

**HOUSE JOURNAL
61ST LEGISLATURE
EIGHTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
April 22, 2009

House Chambers
State Capitol

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

Roll Call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Stoker, Chairman):

4/22/2009

HR 3, introduced resolution, be amended as follows:

1. Page 2, line 6.

Strike: the first "its"

Insert: "it"

2. Page 2, line 7.

Strike: "are void and of no force"

3. Page 2, line 12 through line 17.

Strike: subsections (4) through (6) in their entirety.

Renumber: subsequent subsections

4. Page 3, line 19 and line 20.

Strike: "legislature of that"

5. Page 3, line 21.

Strike: "legislature of that"

6. Page 3, line 29.

Strike: "or Judicial Order of the United States"

Following: ", "

Insert: "or if any treaty is entered into by the federal government that nullifies the rights of the

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people of Montana as expressed in the United States or Montana Constitutions,"

And, as amended, be adopted. Report adopted.

SJR 39, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 3**
Report No. 1, April 21, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 3** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 3** (reference copy -- salmon) be amended as follows:

1. Page 1, line 23.

Strike: "\$1,697,344"

Insert: "\$2,375,784"

2. Page 2, line 8.

Following: "(2)"

Insert: "For expenditures from the Brucellosis appropriation for public information and education, the department of livestock shall contract with the extension service in the Montana university system for education and communication program services."

For the House:

Ripley, Chairman
Peterson
Windy Boy

For the Senate:

Hollenbaugh, Chairman
Ankney
Jones
Mehlhoff

MESSAGES FROM THE GOVERNOR

April 21, 2009

The Honorable Robert Story, Jr.
President of the Senate

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State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

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 Senate Bill 465, **“AN ACT REVISING AND CLARIFYING THE LAWS RELATED TO THE TREATMENT OF PROPERTY CONSISTING OF THE BED OF NAVIGABLE RIVERS AND STREAMS; PROVIDING FOR A REDUCTION FROM GRAZING LAND BEFORE A REDUCTION FROM CURRENT LAND USE FOR PROPERTY TAX PURPOSES; PROVIDING THAT IN A DISPUTE OVER THE OWNERSHIP OF THE BED OF A RIVER OR STREAM A PRESUMPTION MAY NOT BE MADE BASED UPON THE TAX STATUS OF THE PROPERTY; CLARIFYING THE OWNERSHIP OF STRUCTURES; CLARIFYING THE ABILITY TO CONTROL NOXIOUS WEEDS; AMENDING SECTIONS 61-8-371, 77-1-111, 77-1-126, 77-1-127, 77-1-806, 77-1-809, 77-3-442, 77-6-113, 77-6-115, 77-6-302, 77-6-303, AND 77-6-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.”**

Senate Bill 465, sponsored by Senator Hamlett, concerns the subject of navigable streambeds in areas including but not limited to taxation, irrigation structures, weed control, and others. Concerning the subject of taxation, in 2008, with new technology available and in consultation with the Revenue and Transportation Interim Committee, the Department of Revenue for the first time excluded from property taxation land underlying rivers or streams that the Department of Natural Resources and Conservation (“DNRC”) considered to be owned by the State of Montana based on the type of evidence used by courts in determining navigability of rivers and streams for purposes of title.

An unexpected consequence was that certain property owners believed the Department of Revenue was acting to assert ownership of land never previously adjudicated as having been in state ownership. Among other things, Senate Bill 465 prohibits the Department of Revenue from treating land underlying streams and rivers as in state ownership unless the land has been adjudicated as owned by the state or the state is the owner of record of the property.

As passed, Senate Bill 465 includes a retroactive applicability clause, the effect of which would be to require reassessment of *all* stream beds exempted in 2008, except those stream beds previously adjudicated as navigable. Instead of requiring reassessment of *all* stream beds, my amendment

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would require retroactive reassessment only if the landowner made that choice. Under my amendment, the Department of Revenue will be required to notify landowners of their right to request a reassessment for 2008, and for those who so request, allow those landowners to pay taxes on the beds of the rivers and streams neither adjudicated or surveyed as navigable.

I have also included an additional minor amendment to the "whereas" provisions of the bill, to recognize that the DNRC has regulatory authority not only over the beds of rivers and streams adjudicated as navigable, but also over those stream beds determined navigable through federal surveys of the meander lines.

I have discussed these amendments with the sponsor of the bill, Senator Hamlett, who has indicated his support.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

GOVERNOR'S AMENDMENTS
SENATE BILL 465

1. Title, line 12 through line 13.

Following: "DATE" on line 12

Strike: remainder of line 12 through "DATE" on line 13

2. Page 1, line 25.

Following: "NAVIGABLE"

Insert: "or was not determined navigable at the time of the original federal government surveys of the public land as evidenced by the recorded and monumented surveys of the meander lines of the river"

3. Page 3, line 25.

Following: line 24

Insert: "(3) The department shall notify landowners of their right to request and shall provide upon request a revised assessment for tax year 2008 for the bed of any stream:
(a) not adjudicated to be navigable by a court of competent jurisdiction; or
(b) not determined navigable at the time of the original federal government surveys of the public land as evidenced by the recorded and monumented surveys of the meander lines of the river."

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4. Page 12, line 8 through line 9.

Strike: section 19 in its entirety

- END -

**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 Becker in the chair.

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

HB 331 - Conference Committee Report No. 1 - Representative Morgan moved the Conference Committee report to **HB 331** be adopted. Motion carried 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, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, Miller, Morgan, A. Noonan, P. Noonan, Nooney, Pease-Lopez, Peterson, Phillips, Pomnichowski, 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 92

Nays: Boniek, Himmelberger, Kerns, More, Randall.

Total 5

Excused: None.

Total 0

Absent or not voting: Hiner, Mendenhall, O'Hara.

Total 3

SB 235 - Governor's Amendments - Representative Hunter moved the Conference Committee report to **SB 235** be adopted. Motion carried as follows:

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Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, 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, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, 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, Sonju, Steenson, Stoker, Taylor, Van Dyk, Villa, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 82

Nays: Bean, Boniek, Butcher, Hawk, Hendrick, Himmelberger, Kerns, Lake, McGillvray, Mendenhall, More, Randall, Regier, Stahl, Vance, Vincent, Wagner, Warburton.

Total 18

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 290 - Governor's Amendments - Representative Regier moved Governor's amendments to **SB 290** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, 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, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Klock, Kottel, 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, 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 92

Nays: Boniek, Butcher, Hawk, Kasten, Kerns, Lake, Nooney, Randall.

Total 8

Excused: None.

Total 0

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Absent or not voting: None.

Total 0

SB 360 - Governor's Amendments - Representative Menahan moved Governor's amendments to **SB 360** be concurred in. Motion carried as follows:

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

Total 61

Nays: Arntzen, Bean, B. Beck, Bennett, Berry, Blasdel, Boniek, Brown, Butcher, Hawk, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Ingraham, Kasten, Kerns, Klock, Lake, MacLaren, McNutt, Mendenhall, Miller, More, Morgan, Nooney, Peterson, Randall, Regier, Reichner, Smith, Sonju, Stahl, Stoker, Vance, Vincent, Wagner, Warburton.

Total 39

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 371 - Governor's Amendments - Representative Hunter moved Governor's amendments to **SB 371** be concurred in. Motion carried as follows:

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

Total 82

Nays: Bean, Bennett, Berry, Butcher, Hawk, Hendrick, Kasten, Kerns, Lake, Mendenhall,

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Milburn, More, Randall, Regier, Sales, Vance, Vincent, Wagner.
Total 18

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 446 - Governor's Amendments - Representative Sands moved Governor's amendments to **SB 446** be concurred in. Motion carried as follows:

Yeas: Augare, Barrett, P. Beck, Becker, Belcourt, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hunter, Jopek, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, Milburn, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Phillips, Pommichowski, Reinhart, Roberts, Roundstone, Sands, Sesso, Steenson, Stoker, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 54

Nays: Ankney, Arntzen, Bean, B. Beck, Bennett, Berry, Blasdel, Boniek, Brown, Butcher, Glaser, Hawk, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Ingraham, Jones, Kasten, Kerns, Klock, Lake, MacLaren, McGillvray, McNutt, Mendenhall, Miller, More, Morgan, Nooney, Peterson, Randall, Regier, Reichner, Sales, Smith, Sonju, Stahl, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.
Total 46

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Majority Leader Campbell moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Becker moved the Committee of the Whole report be adopted. Report adopted 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, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin,

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McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, More, Morgan, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 89

Nays: Boniek, Hawk, Himmelberger, Lake, McGillvray, Mendenhall, Miller, Nooney, Randall, Sales, Vance.
Total 11

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 10 Senate Amendments, passed as follows:

Yeas: Ankney, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Jones, Jopek, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Stahl, Steenson, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 67

Nays: Arntzen, Bean, Bennett, Blasdel, Boniek, Brown, Butcher, Hendrick, Howard, Ingraham, Kasten, Kerns, Lake, McGillvray, Mendenhall, Miller, More, Morgan, Nooney, Peterson, Randall, Regier, Sales, Smith, Sonju, Stoker, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.
Total 33

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Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 130 Senate Amendments, passed as follows:

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

Total 79

Nays: Bean, Bennett, Blasdel, Boniek, Brown, Butcher, Himmelberger, Ingraham, Kerns, Mendenhall, Miller, Randall, Regier, Sales, Smith, Sonju, Vance, Vincent, Wagner.

Total 19

Excused: None.

Total 0

Absent or not voting: B. Beck, Reichner.

Total 2

HB 131 Senate Amendments, passed as follows:

Yeas: Ankney, Augare, Barrett, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Jones, Jopek, Kasten, 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, Reinhart, Roberts, Roundstone, Sands, Sesso, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 74

Nays: Arntzen, Bean, B. Beck, Bennett, Blasdel, Boniek, Brown, Butcher, Himmelberger,

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Howard, Ingraham, Kerns, McGillvray, Mendenhall, Miller, More, Randall, Regier, Reichner, Sales, Smith, Sonju, Vance, Vincent, Wagner, Warburton.

Total 26

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 132 Senate Amendments, passed as follows:

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

Nays: B. Beck, Bennett, Blasdel, Boniek, Himmelberger, Howard, Kerns, McGillvray, Mendenhall, Miller, Randall, Regier, Reichner, Sales, Smith, Sonju, Vance, Vincent, Wagner, Welborn.

Total 20

Excused: None.

Total 0

Absent or not voting: Ankney.

Total 1

HB 536 Governor's Amendments, passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Jopek, Kasten, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roberts,

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Roundstone, Sales, Sands, Sesso, Smith, Sonju, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 85

Nays: Bean, Bennett, Boniek, Himmelberger, Howard, Jones, Kerns, Klock, Mendenhall, Miller, Randall, Stahl, Wagner, Warburton, Welborn.

Total 15

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 662 Senate Amendments, passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, 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, Hoven, Howard, Hunter, Jones, Jopek, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Morgan, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roundstone, Sands, Sesso, Smith, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 70

Nays: Bean, Bennett, Blasdel, Boniek, Brown, Butcher, Hawk, Hendrick, Himmelberger, Hollandsworth, Ingraham, Kasten, Kerns, Lake, MacLaren, Mendenhall, Milburn, Miller, More, Nooney, Randall, Roberts, Sales, Sonju, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.

Total 30

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 669 Senate Amendments, passed as follows:

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

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

Total 96

Nays: Boniek, Caferro, Kerns, Stahl.

Total 4

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 117 Governor's Amendments, concurred in 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, Morgan, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Warburton, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 95

Nays: More, Nooney, Wagner, Welborn.

Total 4

Excused: None.

Total 0

Absent or not voting: Stahl.

Total 1

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SB 164 Governor's Amendments, concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, 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, 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, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 97

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Caferro, Hoven, Stahl.
Total 3

SB 263 Conference Committee report, adopted in 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, 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, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, 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, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 94

Nays: Campbell, Kottel, Mendenhall, Miller, Randall, Vance.
Total 6

Excused: None.
Total 0

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Absent or not voting: None.

Total 0

SB 268 Governor's Amendments, concurred in as follows:

Yeas: Arntzen, Barrett, P. Beck, Becker, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Jones, Jopek, Kasten, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, Mehlhoff, Menahan, Morgan, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reinhart, Roberts, Roundstone, Sands, Sesso, Stahl, Steenson, Stoker, Van Dyk, Villa, Washburn, Wilmer, Wilson, Wiseman.

Total 67

Nays: Ankney, Augare, Bean, B. Beck, Belcourt, Bennett, Berry, Blasdel, Boniek, Campbell, Hendrick, Howard, Ingraham, Kerns, McNutt, Mendenhall, Milburn, Miller, More, Nooney, Randall, Regier, Reichner, Sales, Smith, Sonju, Taylor, Vance, Vincent, Wagner, Warburton, Welborn, Mr. Speaker.

Total 33

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 399 Governor's Amendments, concurred in 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, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Jones, Jopek, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, More, Morgan, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Sonju, Stahl, Steenson, Stoker, Van Dyk, Villa, Vincent, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 81

Nays: Bean, Bennett, Blasdel, Boniek, Butcher, Howard, Kasten, Kerns, McGillvray, Mendenhall, Milburn, Miller, Nooney, Randall, Sales, Smith, Taylor, Vance, Wagner.

Total 19

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Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 507 Free Conference Committee report, adopted in as follows:

Yeas: Ankney, Arntzen, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Butcher, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, 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, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 93

Nays: Augare, Brown, Caferro, Getz, Himmelberger, Pease-Lopez.

Total 6

Excused: None.

Total 0

Absent or not voting: Vincent.

Total 1

SJR 35 concurred in as follows:

Yeas: Augare, Barrett, P. Beck, Becker, Belcourt, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hoven, Hunter, Jopek, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, A. Noonan, P. Noonan, Pease-Lopez, Phillips, Pomnichowski, Reinhart, Roundstone, Sands, Sesso, Steenson, Stoker, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 56

Nays: Ankney, Arntzen, Bean, B. Beck, Bennett, Berry, Blasdel, Brown, Butcher, Hawk, Hendrick, Himmelberger, Hollandsworth, Howard, Ingraham, Jones, Kasten, Kerns, Klock,

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Lake, McGillvray, Mendenhall, Miller, More, Morgan, Nooney, O'Hara, Peterson, Randall, Regier, Reichner, Roberts, Sales, Smith, Sonju, Stahl, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.

Total 43

Excused: None.

Total 0

Absent or not voting: Boniek.

Total 1

MOTIONS

Rep. Campbell moved that the Speaker be authorized to appoint a Conference Committee on **SB 119** and request the Senate to appoint a like committee.

The Speaker Appoints:

Rep. McAlpin, Vice Chair

Rep. Furey

Rep. Howard

Rep. Morgan

Rep. Campbell moved that the Speaker be authorized to appoint a Conference Committee on **SB 322** and request the Senate to appoint a like committee.

The Speaker Appoints:

Rep. Jopek, Vice Chair

Rep. Roundstone

Rep. Taylor

Rep. Butcher

Rep. Campbell moved that the Speaker be authorized to appoint a FREE Conference Committee on **SB 360** on and request the Senate to appoint a like committee.

The Speaker Appoints:

Rep. Menahan, Vice Chair

Rep. Noonan,

Rep. Klock

Rep. Milburn

Rep. Cohenour moved to dissolve the FREE Conference Committee on **HB 602**. Motion carried
Rep. Cohenour moved that the Speaker be authorized to appoint a FREE Conference Committee

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on **HB 602** and request the Senate to appoint a like committee.

The Speaker Appoints:

Rep. Cohenour, Vice Chair
Rep. French
Rep. Brown
Rep. Randall

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Representative Campbell moved that the House recess until 1:30 p.m., Wednesday, April 22, 2009. Motion carried.

House recessed at 8:33 a.m.

House came to order at 1:32 p.m.

Roll Call. All members present, except Representative Boss Ribs, excused. Quorum present.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 602**
Report No. 0, April 8, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 602** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 602** (reference copy -- salmon) be amended as follows:

1. Page 1, line 11.

Following: "~~vehicle,~~"

Insert: ", including a highway patrol vehicle,"

2. Page 2, line 20.

Strike: "OR"

Insert: ", "

Following: "~~patrol~~"

Insert: ", or the highway patrol"

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3. Page 2, line 21.

Strike: subsection (3) in its entirety

For the House:

Shockley, Chairman
Balyeat
J. Tropila

For the Senate:

Cohenour, Chairman
Brown
French
Randall

MESSAGES FROM THE SENATE

Senate bills failed to concur in House amendments on 2nd reading.
4/22/2009

SB 30, introduced by Zinke

House bills concurred in and returned to the House: 4/22/2009

HB 52, introduced by McNutt

HB 108, introduced by Hollenbaugh

Governor's amendments to House bills concurred in and returned to the House: 4/22/2009

HB 85, introduced by Sands

HB 98, introduced by Di. Barrett

HB 483, introduced by Jones

HB 557, introduced by Belcourt

Conference Committee Report No.1 adopted: 4/22/2009

SB 263, introduced by Shockley

Free Conference Committee Report No.1 adopted: 4/22/2009

HB 331, introduced by Morgan

SB 507, introduced by Story

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

4/22/2009

SB 171, introduced by Barkus

SB 400, introduced by Laslovich

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MESSAGES FROM THE GOVERNOR

April 22, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 349, "**AN ACT CLARIFYING THAT CERTAIN CONFIDENTIAL OR PROPRIETARY INFORMATION SUBMITTED AS PART OF THE PUBLIC BIDDING OR PUBLIC CONTRACTING PROCESS FOR CERTAIN PUBLIC BUILDING AND PUBLIC HIGHWAY, ROAD, AND SIMILAR TRANSPORTATION PROJECTS IS NOT PUBLIC INFORMATION OPEN TO PUBLIC INSPECTION; AND AMENDING SECTIONS 18-2-503, 18-4-126, AND 60-2-137, MCA**" for the following reasons.

April 22, 2009

Senate Bill 349, sponsored by Senator Tutvedt, was introduced to address a perceived problem that state agencies will treat protected information, such as trade secret information, submitted to state agencies under Montana's procurement laws as though that information is public information. Senate Bill 349 was written to ensure that protected information is not disseminated by state agencies. The bill amends Montana procurement and construction statutes administered by the Department of Administration and also amends design-build statutes under laws administered by the Department of Transportation.

My objection to Senate Bill 349 is twofold. First, it reverses the "*constitutional presumption* that all documents of every kind in the hands of public officials are amendable to inspection, regardless of legislation. . . ." *Great Falls Tribune v. Montana Public Service Commission*, 2003 MT 359, ¶ 54, quoting *Associated Press, Inc. v. Montana Department of Revenue*, 2000 MT 160, ¶ 85. Second, it conflicts with current procurement statutes under Title 18, chapter 4, MCA.

Regarding the constitutional presumption, the *Great Falls Tribune* decision set forth the proper procedure to be used by state agencies that have in their possession information considered to be

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confidential. Specifically, the court rejected any conclusory, generalized statements that information is subject to protection (“mere representations” not sufficient), and required parties to make a particularized showing, through the submission of a supporting affidavit, and agencies to make particularized findings related to the claim of confidentiality. As stated by the court: “The claimant’s showing must be more than conclusory. It must be specific enough for the [agency], any objecting parties, and reviewing authorities to clearly understand the nature and basis of the . . . claims to the right of confidentiality.” The court also held that the governmental agency had the “affirmative duty” to review the claim of the third party and make an “independent determination whether the records are in fact property rights which warrant due process protection. . . .” *Id.* at ¶¶ 55-57. The court also clarified, however, that if the government agency requires the filing or production of trade secrets or other confidential information, “the information’s status as a trade secret or confidential proprietary information remains unchanged.” *Id.* at ¶ 60.

My concern with Senate Bill 349, as presented to me, is that the amendments to § 18-4-126, MCA, found in section 2 of the bill, authorize a blanket presumption of confidentiality based on the conclusory identification of the information as trade secret information by the person submitting the information, and this standard does not meet the detailed requirements set forth in *Great Falls Tribune*.

Regarding the conflict with other statutes, § 18-4-304, MCA (which is part of Montana’s procurement code, and is not amended in Senate Bill 349), provides that “proposal documents may be inspected by the public subject to [three specific limitations]”: matters covered by the Uniform Trade Secrets Act, matters involving individual safety as determined by the Department of Administration, and other constitutional protections. My amendments to section 3 of the bill (the new section, which will be renumbered section 1 if you adopt my amendments) track the language and exceptions already contained in current law, in § 18-4-304, MCA, and eliminate the conflict contained in the bill.

Finally, I want you to know that the Department of Administration already has in place procedures comporting with the decision of the court in *Great Falls Tribune* allowing parties submitting confidential, trade secret information in the procurement process to make a particularized showing of confidentiality by affidavit. The Department’s “Affidavit for Trade Secret Confidentiality” is located at <http://gsd.mt.gov/docs/Tradesecretaffidavit.doc>. A vendor must attach, through a separate affidavit, a particularized explanation of the validity of the trade secret claim.

My amendments to Senate Bill 349 would require the Department of Transportation to adopt a procedure similar to that used by the Department of Administration.

I ask for your support of these amendments.

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Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 349

1. Title, line 4.

Strike: "CLARIFYING THAT CERTAIN"

Insert: "REQUIRING THE DEPARTMENT OF ADMINISTRATION AND DEPARTMENT OF TRANSPORTATION TO PROVIDE INFORMATION TO CONTRACTORS AND PROSPECTIVE CONTRACTORS AS TO PROCEDURES THE CONTRACTORS MAY USE TO PROTECT FROM PUBLIC DISCLOSURE"

Strike: "OR PROPRIETARY"

2. Title, lines 7 and 8.

Strike: "IS NOT PUBLIC INFORMATION OPEN TO PUBLIC INSPECTION" on line 7

Following: "AMENDING" on line 7

Strike: remainder of line 7 through "AND" on line 8

Insert: "SECTION"

3. Page 1, line 12 through page 2, line 29.

Strike: sections 1 and 2 in their entirety

Renumber: subsequent sections

4. Page 3, line 2.

Strike: "OR GOVERNMENTAL BODY"

5. Page 3, lines 4 and 5.

Following: "DEPARTMENT" on line 4

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

Following: "SECRETS"

Insert: ", "

Strike: "OR PROPRIETARY INFORMATION"

Insert: "matters involving individual safety as determined by the department, and other constitutionally protected information"

6. Page 3.

Following: line 17

Insert: "(b) The department shall provide to each prospective design-build contractor information similar to that provided by the department of administration to contractors

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and prospective contractors under [section 1], including a model affidavit."

Renumber: subsequent subsection

7. Page 3, lines 28 and 29.

Strike: subsection (6) in its entirety

8. Page 4, line 1.

Strike: "3"

Insert: "1"

9. Page 4, line 3.

Strike: "3"

Insert: "1"

- END -

**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 Becker in the chair.

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

HB 3 - Conference Committee Report No. 1 - Representative Ankney moved the Conference Committee report to **HB 3** be adopted. Motion carried as follows:

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

Total 84

Nays: B. Beck, Blasdel, Boniek, Brown, Driscoll, Ingraham, Kerns, Lake, Miller, Sales, Smith, Sonju, Vance, Vincent, Wagner.

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Total 15

Excused: None.

Total 0

Absent or not voting: Belcourt.

Total 1

SB 171 - Governor's Amendments - Representative K. Peterson moved Governor's amendments to **SB 171** be **not** concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bean, B. Beck, Bennett, Berry, Blasdel, Boniek, Brown, Butcher, Getz, Glaser, Hawk, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Ingraham, Jones, Kasten, Kerns, Klock, Lake, MacLaren, McGillvray, McNutt, Mendenhall, Milburn, Miller, More, Morgan, Nooney, O'Hara, Peterson, Randall, Regier, Reichner, Roberts, Sales, Smith, Sonju, Stahl, Stoker, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.

Total 51

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

Total 49

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 400 - Governor's Amendments - Representative Becker moved Governor's amendments to **SB 400** be concurred in. 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, 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, Klock, Kottel, 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,

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Pomnichowski, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Vincent, Warburton, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 87

Nays: Butcher, Hawk, Kerns, Lake, Mendenhall, Randall, Regier, Sales, Smith, Wagner, Welborn.

Total 11

Excused: None.

Total 0

Absent or not voting: Sonju, Villa.

Total 2

HR 3 - Representative More moved **HR 3** do pass.

HR 3 - Speaker Bergren moved **HR 3** be amended.

Speaker Bergren withdrew his motion.

HR 3 - Representative Phillips move to close on **HR 3**. Motion carried as follows:

Yeas: Ankney, Augare, Barrett, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Jones, Jopek, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Morgan, A. Noonan, P. Noonan, Nooney, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reinhart, Roberts, Roundstone, Sands, Steenson, Vance, Van Dyk, Villa, Washburn, Welborn, Wilmer, Wiseman, Mr. Speaker.

Total 67

Nays: Arntzen, Bean, B. Beck, Bennett, Blasdel, Boniek, Butcher, Hendrick, Ingraham, Kasten, Kerns, McGillvray, Mendenhall, Milburn, Miller, More, O'Hara, Randall, Regier, Reichner, Smith, Sonju, Stahl, Stoker, Taylor, Vincent, Warburton, Wilson.

Total 28

Excused: Boss Ribs.

Total 1

Absent or not voting: Brown, Sales, Sesso, Wagner.

Total 4

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HR 3 - Representative More moved **HR 3** do pass. Motion **failed** as follows:

Yeas: Ankney, Arntzen, Bean, B. Beck, Bennett, Berry, Blasdel, Boniek, Brown, Butcher, Glaser, Hawk, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Ingraham, Jones, Kasten, Kerns, Klock, Lake, MacLaren, McGillvray, McNutt, Mendenhall, Milburn, Miller, More, Morgan, Nooney, O'Hara, Peterson, Randall, Regier, Reichner, Roberts, Sales, Smith, Sonju, Stahl, Stoker, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.
Total 50

Nays: Augare, Barrett, P. Beck, Becker, Belcourt, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hunter, Jopek, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, A. Noonan, P. Noonan, Pease-Lopez, Phillips, Pomnichowski, Reinhart, Roundstone, Sands, Sesso, Steenson, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 50

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 498 - Representative Phillips moved **SB 498** be concurred in.
SB 498 - Speaker Bergren moved to close on **SB 498**. Motion carried

SB 498 - Representative Phillips moved **SB 498** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boss Ribs, Butcher, Campbell, Dickenson, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Jones, Jopek, Kerns, Klock, Kottel, Lake, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Roberts, Roundstone, Sands, Sesso, Smith, Steenson, Stoker, Taylor, Van Dyk, Villa, Wagner, Washburn, Welborn, Wilmer, Wilson, Mr. Speaker.
Total 77

Nays: B. Beck, Bennett, Blasdel, Boniek, Brown, Caferro, Cohenour, Driscoll, Hendrick, Himmelberger, Howard, Kasten, MacDonald, Morgan, Nooney, Reinhart, Sales, Sonju, Stahl, Vance, Vincent, Warburton, Wiseman.
Total 23

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

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

Total 81

Nays: B. Beck, Bennett, Blasdel, Boniek, Hendrick, Kasten, Kerns, McGillvray, Miller, More, Regier, Sales, Vance, Vincent.

Total 14

Excused: Boss Ribs.

Total 1

Absent or not voting: Ankney, Himmelberger, McChesney, Villa.

Total 4

MESSAGES FROM THE SENATE

SB 30 - The Senate failed to concur in House amendments to **SB 30**, authorized the President to appoint the following **Free** Conference Committee, and requested that the House appoint a like committee to confer on **SB 30**:

4/22/2009

Senator Zinke, Chair

Senator Perry

Senator Laslovich

MOTIONS

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Rep. Campbell moved that the Speaker be authorized to appoint a FREE Conference Committee on SJR 30 and request the Senate to appoint a like Committee.

The Speaker Appoints:

Rep. Hunter, Vice Chair

Rep. Boland

Rep. Beck

Rep. Mendenhall

Rep. Belcourt moved that **SJR 19** be taken from committee and be placed on 2nd reading on the 87th Legislative Day. Motion requires a 3/5 majority vote. Motion carried as follows:

Representative Belcourt withdrew his motion.

ANNOUNCEMENTS

Representative Campbell moved that the House adjourn until 8:30 a.m. on the 87th Legislative Day, Wednesday, April 23, 2009. Motion carried.

House adjourned at 3:25 p.m.

DAVE HUNTER
Chief Clerk of the House

BOB BERGREN
Speaker of the House