

**SENATE JOURNAL
61ST LEGISLATURE
FIFTY-THIRD LEGISLATIVE DAY**

Helena, Montana
March 10, 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 Senators Gallus, Schmidt, and Squires, excused. Quorum present.

Senator Schmidt present.

BILLS AND JOURNALS:

3/10/2009

Correctly printed: **SB 462, HB 38, HB 46, HB 57, HB 61, HB 120, HB 125, HB 149, HB 168, HB 172, HB 181, HB 368, HJR 6.**

Correctly engrossed: **HB 244.**

Correctly enrolled: **SB 72, SB 157, SB 161, SB 219, SB 252.**

Signed by the Secretary of the Senate at 4:00 p.m., March 9, 2009: **SB 18, SB 23, SB 35, SB 42, SB 53, SB 78, SB 90, SB 98, SB 117, SB 130, SB 140, SB 152, SB 215.**

Signed by the President at 10:40 a.m., March 10, 2009: **SB 18, SB 23, SB 35, SB 42, SB 53, SB 78, SB 90, SB 98, SB 117, SB 130, SB 140, SB 152, SB 215.**

Signed by the Speaker at 2:15 p.m., March 9, 2009: **SB 24, SB 116, SB 181, SJR 13.**

Examined by the sponsor and found to be correct: **SB 18, SB 23, SB 35, SB 42, SB 53, SB 78, SB 90, SB 98, SB 117, SB 130, SB 140, SB 152, SB 215.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, and thirty-fifth legislative days, find the same to be correct.

Senator Curtiss, Chair

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
HB 136, be concurred in. Report adopted.

3/10/2009

NATURAL RESOURCES (Gebhardt, Chairman):
HB 39, be amended as follows:

3/10/2009

1. Title, page 1, line 11.

Strike: the first "AND"

2. Title, page 1, line 12.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 5.

Following: line 2

Insert: "NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval."

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

And, as amended, be concurred in. Report adopted.

HB 41, be amended as follows:

1. Title, line 6.

Strike: "AND"

2. Title, line 7.

Following: "MCA"

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

3. Page 3, line 24.

Following: "shall"

Strike: "obtain"

Insert: "apply for"

4. Page 6.

Following: line 1

Insert: "COORDINATION SECTION. Section 4. Coordination instruction. If both Senate Bill No. 94 and [this act] are passed and approved, then the amendments to 85-2-362 in both Senate Bill No. 94 and [this act] are void and 85-2-362 must read as follows:

"85-2-362. Aquifer recharge or mitigation plans in closed basins -- minimum requirements.(1) An applicant whose hydrogeologic assessment conducted pursuant to 85-2-361 predicts that there will be a net depletion of surface water shall offset the net depletion that results in the adverse effect through a mitigation plan or an aquifer recharge plan. A mitigation plan or an aquifer recharge plan, or both, must provide evidence of how the plan will offset the net depletion of surface water from an appropriation of water that results in an adverse effect, including, at a minimum, evidence:

~~(2) A mitigation plan must include:~~

~~_____ (a) where and how the water in the plan will be put to beneficial use;~~

~~_____ (b) when and where, generally, water reallocated through exchange or substitution will be required;~~

~~_____ (c) the amount of water reallocated through exchange or substitution that is required;~~

~~_____ (d) how the proposed project or beneficial use for which the mitigation plan is required will be operated;~~

~~_____ (e) evidence~~

~~_____ (a) of the amount of water reallocated through exchange or substitution;~~

~~_____ (b) of the general timing and location of the water reallocated through exchange or substitution;~~

~~_____ (c) that the mitigation water will be available;~~

~~_____ (d) of how the mitigation water in the plan will be protected and how it will be measured or accounted for;~~

~~_____ (e) that the appropriate water quality permits have been applied for pursuant to Title 75, chapter 5, as required by 75-5-410 and 85-2-364; and~~

~~_____ (f) that an application for a change in appropriation right, if necessary, has been submitted;~~

~~_____ (f) evidence of water availability; and~~

~~_____ (g) evidence of how the mitigation plan will offset the required amount of net depletion of surface water in a manner that will offset an adverse effect on a prior appropriator.~~

~~_____ (3) An aquifer recharge plan must include:~~

~~_____ (a) evidence that the appropriate water quality related permits have been granted pursuant to Title 75, chapter 5, and pursuant to 75-5-410 and 85-2-364;~~

