

**SENATE JOURNAL  
61ST LEGISLATURE  
FORTY-FIRST LEGISLATIVE DAY**

Helena, Montana  
February 21, 2009

Senate Chambers  
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Jent, excused. Quorum present.

**BILLS AND JOURNALS:**

2/21/2009

Correctly printed: **SB 151, SB 192, SB 250, SB 350, SB 353, SB 361, SB 363, SB 387, SB 430, SB 436, SB 438, SB 449, SB 470, SR 7.**

Correctly engrossed: **SB 8, SB 183, SB 286, SB 287, SB 288, SB 290, SB 337, SB 349, SB 388, SB 391, SB 403, SB 424, SB 425, SB 475, SJR 28.**

**REPORTS OF STANDING COMMITTEES**

**BUSINESS, LABOR, AND ECONOMIC AFFAIRS** (Balyeat, Chairman):  
**SB 351**, introduced bill, be amended as follows:

2/20/2009

1. Title, page 1, line 8.

**Following:** "ORIGINATORS;"

**Insert:** "PROVIDING FOR A REGISTERED AGENT FOR MORTGAGE BROKERS AND MORTGAGE LENDERS WITHOUT AN IN-STATE OFFICE;"

2. Title, page 1, line 10.

**Following:** "32-9-121,"

**Insert:** "32-9-122,"

3. Page 2, line 10.

**Following:** "mortgage broker"

**Insert:** ", mortgage lender,"

4. Page 2, line 22.

**Following:** "registry"

**Strike:** "and recognized" through "department"

5. Page 2, line 23.

**Strike:** "department"

**Insert:** "nationwide mortgage licensing system and registry"

6. Page 2, line 28.

**Following:** "mortgage broker"

**Insert:** "or mortgage lender"

7. Page 3, line 4.

**Strike:** "located in this state"

8. Page 3, line 5.

**Following:** "proprietorship,"

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**Insert:** "or a mortgage lender"

9. Page 3, line 7.

**Following:** "broker"

**Insert:** "if the mortgage broker entity or the mortgage lender engages in the origination of residential mortgage loans"

10. Page 3, line 9.

**Following:** "broker"

**Insert:** ", mortgage lender, or mortgage loan originator"

11. Page 4, line 10.

**Following:** "state."

**Strike:** "that"

**Insert:** "who is registered with and maintains a unique identifier through the nationwide mortgage licensing system and registry and does any of the following:

(i) "

**Following:** "loan"

**Strike:** "₂"

**Insert:** ";

(ii)"

12. Page 4, line 12 through line 13.

**Following:** "applicant." on line 12

**Insert:** "(b)"

**Following:** "lender" on line 12

**Strike:** "may" on line 12 through "license" on line 13

**Insert:** "who also performs the activities of a mortgage broker must be licensed as a mortgage broker, as provided in [section 7], and be registered with and maintain a unique identifier through the nationwide mortgage licensing system and registry"

**Renumber:** subsequent subsection

13. Page 4, line 19.

**Following:** "broker"

**Insert:** "or a mortgage lender"

14. Page 4.

**Following:** line 22

**Insert:** "(21) "Mortgage servicer loss mitigation specialist" means a person who on behalf of the person making the residential mortgage loan works with a borrower who is in default or in a foreseeable likelihood of a default to modify or refinance either temporarily or permanently the borrower's obligations in order to avoid foreclosure or otherwise to finalize collection through the foreclosure process."

**Renumber:** subsequent subsections

15. Page 4, line 25.

**Following:** "registration of"

**Insert:** "persons that originate residential mortgage loans, including state-licensed"

**Following:** "mortgage brokers."

**Insert:** "state-licensed mortgage lenders, state-licensed"

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16. Page 5, line 5.

**Following:** "or gain;"

**Strike:** "or"

**Insert:** "and"

17. Page 5, line 11 through line 15.

**Following:** "include" on line 11

**Strike:** ":" on line 11 through "(i)" on line 12

**Following:** "underwriter" on line 12

**Strike:** ";or" on line 12 through "originator" on line 15

18. Page 6.

**Following:** line 10

**Insert:** "(29) "Residential real estate" means any real property located in the state of Montana upon which is constructed a dwelling or upon which a dwelling is intended to be built within a 2-year period, subject to 24 CFR 3500.5(b)(4). The borrower's intent to construct a dwelling is presumed unless the borrower has submitted a written, signed statement to the contrary."

**Renumber:** subsequent subsections

19. Page 6, line 12.

**Following:** "mortgage broker"

**Insert:** "or the mortgage lender"

20. Page 7.

**Following:** line 7

**Insert:** "(a) agencies of the United States government and agencies of this state and its political subdivisions;

(b) a person licensed or chartered under the laws of the United States or of any state as a bank, savings and loan association, credit union, or industrial loan company, which may be referenced under this section as any of the following:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the farm credit administration;"

**Renumber:** subsequent subsections

21. Page 7, line 9.

**Strike:** "32-9-103(26)(a)(i) through (26)(a)(iii)"

**Insert:** "32-9-103(27)(a)(i) through (27)(a)(iii)"

22. Page 7.

**Following:** line 11

**Insert:** "(d) a person employed by or that works as an independent contractor for a licensee under this part to perform only administrative or clerical tasks as a loan processor or underwriter on behalf of the licensee and who does not solicit borrowers or negotiate the terms of loans on behalf of the licensee;"

**Renumber:** subsequent subsections

23. Page 7, line 13.

**Following:** "member"

**Insert:** "of that individual"

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24. Page 7, line 14 through line 15.

**Strike:** subsection (c) in its entirety

**Insert:** "(f) a person who offers, negotiates, or provides financing in conjunction with the sale of real property owned by that person and that is secured by a contract for deed, mortgage, deed of trust, or other equivalent security interest on the real property sold;

(g) a loan that is made by a person to an employee of that person if the proceeds of the loan are used to assist the employee in meeting the employee's housing needs;

(h) a person engaged solely in nonresidential or commercial real estate lending;

(i) a person qualified as a pension plan under 26 U.S.C. 401 if the plan makes residential mortgages only to the plan's participants;

(j) the federal national mortgage association, the federal home loan mortgage corporation, and the government national mortgage association;

(k) a 501(c)(3) corporation, which is not otherwise engaged in or holding itself out to the public as being engaged in the mortgage loan business, that makes mortgage loans to promote home ownership or improvements for bona fide low-income individuals;

(l) a person that performs only real estate brokerage activities and is licensed or registered pursuant to 37-51-301 unless the person is compensated by a mortgage lender, a mortgage broker, or a mortgage loan originator or an agent of the mortgage lender, mortgage broker, or mortgage loan originator;"

**Renumber:** subsequent subsections

25. Page 7, line 19.

**Strike:** " \_ "

**Insert:** "; or"

26. Page 7.

**Following:** line 19

**Insert:** "(n) a licensed certified public accountant or a licensed public accountant who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to providing public accounting services to the client unless the accountant is compensated by a mortgage lender, a mortgage broker, or a mortgage loan originator or an agent of the mortgage lender, mortgage broker, or mortgage loan originator.

(2) The department may exempt from this part mortgage servicer loss mitigation specialists if the department determines that an exemption of a mortgage servicer loss mitigation specialist is not in violation of the Secure and Fair Enforcement for Mortgage Licensing Act, Title V of the Housing and Economic Recovery Act, Public Law 110-289."

**Renumber:** subsequent subsection

27. Page 7, line 27.

**Following:** "engage in"

**Strike:** "the"

**Insert:** "residential mortgage loan originator"

28. Page 7, line 28.

**Strike:** "of a loan processor or underwriter"

**Following:** "licensed"

**Insert:** "as a mortgage broker or a mortgage loan originator"

29. Page 7, line 29.

**Following:** "licensed as"

**Insert:** "a mortgage broker or a"

30. Page 8.

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**Following:** line 10

**Insert:** "NEW SECTION. Section 7. Dual licensure. A mortgage lender that also brokers residential mortgage loans must also be licensed as a mortgage broker upon meeting the qualifications for a mortgage broker license."

**Renumber:** subsequent sections

31. Page 10, line 20.

**Strike:** "and"

32. Page 10, line 22.

**Strike:** "."

**Insert:** "; and"

33. Page 10.

**Following:** line 22

**Insert:** "(i) evidence that the applicant has registered with the nationwide mortgage licensing system and registry and obtained a unique identifier."

34. Page 11.

**Following:** line 4

**Insert:** "(3) The department shall issue a mortgage broker license to an applicant that has met all the requirements of this section, has paid the fee required under 32-9-117, and is not determined ineligible under [section 17]."

35. Page 11, line 15.

**Following:** "bond"

**Strike:** ", irrevocable letter of credit,"

36. Page 11.

**Following:** line 16

**Insert:** "(ii) evidence that the applicant has registered with the nationwide mortgage licensing system and registry and obtained a unique identifier;"

**Renumber:** subsequent subsections

37. Page 12, line 4 through line 5.

**Strike:** subsection (6) in its entirety

**Insert:** "(6) The department shall investigate each applicant. The investigation must include a criminal records check based on the fingerprints of the applicant and a civil records check. The department shall require each applicant to file a set of the applicant's fingerprints, taken by a law enforcement agency, and any other information necessary to complete a statewide and nationwide criminal check with the criminal investigation bureau of the department of justice for state processing and with the federal bureau of investigation for federal processing. All costs associated with the criminal history check are the responsibility of the applicant. Criminal history records provided to the department under this section are confidential and the department may use the records only to determine if the applicant is eligible for licensure. If an investigation outside this state is necessary, the department may require the applicant to advance sufficient funds to pay the actual expenses of the investigation.

