

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

Helena, Montana
February 23, 2009

Senate Chambers
State Capitol

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

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

BILLS AND JOURNALS:

2/23/2009

Correctly printed: **SB 231, SB 300, SB 303, SB 306, SB 310, SB 333, SB 356, SB 369, SB 373, SB 379, SB 381, SB 391, SB 396, SB 398, SB 404, SB 417, SB 432, SB 434, SB 439, SB 440, SB 444, SB 447, SB 451, SB 461, SB 464, SB 471, SB 476, SB 481, SB 484, SB 485, SB 488, SB 498, SJR 20, SJR 21, SJR 26, SR 3.**

Correctly engrossed: **SB 241, SB 278, SB 291, SB 326, SB 327, SB 345, SB 348, SB 351, SB 367, SB 374, SB 382, SB 409, SB 411, SB 413, SB 426, SB 427, SB 431, SB 441, SB 442, SB 446, SB 457, SB 468, SB 482, SB 469, SB 493.**

Correctly enrolled: **SR 4, SR 5, SR 6, SR 7.**

Examined by the sponsor and found to be correct: **SR 4, SR 5, SR 6, SR 7.**

REPORTS OF STANDING COMMITTEES

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

2/20/2009

SB 424, introduced bill, be amended as follows:

1. Page 2, line 20.

Strike: the second "a"

Insert: "the"

Following: "brand"

Insert: "of a"

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

2/23/2009

SJR 29, do pass. Report adopted.

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

2/23/2009

SB 445, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "PRACTITIONER"

Insert: "WITH A PERMIT"

2. Page 2, following line 3.

Insert: "(3) For purposes of this section, a medical practitioner dispensing a prescription pursuant to subsection (2)(d)(ii) shall apply to the board of medical examiners for a written permit to dispense prescription drugs except that a written permit is not required in order to dispense drug samples. If a medical practitioner violates the provisions of this section governing the dispensing of prescription drugs, the medical practitioner's dispensing permit must be revoked and the medical practitioner is subject to disciplinary actions by the board of medical examiners.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

(4) The dispensing of drugs pursuant to subsection (2) does not allow a medical practitioner to dispense any narcotic drugs as defined in 50-32-101.

(5) For purposes of this section, "employer-based onsite clinic" means a health care facility, as defined in 50-16-504, that is sponsored by an employer for the benefit of its employees and their dependents."

And, as amended, do pass. Report adopted.

SB 463, introduced bill, be amended as follows:

1. Page 1, line 13.

Following: "on"

Insert: "labor law and"

2. Page 1, line 15.

Following: "on the"

Strike: "methods that"

Insert: "labor law requirements applicable to"

3. Page 1, lines 15 and 16.

Strike: "may" on line 15 through "law" on line 16

4. Page 1, line 21.

Following: "for"

Insert: "the"

Following: "funds"

Strike: "under this section"

Insert: "available from the department"

5. Page 1, line 23.

Following: "training"

Strike: ", "

Insert: "and has"

6. Page 1, line 24 through line 25.

Following: "materials"

Strike: ", and" on line 24 through "guardian" on line 25

7. Page 1, line 27.

Following: "(1)"

Strike: "An"

Insert: "Contingent upon approval of the program by the federal government for purposes of receiving federal medicaid funds, the department may make payment to an"

8. Page 1, line 28.

Following: "through"

Insert: "the"

9. Page 1, line 30.

Following: "29 U.S.C. 213"

Insert: "and who"

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

10. Page 2, line 3.

Following: "qualified"

Insert: "medicaid"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/19/2009

SB 20, introduced bill, be amended as follows:

1. Title, line 5.

Following: the second "AN ACT"

Insert: "CLARIFYING THE MEANING OF THE TERM "SUBSTANTIAL COMPLIANCE";"

2. Title, line 6.

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "2-4-101"

Insert: "AND 2-4-305"

3. Page 1, line 16 through line 17.

Following: "(MAPA)" on line 16

Strike: remainder of line 16 through "MSA" on line 17

4. Page 1, line 25 through page 2, line 12.

Strike: Page 1, line 25 through page 2, line 12 in their entirety

Insert: "WHEREAS, under the rationale employed by the Montana Supreme Court in the MSA opinion, every rule adopted by an agency could be found to be in substantial compliance with MAPA since every notice of proposed rulemaking gives some notice of a proposed rule adoption, amendment, or repeal; and

WHEREAS, the Legislature intends that a determination of whether MAPA's substantial compliance requirement in section 2-

4-305(7), MCA, has been satisfied requires an analysis of more than whether an agency provided adequate public notice of its proposed rule, but rather requires an analysis of whether the agency complied with 2-4-302, 2-4-303, 2-4-305, or 2-4-306, MCA; and

WHEREAS, enactment of this legislation is not intended by the Legislature as a comment upon the outcome of the MSA opinion, but rather is intended to change the analysis used by the courts when determining whether MAPA's substantial compliance requirement, found in section 2-4-305(7), MCA, has been satisfied in future cases."