~~_____ (b) where and how the water in the plan will be put to beneficial use;~~

~~_____ (c) when and where, generally, water reallocated through exchange or substitution will be required;~~

~~_____ (d) the amount of water reallocated through exchange or substitution that is required;~~

~~_____ (e) how the proposed project or beneficial use for which the aquifer recharge plan is required will be operated;~~

~~_____ (f) evidence that an application for a change in appropriation right, if necessary, has been submitted;~~

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

~~(g)~~(2) In addition to the requirements in subsection (1), an aquifer recharge plan must also include a description of the process by which water will be reintroduced to the aquifer;

~~(h) evidence of water availability; and~~

~~(i) evidence of how the aquifer recharge plan will offset the required amount of net depletion of surface water in a manner that will offset any adverse effect on a prior appropriator.~~

(3) A mitigation plan or aquifer recharge plan may not include the proposed elimination of vegetation for which there is not an associated water right.

(4) A mitigation plan or aquifer recharge plan may not include the use of tributary water collected from land surfaces that have been made impermeable, thereby increasing the runoff but not adding to the existing supply of tributary water. This subsection does not apply to actions that increase the efficiency of existing conveyance structures.

~~(4)~~(5) The department may not require an applicant, through a mitigation plan or an aquifer recharge plan, to provide more water than the quantity needed to offset the adverse effects on a prior appropriator caused by the net depletion.

~~(5)~~(6) An appropriation right that relies on a mitigation plan or aquifer recharge plan to offset net depletion of surface water that results in an adverse effect on a prior appropriator must be issued as a conditional permit that requires that the mitigation plan or aquifer recharge plan must be exercised when the appropriation right is exercised.""

Insert: "COORDINATION SECTION. Section 5. Coordination instruction. If both Senate Bill No. 94 and [this act] are passed and approved, then the amendments to 85-2-364 in both Senate Bill No. 94 and [this act] are void and 85-2-364 must read as follows:

"85-2-364. Department permit coordination -- requirements for aquifer recharge plans. To ensure that the department and the department of environmental quality are coordinating their respective permitting activities:

(1) an applicant for a new appropriation right pursuant to 85-2-360 that involves aquifer recharge or mitigation and requires a discharge permit pursuant to Title 75, chapter 5, shall provide to the department with a copy of a relevant discharge permit if necessary evidence that an application for the discharge permit has been submitted to the department of environmental quality; and

(2) the department may not grant a new appropriation right pursuant to 85-2-360 that involves aquifer recharge or mitigation until the discharge permit, if necessary, has been obtained and presented to the department.""

Insert: "NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval."

Insert: "NEW SECTION. Section 7. Applicability. [This act] applies to applications received by the department of natural resources and conservation on or after [the effective date of this act]."

And, as amended, be concurred in. Report adopted.

HB 75, be concurred in. Report adopted.

HB 139, be concurred in. Report adopted.

HB 153, be concurred in. Report adopted.

HB 278, be concurred in. Report adopted.

HB 285, be concurred in. Report adopted.

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

3/10/2009

HB 72, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

3/10/2009

HB 30, be concurred in. Report adopted.

HB 54, be concurred in. Report adopted.

HB 58, be concurred in. Report adopted.

HB 192, be concurred in. Report adopted.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/9/2009

SB 72, introduced by Laslovich
SB 157, introduced by Shockley
SB 161, introduced by Debby Barrett
SB 219, introduced by Squires
SB 252, introduced by Cooney

FIRST READING AND COMMITMENT OF BILLS

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

SB 503, introduced by Essmann, Zinke, J. Peterson, Black, Hinkle, McGee, Jackson, Bales, , Gebhardt, De. Barrett, Curtiss, Tutvedt, , Perry, Ripley, Steinbeisser, Brenden, T. Brown, Brueggeman, R. Brown, Barkus, referred to Taxation.

SB 504, introduced by Balyeat, Jackson, Zinke, Steinbeisser, Hinkle, Black, Gebhardt, referred to Taxation.

SB 505, introduced by Bales, McChesney, referred to Finance and Claims.

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

SR 9, introduced by Shockley (by request of Senate State Administration Standing Committee), referred to State Administration.

