

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

Helena, Montana
February 20, 2009

House Chambers
State Capitol

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

Roll Call. All members present. Quorum present.

Mr. Speaker introduced and thanked the pages for the week.

REPORTS OF STANDING COMMITTEES

AGRICULTURE (Jopek, Chairman):

2/20/2009

HB 445, introduced bill, be amended as follows:

1. Page 2, line 30.

Strike: "crop residue"

Insert: "crops"

And, as amended, do pass. Report adopted.

HB 482, introduced bill, be amended as follows:

1. Title, line 7.

Following: "SAFEGUARD;"

Insert: "CREATING A LIVESTOCK INDEMNITY ACCOUNT;"

2. Page 1, line 16.

Following: "regulations;"

Insert: "and"

3. Page 1, line 17 through line 20.

Following: "labor costs," on line 17

Strike: remainder of line 17 through "operations" on line 20

Insert: "and feed costs"

4. Page 1, line 30.

Following: "funds"

Strike: "of the department"

Insert: "in the account created in [section 2]"

5. Page 2, line 1.

Insert: "NEW SECTION. Section 2. Livestock indemnity account -- use of account. (1) There is a livestock indemnity special revenue account administered by the department in the state special revenue fund established in 17-2-102.

(2) (a) All state proceeds allocated or budgeted for the purposes of this part must be deposited in the state special revenue account provided for in subsection (1).

(b) Money received by the department in the form of gifts, grants, reimbursements, or allocations from any

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source intended to be used for the purposes of this part must be deposited in the account provided for in subsection (1).

(3) The department may spend funds in the livestock indemnity account only to carry out the provisions of this part."

Renumber: subsequent sections

6. Page 2, line 2.

Strike: "[Section 1] is"

Insert: "[Sections 1 and 2] are"

7. Page 2, line 3.

Strike: "[section 1]"

Insert: "[sections 1 and 2]"

And, as amended, do pass. Report adopted.

HB 592, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "SYSTEM;"

Insert: "ESTABLISHING A VOLUNTARY SOURCE VERIFICATION PROGRAM;"

2. Page 1, line 11.

Following: "system" on line 11

Insert: "-- voluntary source verification program"

3. Page 1.

Following: line 22

Insert: "(2) (a) The department may establish a voluntary source verification program.

(b) A person may withdraw from a voluntary source verification program at any time, and the person's personal information must be deleted from the program's database.

(c) Only the state veterinarian appointed pursuant to 81-1-301 and the veterinarian's staff may access information stored in the voluntary source verification program.

(d) The department shall register a person's livestock in the voluntary source verification program after the person applies for the program by submitting a signed application form as prescribed by the department. An application form must include the following information:

(i) a conspicuous notice that the program is voluntary;

(ii) a disclosure of the types of information collected under the program;

(iii) notice of the persons to whom the information collected under the program may be disclosed; and

(iv) notice that the person enrolling an animal, livestock, or premises in the program may withdraw from the program at any time and that personal information must be deleted from the program's database."

Renumber: subsequent subsections

4. Page 1, line 23.

Strike: "As"

Insert: "Subject to subsection (5), as"

Strike: "subsection"

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Insert: "subsections"

Following: "(1)"

Insert: "and (2)"

5. Page 2, line 12.

Insert: "(5) Nothing in this section prohibits voluntary participation in any source verification program."

And, as amended, do pass. Report adopted.

BUSINESS AND LABOR (Wilson, Chairman):

2/20/2009

HB 451, introduced bill, be amended as follows:

1. Page 1, line 12 through line 13.

Following: "residence" on line 12

Strike: "or" on line 12 through "more" on line 13

And, as amended, do pass. Report adopted.

FISH, WILDLIFE AND PARKS (Van Dyk, Chairman):

2/20/2009

HB 218, introduced bill, be amended as follows:

1. Title, line 6.

Following: "87-3-101"

Strike: ", 87-3-114, 87-3-115, 87-3-501,"

Insert: "AND"

2. Title, line 7.

Following: "87-3-506,"

Strike: "AND 87-4-301,"

3. Page 5, line 7 through page 6, line 4.

Strike: section 3 through section 5 in their entirety

Renumber: subsequent sections

4. Page 6, line 16.

Insert: "(4) As used in this section, "pelt" means the pelt, skin, or fur of a fur-bearing animal."