5. Page 2, line 19.

Strike: "One purpose"

Insert: "The purposes"

Strike: "is"

Insert: "are"

Following: the first "to"

Insert: ": (a)"

6. Page 2, line 20.

Following: "that action"

Insert: ";

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

(b) establish general uniformity and due process safeguards in agency rulemaking, legislative review of rules, and contested case proceedings;

(c) establish standards for judicial review of agency rules and final agency decisions; and

(d) provide the executive and judicial branches of government with statutory directives"

7. Page 2, line 23.

Strike: subsection (3) in its entirety

Insert: "**Section 2.** Section 2-4-305, MCA, is amended to read:

"2-4-305. Requisites for validity -- authority and statement of reasons. (1) The agency shall fully consider written and oral submissions respecting the proposed rule. Upon adoption of a rule, an agency shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement the reasons for overruling the considerations urged against its adoption. If substantial differences exist between the rule as proposed and as adopted and the differences have not been described or set forth in the adopted rule as that rule is printed in the register, the differences must be described in the statement of reasons for and against agency action. When written or oral submissions have not been received, an agency may omit the statement of reasons.

(2) Rules may not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to convey the meaning of a rule interpreting the language, the reference must clearly indicate the portion of the language that is statutory and the portion that is an amplification of the language.

(3) Each proposed and adopted rule must include a citation to the specific grant of rulemaking authority pursuant to which the rule or any part of the rule is adopted. In addition, each proposed and adopted rule must include a citation to the specific section or sections in the Montana Code Annotated that the rule purports to implement. A substantive rule may not be proposed or adopted unless:

(a) a statute granting the agency authority to adopt rules clearly and specifically lists the subject matter of the rule as a subject upon which the agency shall or may adopt rules; or

(b) the rule implements and relates to a subject matter or an agency function that is clearly and specifically included in a statute to which the grant of rulemaking authority extends.

(4) Each rule that is proposed and adopted by an agency and that implements a policy of a governing board or commission must include a citation to and description of the policy implemented. Each agency rule implementing a policy and the policy itself must be based on legal authority and otherwise comply with the requisites for validity of rules established by this chapter.

(5) To be effective, each substantive rule adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

(6) Whenever by the express or implied terms of any statute a state agency has authority to adopt rules to implement, interpret, make specific, or otherwise carry out the provisions of the statute, an adoption, amendment, or repeal of a rule is not valid or effective unless it is:

(a) consistent and not in conflict with the statute; and

(b) reasonably necessary to effectuate the purpose of the statute. A statute mandating that the agency adopt rules establishes the necessity for rules but does not, standing alone, constitute reasonable necessity for a rule. The agency shall also address the reasonableness component of the reasonable necessity requirement by, as indicated in 2-4-302(1) and subsection (1) of this section, stating the principal reasons and the rationale for its intended action and for the particular approach that it takes in complying with the mandate to adopt rules. Subject to the provisions of subsection (8), reasonable necessity must be clearly and thoroughly demonstrated for each adoption, amendment, or repeal of a rule in the agency's notice of proposed rulemaking and in the written and oral data, views, comments, or testimony submitted by the public or the agency and considered by the agency. A statement that merely explains what the rule provides is not a statement of the reasonable necessity for the rule.

(7) A rule is not valid unless notice of it is given and it is adopted in substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section and unless notice of adoption of the rule is published within 6 months of the publishing of notice of the proposed rule. The measure of whether an agency has adopted a rule in substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section is not whether the agency has provided notice of the proposed rule, standing alone, but rather must be based on an analysis of the agency's substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section. If an amended or supplemental notice of either proposed or final

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

rulemaking, or both, is published concerning the same rule, the 6-month limit must be determined with reference to the latest notice in all cases.

(8) An agency may use an amended proposal notice or the adoption notice to correct deficiencies in citations of authority for rules and in citations of sections implemented by rules. An agency may use an amended proposal notice but, except for clerical corrections, may not use the adoption notice to correct deficiencies in a statement of reasonable necessity.

