

**HOUSE JOURNAL  
61ST LEGISLATURE  
EIGHTH LEGISLATIVE DAY**

Helena, Montana  
January 14, 2009

House Chambers  
State Capitol

House convened at 1:00 p.m. Mr. Speaker in the Chair. Invocation by Rep. Henry. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Rep. Hendrick requested a moment of silence for deceased volunteer firefighter Jerry Parrick, 59, and submitted the following incident report and gave the following remarks. A moment of silence ensued after remarks.

Name: Jerry Parrick  
Rank: Firefighter  
Age: 59  
Gender: Male  
Status: Volunteer  
Years of Service: Unknown  
Date of Incident: 12/17/2008  
Time of Incident: 1200hrs  
Date of Death: 12/17/08  
Fire Department: West End Volunteer Fire Department  
Fire Department Address: Haugan, MT 59842  
Fire Department Chief: Bruce Charles

"Firefighter Parrick was inside of his personal vehicle warning motorists with his truck's emergency lighting. He was stopped on a curved section of roadway near the scene of a motor vehicle accident. A Fed-Ex semi-tractor trailer slowed and attempted to move to another lane of travel but was unable to successfully do so, striking Parrick's vehicle. Firefighter Parrick was partially ejected from his truck and passed away at the scene from his injuries. Weather and road conditions were reported to have been possible contributing factors to the initial and subsequent accident." "Jerry Parrick left behind two loving daughters"

Rep. Peterson announced that Rep. O'Hara became a grandfather today.

Rep. De. Brown announced that there is a paycheck envelope recycle box in the House.

Rep. Caferro announced that the Montana Woman's Foundation is holding a reception tonight from 5:30 - 8:30.

**REPORTS OF STANDING COMMITTEES**

**BUSINESS AND LABOR** (Wilson, Chairman):

1/14/2009

**HB 76**, do pass. Report adopted.

**HB 119**, introduced bill, be amended as follows:

1. Title, line 12.

**Following:** "LOSSES;"

**Strike:** "REVISING THE DEFINITION OF "UNINSURED EMPLOYER";"

**Insert:** "CLARIFYING THAT THE TIME TO APPEAL TO MEDIATION IS FROM THE DATE OF DETERMINATION BY THE DEPARTMENT;"

2. Title, line 19.

**Following:** "39-71-307,"

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**Strike:** "39-71-501,"  
**Insert:** "39-71-520,"

3. Page 1, line 26.

**Following:** "recognize"

**Strike:** "and give effect to"

**Insert:** ", with the same effect as the exclusive remedy and benefits under plans No. 1, 2, and 3,"

4. Page 19, line 15 through line 27.

**Strike:** Section 10 in its entirety

**Insert:** "**Section 10.** Section 39-71-520, MCA, is amended to read:

**"39-71-520. Time limit to appeal to mediation -- petitioning workers' compensation court -- failure to settle or petition.** (1) A dispute concerning uninsured employers' fund benefits must be appealed to mediation within 90 days from the date of the determination by the department or ~~the date that~~ the determination is considered final.

(2) (a) If the parties fail to reach a settlement through the mediation process, any party who disagrees with the department's determination may file a petition before the workers' compensation court.

(b) A party's petition must be filed within 60 days of the mailing of the mediator's report provided for in 39-71-2411 unless the parties stipulate in writing to a longer time period for filing the petition.

(c) If a settlement is not reached through mediation and a petition is not filed within 60 days of the mailing of the mediator's report, the determination by the department is final.

(d) A mediator's report is not a determination by the department for the purposes of this section. A determination by the department is final if the an appeal to mediation described in subsection (1) or a petition described in subsection (2)(a) is not filed within the required time period."

5. Page 24, line 19.

**Following:** "shall"

**Strike:** "within 30 days of receipt make payments, at the fee schedule rate,"

**Insert:** "make payments at the fee schedule rate within 30 days of receipt"

6. Page 24, line 20 through line 21.

**Following:** "no" on line 20

**Strike:** "dispute" on line 20 through "condition." on line 21

**Insert:** "other disputes exist. Disputes must be defined by the department by rule."

7. Page 24, line 24.

**Following:** "of"

**Insert:** "receipt of"

8. Page 24, line 28.

**Following:** "date of"

**Insert:** "receipt of"

And, as amended, do pass. Report adopted.