MOTIONS

Senator Perry moved to re-refer **HB 108** from Judiciary to Finance and Claims. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced.

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 462 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, 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: None.

Total 0

Absent or not voting: None.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Total 0

Excused: Gallus, Squires.

Total 2

HB 61 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, 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: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Squires.

Total 2

HB 120 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, 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: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Squires.

Total 2

HB 125 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, 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: None.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Total 0

Absent or not voting: None.
Total 0

Excused: Gallus, Squires.
Total 2

Senator Gallus present.

HB 168 concurred in as follows:

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

Nays: Balyeat, Esp, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Gallus, Squires.
Total 2

HB 172 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, 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 46

Nays: Erickson, Esp, Kaufmann.
Total 3

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 181 concurred in 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.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 368 concurred in 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, 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: Cooney.
Total 1

Absent or not voting: None.
Total 0

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 Windy Boy in the chair.

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

HB 140 - Senator Gebhardt moved **HB 140** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 42

Nays: Cooney, Erickson, Jent, Juneau, Kaufmann, Moss, M. Tropila.
Total 7

Absent or not voting: None.
Total 0

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Excused: Squires.
Total 1

HB 80 - Senator Barkus moved **HB 80** be concurred in. 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

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 94 - Senator Steinbeisser moved **HB 94** be concurred in. 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

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 151 - Senator Juneau moved **HB 151** be concurred in. Motion carried as follows:

Yeas: Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 39

Nays: Bales, Balyeat, Barkus, Hinkle, Jackson, McGee, Ripley, Shockley, Steinbeisser, Zinke.
Total 10

Absent or not voting: None.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Total 0

Excused: Squires.

Total 1

HB 247 - Senator J. Peterson moved **HB 247** be concurred in. Motion carried 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

HB 273 - Senator Laslovich moved **HB 273** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, 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.

Total 45

Nays: Balyeat, Esp, Hinkle, Mr. President.

Total 4

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 293 - Senator Jent moved **HB 293** be concurred in. 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
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 298 - Senator Shockley moved **HB 298** be concurred in. 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

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HJR 17 - Senator R. Brown moved **HJR 17** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, 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, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 43

Nays: Balyeat, Barkus, Brenden, Esp, Ripley, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

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

Senate at ease.

SPECIAL ORDERS OF THE DAY

Senator Peterson moved the Senate recess and proceed to the House of Representatives to hear the State of the Tribal Nations address. Upon adjournment of the joint session, the Senate will be adjourned until the hour of 1:00 p.m.,

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Wednesday, March 11, 2009. Motion carried.

After the Senate was introduced in the House chambers, President Story assumed the chair. Senator Peterson moved that the body resolve itself into a joint session for the purpose of receiving the State of the Tribal Nations address from Chairman James Steele, Montana/Wyoming Tribal Leaders Council and Confederated Salish and Kootenai Tribes. Motion carried.

Senator Peterson moved that the President be authorized to appoint a committee of four to notify Chairman Steele that the House and Senate are in joint session and ready to receive the State of the Tribal Nations address. Motion carried.

President Story appointed Senator T. Brown, Senator Juneau, Representative Calf Boss Ribs, and Representative Hendrick, and the committee escorted Chairman Steele into the House chambers.

Bruce Sunchild, Sr., Councilman, Chippewa Cree Tribe, gave the Invocation.

The Chief Cliff Singers performed the Flag Song.

President Story introduced Chairman Steele to the joint session, and the Chairman gave the following speech:

Good afternoon. Thank you House Speaker Bob Bergren. Thank you Senate President Robert Story.

Thank you also to Margaret Campbell, Fort Peck Tribal member and the first Indian House Majority Floor Leader.

Thank you for the opportunity to speak in this distinguished chamber and for the opportunity to speak to the leaders of Montana, who have gathered here for this State of the Tribal Nations address.

I also thank the Montana National Guard that presented the colors. You have served our Nation well in putting yourself in harm's way and you continue to serve through your community service. As United States Senators John McCain and Dan Inouye, themselves both war heroes, have often pointed out, American Indians have a proud tradition of serving in the military in the highest percentage of any ethnic group in the United States. We ask our Creator for Godspeed for all Americans that serve this great country in places far away and pray for their families who also make tremendous sacrifices for the freedoms we have.