(9) If a majority of the members of the appropriate administrative rule review committee notify the committee presiding officer that those members object to a notice of proposed rulemaking, the committee shall notify the agency in writing that the committee objects to the proposal notice and will address the objections at the next committee meeting. Following notice by the committee to the agency, the proposal notice may not be adopted until publication of the last issue of the register that is published before expiration of the 6-month period during which the adoption notice must be published, unless prior to that time, the committee meets and does not make the same objection. A copy of the committee's notification to the agency must be included in the committee's records."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

2/23/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 2:00 p.m., Saturday, February 21, 2009:

TITLE

NAME

Pages:

Amy Carlin, Kalispell
Brad Carlin, Kalispell
Rollie Goodman, Bozeman
Matthew Wheat, Bozeman
Alec Truax, Helena
Colton Stephens, Choteau
Elizabeth McGee, Laurel
Jessica Englert, Laurel

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 23, 2009:

TITLE

NAME

Pages:

Emma Boreson, Opheim
Meghan Rogers, Ulm
Kelsie Hanson, Chinook
Courtney Platko, Sheridan
Echo Allen, Fairfield
Leann Dorvall, Bridger
Tanner Beaman, Lakeside

Report Adopted.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 2/19/2009

HB 34, introduced by Wilmer
HB 171, introduced by Augare
HB 204, introduced by Ebinger
HB 357, introduced by Berry
HB 477, introduced by Menahan
HB 495, introduced by Arntzen
HB 533, introduced by Taylor

House joint resolution passed and transmitted to the Senate for concurrence: 2/19/2009

HJR 15, introduced by Milburn

FIRST READING AND COMMITMENT OF BILLS

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

SB 499, introduced by Essmann, Bales, referred to Taxation.

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

HB 101, introduced by Welborn (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 102, introduced by Smith, referred to Judiciary.

HB 104, introduced by French (by request of the Department of Military Affairs), referred to Finance and Claims.

HB 106, introduced by French (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.

HB 107, introduced by Hiner (by request of the Legislative Finance Committee), referred to Finance and Claims.

HB 108, introduced by Hollenbaugh (by request of the Department of Justice), referred to Judiciary.

HB 109, introduced by Hunter (by request of the Public Employees' Retirement Board), referred to State Administration.

HB 112, introduced by Sesso (by request of the Legislative Finance Committee), referred to Finance and Claims.

HB 114, introduced by Henry (by request of the Department of Public Health and Human Services), referred to Business, Labor, and Economic Affairs.

HB 116, introduced by McNutt (by request of the Attorney General), referred to Highways and Transportation.

HB 118, introduced by Klock (by request of the Department of Administration), referred to Energy and Telecommunications.

HB 119, introduced by Hunter (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 120, introduced by McChesney (by request of the Department of Transportation), referred to Highways and Transportation.

HB 121, introduced by Cohenour (by request of the Department of Military Affairs), referred to Judiciary.

HB 122, introduced by Menahan (by request of the Department of Justice), referred to Judiciary.

HB 123, introduced by Jones (by request of the Department of Agriculture, Department of Commerce), referred to Finance and Claims.

HB 125, introduced by Mehlhoff (by request of the Department of Transportation), referred to Highways and Transportation.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

