

**SENATE JOURNAL  
61ST LEGISLATURE  
TWENTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana  
February 5, 2009

Senate Chambers  
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Windy Boy, excused. Quorum present.

**BILLS AND JOURNALS:**

2/5/2009

Correctly printed: **SB 237, SB 268, SB 352, SB 353, SB 354, SB 355, SB 356, SB 357.**

Correctly engrossed: **SB 168, SB 228.**

Correctly enrolled: **SB 7, SB 10, SB 11.**

**REPORTS OF STANDING COMMITTEES**

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

2/4/2009

**SB 193**, do pass. Report adopted.

**SB 297**, introduced bill, be amended as follows:

1. Title, page 1, line 5 through line 6.

**Strike:** "ESTABLISHING" on line 5 through "ACCOUNT" on line 6

**Insert:** "ALLOWING THE MONTANA BUREAU OF MINES AND GEOLOGY TO ACCEPT GIFTS, GRANTS, AND REIMBURSEMENTS"

2. Page 1, line 18 through line 19.

**Strike:** "the balance" on line 18 through "cost of" on line 19

**Insert:** "it has sufficient funds to conduct "

3. Page 1, line 26 through page 2, line 1.

**Strike:** section 2 in its entirety

**Insert:** "NEW SECTION. **Section 2. Authority to accept gifts, grants, and reimbursements.** The Montana bureau of mines and geology may accept gifts, grants, and reimbursements to be used for the purposes of [section 1]."

And, as amended, do pass. Report adopted.

**STATE ADMINISTRATION** (Shockley, Chairman):

2/5/2009

**SB 243**, do pass. Report adopted.

**SB 276**, do pass. Report adopted.

**MOTIONS**

Senator Wanzenried moved that **SB 210** be taken from the table in Taxation by no later than Monday, February 9, printed and placed on second reading. Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 22

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Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

Senator Shockley moved that **SB 331** be moved from Judiciary to State Administration. Senator Shockley withdrew his motion.

**MESSAGES FROM THE OTHER HOUSE**

**House bills** passed and transmitted to the Senate for concurrence: 2/4/2009

**HB 41**, introduced by Cohenour

**HB 104**, introduced by French

**HB 157**, introduced by Hunter

**HB 207**, introduced by Klock

**HB 214**, introduced by MacDonald

**House joint resolution** passed and transmitted to the Senate for concurrence: 2/4/2009

**HJR 8**, introduced by Kasten

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 358**, introduced by Windy Boy, referred to State Administration.

**SB 359**, introduced by Windy Boy, referred to Fish and Game.

**SB 360**, introduced by Keane, Glaser, Hiner, Jones, J. Peterson, Windy Boy, referred to Natural Resources.

**SB 361**, introduced by Ripley, Miller, referred to Taxation.

**SB 362**, introduced by Ripley, Lake, referred to Taxation.

**SB 363**, introduced by Stewart-Peregoy, Juneau, referred to Business, Labor, and Economic Affairs.

**SB 364**, introduced by Brueggeman, referred to Judiciary.

**SB 365**, introduced by Brueggeman, Taylor, referred to Local Government.

**SB 366**, introduced by Brueggeman, referred to Highways and Transportation.

**SB 367**, introduced by Hamlett, Zinke, referred to State Administration.

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

**SB 369**, introduced by Esp, referred to Local Government.

**SB 370**, introduced by Perry, Cohenour, Larsen, Pomnichowski, Tutvedt, referred to Natural Resources.

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

**SB 372**, introduced by Perry, referred to Business, Labor, and Economic Affairs.

**SB 373**, introduced by Perry, referred to Business, Labor, and Economic Affairs.

**SB 374**, introduced by Perry, referred to Judiciary.

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**SB 375**, introduced by J. Peterson, referred to Business, Labor, and Economic Affairs.

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

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

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

**SB 64** - Senator Laible moved **SB 64** do pass. Motion **failed** as follows:

Yeas: Branae, Brueggeman, Cooney, Curtiss, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.  
Total 24

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Erickson, Esp, Essmann, Gebhardt, Hinkle, Jackson, Kaufmann, McGee, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.  
Total 25

Absent or not voting: None.  
Total 0

Excused: Windy Boy.  
Total 1

**SB 64** - Senator J. Peterson moved **SB 64** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Erickson, Esp, Essmann, Gebhardt, Hawks, Hinkle, Jackson, Jent, Kaufmann, McGee, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Tutvedt, Zinke, Mr. President.  
Total 29

Nays: Branae, Brueggeman, Cooney, Gallus, Gillan, Hamlett, Hansen, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.  
Total 20

Absent or not voting: None.  
Total 0

Excused: Windy Boy.  
Total 1

**SB 262** - Senator Wanzenried moved **SB 262** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke,

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Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Windy Boy.  
Total 1

**SB 188** - Senator Balyeat moved **SB 188** do pass.

Senator Balyeat moved **SB 188**, second reading copy, be amended as follows:

1. Title, page 1, line 9.  
**Strike:** "A DELAYED"  
**Insert:** "AN IMMEDIATE"

2. Page 2, line 5.  
**Strike:** "March 1, 2010"  
**Insert:** "on passage and approval"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Windy Boy.  
Total 1

**SB 188** - Senator Balyeat moved **SB 188**, as amended, do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Zinke.  
Total 39

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Nays: Bales, Branae, Brueggeman, Erickson, Esp, Juneau, Kaufmann, Stewart-Peregoy, Williams, Mr. President.  
Total 10

Absent or not voting: None.  
Total 0

Excused: Windy Boy.  
Total 1

**SB 227** - Senator R. Brown moved **SB 227** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Windy Boy.  
Total 1

**SB 249** - Senator Curtiss moved **SB 249** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.  
Total 26

Nays: Branae, R. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.  
Total 23

Absent or not voting: None.  
Total 0

Excused: Windy Boy.  
Total 1

Senator Peterson moved that **SB 63** and **SB 97** pass consideration for the day. Without objection, so ordered.

**SB 187** - Senator Balyeat moved **SB 187** do pass. Motion carried as follows:

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Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 22

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 187** will progress to third reading.

**SB 240** - Senator Brenden moved **SB 240** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 21

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Zinke moved the Committee of the Whole report be adopted. Report adopted unanimously.

**THIRD READING OF BILLS**

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

**SB 237** failed as follows:

Yeas: Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.

Total 25

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Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Keane, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Mr. President.

Total 25

Paired: Laslovich, Aye; Windy Boy, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 237** - Senator Murphy moved **SB 237** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Keane, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Mr. President.

Total 25

Nays: Branae, T. Brown, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.

Total 24

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

### MOTIONS

Senator Bales moved that **SB 63** be re-referred to Senate Finance and Claims. Motion carried.

Shockley moved that **SB 331** be moved from Judiciary to State Administration. Motion carried.

Senator Barkus moved that the vote for Senator Brenden be changed from yes to no, and the vote for Senator Erickson be changed from no to yes for the do pass motion for **SB 237**. Motion carried.

### ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, February 6, 2009. Motion carried.

Senate adjourned at 2:59 p.m.

MARILYN MILLER  
Secretary of the Senate

ROBERT STORY  
President of the Senate