(7) The department shall issue a mortgage lender license to an applicant that has met all the requirements of this section, has paid the fee required under 32-9-117, and is not determined ineligible under [section 17]."

**Renumber:** subsequent subsection

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38. Page 12, line 7.

**Strike:** "a single application fee as set forth"

**Insert:** "payment of the fees as provided"

39. Page 12.

**Following:** line 15

**Insert:** "(d) evidence that the applicant has registered with the nationwide mortgage licensing system and registry and obtained a unique identifier;"

**Renumber:** subsequent subsections

40. Page 13.

**Following:** line 6

**Insert:** "(3) The department shall issue a mortgage loan originator license to an applicant that has met all the requirements of this section, has paid the fee required under 32-9-117, and is not determined ineligible under [section 17]."

**Renumber:** subsequent subsections

41. Page 13, line 7.

**Following:** "broker"

**Insert:** "or an employing mortgage lender"

42. Page 13, line 9.

**Following:** "broker"

**Insert:** "or employing mortgage lender"

**Following:** "at the"

**Strike:** "mortgage broker's"

**Insert:** "employing licensee's"

43. Page 13, line 12.

**Following:** "broker"

**Insert:** "or the mortgage lender"

44. Page 13, line 17.

**Following:** "broker"

**Insert:** "or mortgage lender"

45. Page 13, line 25.

**Following:** "\$500"

**Insert:** "and an additional application fee of \$250 for any branch location"

46. Page 13, line 26.

**Strike:** "\$400"

**Insert:** "\$450"

47. Page 14, line 3.

**Strike:** "only one"

**Insert:** "a"

**Following:** "fee of"

**Insert:** "\$500 for a mortgage broker and"

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**Following:** "\$750"

**Insert:** "for a mortgage lender"

48. Page 14, line 17.

**Following:** "months."

**Insert:** "An application for renewal also must demonstrate that the licensee continues to meet the standards for licensure under this part."

49. Page 14, line 20.

**Following:** "broker"

**Insert:** ", mortgage lender,"

50. Page 14, line 24.

**Following:** "brokers"

**Insert:** ", mortgage lenders,"

51. Page 14, line 25.

**Following:** "standards"

**Insert:** "-- renewals"

52. Page 14, line 26.

**Following:** "broker"

**Strike:** "or"

**Insert:** ", a mortgage lender, or a"

53. Page 14, line 28.

**Following:** "furnish"

**Insert:** "information concerning the applicant"

54. Page 14, line 29.

**Following:** "registry"

**Insert:** "regarding"

55. Page 14, line 30 through page 15, line 2.

**Strike:** subsection (a) in its entirety

**Insert:** "(a) fingerprints for submission to the federal bureau of investigation and any governmental agency or entity authorized to receive information to allow a supplemental criminal history background check at the state, federal, and international levels;

(b) legal name, birth date, and social security number; and"

**Re-number:** subsequent subsection

56. Page 16, line 3.

**Strike:** "examination and"

57. Page 16, line 21.

**Following:** "demonstrate"

**Strike:** "at least one of"

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58. Page 16, line 23.

**Following:** "application;"

**Insert:** "or"

59. Page 16, line 24 through line 25.

**Strike:** subsection (ii) in its entirety

60. Page 17, line 26.

**Strike:** "For purposes" through "and to"

**Insert:** "To"

**Following:** "for investigation"

**Insert:** "of any applicant for licensure"

61. Page 17, line 28.

**Following:** "information"

**Insert:** "and distributing information to and from any source directed by the department, including the United States department of justice and the federal bureau of investigation"

62. Page 18, line 8.

**Strike:** "In-state office requirement -- records"

**Insert:** "Records"

63. Page 18, line 9 through line 11.

**Strike:** line 9 through line 11

64. Page 18, line 14 through line 15.

**Strike:** "required materials" on line 14 through ", and the" on line 15

65. Page 18, line 16 through line 17.

**Strike:** "Licensees" on line 16 through "Montana." on line 17

66. Page 18, line 18.

**Following:** "broker"

**Insert:** "or mortgage lender"

67. Page 18, line 19.

**Following:** "broker"

**Insert:** "or mortgage lender"

68. Page 18, line 21.

**Strike:** "televised,"

69. Page 18, line 23.

**Strike:** ", address,"

**Following:** "broker"

**Insert:** ", mortgage lender,"

70. Page 18, line 25.

**Strike:** ", address,"



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71. Page 18, line 26.

**Following:** "brokers"

**Insert:** ", mortgage lenders,"

72. Page 18, line 29.

**Following:** "broker's"

**Strike:** "or"

**Insert:** ", a mortgage lender's, or a mortgage"

73. Page 19, line 1.

**Insert:** "Section 20. Section 32-9-122, MCA, is amended to read:

**"32-9-122. Requirement for designated manager and branch license requirements.** (1) A mortgage broker or mortgage lender entity shall apply for a license for a main office and for every branch office and shall register with the nationwide mortgage licensing system and registry and maintain a unique identifier.

(1)(2) A mortgage broker that is not a sole proprietorship entity shall designate to the department an individual within its organization who is located in this state and who is licensed by this state as a mortgage broker to serve as the designated manager of the organization main office and a separate designated manager to serve at each branch location.

(3) A mortgage lender entity shall designate to the department an individual who is licensed as a mortgage broker as the designated manager of the main office and each branch location.

(4) A designated manager must have 3 years of experience as either a mortgage broker, a mortgage loan originator, or a registered loan originator.

(5) A designated manager is responsible for the operation of the business at the location under the designated manager's full charge, supervision, and control.

(6) A mortgage broker or mortgage lender entity is responsible for the conduct of a designated manager or mortgage loan originator while the designated manager or mortgage loan originator is employed by the mortgage broker or mortgage lender entity, including for violations of federal laws that are applicable to the origination of residential mortgage loans, violations of this part, and violations of any administrative rule adopted pursuant to this part.

(7) A designated manager is responsible for conduct that violates federal laws that are applicable to the origination of residential mortgage loans, violations of this part, and violations of any administrative rule adopted pursuant to this part. The designated manager's responsibility includes conduct by the designated manager, each mortgage broker, and each mortgage loan originator employed by the entity while the designated manager is employed at the location that the designated manager manages.

(2)(8) If the designated manager ceases to act in that capacity, within 15 days the mortgage broker or mortgage lender shall designate another individual licensed as a mortgage broker as designated manager and shall submit information in writing to the department establishing that the subsequent designated manager is in compliance with the provisions of this part.

(3)(9) If the employment of a designated manager is terminated, the mortgage broker or mortgage lender shall return the designated manager's license to the department within 5 business days of the termination."

**Insert:** "NEW SECTION. Section 21. Registered agent for mortgage broker or mortgage lender licensee without physical office in state -- venue. (1) An applicant for a mortgage lender license under [section 12] who does not maintain a physical office within the state shall file, in a form prescribed by the department, an irrevocable consent appointing the department as the registered agent of the applicant for the purpose of receiving service of any lawful process in a noncriminal suit, action, or proceeding against the applicant or its successors, executor, or administrator that is based on an alleged violation of this part or any administrative rule adopted pursuant to this part. Service on the department has the same force and validity as if served personally on the applicant or the person filing the consent.

(2) Service must be made by leaving a copy of the process in the office of the department and is effective only if:

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(a) notice of the service and a copy of the process are sent by certified mail to the defendant or respondent at the last-known address on file with the department by the plaintiff, which may be the department, in an action, suit, or proceeding; and

(b) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within a time the court allows.

(3) In a judicial action, suit, or proceeding arising under this part or any administrative rule adopted pursuant to this part between the department and a licensee who does not maintain a physical office in this state, venue must be exclusively in Lewis and Clark County.

(4) A notice, hearing schedule, or order must be mailed to the person or licensee by certified mail at the last-known address for which the license was issued or, in the case of an unlicensed person, at the last-known address of the person."

**Renumber:** subsequent sections

74. Page 19, line 3.

**Strike:** "irrevocable letter of credit,"

75. Page 19, line 9 through line 10.

**Strike:** subsection (b) in its entirety

**Renumber:** subsequent subsection

76. Page 19, line 11.

**Strike:** "irrevocable letters of credit or"

77. Page 19, line 14 through line 16.

**Following:** "maintain" on line 14

**Strike:** "only"

**Following:** "bond" on line 14

**Strike:** "or letter of" on line 14 through "licensure" on line 16

**Insert:** "for each entity license"

78. Page 19, line 17.

**Strike:** "or letter of credit"

79. Page 19, line 18.

**Following:** "for all"

**Insert:** "persons originating residential loans and for all"

80. Page 19, line 20.

**Strike:** "per"

**Insert:** "a"

**Following:** "year;"

**Strike:** "or"

81. Page 19, line 21.

**Strike:** "above"

**Insert:** "of"

**Following:** "million"

**Strike:** "per"

**Insert:** "but not exceeding \$100 million a"

**Following:** "year"

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**Strike:** " \_ "

**Insert:** "; or

(iii) \$100,000 for annual loan production of more than \$100 million a year."