- HB 126**, introduced by Augare (by request of the Department of Administration), referred to Business, Labor, and Economic Affairs.
- HB 127**, introduced by Sesso (by request of the Department of Military Affairs), referred to Finance and Claims.
- HB 128**, introduced by Sesso (by request of the Legislative Finance Committee), referred to Finance and Claims.
- HB 129**, introduced by Getz (by request of the Department of Natural Resources and Conservation), referred to Local Government.
- HB 133**, introduced by Stoker (by request of the Department of Public Health and Human Services), referred to Judiciary.
- HB 136**, introduced by Boland (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.
- HB 137**, introduced by McNutt (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.
- HB 138**, introduced by Hunter (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.
- HB 139**, introduced by Vincent (by request of the Fire Suppression Committee), referred to Natural Resources.
- HB 140**, introduced by Vincent (by request of the Fire Suppression Committee), referred to Natural Resources.
- HB 144**, introduced by McAlpin (by request of the Legislative Council), referred to State Administration.
- HB 146**, introduced by MacLaren (by request of the Commissioner of Political Practices), referred to State Administration.
- HB 147**, introduced by MacLaren (by request of the Commissioner of Political Practices), referred to State Administration.
- HB 149**, introduced by Menahan (by request of the Department of Corrections), referred to Judiciary.
- HB 150**, introduced by D. Brown, referred to Judiciary.
- HB 151**, introduced by Becker (by request of the State Auditor), referred to Public Health, Welfare and Safety.
- HB 153**, introduced by Hands (by request of the Department of Environmental Quality), referred to Natural Resources.
- HB 155**, introduced by Pomnichowski (by request of the Department of Administration), referred to State Administration.
- HB 156**, introduced by Pomnichowski, referred to Local Government.
- HB 157**, introduced by Hunter (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
- HB 158**, introduced by Augare (by request of the Governor), referred to Finance and Claims.
- HB 159**, introduced by Augare (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.
- HB 160**, introduced by Furey (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.
- HB 163**, introduced by Cohenour (by request of the Department of Commerce), referred to Taxation.
- HB 168**, introduced by Roundstone (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.
- HB 170**, introduced by Menahan (by request of the Public Employees' Retirement Board), referred to State Administration.
- HB 172**, introduced by Arntzen, referred to Fish and Game.
- HB 177**, introduced by Kottel, referred to Judiciary.
- HB 179**, introduced by Villa, referred to Energy and Telecommunications.
- HB 181**, introduced by K. Peterson, T. Brown, Essmann, O'Hara, Glaser, referred to Local Government.
- HB 188**, introduced by Kottel, Pomnichowski, Erickson, Augare, Phillips, Reinhart, Nooney, Villa, referred to Judiciary.
- HB 190**, introduced by Van Dyk, P. Beck, Cohenour, Essmann, Gallus, Jent, MacLaren, O'Hara, Pomnichowski, Shockley, Stahl, Steenson, Brueggeman, Blewett, Caferro, Furey, Gillan, referred to Fish and Game.
- HB 192**, introduced by Taylor, referred to State Administration.
- HB 193**, introduced by Augare, Stewart-Peregoy, Juneau, Belcourt, Calf Boss Ribs, Campbell, French, Pease-Lopez, Roundstone, Windy Boy, referred to State Administration.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

- HB 195**, introduced by Hamilton, referred to Business, Labor, and Economic Affairs.
- HB 197**, introduced by Ebinger, McClafferty, Reinhart, Sesso, referred to State Administration.
- HB 203**, introduced by Miller, Bean, Blasdel, Butcher, Randall, , K. Peterson, referred to Fish and Game.
- HB 205**, introduced by Ebinger, Hollenbaugh, Blewett, Kottel, Brueggeman, referred to Judiciary.
- HB 207**, introduced by Klock, referred to Energy and Telecommunications.
- HB 208**, introduced by O'Hara, referred to Energy and Telecommunications.
- HB 214**, introduced by MacDonald, Caferro, Becker, McClafferty, Calf Boss Ribs, referred to Public Health, Welfare and Safety.
- HB 221**, introduced by Cohenour, McAlpin, Malek, French, Getz, , Fleming, Menahan, Hands, Blewett, Belcourt, McClafferty, Calf Boss Ribs, Boland, Campbell, B. Beck, Pease-Lopez, Hiner, Hunter, MacDonald, Steenson, Van Dyk, Roundstone, Augare, referred to Fish and Game.
- HB 222**, introduced by Cohenour, Van Dyk, referred to Fish and Game.
- HB 223**, introduced by Cohenour, Van Dyk, referred to Fish and Game.
- HB 228**, introduced by Kerns, Ankney, Arntzen, Balyeat, Bennett, Black, Blasdel, Boniek, R. Brown, T. Brown, Campbell, Curtiss, Gallus, Hamlett, Hendrick, Hinkle, Hoven, Ingraham, Jackson, Jones, Kottel, McGee, Mehlhoff, Miller, More, Randall, Roundstone, Smith, Sonju, Vance, Warburton, referred to Judiciary.
- HB 230**, introduced by McClafferty, Ebinger, Sesso, Malek, Cohenour, Calf Boss Ribs, P. Noonan,, MacDonald, referred to Local Government.
- HB 231**, introduced by Glaser, T. Brown, Hamilton, referred to Local Government.
- HB 235**, introduced by Kottel, referred to Taxation.
- HB 238**, introduced by Milburn, referred to Highways and Transportation.
- HB 242**, introduced by McAlpin, referred to Judiciary.
- HB 243**, introduced by Hunter, McGee, referred to Public Health, Welfare and Safety.
- HB 244**, introduced by Ankney, referred to Local Government.
- HB 245**, introduced by Ankney, referred to Local Government.
- HB 247**, introduced by Bergren, J. Peterson, referred to Agriculture, Livestock and Irrigation.
- HB 263**, introduced by Smith, referred to Public Health, Welfare and Safety.
- HB 264**, introduced by Smith, referred to Public Health, Welfare and Safety.
- HB 269**, introduced by Mehlhoff, Belcourt, referred to Judiciary.
- HB 270**, introduced by Reinhart, Hands, Phillips, Sesso, McClafferty, MacDonald, McAlpin, Sands, Mehlhoff, A. Noonan, Ebinger, Hamilton, P. Noonan, Dick Barrett, referred to Local Government.
- HB 273**, introduced by O'Hara, referred to Local Government.
- HB 274**, introduced by Hamilton, referred to Finance and Claims.
- HB 278**, introduced by McChesney, Ankney, referred to Natural Resources.
- HB 283**, introduced by Himmelberger, referred to Business, Labor, and Economic Affairs.
- HB 285**, introduced by Reinhart, Arntzen, Dick Barrett, Bennett, Cooney, Gebhardt, Laslovich, MacDonald, McAlpin, Mendenhall, Milburn, Perry, Ripley, Sands, Sesso, Stahl, Van Dyk, Vincent, referred to Natural Resources.
- HB 286**, introduced by Sonju, referred to Business, Labor, and Economic Affairs.
- HB 287**, introduced by Driscoll, B. Beck, Keane, Taylor, Villa, referred to Judiciary.
- HB 288**, introduced by Kerns, McGee, referred to Judiciary.
- HB 291**, introduced by Sonju, referred to Business, Labor, and Economic Affairs.
- HB 293**, introduced by Hiner, Villa, referred to Judiciary.
- HB 294**, introduced by MacLaren, Blasdel, Erickson, Gallus, Lewis, Perry, Sesso, Villa, Wanzenried, Windy Boy, referred to Energy and Telecommunications.
- HB 295**, introduced by Menahan, Driscoll, Essmann, Hollenbaugh, Howard, Jones, MacDonald, Moss, O'Hara, Perry, Wilson (by request of the Attorney General), referred to Judiciary.
- HB 296**, introduced by Menahan, Stewart-Peregoy, Juneau, Augare, Calf Boss Ribs, Campbell, Windy Boy, Roundstone, referred to Fish and Game.
- HB 298**, introduced by Blewett, Shockley, Menahan, Kottel, K. Peterson, referred to Judiciary.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

- HB 301**, introduced by Kottel, referred to Judiciary.
- HB 304**, introduced by Sonju, referred to Highways and Transportation.
- HB 308**, introduced by Augare, Blewett, Boland, Dickenson, Hamilton, Hoven, Kottel, O'Hara, Mehlhoff, Milburn, referred to Judiciary.
- HB 311**, introduced by Blasdel, referred to Highways and Transportation.
- HB 317**, introduced by Furey, Ankney, referred to Fish and Game.
- HB 321**, introduced by Cohenour, referred to Local Government.
- HB 324**, introduced by Arntzen, Zinke, Hendrick, Klock, Miller, Furey, Ripley, Warburton, R. Brown, French, McClafferty, Laslovich, Blewett, Van Dyk, Belcourt, Hansen, Regier, P. Noonan, McGillvray, Lewis, Hiner, Bennett, Noonney, Bean, Morgan, Howard, Taylor, Mendenhall, D. Brown, Vance, Ankney, Wilson, Smith, Boniek, Hoven, Mehlhoff, Curtiss, McChesney, Kasten, Butcher, Blasdel, Phillips, Hollandsworth, Villa, Hamilton, K. Peterson, Roundstone, Barkus, Essmann, Himmelberger, Jones, McNutt, Randall, Tutvedt, P. Beck, Welborn, referred to Local Government.
- HB 326**, introduced by Mendenhall, referred to Business, Labor, and Economic Affairs.
- HB 328**, introduced by MacLaren, referred to State Administration.
- HB 332**, introduced by Getz, Hamilton, Villa, Cohenour, referred to Education and Cultural Resources.
- HB 337**, introduced by Blewett, referred to Fish and Game.
- HB 338**, introduced by Ankney, O'Hara, Berry, Klock, Mehlhoff, referred to Energy and Telecommunications.
- HB 343**, introduced by A. Noonan, Keane, Black, Brenden, Laible, Williams, Klock, Hiner, McNutt, Augare, Campbell, referred to Energy and Telecommunications.
- HB 345**, introduced by K. Peterson, Shockley, referred to Business, Labor, and Economic Affairs.
- HB 354**, introduced by Glaser, Bergren, Gebhardt, referred to Business, Labor, and Economic Affairs.
- HB 363**, introduced by Jones, Black, Arntzen, Glaser, Steenson, Hollandsworth, referred to Education and Cultural Resources.
- HB 365**, introduced by Roberts (by request of the State Auditor), referred to Public Health, Welfare and Safety.
- HB 366**, introduced by McGillvray, R. Brown, Balyeat, Essmann, Howard, Becker, K. Peterson, Himmelberger, Morgan, Kerns, P. Beck, Randall, Roberts, Smith, Ankney, Arntzen, Glaser, referred to Fish and Game.
- HB 367**, introduced by McGillvray, R. Brown, Caferro, Sands, Smith, Reichner, referred to Public Health, Welfare and Safety.
- HB 368**, introduced by Fleming, Larsen, Furey, referred to Agriculture, Livestock and Irrigation.
- HB 371**, introduced by Cohenour, Barkus, Getz, Wilson, referred to Highways and Transportation.
- HB 372**, introduced by Wilmer, Boland, Calf Boss Ribs, Caferro, Campbell, Driscoll, French, Furey, Grinde, Hands, Henry, Jopek, MacDonald, Malek, McClafferty, Menahan, A. Noonan, Pease-Lopez, Pomnichowski, Villa, referred to Judiciary.
- HB 373**, introduced by Wilmer, Fleming, Furey, MacLaren, A. Noonan, referred to Highways and Transportation.
- HB 374**, introduced by Arntzen, Jones, McAlpin, Wilson, Klock, Augare, referred to Business, Labor, and Economic Affairs.
- HB 378**, introduced by Blasdel, Wanzenried, referred to Business, Labor, and Economic Affairs.
- HB 380**, introduced by Stahl, Jones, referred to Highways and Transportation.
- HB 382**, introduced by Hamilton, Boniek, Vincent, referred to Fish and Game.
- HB 383**, introduced by Arntzen, D. Brown, Cohenour, Hamilton, Hendrick, Klock, Ingraham, Menahan, O'Hara, Phillips, Pomnichowski, Taylor, Vincent, Squires, Story, Bean, B. Beck, Butcher, Cooney, Milburn, Miller, Reichner, Sonju, referred to Fish and Game.
- HB 384**, introduced by Villa, referred to State Administration.
- HB 387**, introduced by Reichner, referred to Business, Labor, and Economic Affairs.
- HB 397**, introduced by Kottel, referred to Judiciary.
- HB 400**, introduced by Kottel, Augare, P. Beck, Calf Boss Ribs, Driscoll, Hamilton, Hendrick, Hiner, Hunter, Jones, MacDonald, Morgan, P. Noonan, Noonney, Sesso, Taylor, A. Noonan, MacLaren, Blasdel, Brueggeman, Himmelberger, Hollenbaugh, Hoven, McChesney, Phillips, Vance, Villa, Wagner, Wanzenried, Wilson, referred to Business, Labor, and Economic Affairs.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