Thank you, Bruce Sun Child, for your words of prayer.

I am pleased to introduce the Tribal Government leaders that join me today:

Blackfeet Chairman Willie Sharp
Chippewa Cree Chairman Jake Parker
Crow Chairman Cedric Black Eagle
Fort Belknap President Julia Doney
Fort Peck Chairman A.T. "Rusty" Stafne
Northern Cheyenne President Leroy Spang, and
Little Shell Band of Chippewa Chairman John Sinclair.

Tribal leaders, I am honored to represent you today, as Chairman of the Montana-Wyoming Tribal Leaders Council and as Chairman of the Confederated Salish and Kootenai Tribes.

Honorable Governor Brian Schweitzer and Lieutenant Governor John Bohlinger, thank you. Throughout your administration, you have opened the front doors of the Capitol to the Tribes, and we have walked through those doors many times. We look forward to continuing our government-to-government relationship throughout the next four years.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

I thank the distinguished members of the Senate and House of Representatives and, in particular, the American Indian legislators of Montana:

Representative Shannon Augare, House Majority Whip
Representative Tony Belcourt
Representative, Frosty Calf Boss Ribs
Representative Carolyn Pease-Lopez
Representative David Roundstone
Senator Carol Juneau
Senator Sharon Stewart-Peregoy, and
Senator Jonathan Windy Boy

We look to you for leadership and guidance as the legislative session continues.

I would also like to recognize the statewide elected officials in attendance today:

Superintendent of Public Instruction, Denise Juneau, the first Indian woman to be elected to statewide public office
Attorney General Steve Bullock
Secretary of State Linda McCulloch
State Auditor Monica Lindeen

There are members of the Governor's cabinet present today, as well as representatives from the offices of Senator Baucus, Senator Tester, and Representative Rehberg.

I would especially like to thank and honor Mr. Gilbert Horn, Sr., an Assiniboine of the of the Fort Belknap Indian Reservation, who, like the more storied Navajos, used the Assiniboine language with Gerald Red Elk of the Ft. Peck Reservation to create a code our enemies in World War II were never able to break. At one point in the war Gilbert Horn victoriously attacked a Japanese machine gun post and, despite finding his uniform riddled with machine gun bullets, managed to survive unscathed. He was awarded the Congressional Medal of Honor but this humble man felt like he didn't deserve special recognition because he was only doing his job. Thank you, Mr. Gilbert Horn, for your service to the country. Thank you all.

Elected leaders, tribal elders, ladies and gentlemen:

On behalf of the Tribal Nations across the state of Montana, I am honored to present the State of the Tribal Nations address. My name is James Steele, Jr., and I am the Chairman of the Confederated Salish and Kootenai Tribes and the Chairman of the Montana-Wyoming Tribal Leaders Council.

We live in times of tremendous change, politically and economically. We have seen history made in the election of President Barack Obama and his appointments of the most diverse cabinet in the history of the nation.

And we have also lost a great leader. This past month, Crow Tribal Chairman Carl Venne passed away – a tremendous loss for the Crow Nation, Montana, and the country. Carl was a former Chairman of the Montana-Wyoming Tribal Leaders Council and gave this address during the 2007 legislative session. Please let us honor the passing of this great leader, this great man, and my friend, with a moment of silence.

The Charles M. Russell painting that dominates this Chamber serves as a reminder of the historic relationship between the Tribes and those who came west to this great country. Charlie Russell recognized that the coming of Lewis and Clark had a profound impact on the Indian people, as our way of life was changed forever. In 1805, the economies of Native America were strong and thriving. In fact, in his orders to Lewis and Clark, President Jefferson instructed the two

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

captains to take note and report to him on the economic activities of the Tribes, for Jefferson knew they were vibrant. Our families were strong units. We depended on each other for our survival. There was food, clothing, and shelter with a strong religion and value system. An interesting aspect of Thomas Jefferson is that he had studied the governing structure of the six nations that comprise the Iroquois Confederacy, and he was fascinated by the idea that there could be independent tribal governments who had autonomy from one another but who also coalesced for their common good. Historians believe that the relationship between those tribes influenced Jefferson and played a role in the crafting of the Constitution and the establishment of the United States.