82. Page 19, line 22 through line 24.

**Strike:** subsection (3) in its entirety

**Re-number:** subsequent subsections

83. Page 19, line 25 through line 27.

**Following:** "requirement"

**Strike:** ", and in" on line 25 through "requirement" on line 27

84. Page 20, line 2.

**Strike:** "or a mortgage lender"

85. Page 21, line 2.

**Following:** "broker"

**Insert:** ", mortgage lender,"

**Following:** "originator"

**Strike:** ", conduct"

**Insert:** "conducts"

86. Page 21, line 12.

**Following:** "providing"

**Insert:** "residential"

**Following:** "mortgage"

**Strike:** "broker"

**Following:** "mortgage broker"

**Insert:** "or mortgage loan originator"

87. Page 22, line 14.

**Following:** "include the"

**Insert:** "state license number and the"

88. Page 23, line 2.

**Following:** "**mortgage brokers,**"

**Insert:** "**mortgage lenders,**"

89. Page 23, line 3 through line 5.

**Following:** "mortgage broker," on line 3

**Insert:** "mortgage lender, and"

**Following:** "originator" on line 3

**Strike:** ", and" on line 3 through "originator" on line 4

**Following:** "broker's," on line 4

**Insert:** "mortgage lender's, or"

**Following:** "originator's" on line 4

**Strike:** ", or registered" on line 4 through "originator's" on line 5

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90. Page 23, line 9.

**Following:** "brokers"

**Insert:** ", mortgage lenders,"

91. Page 23, line 14.

**Following:** "broker"

**Insert:** "and mortgage lender"

92. Page 23, line 19.

**Following:** "brokers"

**Insert:** ", mortgage lenders,"

93. Page 24, line 6.

**Following:** "applications;"

**Insert:** "and"

94. Page 24, line 7 through line 8.

**Strike:** subsections (e) and (f) in their entirety

**Renumber:** subsequent subsection

95. Page 24, line 9.

**Following:** "fees for"

**Strike:** "testing" through ", and"

96. Page 24, line 12.

**Following:** "broker"

**Insert:** "or mortgage lender"

97. Page 24, line 15 through line 16.

**Strike:** subsection (b) in its entirety

**Insert:** "(b) The total cost for any investigation or examination must be in accordance with fees determined by the department by rule pursuant to this section and may include expenses for necessary travel outside the state for the purposes of conducting the inspection or examination. The fees set by the department must be commensurate with the cost of the examination or investigation. All fees collected under this section must be deposited in the department's account in the state special revenue fund to be used by the department to cover the department's cost of conducting examinations and investigations."

98. Page 24.

**Following:** line 25

**Insert:** "(b) To carry out the purposes of this section, the department may:

(i) enter into agreements or relationships with other government officials or regulatory associations to improve efficiencies and reduce the regulatory burden by sharing resources, adopting standardized or uniform methods or procedures, and sharing documents, records, information, or evidence obtained under this section;

(ii) accept and rely on examination or investigation reports by other government officials, within or outside of this state;

(iii) accept audit reports made by an independent certified public accountant for the licensee or person subject to this part if the examination or investigation covers at least in part the same general subject matter as the audit report and may incorporate the audit report in the report of the examination, report of the investigation, or other writing of the department under this part; and

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(iv) assess against the licensee or person subject to this part the costs incurred by the department in conducting the investigation or examination."

**Renumber:** subsequent subsection

99. Page 24, line 26.

**Following:** "(5)(a)(i)"

**Insert:** "and [section 30]"

100. Page 24, line 29.

**Following:** "broker"

**Insert:** "and mortgage lender"

101. Page 24, line 30.

**Following:** "employing"

**Insert:** "mortgage"

**Following:** "brokers"

**Insert:** "or employing mortgage lenders"

102. Page 25.

**Following:** line 5

**Insert:** "(b) participate in the nationwide mortgage licensing system and registry, including the payment of any associated costs;"

**Renumber:** subsequent subsections

103. Page 25, line 6.

**Following:** "broker"

**Insert:** ", mortgage lender,"

**Following:** "register with"

**Insert:** ", pay any required nonrefundable fees to,"

104. Page 25.

**Following:** line 9

**Insert:** "(8) (a) The department may, if the U.S. department of housing and urban development determines that a provision of this part does not meet the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act, Title V of the Housing and Economic Recovery Act of 2008, Public Law 110-289, or that additional persons are subject to this part, refrain from enforcing the provision that is determined to be noncompliant and shall by rule invalidate any noncompliant exemption to this part or require that additional persons be temporarily subject to this part to be compliant with federal law, including the provisions for licensure and registration with and maintenance of a valid unique identifier with the nationwide mortgage licensing system and registry.

(b) The department shall propose to the regular session of the legislature that follows the determination by the U.S. department of housing and urban development legislation to address the incompatibility with federal law. The provisions of subsection (8)(a) must be amended in the correcting legislation."

105. Page 25, line 23.

**Following:** "mortgage broker"

**Insert:** "or mortgage lender"

**Following:** "business"

**Insert:** "or to be employed as a mortgage loan originator"

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106. Page 26, line 28.

**Following:** "Act"

**Insert:** "of 2008"

107. Page 27, line 13 through line 14.

**Strike:** "11," on line 13 through "27" on line 14

**Insert:** "8, 12, 15 through 17, 21, 25 through 27, and 30"

108. Page 27, line 15.

**Strike:** "11," through "27"

**Insert:** "8, 12, 15 through 17, 21, 25 through 27, and 30"

109. Page 27, line 17.

**Following:** "invalid,"

**Insert:** "including a determination that any part of [this act] is out of compliance with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008,"

110. Page 27, line 23.

**Strike:** "14 and 15"

**Insert:** "15 and 16"

And, as amended, do pass. Report adopted.

**SB 373**, do pass. Report adopted.

**SB 398**, do pass. Report adopted.

**SB 431**, introduced bill, be amended as follows:

1. Page 1, line 19.

**Strike:** "dealing with"

**Insert:** "handling"

And, as amended, do pass. Report adopted.

**SB 444**, do pass. Report adopted.

**SB 493**, introduced bill, be amended as follows:

1. Page 1, line 29.

**Strike:** "2009"

**Insert:** "2008"

And, as amended, do pass. Report adopted.

**EDUCATION AND CULTURAL RESOURCES** (Laible, Chairman):

2/20/2009

**SB 485**, do pass. Report adopted.

**HIGHWAYS AND TRANSPORTATION** (Brueggeman, Chairman):

2/20/2009

**SB 278**, introduced bill, be amended as follows:

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1. Page 1, line 20.

**Strike:** "an attachment or addition"

**Insert:** "a hands-free accessory"

2. Page 2, line 27.

**Following:** "a"

**Strike:** "law enforcement"

**Insert:** "public safety"

**Following:** "defined in"

**Strike:** "7-32-201"

**Insert:** "44-4-401"

3. Page 2.

**Following:** line 30

**Insert:** "(iv) an employee of a construction company while working in a construction zone as defined in 61-8-314;"

**Insert:** "(c) a federally licensed amateur radio operator engaged in public service; or"

**Renumber:** subsequent subsections

4. Page 3, line 2 through line 4.

**Strike:** subsection (4) in its entirety

**Renumber:** subsequent subsections

5. Page 3, line 5.

**Following:** "subsection (2)"

**Strike:** "or (4)"

**Following:** "\$100."

**Insert:** "A violation of this section may not be recorded or charged against a driver's record, points may not be assessed against the driver's record pursuant to 61-11-203, and an insurance company may not hold a violation of this section against the insured."

And, as amended, do pass. Report adopted.

**SB 291**, introduced bill, be amended as follows:

1. Page 2, line 1.

**Strike:** "21"

**Insert:** "20"

2. Page 2, line 4.

**Strike:** "21"

**Insert:** "20"

3. Page 2, line 13.

**Strike:** "21"

**Insert:** "20"

4. Page 3, line 5.

**Strike:** "21"

**Insert:** "20"

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5. Page 4, line 19.

**Strike:** "21"

**Insert:** "20"

6. Page 5, line 4.

**Strike:** "21"

**Insert:** "20"

7. Page 5, line 27.

**Following:** "(r)"

**Insert:** "if money is available,"

8. Page 5, line 28.

**Strike:** "21"

**Insert:** "20"

9. Page 5, line 30.

**Strike:** "21"

**Insert:** "20"

10. Page 6, line 2.

**Strike:** "21"

**Insert:** "20"

11. Page 6, line 3.

**Following:** "(2)"

**Insert:** "(a)"

12. Page 6, line 4.

**Following:** "track"

**Insert:** ", except as provided in subsection (2)(b)"

13. Page 6.

**Following:** line 4

**Insert:** "(b) The authority may not exercise the power of eminent domain over rights-of-way and track owned by a railroad company."

14. Page 6, line 11 through line 12.

**Strike:** subsection (b) in its entirety

**Insert:** "(b) determine the location, construction, use, and operation of its railroad facilities and the potential lease, purchase, ownership, or acquisition of other railroad facilities;"

15. Page 6, line 17.

**Strike:** "21"

**Insert:** "20"

**Strike:** "21"

**Insert:** "20"



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16. Page 7, line 2 through line 5.

**Strike:** subsection (c) in its entirety

**Renumber:** subsequent subsections

17. Page 7, line 19.

**Following:** "obtain"

**Insert:** "general"

18. Page 7.

**Following:** line 22

**Insert:** "(2) Information required pursuant to subsection (1) is baseline information and does not include engineering studies, advanced analysis, or preconstruction or construction planning."

**Renumber:** subsequent subsections

19. Page 7, line 24.

**Strike:** "21"

**Insert:** "20"

20. Page 7, line 25.

**Following:** "not"

**Insert:** "expend revenue, other than a legislative appropriation, or"

21. Page 7, line 30 through page 8, line 8.

**Strike:** section 7 in its entirety

**Renumber:** subsequent sections

22. Page 8, line 10.

**Strike:** "The"

**Insert:** "Subject to legislative approval as provided in [section 6], the"

23. Page 8, line 18.

**Strike:** "21"

**Insert:** "20"

24. Page 8, line 24.

**Strike:** "21"

**Insert:** "20"

25. Page 8, line 30.

**Strike:** "21"

**Insert:** "20"

26. Page 9, line 19.

**Strike:** "21"

**Insert:** "20"

27. Page 9, line 22.

**Strike:** "21"

**Insert:** "20"

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28. Page 9, line 24.

**Strike:** "21"

**Insert:** "20"

29. Page 10, line 26.

**Strike:** "21"

**Insert:** "20"

30. Page 11, line 23.

**Strike:** "21"

**Insert:** "20"

31. Page 12, line 3.

**Strike:** "21"

**Insert:** "20"

32. Page 12, line 6.

**Strike:** "21"

**Insert:** "20"

33. Page 12, line 15.

**Strike:** "21"

**Insert:** "20"

34. Page 12, line 19.

**Strike:** "21"

**Insert:** "20"

35. Page 12, line 21.

**Strike:** "21"

**Insert:** "20"

**Strike:** "21"

**Insert:** "20"

36. Page 13, line 2.

**Strike:** "21"

**Insert:** "20"

37. Page 13, line 5.

**Strike:** "21"

**Insert:** "20"

38. Page 13, line 23.

**Strike:** "21"

**Insert:** "20"

39. Page 32, line 10.

**Strike:** "21"

**Insert:** "20"

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40. Page 38, line 20.

**Strike:** "21"

**Insert:** "20"

41. Page 49, line 22.

**Strike:** "21"

**Insert:** "20"

42. Page 51, line 2.

**Strike:** "21"

**Insert:** "20"

43. Page 51, line 28.

**Strike:** "21"

**Insert:** "20"

44. Page 52, line 15.

**Strike:** "21"

**Insert:** "20"

45. Page 52, line 19.

**Strike:** "21"

**Insert:** "20"

46. Page 53, line 24.

**Strike:** "21"

**Insert:** "20"

47. Page 56, line 7.

**Strike:** "18"

**Insert:** "17"

48. Page 56, line 10.

**Strike:** "21"

**Insert:** "20"

49. Page 79, line 14 through line 16.

**Strike:** "funding" on line 14 through "[section 7]" on line 16

**Insert:** "an appropriation is provided to the rail service competition council for the 2011 biennium and if the council is eliminated pursuant to [section 117], then the appropriation may be used by the Montana railroad development authority pursuant to [sections 1 through 20]"

50. Page 79, line 22.

**Strike:** "21"

**Insert:** "20"

51. Page 79, line 24.

**Strike:** "21"

**Insert:** "20"

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And, as amended, do pass. Report adopted.

**SB 409**, introduced bill, be amended as follows:

1. Title, page 1, line 6.

**Strike:** "SECTION"

**Insert:** "SECTIONS"

**Following:** "61-9-321,"

**Insert:** "61-9-501, AND 61-9-503,"

2. Page 1.

**Following:** line 20

**Insert:** "**Section 2.** Section 61-9-501, MCA, is amended to read:

**"61-9-501. Inspections by officers of the department.** (1) The department or its agents may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law or that its equipment is not in proper adjustment or repair require the driver of ~~such the~~ vehicle to stop and submit ~~such the~~ vehicle to an inspection and ~~such test with reference thereto~~ as may be appropriate.

(2) In the event ~~such the~~ vehicle and its equipment are found to be in safe condition and in full compliance with the law, the officer making ~~such the~~ inspection may issue to the driver an official certificate of inspection and approval of ~~such the~~ vehicle specifying those parts or equipment ~~so that have been~~ inspected and approved.

(3) In the event ~~such the~~ vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer shall give a written notice to the driver and shall send a copy to the department. ~~Said~~ The notice shall must specify the deficiencies and require that ~~such the~~ vehicle be placed in safe condition and its equipment in proper repair and adjustment within 5 days, except as provided in subsection (4).

(4) For the purpose of 61-9-321 only, the notice must require the engine compression brake device muffler be in proper repair and adjustment within 14 days."

**Insert:** "**Section 3.** Section 61-9-503, MCA, is amended to read:

**"61-9-503. Owners and drivers to comply with inspection laws.** (1) No person driving a vehicle may refuse to submit the vehicle to an inspection and test when required to do so by the department or an authorized officer or employee of the department.

(2) Every owner or driver, upon receiving a notice as provided in 61-9-501, shall comply ~~therewith~~ and ~~shall within 5 days~~ have the deficiencies corrected and forward notification of the correction to the department. In lieu of compliance with this subsection, the vehicle may not be operated, except as provided in subsection (3).

(3) No person may operate any vehicle after receiving ~~a notice with reference thereto as above provided~~ except as may be necessary to return the vehicle to the residence or place of business of the owner or driver, if within a distance of 20 miles, or to a garage until the vehicle and its equipment have been placed in proper repair and adjustment and otherwise made to conform to the requirements of this chapter."

And, as amended, do pass. Report adopted.

**SR 3**, be adopted. Report adopted.

**SB 471**, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

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

2/20/2009

**HB 322**, introduced by Blewett

**HB 404**, introduced by Reinhart

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**HB 407**, introduced by MacDonald

**HB 475**, introduced by Phillips

**HB 509**, introduced by Ingraham

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 498**, introduced by Bales, Essmann, Story, Keane, referred to Finance and Claims.

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

**HJR 1**, introduced by French (by request of the Environmental Quality Council), referred to Energy and Telecommunications.

**HJR 4**, introduced by Vincent (by request of the Fire Suppression Committee), referred to Natural Resources.

**HJR 6**, introduced by Lake (by request of the Education and Local Government Interim Committee), referred to Education and Cultural Resources.

**HJR 7**, introduced by Vincent (by request of the Fire Suppression Committee), referred to Natural Resources.

**HJR 9**, introduced by Furey, Augare, Hands, Pomnichowski, French, Larsen, Hawks, Nooney, Schmidt, Wilmer, More, Kottel, Erickson, Caferro, Fleming, Malek, Bergren, Van Dyk, Driscoll, Becker, Boss Ribs, Squires, McGillvray, Wanzenried, Ankney, Kerns, D. Brown, Zinke, P. Beck, O'Hara, Steinbeisser, Ripley, Brenden, Perry, Hinkle, Esp, Hamilton, J. Tropila, Jent, Laslovich, M. Tropila, Ebinger, Juneau, Arntzen, P. Noonan, Klock, Moss, MacDonald, Pease-Lopez, Reinhart, Milburn, Vance, Debby Barrett, Bean, Phillips, Stewart-Peregoy, Brueggeman, Reichner, Lewis, Randall, Wiseman, Roundstone, Cohenour, Villa, Steenson, Hamlett, Barkus, Laible, Smith, Bennett, B. Beck, Sonju, Essmann, Shockley, Taylor, J. Peterson, Dick Barrett, Belcourt, Blasdel, Boland, Campbell, Glaser, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hunter, Ingraham, Jones, Jopek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, Mendenhall, Miller, Morgan, K. Peterson, Sands, Sesso, Vincent, Wagner, Warburton, Washburn, Wilson, Berry, T. Brown, Gillan, Kasten, Lake, A. Noonan, Roberts, Blewett, Sales, Howard, referred to State Administration.

**HJR 12**, introduced by Steenson, Ankney, Augare, Dick Barrett, P. Beck, Becker, Belcourt, Bergren, Blasdel, Blewett, Boland, Calf 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, Menahan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Reinhart, Roberts, Roundstone, Sands, Sesso, Stahl, Welborn, Wilmer, referred to Business, Labor, and Economic Affairs.

**HJR 17**, introduced by French, Windy Boy, Murphy, R. Brown, Debby Barrett, Brenden, Lewis, Juneau, Gillan, Cohenour, Malek, French, Hamilton, Stahl, Pomnichowski, Becker, Sands, Arntzen, Warburton, McGillvray, Mendenhall, Hunter, Glaser, Boland, P. Noonan, Taylor, referred to Public Health, Welfare and Safety.

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

**HB 19**, introduced by Ingraham (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

**HB 21**, introduced by Dickenson (by request of the Environmental Quality Council), referred to Taxation.

**HB 23**, introduced by Himmelberger (by request of the Legislative Council), referred to State Administration.

**HB 24**, introduced by Morgan (by request of the Revenue and Transportation Interim Committee), referred to Taxation.

**HB 27**, introduced by Wiseman (by request of the Energy and Telecommunications Interim Committee), referred to Energy and Telecommunications.