HB 403, introduced by Kottel, referred to Judiciary.

HB 412, introduced by Wiseman, Mendenhall, referred to Business, Labor, and Economic Affairs.

HB 426, introduced by Milburn, referred to Local Government.

HB 428, introduced by Pomnichowski, referred to Local Government.

MOTIONS

Senator Peterson moved that a recess be held to allow Republican and Democrat caucuses, and the Senate reconvene at 1:30 p.m. Motion carried.

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

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 8 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, 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: Squires.

Total 1

SB 231 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, 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

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Excused: Squires.
Total 1

SB 287 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Kaufmann, Laible, Laslovich, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 32

Nays: Branae, Brenden, Brueggeman, Cooney, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Keane, Larsen, Lewis, Moss, Schmidt, J. Tropila, M. Tropila, Wanzenried.
Total 18

Paired: Squires, Aye; Gillan, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 300 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 42

Nays: Balyeat, Hinkle, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Windy Boy.
Total 8

Paired: Laslovich, Aye; Squires, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 306 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Erickson, Kaufmann.
Total 2

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 310 passed as follows:

Yeas: Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 35

Nays: Bales, Balyeat, Barrett, Brenden, Curtiss, Hinkle, Juneau, McGee, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried.
Total 14

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 356 passed as follows:

Yeas: Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 31

Nays: Bales, Balyeat, Barkus, Black, Brenden, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, McGee, Murphy, Ripley, Steinbeisser, Tutvedt, Mr. President.
Total 19

Paired: Squires, Aye; Essmann, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 369 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 391 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, 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: Squires.
Total 1

SB 396 passed as follows:

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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Barrett.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 404 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke,

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 417 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Mr. President.
Total 29

Nays: Branae, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.
Total 21

Paired: Essmann, Aye; Squires, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 432 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, 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: Squires.
Total 1

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

SB 451 passed as follows:

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

Total 48

Nays: Barrett.

Total 1

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SJR 20 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SJR 26 passed as follows:

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

Total 46

Nays: Curtiss, Esp, McGee.

Total 3

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Excused: Squires.
Total 1

**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 Wanzenried in the chair.

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

SB 234 - Senator Gillan moved **SB 234** do pass. Motion carried as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Ripley, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Esp, Hinkle, Jackson, Murphy, Perry, Peterson, Steinbeisser, Tutvedt, Zinke.
Total 14

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 257 - Senator Keane moved **SB 257** do pass. Motion carried as follows:

Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Juneau, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Branae, Cooney, Erickson, Hansen, Hawks, Jent, Kaufmann, Larsen, Moss, Wanzenried, Williams.
Total 11

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 263 - Senator Shockley moved **SB 263** do pass. Motion carried as follows:

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

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Juneau, Stewart-Peregoy.
Total 2

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 285 - Senator Jent moved **SB 285** do pass.

SB 285 - Senator Shockley moved **SB 285**, second reading copy, be amended as follows:

1. Page 1, line 23.

Following: "(3)"

Insert: "(a)"

2. Page 1, line 23 through line 24.

Following: "if" on line 23

Strike: remainder of line 23 through "(a)" on line 24

3. Page 1, line 25.

Following: "court"

Strike: "; or"

Insert: "."

4. Page 1, line 26 through line 27.

Strike: subsection (b) in its entirety

Insert: "(b) The attorney fees awarded under this subsection (3) are limited to fees for compensable medical benefits received by the claimant and denied by the insurer for dates of service from the date of termination or date of denial through the date of the court's order. The fees must be calculated using the hourly rate or contingency percentage in the attorney's contract of employment filed and approved by the department under 39-71-613."

5. Page 1, line 28.

Following: "insurer"

Insert: "or claimant's attorney"

Following: "provider"

Insert: "or claimant"

6. Page 1, line 29.

Following: "section"

Insert: "or under 39-71-614 for medical benefits received after the date of the court's order"

7. Page 2, line 2.

Strike: "subsection"

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Insert: "subsections"

Following: "(3)"

Insert: "and (4)"

8. Page 2, line 27.

Following: line 26

Insert: "(c) The attorney fees awarded under this subsection (4) are limited to fees for compensable medical benefits received by the claimant and denied by the insurer for dates of service from the date of the written offer of payment through the date of the court's order. The fees must be calculated using the hourly rate or contingency percentage in the attorney's contract of employment filed and approved by the department under 39-71-613."

9. Page 2, line 27.

Following: "insurer"

Insert: "or claimant's attorney"

Following: "provider"

Insert: "or claimant"

10. Page 2, line 28.

Following: "section"

Insert: "or under 39-71-614 for medical benefits received after the date of the court's order"

11. Page 3, line 1.

Strike: "subsection"

Insert: "subsections"

Following: "(4)"

Insert: "and (5)"

Amendment adopted 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, Jent, Juneau, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 39

Nays: Esp, Hinkle, Jackson, Kaufmann, Laslovich, Perry, Peterson, Ripley, Steinbeisser, Mr. President.

Total 10

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 285 - Senator Jent moved **SB 285**, as amended, do pass. Motion carried as follows:

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

Total 25

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 292 - Senator Gebhardt moved **SB 292** do pass.

SB 292 - Senator Gebhardt moved **SB 292**, second reading copy, be amended as follows:

1. Page 3, line 12.

Following: "Surface"

Insert: "Auger"

Strike: "and Auger"

2. Page 3, line 13.

Following: the first "Mining"

Insert: "Mining"

3. Page 3, line 14.

Following: the first "value"

Insert: "3.75% of value"

4. Page 3, line 15.

Following: the first "value"

Insert: "5% of value"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, 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: Squires.
Total 1

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

SB 292 - Senator Hamlett moved **SB 292**, second reading copy, be amended as follows:

1. Page 3, line 12.

Following: "Surface"

Insert: "Auger"

Strike: "and Auger"

2. Page 3, line 13.

Following: the first "Mining"

Insert: "Mining"

3. Page 3, line 14.

Following: the first "value"

Insert: "4.9% of value"

4. Page 3, line 15.

Following: the first "value"

Insert: "7.4% of value"

Amendment **not** adopted as follows:

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

Total 22

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

Total 27

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 292 - Senator Gebhardt moved **SB 292**, as amended, do pass. Motion carried as follows:

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

Total 35

Nays: Cooney, Erickson, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Stewart-Peregoy, M. Tropila, Williams, Windy Boy.