The Russell mural depicts an event that took place on September 4, 1805 when Lewis and Clark's journey embarked on Salish territory at Ross Hole. The encounter between them and the Salish tribal people was a monumental event that ultimately led to the success of the expedition. The Salish people graciously provided the explorers with fresh horses, food, and other vital supplies that were needed for their trek across the Bitterroot Mountains to the Pacific Ocean.

Without our assistance at Ross Hole and that of other tribes along the way, who knows what the outcome of the journey would have been. These people came looking for a new life, for opportunity, for the freedom to practice any religion they chose. They came looking for hope and opportunity, and we as Indian people hold that in common with them today. Maybe if Indian people had a strong policy on immigration things might have turned out quite differently!!

Today, we begin another partnership. It is a partnership that must be based on mutual respect and an understanding. We all must benefit if we as a state are to move forward. What is essential, if we as Indian people are going to survive, is that the State of Montana accepts the most basic premise that Indian tribes are sovereign units of government. It should be noted that the Constitution of the United States identifies three units of government and those are federal, state, and Indian tribal governments. We are not racial groups who happen to live on a particular land base and want what other interests groups want. We are the successors in interest to those who signed treaties with the United States that allowed for Montana to be created. The United States does not sign treaties with interest groups; they sign treaties with governments, and our treaties were ratified by the United States Senate. They are binding contractual agreements in which we reserved to ourselves the rights of self-government and when the western states joined the Union, their enabling acts committed them to respecting that authority. There are times when this phenomenon has created jurisdictional problems but to a great extent Montana, particularly in more recent years, has come to understand that our relationship is one of two governments that must be built on mutual respect. I believe that by carrying out this relationship in a mutually respectful fashion, we can better the lives of the people who live on Indian reservations, as well as those who do not. I believe that Indian reservations are good for Montana and can in fact significantly aid Montana in the area of economic development.

At this time it is important that we focus on economic development, job creation, education and health care. These things go hand in hand and our concerns are the same as yours. For too long our people have struggled in economically depressed communities. Our country is in the most severe economic downturn in a generation. But for Indian Country, this is not new, as reservations have long suffered with high levels of unemployment. The question is how can Montana help its tribes develop, and how can those tribes in turn assist Montana to develop its economy? One source of information that I would ask Montana's officials to look at is the study funded by the State & Tribal Economic Development Commission and the University of Montana called the Uncovering Economic Contributions of Montana's American Indian Tribes.

Montana's reservations contribute to the state economy by purchasing goods and services from surrounding communities throughout the state with revenue generated from natural resource-based jobs, tribal businesses, federal funds that support some tribal operations and revenue from tribal assets.

Cooperative agreements between the Tribes and State will improve the economic conditions of the reservations and would benefit the state of Montana.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

State and tribal leaders, consider these areas for cooperative agreements:

1. Partnerships focused on bringing a business development approach to tribal communities through technical assistance and strategic partnerships.
2. Improve management skills and the ability to land job-creating grants by using tribal colleges to train the workforce.
3. Assist Tribes with due diligence on energy development technologies.

These are just a few items to consider in the efforts to improve the health and well-being of our communities. The Salish and Kootenai Tribes are mapping out our future as energy providers. This effort will reach a new stage in 2015 when CSKT purchases Kerr Dam and becomes a supplier of hydroelectric energy. CSKT has also successfully managed a federal power company, Mission Valley Power, for the past 20 years and now serves 14,000 customers.

The great Crow Nation has taken a bold step and signed an agreement with the Australian Energy Company to form the Many Stars Coal-to-Liquids Project. This effort will bring significant opportunities to the Crow people and to all Montanans, through the creation of 4,000 Montana-based jobs, an increased tax base, and will have a vast positive economic impact.

The Gros Ventre and Assiniboine Tribes of the Fort Belknap Reservation have used their Indian Country Economic Development funds for the creation of the Little River Smokehouse. This has brought great pride to the Assiniboine and Gros Ventre people. Thank you for this important program and please continue its funding this session.

The Little Shell Chippewa Tribes continue to receive our support in their endeavors to gain federal recognition. Sen. Jon Tester has also supported the tribes in their 31-year effort for recognition.

The Northern Cheyenne is delicately balancing energy development to create jobs while being environmentally conscientious with their traditional values.