**HB 30**, introduced by Wilmer (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

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- HB 37**, introduced by Campbell (by request of the Code Commissioner), referred to State Administration.
- HB 38**, introduced by Campbell (by request of the Legislative Council), referred to Education and Cultural Resources.
- HB 39**, introduced by Cohenour (by request of the Water Policy Committee), referred to Natural Resources.
- HB 40**, introduced by Cohenour (by request of the Water Policy Committee), referred to Natural Resources.
- HB 41**, introduced by Cohenour (by request of the Water Policy Committee), referred to Natural Resources.
- HB 44**, introduced by Vincent (by request of the Fire Suppression Committee), referred to Natural Resources.
- HB 45**, introduced by Ingraham, referred to Local Government.
- HB 46**, introduced by Fleming, (by request of the Office of Public Instruction) referred to Education and Cultural Resources.
- HB 48**, introduced by P. Beck (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.
- HB 54**, introduced by Ingraham, referred to State Administration.
- HB 55**, introduced by Hawk, referred to Judiciary.
- HB 57**, introduced by Bean (by request of the Office of Public Instruction), referred to Education and Cultural Resources.
- HB 58**, introduced by Ingraham (by request of the Department of Administration), referred to State Administration.
- HB 59**, introduced by Hamilton (by request of the Teachers' Retirement Board), referred to State Administration.
- HB 61**, introduced by Sesso (by request of the State Library Commission), referred to Local Government.
- HB 62**, introduced by Hamilton (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.
- HB 67**, introduced by Belcourt (by request of the Department of Administration), referred to Local Government.
- HB 70**, introduced by Sands (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.
- HB 71**, introduced by Sands (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.
- HB 72**, introduced by Sands (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.
- HB 74**, introduced by Van Dyk (by request of the Fish, Wildlife, and Parks Commission), referred to Fish and Game.
- HB 75**, introduced by Van Dyk (by request of the Department of Environmental Quality), referred to Natural Resources.
- HB 76**, introduced by P. Beck (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.
- HB 78**, introduced by Hendrick (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.
- HB 80**, introduced by Kottel (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.
- HB 82**, introduced by Driscoll (by request of the Department of Administration), referred to Energy and Telecommunications.
- HB 90**, introduced by Hawk, referred to Agriculture, Livestock and Irrigation.
- HB 93**, introduced by Sands (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.
- HB 94**, introduced by McNutt, referred to Business, Labor, and Economic Affairs.
- HB 95**, introduced by Hawk (by request of the Department of Corrections), referred to Judiciary.
- HB 97**, introduced by Boland (by request of the Department of Administration), referred to Finance and Claims.
- HB 98**, introduced by Dick Barrett (by request of the Department of Environmental Quality), referred to Energy and Telecommunications.
- HB 100**, introduced by Steenson (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.

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**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 151** passed 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, 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, Windy Boy, Zinke, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**SB 192** passed 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, 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, Windy Boy, Zinke, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**SB 250** passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, 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, Windy Boy, Zinke, Mr. President.  
Total 48

Nays: Esp.

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Total 1

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**SB 360** passed 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, 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, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**SB 363** passed as follows:

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

Total 44

Nays: Bales, Barkus, R. Brown, Squires, Tutvedt.

Total 5

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**SB 387** passed as follows:

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

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen,



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Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 23

Paired: Essmann, Aye; Jent, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 430** passed 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, 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, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**MOTIONS**

Senator Esp moved **SB 433** be re-referred from Local Government to Finance and Claims.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Cooney, Erickson, Hansen, Juneau, Kaufmann, Squires, Wanzenried, Williams.

Total 8

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

Senator Brueggeman moved **SB 386** be moved from the Committee of the Whole to Highways and Transportation. Motion carried.

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**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 Brueggeman in the chair.

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

**SB 231** - Senator Laible moved **SB 231** 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, 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, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**SB 241** - Senator Balyeat moved **SB 241** do pass.

Senator Balyeat moved **SB 241** be placed at the bottom of the second reading board. Without objection, motion carried.

**SB 300** - Senator Steinbeisser moved **SB 300** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 40

Nays: Balyeat, Gillan, Hinkle, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Windy Boy.

Total 9

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

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**SB 303** - Senator Wanzenried moved **SB 303** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 45

Nays: Brenden, Hamlett, Laible, Ripley.  
Total 4

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**SB 306** - Senator Esp moved **SB 306** 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, Hinkle, Jackson, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 47

Nays: Hawks, Kaufmann.  
Total 2

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**SB 326** - Senator Erickson moved **SB 326** do pass.

**SB 326** - Senator Erickson moved **SB 326**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

**Following:** "CAREGIVER;"

**Insert:** "ALLOWING FOR DEPARTMENT INVENTORY AUDITS UNDER CERTAIN CONDITIONS;"

2. Page 1, line 18.

**Following:** "time"

**Insert:** "has agreed to undertake responsibility for managing the well-being of a person with respect to the medical use of marijuana, who"

3. Page 1, line 19.

**Following:** "chapter"

**Insert:** ", "

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4. Page 2, lines 2 and 3.

**Strike:** subsections (iv) and (v) in their entirety

**Renumber:** subsequent subsections

5. Page 4, lines 17 and 18.

**Following:** the second "department" on line 17

**Strike:** "; or"

**Insert:** ", including the adoption of rules regarding the process and implementation of onsite inventory audits that may be conducted by the department for any caregiver with more than five patients. The rules must include provisions addressing the required amount of reasonable notice necessary before initiating an onsite inventory audit."

6. Page 5, line 4.

**Following:** "(2)"

**Insert:** "(a)"

7. Page 5, line 5.

**Following:** "plants"

**Insert:** ", eight immature plants,"

8. Page 5.

**Following:** line 5

**Insert:** "(b) For purposes of subsection (2)(a), "mature" means the plant has differentiated as to gender and is female in any state of budding and "immature" means plants that are not mature but excludes sprouts or clones that have not yet developed roots or are not yet planted in soil."

9. Page 5, line 27.

**Following:** "(8)"

**Insert:** "(a)"

10. Page 5.

**Following:** line 29

**Insert:** "(b) This section does not prohibit landlords from restricting or prohibiting the growing of medical marijuana in rental premises by tenants or renters."

Amendment adopted as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.

Total 36

Nays: Balyeat, Barkus, Brenden, T. Brown, Curtiss, Esp, Hinkle, Jackson, McGee, Shockley, Steinbeisser, Tutvedt, Zinke.

Total 13

Absent or not voting: None.

Total 0

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Excused: Jent.  
Total 1

**SB 326** - Senator Erickson moved **SB 326**, as amended, do pass. Motion carried as follows:

Yeas: Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.  
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Zinke, Mr. President.  
Total 24

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**SB 345** - Senator Tutvedt moved **SB 345** do pass.

Senator Esp moved that **SB 345** be placed below **SJ 26** on the second reading board. Without objection, motion carried.

**SB 356** - Senator Zinke moved **SB 356** do pass. Motion carried as follows:

Yeas: Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, Wanzenried, Williams, Windy Boy, Zinke.  
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Peterson, Ripley, Shockley, Steinbeisser, M. Tropila, Tutvedt, Mr. President.  
Total 24

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

Senator McGee assumed the chair.

**SB 404** - Senator Brueggeman moved **SB 404** 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, 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, Windy Boy, Zinke,

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Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

Senator Brueggeman reassumed the chair.

**SB 441** - Senator Laslovich moved **SB 441** do pass.

**SB 441** - Senator Laslovich moved **SB 441**, second reading copy, be amended as follows:

1. Title, lines 5 through 7.  
**Strike:** "PROVIDING" on line 5 through "GARNISHEE;" on line 7

2. Title, line 10.  
**Strike:** "25-13-402,"

3. Title, through line 11.  
**Following:** "40-2-106"  
**Strike:** ", "

4. Page 1, line 15 through page 3, line 12.  
**Strike:** section 1 in its entirety  
**Renumber:** subsequent sections

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, 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, Windy Boy, Zinke, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

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**SB 441** - Senator Laslovich moved **SB 441**, as amended, 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, 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, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**SB 451** - Senator Wanzenried moved **SB 451** 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, 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, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**SB 457** - Senator Branae moved **SB 457** do pass.

**SB 457** - Senator Branae moved **SB 457**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

**Strike:** "AMENDING SECTION 60-2-602, MCA;"

2. Page 4, line 3 through page 5, line 14.

**Strike:** section 2 in its entirety

**Re-number:** subsequent sections

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, Juneau, Kaufmann,



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Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**SB 457** - Senator Branae moved **SB 457**, as amended, 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, 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, Windy Boy, Zinke, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**SJR 20** - Senator Story moved **SJR 20** be adopted. 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, 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, Windy Boy, Zinke, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**SJR 26** - Senator Juneau moved **SJR 26** do pass. Motion carried as follows:

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Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, 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, Windy Boy, Zinke, Mr. President.  
Total 47

Nays: Curtiss, Esp.  
Total 2

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**SB 345** - Senator Tutvedt moved **SB 345** do pass.

**SB 345** - Senator Tutvedt moved **SB 345**, second reading copy, be amended as follows:

1. Page 3, line 8.  
**Strike:** "8"  
**Insert:** "2"

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, 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, Windy Boy, Zinke, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**SB 345** - Senator Tutvedt moved **SB 345**, as amended, 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, Hinkle, Jackson, Juneau, Keane, Laible, Larsen, Laslovich, McGee, Moss, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.  
Total 42

Nays: Hawks, Kaufmann, Lewis, Murphy, Perry, Squires, Wanzenried.

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Total 7

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**SB 241** - Senator Balyeat moved **SB 241** do pass.

**SB 241** - Senator Balyeat moved **SB 241**, second reading copy, be amended as follows:

1. Page 2, line 19.

**Following:** "all"

**Insert:** "revenue"

2. Page 2, line 21.

**Following:** "and the"

**Insert:** "funds or"

3. Page 2, line 27.

**Following:** "employee"

**Insert:** "as recorded on the state accounting, budgeting, and human resource system"

4. Page 2, line 28.

**Following:** "(ii)"

**Insert:** "subject to [section 4(2)],"

5. Page 3, line 2.

**Following:** "agency"

**Insert:** "at the program level"

6. Page 3, line 4.

**Following:** "purpose"

**Insert:** "at the program level"

7. Page 3, line 17.

**Following:** "public."

**Insert:** "For the university system, information may be provided as summary data. For each fiscal year, the database must be operational 30 days following the final closing of the prior fiscal year."