**HB 126**, do pass. Report adopted.

**HB 136**, introduced bill, be amended as follows:

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1. Title, line 5.

**Following:** "APPOINT"

**Strike:** "A"

2. Title, line 6.

**Strike:** first "MEMBER"

**Insert:** "MEMBERS"

3. Page 1, line 17.

**Following:** "members"

**Insert:** "and three substitute members"

4. Page 1, line 19.

**Following:** "activities"

**Insert:** "and a substitute member with the same qualifications as the other two members who is to serve in place of an absent member and to participate only in the decisions of the proceeding that the substitute member is attending"

5. Page 1, line 21.

**Following:** "board"

**Insert:** "and a substitute member with the same qualifications as the other two members who is to serve in place of an absent member and to participate only in the decisions of the proceeding that the substitute member is attending"

6. Page 1, line 22.

**Following:** "officer"

**Insert:** ", and a substitute member with the same qualifications as the other member who is to serve in place of an absent member and to participate only in the decisions of the proceeding that the substitute member is attending"

7. Page 1, following line 24.

**Insert:** "(c) A substitute board member is entitled to the same compensation and per diem when serving as the other members of the board."

8. Page 1, line 25 through page 2, line 6.

**Strike:** subsections (4) and (5) in their entirety

**ReNUMBER:** subsequent subsections

And, as amended, do pass. Report adopted.

**HB 138**, do pass. Report adopted.

**HB 151**, introduced bill, be amended as follows:

1. Page 1, line 14 through line 15.

**Following:** "for"

**Strike:** "related" on page 1, line 14 through "including" on page 1, line 15

**Insert:** "for"

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2. Page 1, line 18.

**Following:** "complications of"

**Strike:** "all stages of"

**Following:** "mastectomy"

**Strike:** "and breast reconstruction"

3. Page 2, line 8.

**Following:** "notice"

**Insert:** "in compliance with the model language of the Women's Health and Cancer Rights Act of 1998"

**Following:** "availability of"

**Strike:** "medical and surgical"

4. Page 2, line 9.

**Following:** "respect to"

**Strike:** "a mastectomy"

**Insert:** "the Women's Health and Cancer Rights Act of 1998"

5. Page 2, line 12.

**Following:** "reimbursement of"

**Strike:** "a"

**Insert:** "an attending"

6. Page 2, line 13.

**Following:** "incentives to"

**Strike:** "a"

**Insert:** "an attending"

And, as amended, do pass. Report adopted.

**JUDICIARY** (Stoker, Chairman):

1/14/2009

**HB 149**, introduced bill, be amended as follows:

1. Title, page 1, line 7.

**Following:** "46-18-241"

**Insert:** ", 46-18-246,"

2. Title, page 1, line 8.

**Strike:** "AND RETROACTIVE APPLICABILITY DATES"

3. Page 2.

**Following:** line 7

**Insert:** "**Insert: "Section 2.** Section 46-18-246, MCA, is amended to read:

**"46-18-246. Waiver or modification of payment.** An offender may at any time petition the sentencing court to adjust or otherwise waive payment of any part of any ordered restitution or amount to be paid pursuant to 46-18-241(2)(a). The court shall schedule a hearing and give a victim to whom restitution was ordered notice of the hearing date, place, and time and inform the victim that the victim will have an opportunity to be heard. If the court finds that the circumstances upon which it based the imposition of restitution, amount of the victim's pecuniary loss,

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or method or time of payment no longer exist or that it otherwise would be unjust to require payment as imposed, the court may adjust or waive unpaid restitution or the amount to be paid pursuant to 46-18-241(2)(a) or modify the time or method of making restitution. The court may extend the restitution schedule."''

**Renumber:** subsequent sections

4. Page 1, line 30 through page 2, line 4.

**Strike:** section 4 in its entirety

And, as amended, do pass. Report adopted.

**LOCAL GOVERNMENT** (Arntzen, Chairman):

1/14/2009

**HB 45**, do pass. Report adopted.

**HB 181**, do pass. Report adopted.

**MESSAGES FROM THE SENATE**

**House bill** concurred in and returned to the House:

1/14/2009

**HB 1**, introduced by Sesso

**Senate bills** passed and transmitted to the House for concurrence:

1/14/2009

**SB 10**, introduced by Perry

**SB 25**, introduced by Wanzenried

**FIRST READING AND COMMITMENT OF BILLS**

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

**HB 246**, introduced by Boniek, Bennett, Butcher, Curtis, Randal, Warburton referred to Judiciary.

**HB 247**, introduced by Bergren, Peterson referred to Agriculture.

**HB 248**, introduced by K. Peterson, referred to State Administration.

**HB 249**, introduced by Stahl, referred to Taxation.

**HB 250**, introduced by MacLaren, Steinbeisser, referred to Business and Labor.

**HB 251**, introduced by Ankney, Ripley, Keane referred to Appropriations.

**HB 252**, introduced by Campbell, Augare, Becker, Blewett, Boland, Caferro, Calf Boss Ribs, Driscoll, Grinde, Henry, Hollenbaugh, Hunter, Juneau, Kaufman, MacDonald, Malek, McAlpin, A. Noonan, Pease-Lopez, Pomnichowski, Sands, Smith, Van Dyk referred to Judiciary.

**HB 253**, introduced by Phillips, referred to Fish, Wildlife and Parks.

**HB 254**, introduced by Phillips, Hands referred to Natural Resources.

**HB 255**, introduced by Phillips, referred to Federal Relations, Energy, and Telecommunications.

**HB 256**, introduced by Hendrick, referred to Local Government.

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

**HJR 10**, introduced by Phillips, referred to Fish, Wildlife and Parks.

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

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**SB 10**, introduced by Perry, referred to Judiciary.

**SB 25**, introduced by Wanzenried, referred to Natural Resources.

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

Majority Leader Campbell moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Wiseman in the chair.

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

**HB 23** - Representative Himmelberger moved **HB 23** do pass. Motion **carried** as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 100

Nays: None.

Total 0

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 144** - Representative McAlpin moved **HB 144** do pass. Motion **carried** as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 100

Nays: None.

Total 0

Excused: None.

Total 0

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Absent or not voting: None.  
Total 0

Majority Leader Campbell moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Wiseman moved the Committee of the Whole report be adopted. Report adopted unanimously.

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.  
Total 99

Nays: Butcher.  
Total 1

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

**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:

**HB 101** passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.  
Total 99

Nays: Wagner.  
Total 1

Excused: None.  
Total 0

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Absent or not voting: None. Total 0

**HB 116** passed as follows:

Yeas: Ankney, Arntzen, Barrett, Bean, P. Beck, Becker, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Jones, Jopek, Kasten, Klock, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 79

Nays: Augare, Belcourt, Bennett, Brown, Butcher, Ingraham, Kerns, Kottel, Lake, Mendenhall, Miller, More, Randall, Reichner, Sales, Sonju, Vance, Vincent, Wagner, Warburton.

Total 20

Excused: None.

Total 0

Absent or not voting: B. Beck.

Total 1

**SPECIAL ORDERS OF THE DAY**

Mr. Speaker. I move that the following undersigned names be **ADDED** as sponsors to the following:

**HB 229** (MacLaren, Chief Sponsor) 01/14/09  
Senators Shockley, Williams and Representatives Hawk, Lake, Roberts, Sands

**HB 36** (Van Dyk, Chief Sponsor) 01/14/09  
Senator Brown

**ANNOUNCEMENTS**

Mr. Speaker announced that the House now has the ability to go paperless, please talk to the Sgt.-at-Arms if you would like to go paperless. He also reminded members of the House that **HB 37** is 1200+ pages long so it will not be handed out individually, it will be on display for review at the back of the room. With that said make sure that you are picking up your printing after you print. Also a pair of glasses was found in the committee secretaries room.

Rep. French announced a gathering at the Montana State Library this evening.

Rep. Stoker announced that at 6:30 tomorrow morning there will be bible study, and the Chaplin of the Senate will be giving a bible another bible study session in the Lt. Gov. Bohlinger's office.

Committee meetings were announced by the committee chairs.

Representative Campbell moved that the House adjourn until 1:00 p.m., Thursday, January 15, 2009. Motion carried.

House adjourned at 1:36 p.m.



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DAVE HUNTER  
Chief Clerk of the House

BOB BERGREN  
Speaker of the House