

**SENATE JOURNAL
60TH LEGISLATURE
EIGHTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
April 25, 2007

Senate Chambers
State Capitol

Senate convened at 11:00 a.m. President Cooney presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J. Tropila, M. Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 42

Nays: Balyeat, Brown, Gebhardt, Jackson, Lind, McGee, O'Neil, Shockley.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

STATE ADMINISTRATION (Squires, Chairman):

4/25/2007

SJR 46, be adopted. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE

on House Amendments to **Senate Bill 25**

Report No. 1, April 25, 2007

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 25** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 25** (reference copy -- salmon) be amended as follows:

1. Page 4, line 19 through line 23.

Strike: subsection (3) in its entirety

Insert: "(3) If the department is addressing forest health concerns as provided in [section 4], the department may exceed the annual sustained harvest level by up to 5% using contract harvesting, provided that the contract harvest volume in excess of the annual sustained harvest level contains no more than 25% merchantable saw log volume."

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For the Senate:

Larson, Chairman
Kaufmann
Lewis

For the House:

Everett, Chairman
Vincent
Cordier

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 103**
Report No. 1, April 24, 2007

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 103** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 103** (reference copy -- salmon) be amended as follows:

1. Title, line 10.

Strike: "REGISTERED VOTERS"

Insert: "OWNERS OF 40 PERCENT OR MORE OF THE REAL PROPERTY WITHIN THE PROPOSED DISTRICT AND OWNERS OF PROPERTY REPRESENTING 40 PERCENT OR MORE OF THE TAXABLE VALUE OF THE PROPERTY WITHIN THE PROPOSED DISTRICT"

2. Page 2, line 8.

Following: "AREA"

Insert: "the owners of"

Strike: "REGISTERED VOTERS RESIDING"

Insert: "real property"

Following: "DISTRICT"

Insert: "and owners of property representing 40% or more of the taxable value of property in the proposed district"

3. Page 2, line 19.

Following: "VOTER"

Insert: "and real property owner"

4. Page 3, line 3.

Strike: "REGISTERED VOTER"

Insert: "real property owner"

5. Page 3, line 4 through line 5.

Strike: "AND WHO OWNS" on line 4 through "DISTRICT" on line 5

6. Page 3, line 5.

Strike: "VOTER'S"

Insert: "property owner's"

7. Page 7, line 2 through line 3.

Strike: "REGISTERED" on line 2 through "RESIDING IN" on line 3

Insert: "Real property owners in"

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8. Page 7, line 4.

Following: "~~50%~~"

Insert: "the owners of"

9. Page 7, line 5.

Strike: "REGISTERED VOTERS"

Insert: "real property in an existing district and owners of property representing 40% or more of the taxable value of property"

10. Page 7, line 18.

Following: "OWNERS"

Insert: "the owners of"

11. Page 7, line 19.

Strike: "REGISTERED VOTERS of an"

Insert: "real property within the area proposed to be detracted from the original district and owners of property representing 40% or more of the taxable value of property in the"

12. Page 8, line 13.

Following: "OWNERS IN"

Insert: "the owners of"

Strike: "REGISTERED VOTERS RESIDING IN"

Insert: "real property in the entire original district and owners of property representing 40% or more of the taxable value of property in"

13. Page 9, line 4.

Following: "OWNERS"

Insert: "the owners of"

14. Page 9, line 5.

Strike: "REGISTERED VOTERS WHO RESIDE"

Insert: "real property within the proposed area to be annexed and owners of property representing 40% or more of the taxable value of property"

15. Page 9, line 17.

Strike: "REGISTERED VOTERS RESIDING IN"

Insert: "owners of real property in the area proposed for annexation and owners of property representing 40% or more of the taxable value of the property in"

16. Page 10, line 4 through line 5.

Strike: "REGISTERED" on line 4 through "RESIDING" on line 5

Insert: "owners of real property within the area proposed to be transferred and owners of 40% or more of the taxable value of the property"

17. Page 10, line 14.

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Following: "~~OWNERS OF~~"

Insert: "the owners of"

18. Page 10, line 14 through line 15.

Strike: "REGISTERED" on line 14 through "VOTERS IN" on line 15

Insert: "real property in either district and owners of property representing 40% or more of the taxable value in"

19. Page 11, line 6.

Following: "~~OWNERS OF THE~~"

Insert: "the owners of"

20. Page 11, line 6 through line 7.

Strike: "REGISTERED" on line 6 through "IN THE" on line 7

Insert: "real property in the area and owners of property representing 40% or more of the taxable value of property in the"

For the Senate:

Lind, Chairman
Gebhardt
Hawks

For the House:

McChesney, Chairman
Ripley
Stahl

**FREE CONFERENCE COMMITTEE
on Senate Bill 547
Report No. 1, April 24, 2007**

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 547** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 547** (reference copy -- salmon) be amended as follows:

1. Title, line 14.

Following: "45-1-205,"

Strike: "45-5-502,"

2. Title, line 15.

Following: "46-18-205,"

Insert: "46-18-222,"

3. Page 2, line 8.

Following: "45-5-502(3)"

Strike: "OR (4)"

4. Page 6, line 13.

Following: "(c)"

Insert: "subject to the provisions of subsection (5),"

5. Page 6, line 14.

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Following: "be a"

Strike: "sexual offense or"

6. Page 6, line 15.

Following: "as a"

Strike: "sexual or"

7. Page 6, line 16 through line 20.

Following: "compliance," on line 16

Strike: remainder of line 16 through line 20

Insert: "(d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in 46-23-502, and is required to register as a sexual offender pursuant to Title 46, chapter 23, part 5, exempt the youth from the duty to register if the court finds that:

(i) the youth has not previously been found to have committed or been adjudicated for a sexual offense, as defined in 46-23-502; and

(ii) registration is not necessary for protection of the public and that relief from registration is in the public's best interest;"

Renumber: subsequent subsections

8. Page 6, line 29.

Following: "offense"

Insert: ", as defined in 46-23-502"

Following: "SHALL"

Insert: ":

(a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of 46-18-111;

(b) designate the youth's risk level pursuant to 46-23-509; and

(c)"

9. Page 7, line 7.

Following: line 6

Insert: "(5) The duration of registration for a youth who is required to register as a sexual or violent offender shall be as provided in 46-23-506, except that the court may, based on specific findings of fact, order a lesser duration of registration."

10. Page 8, line 24 through page 10, line 2.

Strike: section 5 in its entirety

Renumber: subsequent sections

11. Page 11, line 4 through line 5.

Following: "offense" on line 4

Strike: remainder of line 4 through "children" on line 5

12. Page 11, line 16 through line 25.

Strike: subsection (c) in its entirety

13. Page 12, line 19 through line 20.

Following: "offense" on line 19

Strike: remainder of line 19 through "children" on line 20

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14. Page 13, line 1 through line 10.

Strike: subsection (c) in its entirety

15. Page 13, line 18.

Following: "45-5-502(3)"

Strike: "or (4)"

16. Page 13, line 22.

Following: "45-5-502(3)"

Strike: "or (4)"

17. Page 18, line 11 through line 12.

Following: "offense" on line 11

Strike: remainder of line 11 through "children" on line 12

18. Page 18, line 23 through page 19, line 2.

Strike: subsection (c) in its entirety

19. Page 20, line 28.

Strike: "45-5-502(4)."

20. Page 23, line 19.

Strike: "45-5-502(4)."

21. Page 24, line 15.

Strike: "45-5-502(4)."

22. Page 26, line 6.

Strike: "45-5-502(4)."

23. Page 26, line 8.

Following: line 7

Insert: "**Section 17.** Section 46-18-222, MCA, is amended to read:

"46-18-222. Exceptions to mandatory minimum sentences ~~and~~ restrictions on deferred imposition and suspended execution of sentence, and restrictions on parole eligibility. Mandatory minimum sentences prescribed by the laws of this state, mandatory life sentences prescribed by 46-18-219, ~~and~~ the restrictions on deferred imposition and suspended execution of sentence prescribed by 46-18-201(1)(b), 46-18-205, 46-18-221(3), 46-18-224, and 46-18-502(3), and restrictions on parole eligibility do not apply if:

(1) the offender was less than 18 years of age at the time of the commission of the offense for which the offender is to be sentenced;

(2) the offender's mental capacity, at the time of the commission of the offense for which the offender is to be sentenced, was significantly impaired, although not so impaired as to constitute a defense to the prosecution. However, a voluntarily induced intoxicated or drugged condition may not be considered an impairment for the purposes of this subsection.

(3) the offender, at the time of the commission of the offense for which the offender is to be sentenced, was acting under unusual and substantial duress, although not such duress as would constitute a defense to the prosecution;

(4) the offender was an accomplice, the conduct constituting the offense was principally the conduct of another, and the offender's participation was relatively minor;

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(5) in a case in which the threat of bodily injury or actual infliction of bodily injury is an actual element of the crime, no serious bodily injury was inflicted on the victim unless a weapon was used in the commission of the offense; or

(6) the offense was committed under 45-5-502(3), 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4) and the judge determines, based on the findings contained in a sexual offender evaluation report prepared by a qualified sexual offender evaluator pursuant to the provisions of 46-23-509, that treatment of the offender while incarcerated, while in a residential treatment facility, or while in a local community affords a better opportunity for rehabilitation of the offender and for the ultimate protection of the victim and society, in which case the judge shall include in its judgment a statement of the reasons for its determination.""

Renumber: subsequent sections

24. Page 26, line 23 through line 26.

Following: "assault" on line 23

Strike: remainder of line 23 through "CHILDREN" on line 26

25. Page 26, line 29 through line 30.

Following: "OFFENSE" on line 29

Strike: remainder of line 29 through "CHILDREN" on line 30

26. Page 27, line 4.

Following: "children"

Strike: "by a sexual predator of children"

27. Page 28, line 18 through line 20.

Following: "VICTIM" on line 18

Strike: remainder of line 18 through "CHILDREN" on line 20

28. Page 28, line 23 through line 24.

Following: "OFFENSE" on line 23

Strike: remainder of line 23 through "CHILDREN" on line 24

29. Page 28, line 28.

Following: "after"

Insert: "an adjudication or"

30. Page 28, line 29.

Following: "convicted of"

Insert: " or, in youth court, found to have committed or been adjudicated for"

31. Page 29, line 2.

Following: "convicted of"

Insert: " or, in youth court, found to have committed or been adjudicated for"

32. Page 36, line 27.

Strike: "45-5-502(4),"

33. Page 37, line 17.

Strike: "45-5-502(4),"

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34. Page 42, line 3.

Following: line 2

Insert: "NEW SECTION. Section 27. Sexual offender treatment. (1) Upon sentencing a person convicted of a sexual offense, as defined in 46-23-502, the court shall designate the offender as a level 1, 2, or 3 offender pursuant to 46-23-509.

(2) (a) Except as provided in subsection (2)(b), the court shall order an offender convicted of a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303, and sentenced to imprisonment in a state prison to:

(i) enroll in and successfully complete the educational phase of the prison's sexual offender treatment program;

(ii) if the person has been or will be designated as a level 3 offender pursuant to 46-23-509, enroll in and successfully complete the cognitive and behavioral phase of the prison's sexual offender treatment program; and

(iii) if the person is sentenced pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4) and is released on parole, remain in an outpatient sex offender treatment program for the remainder of the person's life.

(b) A person who has been sentenced to life imprisonment without possibility of release may not participate in treatment provided pursuant to this section.

(3) A person who has been ordered to enroll in and successfully complete a phase of a state prison's sexual offender treatment program is not eligible for parole unless that phase of the program has been successfully completed as certified by a sexual offender evaluator to the board of pardons and parole.

(4) (a) Except for an offender sentenced pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4), during an offender's term of commitment to the department of corrections or a state prison, the department may place the person in a residential sexual offender treatment program approved by the department under 53-1-203.

(b) If the person successfully completes a residential sexual offender treatment program approved by the department of corrections, the remainder of the term must be served on probation unless the department petitions the sentencing court to amend the original sentencing judgment.

(5) If a person's sentence is suspended pursuant to subsection (4)(b), during the suspended portion of the sentence the person:

(a) shall abide by the standard conditions of probation established by the department of corrections;

(b) shall pay the costs of imprisonment, probation, and any sexual offender treatment if the person is financially able to pay those costs;

(c) may have no contact with the victim or the victim's immediate family unless approved by the victim or the victim's parent or guardian, the person's therapists, and the person's probation officer;

(d) shall comply with all requirements and conditions of sexual offender treatment as directed by the person's sex offender therapist;

(e) may not enter an establishment where alcoholic beverages are sold for consumption on the premises or where gambling takes place;

(f) may not consume alcoholic beverages;

(g) shall enter and remain in an aftercare program as directed by the person's probation officer;

(h) shall submit to random or routine drug and alcohol testing;

(i) may not possess pornographic material or access pornography through the internet; and

(j) at the discretion of the probation and parole officer, may be subject to electronic monitoring or continuous satellite monitoring.

(6) The sentencing of a sexual offender is subject to 46-18-202(2) and 46-18-219.

(7) The sentencing court may, upon petition by the department of corrections, modify a sentence of a sexual offender to impose any part of a sentence that was previously suspended."

Insert: "NEW SECTION. Section 28. Codification instruction. [Section 27] is intended to be codified as an

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integral part of Title 46, chapter 18, and the provisions of Title 46, chapter 18, apply to [section 27]."

Renumber: subsequent sections

For the Senate:

Laslovich, Chairman
Moss
Perry

For the House:

Parker, Chairman
Morgan
Sinrud

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 550**
Report No. 1, April 25, 2007

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 550** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 550** (reference copy -- salmon) be amended as follows:

1. Page 7, line 26.

Following: "funding"

Insert: ", "

Following: "AMOUNT."

Insert: "not to exceed (insert dollar or mill amount),"

2. Page 7, line 30.

Following: "funding"

Insert: ", "

Following: "AMOUNT."

Insert: "not to exceed (insert dollar or mill amount),"

For the Senate:

Juneau, Chairman
M. Tropicla
Laible

For the House:

Rice, Chairman
Sonju
Bergren

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 337**
Report No. 1, April 24, 2007

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 337** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 337** (reference copy -- salmon) be amended as follows:

1. Page 1, line 20 through line 21.

Strike: "IF THE" on line 20 through "COMPENSATION" on line 21

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2. Page 1, line 22 through line 23.

Strike: "WORKERS" on line 22 through "COMPENSATION" on line 23

For the House:

Wells, Chairman
Kerns
Cohenour

For the Senate:

Harrington, Chairman
Gebhardt
Kitzenberg

**FREE CONFERENCE COMMITTEE
on House Bill 462
Report No. 1, April 24, 2007**

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 462** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 462** (reference copy -- salmon) be amended as follows:

1. Page 1, line 24.

Following: "OFFICE"

Insert: "or as a public service commissioner"

2. Page 1, line 25.

Strike: "PERSON" through "ACCOUNT"

Insert: "constituent services account may be established"

3. Page 1, line 27.

Strike: "or for"

Insert: ", "

Strike: "state"

Insert: "statewide elected"

Following: "office"

Insert: ", or the public service commission"

4. Page 2, line 25.

Following: "STATEWIDE"

Insert: "elected"

Strike: "OR"

Insert: ", "

Following: "LEGISLATOR"

Insert: ", or public service commissioner"

5. Page 2, line 26.

Following: "STATEWIDE"

Insert: "elected"

6. Page 2, line 27.

Strike: "OR"

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Insert: ", "

Following: "LEGISLATOR"

Insert: ", or public service commissioner"

7. Page 4, line 26.

Following: "OFFICE"

Insert: "or for public service commissioner"

For the House:

Sands, Chairman
Sinrud
Ward

For the Senate:

Williams, Chairman
Gallus
Brown

**FREE CONFERENCE COMMITTEE
on **House Bill 829**
Report No. 1, April 24, 2007**

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 829** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 829** (reference copy -- salmon) be amended as follows:

1. Title, lines 9 and 10.

Following: "ACCOUNT;" on line 9

Strike: remainder of line 9 through "VOIDNESS;" on line 10

2. Page 2, line 9.

Following: "the account."

Insert: "Up to \$650,000 each fiscal year of interest and earnings on the account must be deposited in the account."

3. Page 2, line 10.

Following: "only for"

Insert: ":

(a)"

4. Page 2, line 16.

Following: "Tribe"

Insert: "; and

(b) implementation of the water rights compact among the Blackfeet Tribe, the state, and the United States and any associated agreements as may be specified in the compact or agreements"

5. Page 2, line 17.

Following: "(3)"

Insert: "(a)"

6. Page 2, line 18 through line 19.

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Following: "PURPOSES" on line 18

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

7. Page 2, line 20.

Following: line 19

Insert: "(b) The department may expend up to \$650,000 each fiscal year of the interest and income on the escrow account provided for in subsection (4)(b) for the purposes described in subsection (2)(b)."

8. Page 2, line 20.

Following: "(4)"

Insert: "(a)"

9. Page 2, line 22.

Following: line 21

Insert: "(b) The amount of \$10 million in this account must be held in escrow. The department shall negotiate the terms of an escrow agreement."

10. Page 2, line 20.

Strike: "\$2.5"

Insert: "\$4.5"

Strike: "fund"

Insert: "account"

11. Page 3, line 16.

Following: "(1)"

Insert: "(a)"

12. Page 3, line 19.

Following: "(3)"

Insert: "(a)"

13. Page 3, line 20.

Following: line 19

Insert: "(b) Up to \$650,000 each fiscal year of the interest and income on the escrow account provided for in [section 2] is appropriated to the department for the purposes described in [section 2(2)(b)]."

14. Page 3, line 29 through line 30.

Strike: section 8 in its entirety

Renumber: subsequent sections

For the House:

L. Jones, Chairman
Barrett
Augare

For the Senate:

Laslovich, Chairman
Juneau
Black

MESSAGES FROM THE GOVERNOR

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April 24, 2007

The Honorable Scott Sales
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Mike Cooney
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Sales and President Cooney:

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 (HB) 768, "AN ACT REVISING THE LAW RELATED TO OSTENSIBLE AGENCY; AND AMENDING SECTION 28-10-103, MCA." My proposed amendment is intended to clarify the purpose of the bill and not change it.

HB 768 amends current law that addresses the liability of a health care provider in a malpractice claim. Current law grants the health care provider immunity for "ostensible agents" of the health care provider, so long as the health care provider ensures that persons providing independent professional services have adequate insurance coverage. HB 768 requires insurance coverage "for the length of time provided for in 27-2-205." Section 27-2-205, sets forth the statute of limitations for medical malpractice claims, and contains various time limits depending on the facts of the case. My amendment states that the insurance coverage be of the same duration as the time within which a malpractice lawsuit may be brought under 27-2-205, so as to clarify the requirement contained in the bill.

I have discussed my proposed amendment with the sponsor of the bill, Representative Gallik, who has expressed his support.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

April 24, 2007

The Honorable Scott Sales
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Mike Cooney
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Sales and President Cooney:

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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 (HB) 583, "AN ACT GENERALLY REVISING THE OPENCUT MINING ACT; AMENDING DEFINITIONS AND TERMINOLOGY; EXPANDING EXEMPTIONS; PROVIDING FOR SUSPENSION AND REVOCATION ORDERS; ELIMINATING APPLICATION FEES; REVISING APPEAL PROVISIONS; AMENDING SECTIONS 82-4-402, 82-4-403, 82-4-406, 82-4-422, 82-4-424, 82-4-425, 82-4-426, 82-4-427, 82-4-431, 82-4-432, 82-4-433, 82-4-434, 82-4-436, AND 82-4-441, MCA; AND REPEALING SECTIONS 82-4-421 AND 82-4-423, MCA."

HB 583 generally revises and modernizes Montana's Opencut Mining Act and provides for more effective administration and enforcement. My proposed amendment would disallow opencut operations within 1 mile of a national park, national monument, or national battlefield if it is determined that the operation would have an adverse impact on the park, monument, or battlefield. The amendment protects against unconstitutional takings and contains a "grandfather" clause so as not to effect current valid opencut permits.

Our national parks, monuments, and battlefields are an important part of our history, culture, and identity as Montanans and Americans. Furthermore, these resources contribute significantly to Montana's economy, and maintaining high quality visitor experience will assist in these contributions.

I have discussed my proposed amendment with the sponsor of the bill, Representative Jopek, who has expressed his support.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

MESSAGES FROM THE OTHER HOUSE

Conference Committee Report No.1 adopted: 4/25/2007

SB 227, introduced by Laslovich

Free Conference Committee Report No.1 **not** adopted: 4/25/2007

SB 118, introduced by Cobb

Governor's amendments to Senate bill not concurred in and returned to the Senate: 4/24/2007

SB 537, introduced by Brown

HJR 56, introduced by Sands, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

4/25/2007

Yeas - 60

Nays - 37

Governor's amendments to House bill concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

4/25/2007

HB 353, introduced by McGillvray

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Governor's amendments to House bill concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

4/25/2007

HB 729, introduced by Raser

Governor's amendments to Senate bill concurred in and returned to the Senate:

4/25/2007

SB 168, introduced by Jent

SB 206, introduced by Cobb, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

4/25/2007

Yeas - 78

Nays - 21

Senate bill concurred in and returned to the Senate:

4/25/2007

SB 201, introduced by Laible

MOTIONS

SEN. CHRISTINE KAUFMANN, SD 41, HELENA moved to take **HB 577** out of Finance and Claims Committee and placed on second reading this 88th Legislative day. Motion carried as follows:

Yeas: Brueggeman, Cocchiarella, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Moss, Pease, Perry, Ryan, Schmidt, Smith, Squires, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brown, Cobb, Curtiss, Elliott, Esp, Essmann, Gebhardt, Jackson, Lind, McGee, Murphy, O'Neil, Peterson, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SEN. LARRY JENT, SD 32, BOZEMAN moved to take **HB 491** off the table in Judiciary Committee and placed on second reading this 88th Legislative day. Motion **failed** as follows:

Yeas: Balyeat, Barkus, Black, Brown, Esp, Gebhardt, Jent, Laible, McGee, O'Neil, Perry, Smith, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila.

Total 18

Nays: Bales, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington,

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Hawks, Jackson, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Murphy, Pease, Peterson, Ryan, Schmidt, Shockley, Squires, Wanzenried, Weinberg, Williams, Mr. President.
Total 32

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SEN. VICKI COCCHIARELLA, SD 47, HELENA moved to take **HB 368** out of Finance and Claims Committee and placed on second reading this 88th Legislative day. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 47

Nays: Balyeat, Hansen, O'Neil.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SEN. CAROLYN SQUIRES, SD 48, MISSOULA moved to Suspend the Rules and accept **HJ 46**. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Lewis, Lind, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 45

Nays: Barkus, Esp, Jackson, Laslovich, McGee.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SEN. CAROL WILLIAMS, SD 46, MISSOULA moved to dissolve the conference committee and appoint a free conference committee on **HB 830**. The President appoints Senator Cooney as chair and Senators Schmidt and Brueggeman. House appoints Representatives Kasten, Sinrud, Thomas. Motion carried unanimously.

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Agenda #2 - 4:00 p.m.

SEN. DANIEL MCGEE, SD 29, LAUREL moved to take **HB 491** off the table in Judiciary Committee and placed on second reading the 89th Legislative day. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Jackson, Jent, Laible, Lewis, Lind, McGee, Murphy, O'Neil, Perry, Peterson, Shockley, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila.
Total 28

Nays: Cocchiarella, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Moss, Pease, Ryan, Schmidt, Smith, Squires, Wanzenried, Weinberg, Williams, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SEN. CAROL WILLIAMS, SD 46, MISSOULA moved to Suspend the Rules allowing **HB 368** to be placed on third reading this 88th Legislative day. Motion carried as follows:

Yeas: Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 46

Nays: Bales, Balyeat, Hansen, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SEN. CAROL WILLIAMS, SD 46, MISSOULA moved to dissolve the conference committee and appoint a free conference committee on **SB 316**. The president appointed Senator Elliott as chair and Senators Harrington and Peterson. Motion carried unanimously.

FIRST READING AND COMMITMENT OF BILLS

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

HJR 46, introduced by Sands, referred to State Administration.

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

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

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

HB 828 - Senator Lind moved **HB 828** be concurred in. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Perry, Ryan, Schmidt, Smith, Squires, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brown, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, O'Neil, Peterson, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Absent or not voting: Brueggeman.

Total 1

Excused: None.

Total 0

HJR 57 - Senator Weinberg moved **HJR 57** be concurred in. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Ryan, Schmidt, Squires, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 27

Nays: Bales, Balyeat, Barkus, Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, O'Neil, Perry, Peterson, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 47 - Senator Murphy moved **HJR 47** be concurred in. Motion carried with Senator Jackson, McGee, Brown voting nay.

HJR 48 - Senator Esp moved **HJR 48** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

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Total 48

Nays: O'Neil, Stapleton.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 52 - Senator O'Neil moved **HJR 52** be concurred in. Motion carried unanimously.

HB 160 - Conference Committee Report No. 1 - Senator Laible moved the Conference Committee report to **HB 160** be adopted. Motion **failed** as follows:

Yeas: Bales, Cobb, Cocchiarella, Elliott, Gebhardt, Harrington, Hawks, Kaufmann, Laible, Laslovich, Lewis, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Shockley, Williams.

Total 19

Nays: Balyeat, Barkus, Black, Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gillan, Hansen, Jackson, Jent, Juneau, Kitzenberg, Larson, Lind, McGee, Moss, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Mr. President.

Total 31

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 304 - Conference Committee Report No. 1 - Senator Perry moved the Conference Committee report to **HB 304** be adopted. Motion carried as follows:

Yeas: Balyeat, Brown, Brueggeman, Cobb, Cocchiarella, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, J.Tropila, M.Tropila, Williams, Mr. President.

Total 39

Nays: Bales, Barkus, Black, Curtiss, McGee, Murphy, O'Neil, Story, Wanzenried, Weinberg.

Total 10

Absent or not voting: Peterson.

Total 1

Excused: None.

Total 0

HB 715 - Free Conference Committee Report No. 1 - Senator Wanzenried moved the Free Conference

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Committee report to **HB 715** be adopted. Motion carried with Senator Balyeat, Esp, McGee, Bales, Brown voting nay.

SB 51 - Free Conference Committee Report No. 1 - Senator Hawks moved the Free Conference Committee report to **SB 51** be adopted. Motion carried with Senator Balyeat, Curtiss, O'Neil, Jackson, McGee voting nay.

SB 96 - Conference Committee Report No. 1 - Senator Williams moved the Conference Committee report to **SB 96** be adopted. Motion carried unanimously.

SB 118 - Free Conference Committee Report No. 1 - Senator Cobb moved the Free Conference Committee report to **SB 118** be adopted. Motion carried unanimously.

SB 276 - Free Conference Committee Report No. 1 - Senator Steinbeisser moved the Free Conference Committee report to **SB 276** be adopted. Motion carried with Senator Squires, O'Neil voting nay.

SB 524 - House Amendments - Senator Wanzenried moved House amendments to **SB 524** be concurred in. Motion carried unanimously.

Senator Williams moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Cooney in the chair. Chairman Ryan moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senate recessed at 12:28 p.m. and reconvened at 4:00 p.m.

Roll Call. All Senators present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 41

Nays: Balyeat, Brown, Esp, Gebhardt, Jackson, Lind, McGee, O'Neil, Shockley.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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

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

HB 368 - Senator Cocchiarella moved **HB 368** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann,

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Gallus, Gebhardt, Gillan, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: Hansen.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 577 - Senator Kaufmann moved **HB 577** be concurred in. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Pease, Ryan, Schmidt, Smith, Squires, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 30

Nays: Bales, Balyeat, Barkus, Black, Brown, Curtiss, Esp, Essmann, Gebhardt, Jackson, McGee, Murphy, O'Neil, Perry, Peterson, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Williams moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Cooney in the chair. Chairman Ryan 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 227 conference committee report adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 61 concurred in as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Elliott, Essmann, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 39

Nays: Balyeat, Barkus, Brown, Curtiss, Esp, Gallus, Jackson, McGee, Murphy, O'Neil, Shockley.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 27 Governor's amendments adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 304 conference committee report adopted as follows:

Yeas: Bales, Balyeat, Barkus, Brown, Brueggeman, Cobb, Cocchiarella, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

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Total 45

Nays: Black, Curtiss, McGee, Murphy, O'Neil.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 715 free conference committee report adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 48

Nays: McGee, O'Neil.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 51 free conference committee report adopted as follows:

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 41

Nays: Balyeat, Curtiss, Esp, Gebhardt, Jackson, McGee, O'Neil, Steinbeisser, Story.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 96 conference committee report adopted as follows:

Yeas: Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson,

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Laslovich, Lewis, Lind, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 45

Nays: Bales, Esp, McGee, O'Neil, Story.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 118 free conference committee report adopted as follows:

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 46

Nays: Balyeat, Esp, Essmann, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 276 free conference committee report adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kitzenberg, Laible, Larson, Laslovich, Lewis, Moss, Murphy, O'Neil, Pease, Peterson, Ryan, Schmidt, Shockley, Smith, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 43

Nays: Esp, Kaufmann, Lind, McGee, Perry, Squires, Stapleton.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 368 concurred in as follows:

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus,

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Gebhardt, Gillan, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 48

Nays: Balyeat, Hansen.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Musician and song writer, Ken Overcast, sang the Montana Lullaby for the Senate.

Farewell good-byes by termed out Senators Cocchiarella and Kitzenberg.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Williams moved that the Senate adjourn until 11:00 a.m., Friday, April 27, 2007. Motion carried.

Senate adjourned at 5:17 p.m.

JOHN MUDD
Secretary of the Senate

MIKE COONEY
President of the Senate