5. Page 6, line 17 through line 28.

Strike: section 7 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

HB 499, do pass. Report adopted.

HB 585, introduced bill, be amended as follows:

1. Page 2, line 15.

Following: "older"

Insert: "and possesses a current resident hunting license"

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And, as amended, do pass. Report adopted.

JUDICIARY (Stoker, Chairman):

2/20/2009

HB 504, do pass. Report adopted.

HB 517, introduced bill, be amended as follows:

1. Title, line 8.

Strike: "PROVIDING" through "MEMBERS;"

2. Page 1, line 16.

Strike: "6"

Insert: "5"

3. Page 1, line 23.

Strike: "6"

Insert: "5"

4. Page 1, line 30.

Strike: "6"

Insert: "5"

5. Page 3, line 11.

Strike: the second "or"

6. Page 3, line 12.

Following: "deceased"

Insert: "; or

(f) to the facts concerning a person injured in a critical incident and the services and care provided to or withheld from that person by an emergency service provider"

7. Page 3, line 14 through line 19.

Strike: section 6 in its entirety

Renumber: subsequent sections

8. Page 3, line 21.

Strike: "6"

Insert: "5"

9. Page 3, line 22.

Strike: "6"

Insert: "5"

10. Page 3, line 24 through line 26.

Strike: section 8 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

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HB 534, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 13.

Strike: "law enforcement"

Insert: "peace"

3. Page 1, line 18.

Strike: "and"

4. Page 1, line 19.

Following: "process"

Insert: "; and"

(6) have been encouraged by the Montana supreme court in a written opinion of that court"

5. Page 1, line 21.

Strike: "7"

Insert: "6"

6. Page 1, lines 23 through 26.

Following: "means" on line 23

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

Insert: "an interview conducted by a peace officer in a place of detention for the purpose of investigating a felony if the interview is reasonably likely to elicit a response from the person being interviewed that may incriminate the person being interviewed with regard to the commission of an offense"

7. Page 1, line 30.

Strike: "or other place where persons are questioned"

Insert: "office, or other structure in this state where persons are held"

8. Page 2, line 4 through line 6.

Following: "required."

Strike: remainder of line 4 through "recorded." on line 6

Insert: "Except as provided in [section 4], all custodial interrogations must be electronically recorded. The recording must contain a peace officer advising the person being interviewed of the person's Miranda rights, a recording of the interview, and a conclusion of the interview."

9. Page 2, line 8 through page 3, line 1.

Strike: sections 4 and 5 in their entirety

Renumber: subsequent sections

10. Page 3, line 3.

Following: "Exceptions"

Insert: "to recording requirement"

11. Page 3, lines 3 through 9.

Following: "the third "."

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Strike: the remainder of line 3 through "jurisdiction." on line 9

Insert: "A statement made during a custodial interrogation that was not recorded as required in [section 3] is admissible if the court finds that:

- (1) the statement was made during routine processing or booking of the person or during routine border inquiries;
- (2) the statement was made by the accused in open court during trial, before a grand jury, or at a preliminary hearing;
- (3) the statement was a spontaneous statement that was not made in response to a question;
- (4) the statement was made during a custodial interrogation that was conducted in another state by peace officers of that state in compliance with the laws of that state;
- (5) after having consulted with the person's lawyer or after the person has waived the person's right to have an attorney present during the custodial interrogation, the person agreed to participate in the custodial interrogation without an electronic recording being made and, if feasible, the person's agreement was electronically recorded before the custodial interrogation began; or
- (6) the peace officer in good faith failed to make an electronic recording of the custodial interrogation because the officer inadvertently failed to operate the recording equipment properly or, without the officer's knowledge, the recording equipment malfunctioned or stopped operating."

12. Page 3.

Following: line 9

Insert: "Insert: **NEW SECTION. Section 5. Cautionary jury instruction.** If the prosecution offers into evidence a statement made during a custodial interrogation that was not recorded in violation of [section 3] and the court finds that the prosecution has failed to establish by a preponderance of the evidence that one of the exceptions in [section 4] applies, the judge shall, upon request of the defendant, provide the jury with a cautionary instruction noting the requirements of [section 3] and the reliability of the statement sought to be introduced compared to a statement that is electronically recorded in compliance with [section 3]."

Renumber: subsequent sections

13. Page 3, line 23.

Strike: "7"

Insert: "6"

14. Page 3, line 24.

Strike: "7"

Insert: "6"

15. Page 3, line 26.

Strike: section 9 in its entirety

And, as amended, do pass. Report adopted.

HB 574, introduced bill, be amended as follows:

1. Page 1, line 13.

Strike: "knowingly or purposely"

Following: "offense"

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Insert: ", with the intent or state of mind required by law for that offense,"

2. Page 1, line 17.

Strike: "knowingly or purposely"

Following: "offense"

Insert: ", with the intent or state of mind required by law for that offense,"

And, as amended, do pass. Report adopted.

HB 628, do pass. Report adopted.

STATE ADMINISTRATION (Himmelberger, Chairman):

2/20/2009

HB 289, introduced bill, be amended as follows:

1. Page 1, line 24.

Following: "adjourn"

Insert: "sine die"

And, as amended, do pass. Report adopted.

HB 602, introduced bill, be amended as follows:

1. Page 1, line 14.

Following: "(2)"

Insert: "(a)"

2. Page 1, line 15.

Following: "exception"

Insert: ", such as:

(i) when an employee is required to be on call for quick response to an emergency that threatens life or property and on-call duty is a specifically identified duty in the employee's position description;

(ii) when the vehicle is, in effect, the employee's worksite;

(iii) when an employee must drive to an alternate worksite and commuting from the employee's home to pick up a state-owned vehicle is not practical; or

(iv) when 24-hour use of a state-owned vehicle is specifically authorized by law for an elected or appointed state official and use of the vehicle is considered part of the official's compensation package"

3. Page 1, line 15.

Following: "."

Insert: "(b)"

And, as amended, do pass. Report adopted.

HB 613, be adopted. Report adopted.

HB 622, introduced bill, be amended as follows:

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1. Title, page 1, line 6.

Strike: "OTHER THAN EXCESS CAMPAIGN CONTRIBUTIONS"

2. Page 2, line 6.

Strike: ", as provided for in 13-37-402,"

3. Page 2, line 7.

Strike: ", other than excess campaign contributions,"

4. Page 2, line 9.

Following: "the"

Insert: "disposition of the"

Strike: "contributed"

Insert: "donated"

And, as amended, do pass. Report adopted.

HJR 27, be adopted. Report adopted.

MESSAGES FROM THE SENATE

Senate bills passed and transmitted to the House for concurrence:

2/20/2009

SB 368, introduced by Erickson

SB 371, introduced by Perry

FIRST READING AND COMMITMENT OF BILLS

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

HB 634, introduced by McAlpin, McChesney, Van Dyk, Villa, Sands, Augare, Wiseman, Malek, Steenson, P. Noonan, Furey, Pomnichowski, Caferro, McClafferty, MacDonald, Fleming, Campbell, Ebinger, Reinhart, referred to Human Services.

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

HJR 25, introduced by Warburton, O'Hara, French, referred to Human Services.

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

SB 368, introduced by Erickson, McAlpin, Wanzenried, referred to Judiciary.

SB 371, introduced by Perry, referred to Business and Labor.

ANNOUNCEMENTS

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Rep. Becker announced that the hearing for HJR 25 will happen in the Health and Human Services Committee this afternoon at 3:00 p.m.

**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 Augare in the chair.

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

HB 12 - Representative Wilmer moved **HB 12** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, 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, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Stahl, Steenson, Taylor, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 91

Nays: B. Beck, Boniek, Butcher, More, Reichner, Sales, Sonju, Stoker, Vance.

Total 9

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 85 - Representative Sands moved **HB 85** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hunter, Jones, Jopek, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, A. Noonan, P. Noonan, Nooney, O'Hara, Phillips, Pomnichowski, Reinhart, Roundstone, Sands, Sesso, Sonju, Stahl, Steenson, Stoker, Vance, Van Dyk, Villa, Vincent, Warburton, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 69

Nays: B. Beck, Bennett, Blasdel, Boniek, Brown, Butcher, Hawk, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Ingraham, Kasten, Kerns, Lake, McGillvray, McNutt, More, Morgan, Peterson, Randall, Regier, Reichner, Roberts, Sales, Smith, Taylor, Wagner, Washburn.

Total 30

Excused: None.

Total 0

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Absent or not voting: Pease-Lopez.
Total 1

HB 103 - Representative Wilson moved **HB 103** 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, 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

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Mendenhall.
Total 1

HB 386 - Representative O'Hara moved **HB 386** 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, 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, 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 98

Nays: Hawk, More.
Total 2

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 427 - Representative Boniek moved **HB 427** do pass. Motion **failed** as follows:

Yeas: Arntzen, Bean, B. Beck, Bennett, Berry, Blasdel, Boniek, Brown, Butcher, Glaser, Hawk, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Jones, Kasten, Kerns, Lake, MacLaren, McGillvray, McNutt,

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Mendenhall, Miller, More, Morgan, Nooney, Peterson, Randall, Regier, Reichner, Sales, Smith, Sonju, Stahl, Stoker, Taylor, Vance, Vincent, Wagner, Warburton.

Total 42

Nays: Ankney, Augare, Barrett, P. Beck, Becker, Belcourt, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Grinde, Hamilton, Hands, Henry, Himmelberger, Hiner, Hollenbaugh, Hunter, Jopek, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, Milburn, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Reinhart, Roberts, Roundstone, Sands, Sesso, Steenson, Van Dyk, Villa, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 58

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 Augare moved the Committee of the Whole report be adopted. Report adopted as follows:

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

Total 76

Nays: Bennett, Blasdel, Boniek, Butcher, Hawk, Kasten, Kerns, McGillvray, Mendenhall, Miller, More, Randall, Sales, Smith, Stahl, Vance, Wagner, Warburton.

Total 18

Excused: None.

Total 0

Absent or not voting: Becker, Grinde, Hamilton, Himmelberger, Regier, Vincent.

Total 6

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 34 passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger,

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Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, 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, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 92

Nays: Boniek, Howard, Mendenhall, Miller, More, Randall, Vance, Welborn.

Total 8

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 171 passed as follows:

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

Total 82

Nays: Barrett, Blewett, Caferro, Campbell, Dickenson, Getz, Grinde, Hamilton, Hands, Henry, Jopek, MacDonald, Pease-Lopez, Pomnichowski, Reinhart, Wilmer, Wiseman.

Total 17

Excused: None.

Total 0

Absent or not voting: Roundstone.

Total 1

HB 204 passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, 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, 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, Randall, 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.

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Total 96

Nays: Berry, Kerns, Regier.
Total 3

Excused: None.
Total 0

Absent or not voting: Hoven.
Total 1

HB 357 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, 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 477 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, 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

HB 495 passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Bennett, Blewett, Boland, Boniek, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Himmelberger, Hiner, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, Miller, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Stahl, Steenson, Taylor, Van Dyk, Villa, Wagner, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 81

Nays: Bean, Berry, Blasdel, Brown, Butcher, Hawk, Hendrick, Hollandsworth, Lake, Mendenhall, More, Randall, Regier, Sonju, Stoker, Vance, Vincent, Warburton, Washburn.
Total 19

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 533 passed as follows:

Yeas: Ankney, Arntzen, Barrett, Bean, B. Beck, Becker, Bennett, Berry, Blasdel, Boland, Boniek, Brown, Butcher, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hawk, Hendrick, Himmelberger, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Jones, Kasten, Kerns, Klock, Lake, MacDonald, MacLaren, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Peterson, Phillips, Randall, Regier, Reichner, Reinhart, Roberts, Sales, Sands, Sesso, Smith, Stahl, Stoker, Taylor, Vance, Van Dyk, Vincent, Washburn, Welborn, Wilson, Mr. Speaker.
Total 76

Nays: Augare, P. Beck, Belcourt, Blewett, Boss Ribs, Caferro, Campbell, Hands, Henry, Hiner, Ingraham, Jopek, Kottel, Malek, Pease-Lopez, Pomnichowski, Roundstone, Sonju, Steenson, Villa, Wagner, Warburton, Wilmer, Wiseman.
Total 24

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HJR 15 adopted as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blewett, Boland, Boniek, Boss Ribs, Brown, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Hiner, Hollenbaugh, Hoven, Howard, Hunter,

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Ingraham, Jones, Jopek, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, More, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Stahl, Steenson, Taylor, Vance, Van Dyk, Villa, Vincent, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 80

Nays: Bean, Blasdel, Butcher, Hawk, Himmelberger, Hollandsworth, Kasten, Kerns, Lake, Miller, Morgan, Peterson, Randall, Regier, Sales, Smith, Sonju, Stoker, Wagner, Warburton.
Total 20

Excused: None.
Total 0

Absent or not voting: None.
Total 0

MOTIONS

Representative Campbell moved that after the joint session, the House adjourn until 8:00 p.m., Saturday, February 21, 2009. Motion carried.

Rep. Campbell moved that the House stand at ease and wait for the Senate in order to resolve itself into a joint session.

ANNOUNCEMENTS

Rep. Phillips announced that the House Democrats will caucus at 7:30 tomorrow morning.

Committee meetings were announced by the committee chairs.

Sgt.-at-Arms Tensely notified Mr. Speaker that the Honorable Senate of the State of Montana awaits outside the Chamber. Speaker Bergren requested Sergeant-at-Arms Tensely to admit the Honorable Senate to the House Chambers.

Speaker Bergren introduced Senate President Story and yielded the chair to him.

Senate Majority Leader Peterson moved that the body resolve itself into a joint session for the purpose of receiving the address from the Secretary of Public Instruction, the Honorable Denise Juneau. Motion carried.

Sgt.-at-Arms Clark announced that Honorable guests await entrance to the chambers. President Story requested Sgt.-at-Arms Clark admit the Honored guests.

Senate Majority Leader Peterson moved the President be authorized to appoint a committee of four to notify U.S. Denise Juneau that we are in joint session and ready to receive his address. Motion carried.

The President appointed Senator Kaufmann, Senator Black, Representative Boss Ribs, and Representative Reichner and discharged the committee to escort The Honorable Denise Juneau into the House Chambers.

Sgt.-at-Arms Clark announced that the Honorable Denise Juneau awaits outside the Chamber. President Story requested Sergeant-at-Arms Clark to admit the Secretary of Public Instruction Denise Juneau to the House

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Chambers.

The Committee escorted Denise Juneau into the chambers.

President Story introduced the Secretary of Public Instruction Denise Juneau.

The Honorable Denise Juneau addressed the 61st joint legislative session and gave the following remarks.

**2009 State of Education Address
Superintendent of Public Instruction Denise Juneau
February 20, 2009**

Good afternoon.

Thank you, President Story, Speaker Bergren, Representatives, Senators, and honored guests, for this opportunity to give the State of Education Address while educators from all across Montana could be present. It is their work we honor today. There is no more important attribute of a quality education than good teachers and I am committed to ensure that we work to keep them in Montana's classrooms. I respect the teachers and staff who pour their lifeblood into educating those who will someday lead our state. To support education – is to support quality teachers.

In addition to all of the educators in the balcony, we have several Board of Public Education members joining us today. I would like to thank Patti Myers, Angela McLean, Cal Gilbert, and Storrs Bishop for their dedication and service to Montana's schools.

A number of legislators – 44 of your peers – also serve the education system as teachers, professors, and school board members. Thank you for your service.

My parents instilled in me a belief in the power of education and the promises it holds for each person. They taught me and my brother that once we become educated, doors open, opportunities abound, and dreams become reality. I would like to acknowledge my parents – Stan and Carol Juneau.

I have carried these lessons with me in all my endeavors and they are still with me today – as State Superintendent of Public Instruction. Our mission and our work at the Office of Public Instruction is to create educational opportunity for all of Montana's students. Every staff member at OPI believes in the brilliance, creativity, and talents of each student in Montana's schools. They work diligently to make sure we offer the highest quality services to schools. Their work reflects their belief that education is truly the only way we will accomplish our state's hopes and dreams.

All of us in this room respect the work the Legislature does on our behalf. To manage a state's budget and determine priorities for all of Montana's citizens is a very difficult task, made even more demanding given the current economic straits of our country. I encourage you to make decisions that are forward thinking, because the decisions you make next week and in the following 45 days are vitally important to the next generation – your children, grandchildren, and great-grandchildren.

Our public education system is also responsible to these future generations. We work to ensure every student receives a quality public education no matter their background, their heritage, their economic status, or geographic location.

The top priority of my administration is to increase the academic achievement of **every** student. Article X of Montana's Constitution opens with: "It is the goal of the people to establish a system of education which will

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develop the full educational potential of each person.” This vision for our education system was created by everyday Montanans nearly four decades ago when they gathered in this chamber to rewrite our state constitution. While our students must still learn to read, write, and do arithmetic, they do so in a world that is very different from when those words were written.

Our students today are members of a global society in a way very few of us ever envisioned. They live in a world of iPods, YouTube videos about every topic imaginable, they are connected globally through social networking sites like MySpace, Facebook, and Twitter, their primary mode of conversation is text messaging - and they hold all of that power in the palm of their hands - literally.

Our schools today are preparing students for jobs that don't yet exist. We need to make sure our schools are equipped to serve students as they move toward a future we can only imagine. Rep. Grinde is carrying HB 459 that would create a virtual high school. This is one step we can take so students in both urban and rural Montana have access to the types of classes that will make them globally competitive.

While our world is changing, some of our expectations have not changed to meet these transformations. Rep. Malek is carrying HB433 that expands the compulsory school attendance ages from 7 and 16 to 6 and 17. HB433 is important because in today's global economy, employers require at least a high school diploma – and often additional education and training. Requiring young people to stay in school only until they're 16 may have made sense 50 years ago when jobs did not require specialized skills for entry level and advanced jobs.

Our policies must reflect our expectation that our students will graduate from high school to be economically successful. To make sure our students succeed in high school – and beyond - we have to engage in unprecedented collaborations. Sen. Hawks and Rep. Lake both recognize the need for partnerships and are promoting resolutions calling for the Legislature, K-12, and postsecondary education to work together, to establish common goals, and to make decisions based on data. I look forward to this partnership and the great things we will do for our education system when we all come together to make the best decisions we can for Montana's students. We are all at our best when we are all accountable for our actions and decisions. Our students deserve no less.

In fact, Commissioner Stearns and I and our top leadership teams have been meeting to discuss dual enrollment, distance education, and to strategize ways to reduce the high remediation rates that students graduating from our high schools are confronting. We discuss ways to make sure the highway that connects our systems includes frequent on-ramps so students can get re-engaged in the system if they need to pull into a rest stop.

In this spirit, I will appoint a Community Learning and Partnerships Policy Advisor to bring stakeholders to the table to reach consensus about our goals for P-20 education. We will work with school boards, private business, industry, communities, and parents to chart a new course for our public education system to meet the needs of every student in each community across Montana.

Part of this new course includes changes for high school systems. I have appointed a policy advisor to work on a high school initiative to help update our high school model so students graduate with real-life skills necessary for 2-year colleges, 4-year universities, or the work force. Our mission in K-12 is to provide students with as many choices as possible at grade 13.

I recently saw a great example of high school reform. In Billings, they have a technical high school called the Career Center, which draws over 800 students from its three area high schools who can choose classes in different career pathways such as hospitality and tourism or education and training. In the architecture and construction pathway, students design and build a house every year, right down to painting and designing the interior. This year, the Career Center's house sold for \$250,000. Those students are staying in school, learning relevant skills from outstanding teachers, while gaining credits toward graduation. The Office of Public Instruction will promote the many incredible programs Montana schools are implementing to provide real-life opportunities for students.

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We must also pay attention to the early childhood end of the spectrum. I recently supported Rep. McClafferty's HB369 to provide minimal funding for the 20 Head Start programs that provide education, health, and nutrition services to the nearly 5000 low-income children across MT. I started my education career at a Head Start on the southside of Billings while my parents attended then-Eastern Montana College to become teachers. Head Start gave me a good start to my education career – I went on to graduate from Browning High School, Montana State University, the Harvard Graduate School of Education, and the University of Montana Law School. The Office of Public Instruction supports HB369 because we know when children participate in quality early childhood programs – like Head Start – they are more likely to stay and succeed in school because they are ready for Kindergarten and the stages that follow.

Speaking of Kindergarten, schools have responded enthusiastically to the Legislature's law to establish Full Time Kindergarten. 93% of our Kindergarten students are now enrolled in FTK programs, with more schools coming on board next year.

We will be able to use the data system the Legislature funded to track these Kindergarten students to determine the program's success. We are entering into an important phase of education where we use data to examine how well all of our students are learning. The federal No Child Left Behind Act has spotlighted accountability of schools through the use of data. I call on you to be our partner in these data-driven decisions by supporting our statewide data system, called Achievement in Montana, or AIM. This data system tracks a wide variety of student information including enrollment and demographic information, scores on statewide assessments, student dropout information, eligibility for state and federal education programs, and special education planning and reporting. This system allows stakeholders at all levels of education to make informed decisions based on accurate and timely information.

Our constitution states: "Equality of educational opportunity is guaranteed to each person of the state." When we analyze the data from multiple angles, we know the majority of our students are doing very well academically. However, the guarantee is not being met for every student. Achievement gaps do exist, primarily between our poor and non-poor students. We can do better. The Legislature recognizes these disparities in achievement and makes appropriations to support schools in their efforts to close the American Indian student achievement gap and provide services for at-risk students. These bold steps by the Legislature help all Montanans.

We lost one of our respected tribal leaders this week and my thoughts are with the Crow Nation as they mourn the loss of Chairman Carl Venne. He believed in the power of public education and what it can do for all children. He was a great advocate, in particular, for the education of American Indian students in Montana. He knew that every American Indian child who went on to become a doctor, teacher, attorney, or scientist, was one more person who would help their communities become successful and economically viable. We all need to work toward that same vision of opportunity and community improvement.

The 2005 and 2007 Legislature initiated funding that allows OPI to provide necessary support to schools in the areas of curriculum and instruction and Indian Education For All.

The OPI curriculum specialists have traveled to the four corners of Montana to provide professional development around quality classroom teaching. They are a highly regarded addition to the services we provide to schools and teachers. They are helping us conduct on-site accreditation school visits, provide valuable materials and resources to classroom teachers, and make our agency more focused on quality instruction.

Our constitution also provides that "the state recognizes the distinct and unique cultural heritage of the American Indian and is committed in its educational goals to the preservation of their cultural integrity." This provision became known as Indian Education For All, and after the Legislature provided funding for its implementation, it has become a widely respected program that is being duplicated in many other states. Many teachers wondered

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how it was possible to integrate content about American Indians into their classroom lessons. Since 2005, our office, working with teachers and tribal educators, has created over 220 classroom units and lessons spanning nearly every curriculum area. Now, we have physics students measuring the elastic potential energy storage of hunting bows. Math students are learning how to use experimental and theoretical probabilities to make predictions by playing a variety of tribal guessing games.

A final priority for discussion today is, of course, funding to ensure a quality education for each student. Public education is the ONLY system our state constitution has specifically outlined as the Legislative body having a duty to fund. The constitution states "The legislature shall provide a basic system of free quality public elementary and secondary schools. . . . It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system." The 2005 Legislature defined a basic system of quality public schools. Now we need to move toward adequate funding of that system.

In the near future, I will appoint a School Funding Policy Analyst to develop a long-term strategy for school funding so we can work with new and future legislators. This analyst will look at our history of funding schools, our economic structure, our tax structure, and develop a long term plan so we can do better for our students and our schools. We must develop a solution that will outlast our individual political lives and agendas.

I ask you to please fund public schools this session at a level that will ensure every student is provided a quality education in every one of our schools. There are several good bills proposed this session. Sen. Branae carried SBs 69 and 70 on behalf of the Office of Public Instruction, which increases funding for the quality educator component and increases the per ANB and the entitlement component by 3%. Rep. Villa is carrying HB15 that provides for the Governor's school funding request, which should be the minimum amount you provide to schools this session. We must also take time to review the components of the new federal Jobs Package President Obama signed this week. Federal guidance will soon emerge and we will all know how it may, or may not, fit into the state's budget. OPI's goal is to provide accurate and credible information to the Legislature and local schools. Although this federal money is OTO, we will work with you so the money is used to improve opportunities and outcomes for our students.

At the end of the day, we are all responsible for the education of Montana's children. And, we all benefit from each child's educational success. Funding public education is a state responsibility. Economic crisis or not – the legislature has a constitutional responsibility to ensure a quality public education for each child.

As you continue your work here in this 61st Legislature, please remember the critical importance of K-12 education to our economic future and the lives of all of Montana's children. Every child deserves a chance to succeed and a quality education is a part of that foundation for success. We have an obligation to keep the good of our children – all of our children – in our hearts during our deliberations.

Thank you all. I look forward to a great next 4 years.

President Story thanked Denise Juneau and directed the select committee to escort the Secretary of Public Instruction from the joint session.

Senate Majority Leader Peterson moved that the joint session of the 61st Legislature, convened to receive the address from the Secretary of Public Instruction Denise Juneau, be adjourned. Motion carried.

Joint session adjourned at 2:38 p.m.

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The Senate exited the chambers.

House adjourned at 2:38 p.m.

DAVE HUNTER
Chief Clerk of the House

BOB BERGREN
Speaker of the House