Total 14

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Excused: Squires.
Total 1

SB 305 - Senator Tutvedt moved **SB 305** do pass. Motion carried as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, 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: Squires.
Total 1

SB 337 - Senator Brenden moved **SB 337** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 28

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 20

Absent or not voting: None.
Total 0

Excused: Balyeat, Squires.
Total 2

SB 399 - Senator J. Peterson moved consideration of **SB 399** be placed at the top of the second reading board. Motion carried.

SB 399 - Senator Laslovich moved **SB 399** do pass. Motion carried as follows:

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

Nays: None.
Total 0

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 349 - Senator Tutvedt moved **SB 349** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Juneau, Kaufmann.
Total 2

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 353 - Senator Black moved **SB 353** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, R. Brown, Hinkle.
Total 3

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 361 - Senator Ripley moved **SB 361** do pass. Motion carried as follows:

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

Nays: None.
Total 0

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Laslovich excused at this time.

SB 424 - Senator Barkus moved **SB 424** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

SB 436 - Senator Gallus moved **SB 436** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, Brueggeman, Curtiss, Esp, Gallus, Gebhardt, Gillan, Hansen, Hinkle, Jackson, Juneau, Keane, Laible, Larsen, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Stewart-Peregoy, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 34

Nays: R. Brown, T. Brown, Cooney, Erickson, Essmann, Hamlett, Hawks, Jent, Kaufmann, McGee, Perry, Steinbeisser, J. Tropila, Wanzenried.
Total 14

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

SB 438 - Senator Juneau moved **SB 438** do pass. Motion carried as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

SB 449 - Senator Keane moved **SB 449** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

SB 470 - Senator Gallus moved **SB 470** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

SJR 25 - Senator J. Peterson moved **SJR 25** do pass. Motion carried as follows:

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

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

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

MOTIONS

Senator Bales moved to re-refer **SB 234** to Finance and Claims after second reading. Motion carried.
Senator Bales move to re-refer **SB 263** to Finance and Claims after second reading. Motion carried.

SPECIAL ORDERS OF THE DAY

SR 3 - Senator Brueggeman moved that the following nominations for the Transportation Commission transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 3, and that the ayes and nays be spread upon the journal: Barb Skelton, Billings; Rick Griffith, Butte; and Diann Seymour-Winterburn, Helena.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

Senator Barkus welcomed the Pages for the Week of February 22-25, 2009.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Perry, Chairman):
SB 497, introduced bill, be amended as follows:

2/23/2009

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

1. Title, line 4.

Strike: "PROTEST"

Insert: "DEMONSTRATION"

2. Page 1, line 10.

Strike: "protest"

Insert: "demonstration"

3. Page 1, line 14.

Following: "or to"

Strike: "protest"

Insert: "demonstrate"

4. Page 1, line 16.

Strike: "protest"

Insert: "demonstration"

5. Page 1, line 17.

Following: "in a"

Strike: remainder of line 17 through "facility" on line 18

Insert: "lawful demonstration pursuant to subsection (1)"

6. Page 1, line 19.

Following: "in a"

Strike: "protest"

Insert: "lawful demonstration pursuant to subsection (1)"

7. Page 1, line 19.

Following: "person."

Insert: "However, it is not a violation of this subsection for a person to approach within 8 feet of a person who is engaged in a lawful demonstration pursuant to subsection (1) in order to lawfully enter into or exit from a health care facility."

And, as amended, do pass. Report adopted.

MOTIONS

Senator Perry moved to re-refer **SB 461** to Natural Resources. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, T. Brown, Curtiss, Esp, Essmann, Hawks, Hinkle, Keane, Laible, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Wanzenried.

Total 19

Nays: Black, Branae, R. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Jackson, Jent, Juneau, Kaufmann, Larsen, Lewis, McGee, Moss, Murphy, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke, Mr. President.

Total 29

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Excused: Laslovich, Squires.
Total 2

Senator Cooney moved to re-refer **SB 469** to State Administration. Motion failed as follows:

Yeas: Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 20

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

Senator Cooney appealed to the Rules Committee. Senator Cooney withdrew his request.

Senator Cooney moved to reconsider the action to re-refer **SB 469**. Motion carried.

Senator Cooney moved **SB 469** be re-referred to State Administration. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 10:00 a.m., Tuesday, February 24, 2009. Motion carried.

Senate adjourned at 5:08 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate