

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

Helena, Montana  
January 24, 2009

House Chambers  
State Capitol

House convened at 1:00 p.m. Mr. Speaker in the Chair. Invocation by Rep. Stoker. Pledge of Allegiance to the Flag. Roll Call. All members present. Except for Representatives Grinde, Howard, Nooney, and Wiseman who were excused. Quorum present.

**REPORTS OF STANDING COMMITTEES**

**APPROPRIATIONS** (Sesso, Chairman):  
**HB 13**, introduced bill, be amended as follows:

1/24/2009

1. Page 6, line 25.

**Following:** "~~2006~~."

**Insert:** "Base or biennial salary increases under this subsection are exclusive of and not in addition to any increases otherwise awarded to other state employees after July 1, 2006."

2. Page 7, line 10.

**Strike:** "2009"

**Insert:** "2008"

**Strike:** the first "2010"

**Insert:** "2009"

**Strike:** the second "2010"

**Insert:** "2009"

3. Page 7, line 11.

**Strike:** the first "2011"

**Insert:** "2010"

**Strike:** the second "2011"

**Insert:** "2010"

4. Page 10.

**Strike:** line 3 through line 16

**Insert:** "Fiscal Year 2010

General Fund	State Special	Federal Special	Proprietary
Legislative Branch			

\$41,022

Consumer Counsel

\$1,908

Judicial Branch

\$133,322	\$6,360	\$239	
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Executive Branch

\$1,629,967	\$1,284,249	\$782,932	\$35,373
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MUS

\$1,429,997	\$636	\$54,060	
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Total

\$3,234,308	\$1,293,153	\$837,231	\$35,373
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Fiscal Year 2011

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General Fund	State Special	Federal Special	Proprietary
Legislative Branch			
\$123,840			
Consumer Counsel			
\$5,760			
Judicial Branch			
\$408,240	\$19,200	\$720	
Executive Branch			
\$4,931,731	\$3,881,955	\$2,364,781	\$106,782
MUS			
\$2,885,088	\$1,284	\$109,140	
Total			
\$8,348,899	\$3,908,199	\$2,474,641	\$106,782"

5. Page 10.

**Strike:** line 19 through line 25

**Insert:** "

General Fund	State Special	Federal Special	Proprietary
Legislative Branch			
\$19,744			

Consumer Counsel

\$527

Judicial Branch

\$124,649      \$2,633      \$395

Executive Branch

\$1,838,668      \$1,344,238      \$765,219      \$37,480

MUS

\$1,082,390      \$527      \$28,958

Total

\$3,065,451      \$1,347,925      \$794,572      \$37,480"

**NATURAL RESOURCES** (Milburn, Chairman):

1/24/2009

**HB 21**, do pass. Report adopted.

**HB 40**, introduced bill, be amended as follows:

1. Title, page 1, line 9.

**Strike:** "PROVIDING FOR" through "INFORMAL HEARING;"

2. Page 4, line 22.

**Following:** "applicant"

**Strike:** "and"

**Insert:** ", "

**Following:** "(2)(d)"

**Insert:** ", and persons who may claim standing pursuant to 85-2-308"

3. Page 6, line 20 through line 22.

**Strike:** "hearing" on line 20 through "conditions" on line 22

**Insert:** "contested case hearing, pursuant to Title 2, chapter 4, part 6, on the objection within 90 days from the date set by the department for the filing of objections"

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4. Page 6, line 24 through line 25.

**Strike:** "The applicant" on line 24 through "criteria." on line 25

5. Page 6, line 26.

**Strike:** "The department shall allow for discovery."

**Insert:** "The department may extend the 90-day deadline for good cause shown or upon request of the applicant and all objectors."

6. Page 7, line 11.

**Following:** "(1)"

**Insert:** "(a)"

7. Page 7.

**Following:** line 22

**Insert:** "(b)(i) Upon request from the applicant, the department shall appoint a hearing examiner who did not participate in the preliminary determination.

(ii) The applicant may make only one request pursuant to this subsection (1)(b) for a different hearing examiner."

8. Page 8, line 2.

**Strike:** "may consider" through "conditions and"

**Insert:** "shall"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Himmelberger, Chairman):

1/24/2009

HB 59, introduced bill, be amended as follows:

1. Title, page 1, line 9.

**Following:** "CODE;"

**Insert:** "COMPLYING WITH THE FEDERAL HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008;"

2. Page 21.

**Following:** line 21

**Insert:** "NEW SECTION. Section 17. Compliance with federal act. With respect to a member's death occurring on or after January 1, 2007, while a member is performing qualified military service covered under the Heroes Earnings Assistance and Relief Tax Act of 2008, Public Law 110-245, and to the extent required by section 401(a)(37) of the Internal Revenue Code, 26 U.S.C. 401(a)(37), the designated beneficiaries are entitled to benefits that the system would have provided if the member had resumed employment and then died and that are contingent on the member's death while employed."

**Renumber:** subsequent sections

3. Page 22.

**Following:** line 15

**Insert:** "NEW SECTION. Section 21. Codification instruction. [Section 17] is intended to be codified as an integral part of Title 19, chapter 20, part 10, and the provisions of Title 19, chapter 20, part 10, apply to [section 17]."

**Renumber:** subsequent sections

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4. Page 22, line 24.

**Insert:** "(3) [Section 17] applies retroactively, within the meaning of 1-2-109, to teachers' retirement system member deaths on and after January 1, 2008."

And, as amended, do pass. Report adopted.

**HB 147**, introduced bill, be amended as follows:

1. Page 3, line 4.

**Following:** "expenditure"

**Insert:** "or incurring a debt obligation"

And, as amended, do pass. Report adopted.

**MESSAGES FROM THE SENATE**

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

1/24/2009

**SB 77**, introduced by Juneau

**SB 89**, introduced by M. Tropila

**SB 117**, introduced by Wanzenried

**SB 127**, introduced by Gillan

**SB 130**, introduced by Hamlett

**SB 156**, introduced by Cooney

**SB 160**, introduced by Jent

**Senate joint resolutions** passed and transmitted to the House for concurrence:

1/24/2009

**SJR 2**, introduced by Lewis

**SJR 6**, introduced by Hansen

**FIRST READING AND COMMITMENT OF BILLS**

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

**HB 359**, introduced by Pomnichowski, Larsen, referred to Natural Resources.

**HB 360**, introduced by Caferro, Augare, referred to Taxation.

**HB 361**, introduced by Wiseman, Hands, Brueggeman, Zinke, referred to Local Government.

**HB 362**, introduced by Henry, referred to Judiciary.

**HB 363**, introduced by Jones, Glaser, Black, Arntzen, Hollandsworth, Steenson, referred to State Administration.

**HB 364**, introduced by Villa, Phillips, Himmelberger, MacLaren, Dickenson, Cohenour, Hamilton, Sands, Hiner, Campbell, Kottel, Gebhardt, D. Brown, French, K. Peterson, Augare, Wilmer, De. Barrett, A. Noonan, Williams, McNutt, Milburn, referred to State Administration.

**HB 365**, introduced by Roberts, referred to Human Services.

**HB 366**, introduced by McGillvray, Howard, K. Peterson, Himmelberger, Becker, R. Brown, Balyeat, Essmann, Ankney, Morgan, Arntzen, Glaser, B. Beck, Smith, Kerns, Randall, referred to Fish, Wildlife and Parks.

**HB 367**, introduced by McGillvray, D. Brown, Caferro, Sands, Smith, Reichner, referred to Human Services.

**HB 368**, introduced by Fleming, Furey, Larsen, referred to Agriculture.

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

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**SB 77**, introduced by Juneau, referred to Human Services.  
**SB 89**, introduced by M. Tropila, referred to Business and Labor.  
**SB 117**, introduced by Wanzenried, referred to Appropriations.  
**SB 127**, introduced by Gillan, referred to Business and Labor.  
**SB 130**, introduced by Hamlett, referred to Agriculture.  
**SB 156**, introduced by Cooney, referred to State Administration.  
**SB 160**, introduced by Jent, referred to Judiciary.

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

**SJR 2**, introduced by Lewis, referred to Education.  
**SJR 6**, introduced by Hansen, referred to Business and Labor.

**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 93** passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Hamilton, Hands, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Jopek, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Van Dyk, Villa, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.  
Total 79

Nays: Bennett, Blasdel, Boniek, Glaser, Hawk, Howard, Jones, Kasten, Kerns, Lake, Mendenhall, Miller, More, Peterson, Randall, Regier, Sales, Taylor, Vance, Vincent.  
Total 20

Excused: Grinde.  
Total 1

Absent or not voting: None.  
Total 0

**HB 121** 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, 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 99

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Nays: None.  
Total 0

Excused: Grinde.  
Total 1

Absent or not voting: None.  
Total 0

**HB 188** passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boss Ribs, Brown, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Hamilton, Hands, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jopek, Kasten, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, McGillvray, Mehlhoff, Menahan, Milburn, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Randall, Reichner, Reinhart, Roundstone, Sands, Sesso, Smith, Stahl, Steenson, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.  
Total 71

Nays: Bean, Bennett, Blasdel, Boniek, Butcher, Glaser, Hawk, Himmelberger, Jones, Kerns, Lake, MacLaren, McNutt, Mendenhall, Miller, Peterson, Regier, Roberts, Sales, Sonju, Stoker, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.  
Total 28

Excused: Grinde.  
Total 1

Absent or not voting: None.  
Total 0

**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 B. Beck in the chair.

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

Rep. Milburn moved to pass consideration on HB 238 for the day. Motion carried.

**HB 90** - Representative Hawk moved **HB 90** 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,

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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 137** - Representative McNutt moved **HB 137** 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, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 99

Nays: Taylor.

Total 1

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 222** - Representative Cohenour moved **HB 222** do pass. Motion **carried** as follows:

Yeas: 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, 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, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Vincent, Wagner, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 94

Nays: Ankney, Butcher, Kerns, Randall, Vance, Warburton.

Total 6

Excused: None.

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Total 0

Absent or not voting: None.

Total 0

**HB 231** - Representative Glaser moved **HB 231** 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

Majority Leader Campbell moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman B. Beck moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, 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, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Mr. Speaker.

Total 92

Nays: Van Dyk.

Total 1

Excused: Grinde, Howard, Nooney, Wiseman.

Total 4

Absent or not voting: B. Beck, Butcher, Hoven.

Total 3



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**MOTIONS**

Rep. Campbell moved that **HB 325** be moved from the Committee on Business and Labor to the Health and Human Services Committee. Motion carried.

**SPECIAL ORDERS OF THE DAY**

Mr. Speaker, I move that the following undersigned names be **ADDED** as sponsors to **HJR 9** Motion carried.

**HJR 9** (Furey, Chief Sponsor)

Di. Barrett, Belcourt, Berry, Blasdel, Boland, D. Brown, Campbell, Gillan, Glaser, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hunter, Ingraham, Jones, Jopek, Kasten, Lake, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, Mendenhall, Miller, Morgan, A. Noonan, Roberts, Perry, K. Peterson, Sales, Sands, Sesso, Shockley, Vincent, Wagner, Warburton, Washburn, Wilson.

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Representative Campbell moved that the House adjourn until 1:00 p.m., Monday, January 26, 2009. Motion carried.

House adjourned at 8:35 a.m.

DAVE HUNTER  
Chief Clerk of the House

BOB BERGREN  
Speaker of the House