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, 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, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

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Total 0

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**SB 241** - Senator Balyeat moved **SB 241**, as amended, be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Wanzenried, Zinke, Mr. President.  
Total 39

Nays: Cooney, Juneau, Kaufmann, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Williams, Windy Boy.  
Total 10

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. President Story in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

**MOTIONS**

Senator Bales moved to re-refer **SB 241** from State Administration to Finance and Claims. Motion carried.

Senator Bales moved to re-refer **SB 303** from Natural Resources to Finance and Claims. Motion carried.

Senator J. Peterson moved the Senate stand in recess until 11:30 a.m.

Roll call: All members present, except Senator Windy Boy and Senator Jent, excused.

**SPECIAL ORDERS OF THE DAY**

Senator R. Brown thanked the Pages for their work during the week of February 16-21, 2009.

Senator Windy Boy present at this time.

**REPORTS OF STANDING COMMITTEES**

**JUDICIARY** (Perry, Chairman):

2/21/2009

**SB 327**, introduced bill, be amended as follows:

1. Title, line 4.

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**Following:** ""AN ACT"

**Strike:** "ADOPTING THE PROTECTION FOR MOTHERS-TO-BE ACT;"

2. Title, line 5 through line 6.

**Following:** "CHILD;" on line 5

**Strike:** remainder of line 5 through "PENALTIES;" on line 6

3. Title, line 6.

**Following:** "AMENDING"

**Strike:** "SECTION 41-1-103,"

**Insert:** "SECTIONS 45-5-102, 45-5-103, 45-5-201, AND 45-5-202,"

4. Page 1, line 10 through line 11.

**Strike:** section 1 in its entirety

**Renumber:** subsequent sections

5. Page 1, line 13.

**Strike:** "8"

**Insert:** "6"

6. Page 1, line 16 through page 2, line 27.

**Strike:** section 3 through section 6 in their entirety

**Insert:** "**Section 2.** Section 45-5-102, MCA, is amended to read:

**"45-5-102. Deliberate homicide.** (1) A person commits the offense of deliberate homicide if:

(a) the person purposely or knowingly causes the death of another ~~human-being~~ person or an unborn child;

or

(b) the person attempts to commit, commits, or is legally accountable for the attempt or commission of robbery, sexual intercourse without consent, arson, burglary, kidnapping, aggravated kidnapping, felonious escape, assault with a weapon, aggravated assault, or any other forcible felony and in the course of the forcible felony or flight thereafter, the person or any person legally accountable for the crime causes the death of another ~~human-being~~ person or an unborn child.

(2) A person convicted of the offense of deliberate homicide shall be punished by death as provided in 46-18-301 through 46-18-310, unless the person is less than 18 years of age at the time of the commission of the offense, by life imprisonment, or by imprisonment in the state prison for a term of not less than 10 years or more than 100 years, except as provided in 46-18-219 and 46-18-222."

**Insert:** "**Section 3.** Section 45-5-103, MCA, is amended to read:

**"45-5-103. Mitigated deliberate homicide.** (1) A person commits the offense of mitigated deliberate homicide when the person purposely or knowingly causes the death of another ~~human-being~~ person or an unborn child but does so under the influence of extreme mental or emotional stress for which there is reasonable explanation or excuse. The reasonableness of the explanation or excuse must be determined from the viewpoint of a reasonable person in the actor's situation.

(2) Mitigated deliberate homicide is a lesser included offense of deliberate homicide as defined in 45-5-102(1)(a), but is not a lesser included offense of deliberate homicide as defined in 45-5-102(1)(b).

(3) Mitigating circumstances that reduce deliberate homicide to mitigated deliberate homicide are not an element of the reduced crime that the state is required to prove or an affirmative defense that the defendant is required to prove. Neither party has the burden of proof as to mitigating circumstances, but either party may present evidence of mitigation.

(4) A person convicted of mitigated deliberate homicide shall be imprisoned in the state prison for a term of not less than 2 years or more than 40 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222."

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**Insert:** "Section 4. Section 45-5-201, MCA, is amended to read:

"45-5-201. **Assault.** (1) A person commits the offense of assault if the person:

- (a) purposely or knowingly causes bodily injury to another person or an unborn child;
- (b) negligently causes bodily injury to another person or an unborn child with a weapon;
- (c) purposely or knowingly makes physical contact of an insulting or provoking nature with ~~any individual~~ another person or an unborn child; or
- (d) purposely or knowingly causes reasonable apprehension of bodily injury in another person or an unborn child.

(2) A person convicted of assault shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both."

**Insert:** "Section 5. Section 45-5-202, MCA, is amended to read:

"45-5-202. **Aggravated assault.** (1) A person commits the offense of aggravated assault if the person purposely or knowingly causes serious bodily injury to another person or an unborn child or purposely or knowingly, with the use of physical force or contact, causes reasonable apprehension of serious bodily injury or death in another person or an unborn child.

(2) A person convicted of aggravated assault shall be imprisoned in the state prison for a term not to exceed 20 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222."

**Renumber:** subsequent sections

7. Page 3, line 12 through line 15.

**Strike:** section 9 in its entirety

**Renumber:** subsequent sections

8. Page 3, line 21.

**Strike:** "[Sections 1 through 8] are"

**Insert:** "[Section 1] is"

9. Page 3, line 22 through line 23.

**Following:** "to" on line 22

**Strike:** remainder of line 22 through "8]" on line 23

**Insert:** "[section 1]"

And, as amended, do pass. Report adopted.

**SB 333**, do pass. Report adopted.

**SB 374**, introduced bill, be amended as follows:

1. Page 2, line 4.

**Following:** "finds"

**Strike:** ", by clear and convincing evidence,"

2. Page 2, line 6.

**Following:** "custodian"

**Insert:** "and that an abortion is in the best interests of the petitioner"

And, as amended, do pass. Report adopted.

**SB 379**, do pass. Report adopted.

**SB 381**, do pass. Report adopted.

**SB 382**, introduced bill, be amended as follows:

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1. Title, lines 5 and 6.

**Strike:** "AND SCHOOL DISTRICTS"

2. Title, lines 8 and 9.

**Following:** "7-1-4123,"

**Insert:** "AND"

**Strike:** "20-3-324, AND 20-15-403,"

3. Page 5, line 6 through page 8, line 19.

**Strike:** sections 7 through 9 in their entirety

**ReNUMBER:** subsequent section

4. Page 8, lines 25 and 26.

**Strike:** subsection (3) in its entirety

And, as amended, do pass. Report adopted.

**SB 442**, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

**Following:** "MATERIALS;" on line 6

**Strike:** remainder of line 6 through "SYNDROME;" on line 7

2. Page 1, line 16.

**Following:** "syndrome;"

**Insert:** "and"

3. Page 1, line 17.

**Strike:** "(c)"

**Insert:** "(b)"

**Following:** "format" on line 17

**Strike:** remainder of line 17 through "[section 3]" on line 19

4. Page 1, line 21 through page 2, line 2.

**Strike:** subsection (4) in its entirety

**ReNUMBER:** subsequent subsection

5. Page 2, line 30 through page 3, line 8.

**Strike:** section 3 in its entirety

**ReNUMBER:** subsequent sections

6. Page 3, line 10.

**Following:** "instruction."

**Strike:** "(1)"

7. Page 3, line 12 through line 13.

**Strike:** subsection (2) in its entirety

And, as amended, do pass. Report adopted.

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**SB 447**, do pass. Report adopted.

**SB 464**, do pass. Report adopted.

**SB 468**, introduced bill, be amended as follows:

1. Title, line 5.

**Following:** "FOR"

**Insert:** "WRONGFUL DEATH,"

**Following:** "INJURY"

**Insert:** ", "

2. Page 1, line 12.

**Strike:** "is"

**Insert:** "may be"

3. Page 1, line 13.

**Following:** "for"

**Insert:** "wrongful death,"

**Following:** "injury"

**Insert:** ", "

4. Page 1, line 14 through line 15.

**Following:** "~~failure~~\_" on line 14

**Strike:** remainder of line 14 through line 15 in their entirety

And, as amended, do pass. Report adopted.

**SB 476**, do pass. Report adopted.

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

2/21/2009

**SB 411**, introduced bill, be amended as follows:

1. Title, line 6 through line 8.

**Strike:** "IDENTIFICATION" on line 6 through "PRESERVED;" on line 8

**Insert:** "SAND AND GRAVEL RESOURCES AMONG THE CHARACTERISTICS AND FEATURES THAT GROWTH POLICY JURISDICTIONAL AREA MAPS AND TEXT MUST DESCRIBE;"

2. Page 1, line 26.

**Strike:** "and"

3. Page 1.

**Following:** line 26

**Insert:** "(viii) sand and gravel resources; and"

4. Page 1, line 27.

**Strike:** "(viii)"

**Insert:** "(ix)"

5. Page 2, line 27.

**Following:** "and"

**Insert:** "and"



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6. Page 3, line 5 through line 9.

**Strike:** "; and" on line 5 through "bodies" on line 9

And, as amended, do pass. Report adopted.

**SB 434**, do pass. Report adopted.

**SB 482**, introduced bill, be amended as follows:

1. Title, line 4 through line 5.

**Following:** "SUBDIVISIONS;" on line 4

**Strike:** "REVISING WHAT" on line 4 through "ACT;" on line 5

2. Title, line 7 through line 8.

**Strike:** "PROVIDING" on line 7 through "RECORD;" on line 8

3. Title, line 9.

**Strike:** "76-3-103, 76-3-611, AND 76-3-621,"

**Insert:** "76-3-207 AND 76-3-611,"

4. Page 1, line 13 through page 3, line 12.

**Strike:** section 1 in its entirety

**"Section 1.** Section 76-3-207, MCA, is amended to read:

**"76-3-207. Divisions of land exempted from review but subject to survey requirements and zoning regulations -- exceptions -- fees for examination of division.**(1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions of land are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions of land not amounting to subdivisions and are subject to applicable zoning regulations adopted under Title 76, chapter 2:

(a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;

(b) divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner's immediate family;

(c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;

(d) for five or fewer lots within a platted subdivision, relocation of common boundaries and the aggregation of lots; and

(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(2) Notwithstanding the provisions of subsection (1):

(a) within a platted subdivision filed with the county clerk and recorder, a division of lots that results in an increase in the number of lots or that redesigns or rearranges six or more lots must be reviewed and approved by the governing body and an amended plat must be filed with the county clerk and recorder;

(b) a change in use of the land exempted under subsection (1)(c) for anything other than agricultural purposes subjects the division to the provisions of this chapter.

(3) (a) Subject to subsection (3)(b), a division of land may not be made under this section unless the county treasurer has certified that ~~all~~ no real property taxes and special assessments assessed and levied on the land to be divided ~~have been paid~~ are delinquent.

(b) (i) If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure

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that ~~the~~ no prorated real property taxes and special assessments are ~~paid~~ delinquent on the land being sold before the division of land is made.

(ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection (3)(b) as a partial payment of the total tax that is due.

(4) The governing body may examine a division of land to determine whether or not the requirements of this chapter apply to the division and may establish reasonable fees, not to exceed \$200, for the examination.""

5. Page 3, line 19.

**Strike:** "all"

**Insert:** "no"

6. Page 3, line 20.

**Strike:** "not"

7. Page 3, line 29 through page 6, line 11.

**Strike:** section 3 in its entirety

And, as amended, do pass. Report adopted.

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

2/21/2009

**SB 426**, introduced bill, be amended as follows:

1. Title, line 4.

**Following:** "COMPACT"

**Insert:** "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 2, line 7.

**Strike:** "compact"

**Insert:** "Compact"

3. Page 2, line 9.

**Strike:** "2"

**Insert:** "3"

**Following:** "5"

**Strike:** ", "

**Insert:** "and"

**Following:** "6"

**Strike:** ", 7, and 8"

4. Page 2, line 14.

**Following:** "1.5 Animal"

**Strike:** "Unit"

**Insert:** "Units,"

5. Page 2, line 15.

**Strike:** "and"

**Strike:** "Unit"

**Insert:** "Units, one elk equals 0.75 Animal Units, and one mule deer, whitetail deer, bighorn sheep, or antelope equals 0.2 Animal Units"

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6. Page 3, line 5.

**Following:** line 4

**Insert:** "(13) "Nonconsumptive Use" means the use of a water right considered to be nonconsumptive by the decree, permit, or law authorizing the use because it results in no depletion of water from the source."

**Renumber:** subsequent subsections

7. Page 3, line 20.

**Following:** "bison"

**Insert:** "and other mammals"

8. Page 3, line 21.

**Following:** "267"

**Insert:** ", 35 Stat. 1051"

9. Page 3, lines 25 through 27.

**Strike:** line 25 through line 27 in their entirety

10. Page 3, line 28.

**Strike:** "2."

**Insert:** "1."

11. Page 3, line 29.

**Strike:** "Current Wildlife"

**Insert:** "Consumptive"

**Strike:** "consumptive use"

**Insert:** "Consumptive Use"

12. Page 3, line 30.

**Strike:** "3"

**Insert:** "2"

**Strike:** "Wildlife Use"

**Insert:** "Consumptive Use for wildlife purposes"

13. Page 4, line 1.

**Following:** "exceed the"

**Insert:** "amount of water needed to feed and water the"

14. Page 4, line 3.

**Strike:** "4"

**Insert:** "3"

15. Page 4, lines 4 through 7.

**Strike:** "Bird Habitat" on line 4

**Insert:** "Nonconsumptive"

**Following:** "Use." on line 4

**Strike:** remainder of line 4 through "Compact." on line 7

16. Page 4, line 8.

**Following:** "for"

**Insert:** "largely Nonconsumptive Uses to fill"

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**Strike:** "Ponds"

**Insert:** "Potholes, when the water is naturally available,"

**Strike:** "151"

**Insert:** "177"

17. Page 4, line 9.

**Following:** "Creeks"

**Strike:** "for the maintenance of loafing and rearing habitat for birds"

**Insert:** ", when such flows are naturally available"

18. Page 4, line 10.

**Strike:** "6"

**Insert:** "4"

19. Page 4, line 11.

**Strike:** "3."

**Insert:** "2."

20. Page 4, line 12.

**Strike:** "consumptive use"

**Insert:** "Consumptive Use"

21. Page 4, line 15.

**Strike:** "non-consumptive"

**Insert:** "Nonconsumptive Uses for"

**Following:** "administrative"

**Strike:** "uses"

**Insert:** "purposes"

22. Page 4, line 16.

**Strike:** "7"

**Insert:** "5"

23. Page 4, line 18.

**Strike:** "consumptive use"

**Insert:** "Consumptive Use"

24. Page 4, line 22.

**Strike:** "4."

**Insert:** "3."

25. Page 4, line 26.

**Strike:** "consumptive use"

**Insert:** "Consumptive Use"

26. Page 4, line 27.

**Strike:** "5."

**Insert:** "4."

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27. Page 4, line 28 through page 5, line 1.  
**Strike:** "a." on line 28 through "b." on line 30  
**Following:** "rights" on line 30  
**Strike:** remainder of line 30 through "B.3.," on page 5, line 1  
**Insert:** "quantified in the Compact"

28. Page 5, lines 2 through 4.  
**Strike:** "6." on line 2  
**Insert:** "5."  
**Following:** "in" on line 2  
**Strike:** remainder of line 2 through "B.3." on line 3  
**Insert:** "this Compact"  
**Following:** "1908" on line 3  
**Strike:** remainder of line 3 through "1921" on line 4

29. Page 5, line 7.  
**Strike:** "2"  
**Insert:** "3"  
**Following:** "4,"  
**Insert:** "and"  
**Following:** "5"  
**Strike:** ", 6, and 7"

30. Page 5, line 8.  
**Strike:** "current"

31. Page 5, line 23.  
**Strike:** "right"  
**Insert:** "rights"

32. Page 6, line 1.  
**Strike:** "consumptive use"  
**Insert:** "Consumptive Use"

33. Page 6, lines 17 and 18.  
**Following:** "diversion" on line 17  
**Strike:** "and measurement"  
**Strike:** "consumptive use"  
**Insert:** "Consumptive Use"  
**Following:** "Compact" on line 17  
**Strike:** remainder of line 17 through "herein" on line 18

34. Page 6, line 28.  
**Strike:** "III.B.3.(b)"  
**Insert:** "III.B.2.(b)"

35. Page 6, line 29.  
**Strike:** "III.B.3.(a)"  
**Insert:** "III.B.2.(a)"

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36. Page 6, line 30.

**Strike:** "III.B.3."

**Insert:** "III.B.2."

37. Page 7, line 1.

**Strike:** "."

**Insert:** "; and"

38. Page 7, line 4 through line 25.

**Strike:** lines 4 through 25 in their entirety

**Insert:** "1. Nonconsumptive Uses. Water rights specified in this Compact for natural flow or other Nonconsumptive Uses shall not be subject to Change in Use, provided that the emergency use of water for fire suppression as provided for in Article III.B.3 shall not be deemed a Change in Use or violation of a water right for natural flow.

2. Consumptive Uses. The United States may make a Change in Use of its Consumptive Use water rights described in Article III of this Compact provided that:

(a) the Change in Use shall be in fulfillment of the purposes of the National Bison Range;

(b) the total Consumptive Use shall not exceed the amount described in this Compact;

(c) the Change in Use shall not adversely affect any water right Arising Under State Law; and

(d) with the exception of the provisions governing a change in the purpose for which the water right is used, the United States, in making the change, shall comply with the provisions of the Montana Water Use Act, Title 85, chapter 2, MCA, applicable to change in appropriation rights at the time of the change."

39. Page 7, line 26.

**Strike:** "4."

**Insert:** "3."

40. Page 7, line 27.

**Strike:** "III.B.4"

**Insert:** "III.B.3"

41. Page 8, line 1.

**Strike:** "III.B.3.(b)"

**Insert:** "III.B.2.(b)"

42. Page 8, line 4.

**Strike:** "III.B.4"

**Insert:** "III.B.3"

43. Page 10, line 1.

**Strike:** "compact"

**Insert:** "Compact"

44. Page 10, line 13.

**Strike:** "This"

**Insert:** "this"

45. Page 10, line 17.

**Strike:** "effective date"

**Insert:** "Effective Date"

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46. Page 10, line 18.

**Strike:** "party"

**Insert:** "Party"

47. Page 10, line 23.

**Strike:** "party"

**Insert:** "Party"

48. Page 10, line 25.

**Strike:** "This"

**Insert:** "this"

49. Page 11, line 4.

**Strike:** "8"

**Insert:** "6"

50. Page 11, line 9.

**Following:** the first "Date of"

**Strike:** "This"

**Insert:** "this"

**Following:** the second "Date of"

**Strike:** "This"

**Insert:** "this"

51. Page 11, line 30.

**Insert:** "NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

**SB 427**, introduced bill, be amended as follows:

1. Page 1, line 13.

**Following:** "Short title"

**Insert:** "-- scope"

**Following:** "title."

**Insert:** "(1)"

2. Page 1, line 15.

**Following:** line 14

**Insert:** "(2) [Sections 1 through 6] apply only to common law claims brought in judicial proceedings on behalf of private interests of individuals or entities."

And, as amended, do pass. Report adopted.

**SB 440**, do pass. Report adopted.

**SB 461**, do pass. Report adopted.

**SB 481**, do pass. Report adopted.

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

**PUBLIC HEALTH, WELFARE AND SAFETY** (Brown, Chairman):

2/21/2009

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**SB 439**, do pass. Report adopted.

**SB 446**, introduced bill, be amended as follows:

1. Page 5.

**Following:** line 4

**Insert:** "(c) The emergency care requirement for a hospital that specializes in providing health services for psychiatric, developmentally disabled, or tubercular patients is satisfied if the emergency care is provided within the scope of the specialized services provided by the hospital and by providing 24-hour nursing care by licensed registered nurses."

2. Page 8, line 23.

**Following:** "must have"

**Insert:** "in writing"

3. Page 8, line 25.

**Following:** "ability to pay"

**Strike:** "and on" through "provided"

4. Page 9, line 17.

**Following:** "hospital"

**Insert:** "and is not subject to the provisions of [section 5] and subsections (5) through (9) of this section"

5. Page 11, line 9.

**Insert:** "COORDINATION SECTION. Section 7. Coordination instruction. If both Senate Bill No. 439 and [this act] are passed and approved, then Senate Bill No. 439 is void."

**Renumber:** subsequent section

And, as amended, do pass. Report adopted.

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

2/21/2009

**SB 348**, introduced bill, be amended as follows:

1. Title, line 7.

**Strike:** "75"

**Insert:** "90"

2. Page 1, line 16.

**Strike:** "75"

**Insert:** "90"

3. Page 1, line 19 through line 20.

**Strike:** "for" on line 19 through "days" on line 20

4. Page 1, line 20.

**Strike:** "first" through "February"

**Insert:** "date established by law"

5. Page 1, line 24 through line 25.

**Strike:** "for" on line 24 through "days" on line 25



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6. Page 1, line 25.

**Strike:** "second" through "January"

**Insert:** "date established by law"

7. Page 2, line 6.

**Strike:** "30-day"

**Strike:** "45-day"

8. Page 2, line 8.

**Strike:** "30-day"

**Strike:** "45-day"

And, as amended, do pass. Report adopted.

**SB 367**, introduced bill, be amended as follows:

1. Title, line 9.

**Following:** "VOTING;"

**Insert:** "REQUIRING THE SECRETARY OF STATE TO REPORT TO THE GOVERNOR AND THE LEGISLATURE;"

2. Page 2, line 3.

**Strike:** "by electronic mail"

**Insert:** "electronically"

3. Page 2, line 4.

**Following:** " \_"

**Insert:** "This subsection (2)(e) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process."

4. Page 2, line 24.

**Strike:** "**by facsimile and**"

**Strike:** "registration"

5. Page 2, line 25.

**Strike:** "by electronic mail"

**Insert:** "electronically -- definition"

6. Page 2, line 28 through line 29.

**Strike:** "as" on line 28 through "(2)" on line 29

7. Page 3, line 5 through line 12.

**Strike:** subsection (2) in its entirety

**Renumber:** subsequent subsection

8. Page 3, line 13.

**Following:** "transmitted"

**Insert:** "by the elector"

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9. Page 3, line 14.

**Following:** "day"

**Insert:** "and is received by the election administrator before 5 p.m. on the day after the election. Ballots received pursuant to this section must be counted at the same time as provisional ballots are counted"

10. Page 3, line 15.

**Insert:** "(3) For purposes of this section, "electronically" means by facsimile transmission or electronic mail. The term includes internet-based voting if an internet-based voting system approved by the secretary of state is available to the election administrator."

11. Page 4.

**Following:** line 2

**Insert:** "NEW SECTION. Section 5. Report by secretary of state. (1) The secretary of state and county election administrators shall work with staff of the department of military affairs and with other interested parties to identify, investigate, and resolve problems with and challenges to implementing efficient, secure, and timely registration and voting for absent uniformed services electors and overseas electors as required by [this act].

(2)(a) During the 2009-10 interim, the secretary of state shall, whenever requested, report to the state administration and veterans' affairs interim committee on the progress of the investigation.

(b) The secretary of state shall complete the investigation prior to September 1, 2010. Completion of the investigation includes providing a final report of the secretary of state's and election administrators' findings, conclusions, and specific recommendations to the governor and to the legislature as provided in 5-11-210.

(c) If the secretary of state recommends statutory changes or anticipates requesting an appropriation from the 62nd legislature as a result of the investigation, the secretary of state shall, at a time requested by the state administration and veterans' affairs interim committee, present to the committee the concept for the legislation, appropriation, or both.

(3) The state administration and veterans' affairs interim committee shall consider the proposal for legislation as required in 5-5-215."

**Renumber:** subsequent section

12. Page 4, line 6.

**Following:** "Section"

**Strike:** "2"

**Insert:** "3"

**Strike:** "2010"

**Insert:** "2012"

And, as amended, do pass. Report adopted.

**SB 413**, introduced bill, be amended as follows:

1. Title, line 4 through line 7.

**Strike:** "GENERALLY" on line 4 through "DOCUMENTS," on line 7

2. Title, line 8.

**Strike:** "SECTIONS" through "AND"

**Insert:** "SECTION"

3. Page 1.

**Strike:** line 11 through line 26 in their entirety

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4. Page 1, line 30 through page 3, line, 1.  
**Strike:** section 1 through section 2 in their entirety  
**Renumber:** subsequent section

5. Page 3, line 10 through line 11.  
**Strike:** section 4 in its entirety

And, as amended, do pass. Report adopted.

**SB 469**, introduced bill, be amended as follows:

1. Title, line 7.  
**Following:** "ELECTION;"  
**Insert:** "PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA;"

2. Title, line 9.  
**Strike:** the second "AND"

3. Title, line 10.  
**Following:** "MCA"  
**Insert:** "; AND PROVIDING AN EFFECTIVE DATE"

4. Page 13.  
**Following:** line 24  
**Insert:** "NEW SECTION. **Section 18. Effective date.** If approved by the electorate, this act is effective January 1, 2011."  
**Insert:** "NEW SECTION. **Section 19. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2010 by printing on the ballot the full title of this act and the following:  
[] FOR allowing an elector to vote for any candidate in a primary election irrespective of the candidate's political party affiliation.  
[] AGAINST allowing an elector to vote for any candidate in a primary election irrespective of the candidate's political party affiliation."

And, as amended, do pass. Report adopted.

**SB 484**, do pass. Report adopted.

**SB 488**, do pass. Report adopted.

**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 Brueggeman in the chair.

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

**SB 310** - Senator Shockley moved **SB 310** do pass. Motion carried as follows:

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Yeas: Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Bales, Balyeat, Barrett, Brenden, Hinkle, McGee, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila.

Total 11

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**SB 369** - Senator Esp moved **SB 369** 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, 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, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**SB 396** - Senator Story moved **SB 396** 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, 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, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

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**SB 417** - Senator Keane moved **SB 417** do pass. Motion carried as follows:

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

Total 27

Nays: Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Larsen, Laslovich, Moss, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 22

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**SB 432** - Senator R. Brown moved **SB 432** 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, 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, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

**SB 448** - Senator Keane moved **SB 448** do pass. Motion **failed** as follows:

Yeas: Bales, Barkus, Black, Branae, Brueggeman, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Keane, Laible, Larsen, Laslovich, Lewis, Murphy, Ripley, Tutvedt, Williams, Windy Boy, Zinke.

Total 24

Nays: Balyeat, Barrett, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Hawks, Hinkle, Jackson, Juneau, Kaufmann, McGee, Moss, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

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**SB 448** - Senator Esp moved **SB 448** be **indefinitely postponed**. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Hamlett, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Larsen, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Mr. President.  
Total 31

Nays: Bales, Branae, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Keane, Laible, Laslovich, Lewis, Murphy, Tutvedt, Williams, Windy Boy, Zinke.  
Total 18

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

Senator McGee assumed the chair.

**SB 391** - Senator Brueggeman moved **SB 391** 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, 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, Windy Boy, Zinke, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

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

**SPECIAL ORDERS OF THE DAY**

**SR 7** - Senator Steinbeisser moved that the nomination of Brett DeBruycker, transmitted by the Governor, be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 7, and that the ayes and nays be spread upon the journal.

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, 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, Windy Boy, Zinke,

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Mr. President.  
Total 48

Nays: Barrett.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Jent.  
Total 1

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, February 23, 2009. Motion carried.

Senate adjourned at 1:21 p.m.

MARILYN MILLER  
Secretary of the Senate

ROBERT STORY  
President of the Senate