The Assiniboine and Sioux Tribes of the Fort Peck Reservation are proud to report that they were the first to sign a revenue-sharing agreement with the State of Montana to eliminate duplicate taxation of new oil and gas development on the reservation. This creates a competitive business environment on the reservation, leading to more development of tribal oil and gas resources and increased economic opportunities for tribal members.

The Chippewa Cree Tribe is engaging in energy development on and around the Rocky Boy's Reservation that will create more jobs, generate revenue, and provide direct control over development of land and resources. The Tribe has partnered with Native American Resource Partners (NARP) to create a tribally owned energy company for exploring and developing oil and gas resources. The priorities will be on natural gas exploration and development followed by wind energy progress.

The Blackfeet Nation is working to upgrade Pikuni Industries to manufacture materials for Defense Department contracts, and oil drilling efforts have increased on the western side of the Blackfeet Reservation. The Tribe is also in discussion with wind energy producers about several wind projects on the Reservation.

These are just a few examples – from among many – of the efforts tribal governments are making to improve the health and well-being of our peoples.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Even with high rates of unemployment, the seven Indian Reservations of Montana and the state-recognized Little Shell Band of Chippewa, contribute a combined total of \$1 billion annually to the Montana economy. Those numbers may surprise some people, but to those of you who work every day to make your home communities better for your people, these figures come as no surprise.

This is an important time to come together. It's important to remind ourselves and our surrounding communities that together, we are greater than the sum of our parts. An example of that played out when Transportation Director Jim Lynch reach out to Indian Country to coordinate conference calls about economic stimulus dollars and transportation funds. Our Nations are hungry for improvement and the tax status of Indian reservations can be attractive to industry.

In the more immediate term, during this legislative session, you will hear many ideas to help make Montana, even better. The Governor has already signed into law SB 39, sponsored by Senator Carol Juneau, extending the duration of the Reserved Water Rights Compact Commission. I thank Senator Juneau, this legislative body, and the Governor for taking quick action on this bill, which is so vital to the economic future of my people and all Montanans. Senate Bill 39 will allow the CSKT and the State the time to negotiate a water compact that is fair for all who live on the reservation.

While there are many bills worthy of support, I must urge your support in particular for several bills that are vital in Indian Country because of their effect on our economies:

House Bill 161, sponsored by Representative Shannon Augare, ratifies the Blackfeet water compact. This bill represents a vital step in the journey towards fair and just water rights for the Blackfeet Tribe and tribal members, and I thank Representative Augare for sponsoring the bill.

House Bill 135, sponsored by Representative Tony Belcourt, provides funding for the Peoples Creek mitigation account, as part of the Fort Belknap water compact. With this bill, the State begins to fulfill its obligations under the compact to the people of the Fort Belknap Reservation. Thank you, Representative Belcourt (or Landslide Tony as some of us call him), for your sponsorship.

Senate Bill 201, sponsored by Senator Jesse Laslovich, revises the Crow water compact. This important bill allows the Crow Nation to access their interest earnings on funds appropriated as part of the State of Montana's obligation under the compact. With these monies, the Crow will be able to set up their water administration office, as well as complete the ratification process of their water compact in the U.S. Congress. I thank Senator Laslovich for sponsoring this legislation.

House Bill 158, sponsored by Representative Shannon Augare, allowing for direct tribal access to economic development funding. This bill allows tribes to directly access the state's Big Sky Economic Development program funding. Representative Augare understands that the tribes will need to access all the resources they can to help their peoples during these times of economic crisis.

Senate Bill 456, sponsored by Carol Juneau, exempts tribally owned property from state property taxes, just as all governments in Montana are exempt from state property taxes. I am thankful for Senator Juneau's persistence in sponsoring this important bill, which is a simple matter of fairness and an important symbol of respect for the state-tribal government-to-government relationship.

I thank you for supporting the Indian Country Economic Development program, contained in House Bill 2. This program, established as part of the Governor's budget in 2005, has been a critical engine of economic growth in Indian Country, and is now more important than ever given the economic crisis.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Legislators, as you deliberate in making laws and decisions that affect the great State of Montana, let Charlie Russell's painting remind you of your obligation to include Native peoples as your neighbors, partners and friends. Let us move forward together.

Thank you.

Representative Pease-Lopez gave the Benediction.

Senator Peterson moved that the joint session of the 61st Legislature be adjourned. Motion carried.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate