxpayer dollars. And the last two sessions, Legislators had the foresight to fund a small portion of these programs. Not long ago

50% of the children in foster care were there because of their parents' use of drugs, methamphetamine in particular.

An incredibly high percentage, up to 90%, of prison inmates (both male and female) are incarcerated with chemical dependency problems, as many as half for meth. And, of course, many of our prisoners have severe mental illness issues.

All of these social problems cause a tremendous drain on state and local government budgets. This is why governors across the country are proposing increased funding for drug courts as a cost-saving measure.

Treatment courts divert some of these people to less expensive and more effective alternatives. They can keep kids out of Pine Hills or even more expensive out-of-state placements. They divert new commitments from our prisons to less expensive alternatives in the community. Drug courts reunite shattered families and turn participants into productive members of society.

We have studies that demonstrate the success of Montana's drug courts. Some of the highlights include: 82% of drug court graduates that do not commit new offenses, a remarkable statistic, and a significant drop in recidivism.

Here is a good one: In the 53 months that the Branch has been collecting data about drug court, 46 babies were born drug free--an immense saving of taxpayer dollars. Only one was born drug affected.

We have 29 active drug court dockets in Montana. Two of those are dedicated to our returning veterans that are having problems with readjustment to civilian life. We have 1,300 citizens who have participated in these courts.

These programs are very difficult to complete. Drug courts don't take easy clients. Treatment courts are a strain on judges' time and energy. However, they are very rewarding as well. They do see good things happen in a courtroom, not a common occurrence in our courts.

Judges in Montana are committed to addressing the problems in their communities, problems they see every day.

Nationally, it has been proven that Treatment courts are by far the most effective thing we can do to address drug abuse and the social and crime related problems that go with it.

Over 400 of our employees have not had a pay raise since October 2008. That is approaching 5 years if you provide a raise this session. Of course, it is very difficult to retain good employees under those circumstances. The Montana Judges Association voted to support salary increases for our staff as its first legislative priority.

Even so, we are a group that is dedicated and committed to our mission--most are even passionate about the purposes and role of the rule law in our society. They understand that the hallmark of a flourishing democracy is an adequately funded judiciary that can settle people's disputes in an

orderly fashion. Only in that way can the economy move forward and our citizens prosper.

We are optimistic that better days are coming and that you will see fit to provide the Judicial Branch an appropriate level of support.

Our modest proposals will help to ensure that the small business owner, the woman injured through no fault of her own, the defendant wrongly accused, and the child crying in the crib get their opportunity to resolve their crises. We also hope that by making the court system more efficient and responsive to the public's needs, we can avoid coming to you in a future session asking for more judges, something I do not want to do.

An independent, adequately funded judiciary is the key to constitutional democracy. Without courts, there is no justice. Without justice, there is no freedom.

Thank you again for inviting me to speak with you today. I know all of you have a lot to do in the next 76 days! Good luck this Session!

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The committee escorted Chief Justice McGrath from the chamber.

Majority Leader Wittich moved that the joint session be adjourned. The joint session adjourned at 1:38 p.m.

The Senate reconvened at 1:45 p.m., President Essmann in the chair.

REPORTS OF STANDING COMMITTEES

ENERGY AND TELECOMMUNICATIONS (Olson, Chair): 1/22/2013
SJ 6, do pass. Report adopted.
SB 26, introduced bill, be amended as follows:

1. Page 5, line 26.
Strike: "3"
Insert: "4"

And, as amended, do pass. Report adopted.

SB 31, do pass. Report adopted.
SB 45, do pass. Report adopted.
SB 70, do pass. Report adopted.
SB 90, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "TWO-THIRDS"
Insert: "THREE-FIFTHS"

2. Title, page 1, line 7.
Following: the first "AND"
Insert: "A TWO-THIRDS VOTE OF"

3. Page 3, line 13.
Strike: "two-thirds"
Insert: "three-fifths"

And, as amended, do pass. Report adopted.

SB 141, do pass. Report adopted.

FINANCE AND CLAIMS (Ripley, Chair): 1/22/2013
SB 49, do pass. Report adopted.
SB 63, do pass. Report adopted.
SB 117, do pass. Report adopted.

FISH AND GAME (Brenden, Chair): 1/22/2013
SB 123, introduced bill, be amended as follows:

1. Title, page 1, line 8.
Following: "DATE"
Insert: " AND A TERMINATION DATE"

2. Page 1, line 25.
Strike: "meat processors"
Insert: "a nonprofit organization exempt from taxation under 26 U.S.C. 501(c)(3)"

3. Page 1, line 26.
Following: "donated"
Insert: "or seized"

4. Page 1, line 26 through line 27.
Strike: ", including" on line 26 through "exists" on line 27

5. Page 1, line 28.
Strike: "meat processors"
Insert: "a nonprofit organization exempt from taxation under 26 U.S.C. 501(c)(3)"

6. Page 5, line 22.
Following: Line 21
Insert: "NEW SECTION: **Section 7. Termination.** [This act] terminates June 30, 2019."

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Arntzen, Chair): 1/22/2013
SB 116, introduced bill, be amended as follows:

1. Page 1, lines 5 through 7.
Following: "PERMIT;" on line 5
Strike: remainder of line 5 through "PAID;" on line 7
Insert: "PROVIDING THAT CERTAIN NONRESIDENTS OBTAIN CERTAIN SPECIAL FUEL USER'S TEMPORARY PERMITS; CLARIFYING THE APPLICABILITY OF THE TAX ON SPECIAL FUEL AND VOLATILE LIQUIDS;"

2. Page 4, line 29.
Strike: "Special"
Insert: "Nonresident special"

3. Page 4, line 30.
Following: "permit --"
Insert: "nonresident"
Following: "Any"
Insert: "nonresident"

4. Page 5, line 3.
Following: "~~15-70-302,~~"
Insert: "who is"

5. Page 5, line 7.
Following: "nonresident"
Insert: "person"

6. Page 5, line 14.
Following: "Any"
Insert: "nonresident"

7. Page 6.
Following: line 26
Insert: "(4) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (2) must be produced using special fuel on which state fuel tax has been paid."

And, as amended, do pass. Report adopted.

REPORTS OF SELECT COMMITTEES

Senator Lewis reported that the Joint Select Committee on Pensions met for the first time yesterday, January 22, 2013. The committee will spend the next two months looking at pension proposals before developing recommendations.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 1/21/2013

HB 17, introduced by Hill
HB 40, introduced by Dudik
HB 47, introduced by McClafferty
HB 52, introduced by Lieser
HB 55, introduced by Knudsen
HB 58, introduced by Noonan
HB 60, introduced by Berry
HB 107, introduced by Lynch
HB 114, introduced by Clark
HB 137, introduced by Dudik

FIRST READING AND COMMITMENT OF BILLS

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

SB 173, introduced by Keane (by request of the Office of Budget and Program Planning), referred to Business, Labor, and Economic Affairs.
SB 174, introduced by Keane (by request of the Office of Budget and Program Planning), referred to Business, Labor, and Economic Affairs.
SB 177, introduced by Wanzenried, referred to Finance and Claims.
SB 178, introduced by Van Dyk, Facey, Hamlett, Peterson, Ripley, Welborn, referred to Fish and Game.
SB 179, introduced by Kaufmann (by request of the Department of Revenue), referred to Taxation.
SB 180, introduced by Debby Barrett, Flynn, Shaw, Welborn, Wittich, referred to Energy and Telecommunications.
SB 181, introduced by Caferro, C. Smith, referred to Public Health, Welfare and Safety.
SB 182, introduced by Sonju, referred to Business, Labor, and Economic Affairs.
SB 183, introduced by Arntzen, Greef, Halvorson, Larsen, Wagoner, Wittich, referred to Business, Labor, and Economic Affairs.

SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)

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

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

SB 44 - Senator Keane moved **SB 44** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 48

Nays: Caferro.
Total 1

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 76 - Senator Vincent moved **SB 76** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 93 - Senator Vuckovich moved **SB 93** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, T. Brown, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Thomas, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy.

Total 38

Nays: Brenden, D. Brown, Fielder, Moore, Sales, Taylor, Vincent, Walker, Webb, Wittich, Mr. President.
Total 11

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 3 - Senator Essmann moved **SB 3** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jones, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 47

Nays: Jergeson, Kaufmann.
Total 2

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 33 - Senator Jent moved **SB 33** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 92 - Senator Olson moved **SB 92** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 24 - Senator Rosendale moved **SB 24**, do pass.
Senator Rosendale moved **SB 24**, second reading copy, be amended as follows:

1. Title, line 5.
Following: "PROHIBITED"
Insert: "THROUGH ZONING"
Strike: "IN AN AREA ZONED AS RESIDENTIAL"

2. Page 1, line 15.
Strike: "(a)" through "the"
Insert: "The"

3. Page 1, line 19 through line 21.
Strike: subsection (b) in its entirety

4. Page 1.
Following: line 24
Insert: "(4) If an applicant for an opencut sand or gravel permit on a tract of land that is not zoned under the provisions of this part has been notified that the application is complete under 82-4-432(4)(d), a resolution or rule for zoning under this part may not prohibit an opencut sand or gravel operation on that tract unless the date of the notice of a public hearing on the proposed zoning regulations under 76-2-205 precedes the date that the applicant was notified of the complete application."

Amendment adopted as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Driscoll, Fielder, Hamlett, Jackson, Jent, Jones, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Ripley, Rosendale, Sales, Sesso, Sonju, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Mr. President.
Total 36

Nays: Blewett, Caferro, Facey, Jergeson, Kaufmann, Phillips, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Windy Boy, Wittich.
Total 13

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 24 - Senator Rosendale moved **SB 24**, as amended, do pass. Motion carried as follows:

Yeas: Arntzen, Augare, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Fielder, Hamlett, Jackson, Jent, Jones, Keane, Larsen, Lewis, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Windy Boy, Mr. President.
Total 35

Nays: Arthun, Barrett Dick, Blewett, Caferro, Driscoll, Facey, Jergeson, Kaufmann, Malek, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Wittich.
Total 15

Paired: Priest, Aye; Van Dyk, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Wittich moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Essmann presiding. Chair Windy Boy moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt,

Van Dyk, Vincent, Walker, Webb, Windy Boy, Wittich, Mr. President.
Total 47

Nays: Vuckovich, Wanzenried.
Total 2

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

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 5 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 32 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.

Total 0

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 35 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 36 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 41 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Hamlett, Jackson, Jergeson, Jones, Lewis, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Tropila, Tutvedt, Vincent, Walker, Webb, Windy Boy, Wittich, Mr. President.
Total 33

Nays: Barrett Dick, Blewett, Caferro, Driscoll, Facey, Fielder, Jent, Kaufmann, Keane, Larsen, Malek, Phillips, Sesso, Stewart-Peregoy, Van Dyk, Vuckovich, Wanzenried.
Total 17

Paired: Priest, Aye; Van Dyk, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 66 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 87 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SB 121 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

SJR 2 adopted as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sesso, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 46

Nays: Sales, Sonju, Walker.
Total 3

Absent or not voting: None.
Total 0

Excused: Priest.
Total 1

UNFINISHED BUSINESS

Mr. President, I move that the following undersigned names be **ADDED** as sponsors to **SB 113** Motion carried.

SB 113 (Buttrey, Chief Sponsor)
Senators Arntzen, T. Brown, Facey, Lewis, Thomas, Tropila, Van Dyk, and Wanzenried.
Representatives Hollenbaugh, MacDonald, Noonan, and O'Hara.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Senator Wanzenried arose on a point of inquiry. He requested assistance understanding the leadership plan to reduce dependence on federal funds and questioned if the plan is to apply reductions broadly to all programs funded from federal sources. President Essmann replied he would discuss the question with the chairman of Finance and Claims and with Senator Wanzenried following the session.

MOTIONS

Senator Vuckovich moved to change his vote on **SB 41** from Yes to No. Without objection, so ordered.

Majority Leader Wittich moved that the Senate adjourn until 1:00 p.m., Thursday, January 24, 2013. Motion carried.

Senate adjourned at 2:58 p.m.

MARILYN MILLER
Secretary of the Senate

JEFF ESSMANN
President of the Senate