

**SENATE JOURNAL
61ST LEGISLATURE
SIXTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
March 24, 2009

Senate Chambers
State Capitol

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

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

3/24/2009

Correctly printed: **SB 22, SB 244, SB 446, SB 495, SB 498, HB 54, HB 146, HB 197, HB 317, HB 365, HB 403, HB 622.**

Correctly engrossed: **SB 234, SB 370, SB 379, HB 85, HB 123, HB 177, HB 221, HB 269, HB 362, HB 375, HB 409, HB 557, HB 593, HJR 4, HJR 33.**

Correctly enrolled: **SB 82, SB 208, SB 209, SB 273, SB 319, SB 325, SB 341, SB 395, SB 432, SJR 22.**

Delivered to the Secretary of State at 9:46 a.m., March 24, 2009: **SR 9.**

Signed by the Speaker at 1:30 p.m., March 24, 2009: **SB 20, SB 21, SB 141, SB 173, SB 184, SB 197, SB 323, SB 368, SB 409.**

Signed by the Secretary of the Senate at 3:45 p.m., March 23 2009: **SB 20, SB 21, SB 141, SB 173, SB 184, SB 197, SB 323, SB 368, SB 409, SR 9.**

Signed by the President at 4:25 p.m., March 23, 2009: **SB 20, SB 21, SB 141, SB 173, SB 184, SB 197, SB 323, SB 368, SB 409, SR 9.**

Examined by the sponsor and found to be correct: **SB 20, SB 21, SB 141, SB 173, SB 184, SB 197, SB 323, SB 368, SB 409, SR 9.**

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

3/24/2009

HB 71, be concurred in. Report adopted.

HB 104, be concurred in. Report adopted.

HB 107, be concurred in. Report adopted.

HB 112, be concurred in. Report adopted.

HB 123, be amended as follows:

1. Title, page 1, line 10.

Following: "DATES"

Insert: "AND A TERMINATION DATE"

2. Page 4, line 7.

Strike: "2 and 3"

Insert: "2, 3, and 5"

3. Page 4, line 8.

Insert: "NEW SECTION. **Section 5. Termination.** [Section 1] terminates June 30, 2012."

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

HB 127, be concurred in. Report adopted.

HJR 33, be amended as follows:

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1. Page 2, lines 2 and 3.

Following: "to the" on line 2

Strike: remainder of line 2 through "Treasury," on line 3

Insert: "Director of the Office of Management and Budget"

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

LOCAL GOVERNMENT (Esp, Chairman):

3/23/2009

HB 466, be concurred in. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

3/24/2009

SB 370, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "EXEMPTING" through "FEE;"

2. Title, page 1, line 7.

Following: "15-38-113,"

Insert: "82-4-405, 82-4-424,"

3. Page 2, line 27.

Strike: "or"

4. Page 2, line 28.

Following: "Title"

Strike: "84"

Insert: "82"

5. Page 2, line 29.

Following: "82-4-437(2)"

Insert: "; or"

6. Page 2.

Following: line 29

Insert: "(4) a county, city, or town that holds a permit pursuant to Title 82, chapter 4, part 4"

Insert: "**Section 4.** Section 82-4-405, MCA, is amended to read:

"82-4-405. Inapplicability to government. ~~The (1) Except as provided in subsection (2), the provisions of~~ this part relating to fees or bonds do not apply to the federal government or its agencies, the state of Montana, counties, cities, or towns.

(2) Counties, cities, and towns are responsible for the fee required pursuant to 82-4-437(2)."

"Section 5. Section 82-4-424, MCA, is amended to read:

"82-4-424. Receipt and expenditure of funds -- disposition of penalties and other money. (1) The department may receive any federal funds, state funds, or any other funds for the reclamation of affected land. The department may cause the reclamation work to be done by its employees, by employees of other governmental agencies, by soil conservation districts, or through contracts with qualified persons.

(2) All penalties and other money paid under the provisions of this part, except annual fees, must be deposited in the environmental rehabilitation and response account in the state special revenue fund provided for in 75-1-110. Funds held by the department as bond or as a result of bond forfeiture that are no longer needed for reclamation and for which the department is not able to locate a surety or other person who owns the funds after

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diligent search must be deposited in the environmental rehabilitation and response account in the state special revenue fund."

Renumber: subsequent sections

7. Page 3, line 5.

Strike: "Except" through "each"

Insert: "Each"

8. Page 3.

Following: line 11

Insert: "NEW SECTION. Section 9. Retroactive applicability. The exemption provided for in 15-38-113(4) applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2000, for counties, cities, and towns."

And, as amended, do pass. Report adopted.

HB 161, be concurred in. Report adopted.

HB 375, be amended as follows:

1. Page 2, line 14 through line 15.

Strike: "president of the senate"

Insert: "committee on committees"

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

HB 557, be amended as follows:

1. Page 1, line 24.

Following: "storage"

Insert: ", "

2. Page 1, line 25.

Following: "PUMPING"

Insert: ", "

Strike: "60"

Insert: "40"

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

HJR 4, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "ADOPT" on line 6 through "REGARDING" on line 7

Insert: "INCREASE"

2. Page 1, line 21 through line 22.

Strike: "the" on line 21 through "enact" on line 22

3. Page 1, line 22.

Following: "legislation"

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Insert: "is needed"

4. Page 1, line 25.

Strike: "would be required to"

Insert: "should"

5. Page 1, line 26.

Strike: "would"

Insert: "should"

6. Page 1, line 27.

Strike: "would"

Insert: "should"

7. Page 2, line 5 through line 6.

Strike: "adopting" on line 5 through "regarding" on line 6

Insert: "increasing"

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

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):
HB 85, be amended as follows:

3/24/2009

1. Title, page 1, line 11.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 3, line 5.

Following: "department"

Insert: "of public health and human services"

3. Page 5, lines 3 through 5.

Following: "if it is" on line 3

Strike: ":" on line 3 through "(b)" on line 5

Insert: "either"

Following: "7-1-4121,"

Strike: "that"

Insert: "and"

Following: "employs"

Insert: "the majority of its"

4. Page 5, lines 11 and 12.

Strike: "FIVE PERCENT" on line 11

Insert: "Up to 5%"

Strike: "MUST BE HELD" on line 11 through "TO" on line 12

Insert: "may"

Following: "PURPOSES"

Strike: "ONLY"

Insert: "each year"

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5. Page 5.

Following: line 20

Insert: "(b) one member of the department of public health and human services;"

Renumber: subsequent subsections

6. Page 9, line 22.

Insert: "NEW SECTION. **Section 13. Termination.** [Sections 1 through 8] terminate June 30, 2011."

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

HB 409, be amended as follows:

1. Page 9, line 28.

Following: "~~(1)~~"

Insert: "(1)"

2. Page 10.

Following: line 11

Insert: "(2) Except as provided in subsection (3):

(a) a person or entity, including the manufacturer of a cancer drug or device that exercises reasonable care in donating, accepting, distributing, or dispensing a cancer drug or device under the provisions of [sections 1 through 3] and rules adopted by the board, is immune from civil or criminal liability or professional disciplinary action of any kind for an injury, death, or loss to a person or property relating to the accepting, distributing, or dispensing of the cancer drug or device;

(b) a person or entity, unless directly negligent, is not liable for the negligence or lack of care of other persons or entities and is entitled to the immunity of this part.

(3) (a) The donation of a cancer drug or device by the manufacturer of the drug or device does not absolve the manufacturer from criminal or civil liability or increase a liability that would have existed had the drug or device not been donated.

(b) The civil immunity provisions of subsection (2) do not apply to a person employed by or an entity operated by the state or a political subdivision of the state."

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

STATE ADMINISTRATION (Shockley, Chairman):

3/24/2009

HB 12, be concurred in. Report adopted.

HB 144, be concurred in. Report adopted.

HB 170, be concurred in. Report adopted.

HB 509, be concurred in. Report adopted.

HB 626, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 23**
Report No. 1, March 24, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 23** (reference copy -- salmon)

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and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 23** (reference copy -- salmon) be amended as follows:

1. Title, line 7.

Strike: "APPLICABILITY"

Insert: "IMMEDIATE EFFECTIVE"

2. Page 2, line 8 through line 9.

Strike: section 3 in its entirety

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

For the House:

D. Brown
Himmelberger
McAlpin
Phillips

For the Senate:

Gallus
Gebhardt

MESSAGES FROM THE GOVERNOR

March 24, 2009

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

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

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 171, "**AN ACT**" for the following reasons.

House Bill 171, as passed by the legislature, repeals all state regulation of professional and semiprofessional combative events. Those events include boxing, wrestling, mud wrestling, martial arts, and other combative events. My proposed amendments would retain state regulation of professional boxing, only, which will have the effect of allowing professional boxing events in Montana to be held in conformity with national safety standards for boxing. Without such amendments, the concern is that any professional boxing events in Montana would go unregulated and would not be recognized nationally. None of the other combative events currently regulated by the state have federal safety counterparts.

I have discussed the amendments with the bill's sponsor, Representative Augare, who has no objection.

Sincerely,

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BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 171

2. Title, line 5.

Following: "ACT"

Strike: "REPEALING"

Insert: "RETAINING THE REGULATION OF PROFESSIONAL BOXING AND ELIMINATING ALL OTHER"

3. Title, line 6.

Strike: "SECTION 2-6-109, MCA; REPEALING"

4. Title, line 7.

Following: "23-3-602,"

Insert: "AND"

Strike: "AND 23-3-611,"

5. Page 1, line 12 through page 2, line 17.

Strike: everything after the enacting clause

Insert: "**Section 1.** Section 23-3-301, MCA, is amended to read:

"**23-3-301. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "~~Combative events~~" means a match, exhibition, contest, show, or tournament involving contestants in boxing, wrestling, mud wrestling, martial arts, or any other combative practice as defined by the department by rule.

~~(2)~~(1) "Contestant" means a professional or semiprofessional practitioner of boxing, wrestling, mud wrestling, martial arts, or any other combative practice as defined by the department by rule.

~~(3)~~(2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(3) "Professional boxing" means a match, exhibition, contest, show, or tournament involving the sport of professional boxing as defined by the department by rule, consistent with federal law governing boxing safety.

(4) "Program" means a set of operations governed by the statutes in this chapter and the rules adopted by the department under this chapter."

{Internal References to 23-3-301: None.}"

Insert: "**Section 2.** Section 23-3-402, MCA, is amended to read:

"**23-3-402. Enforcement of rules.** (1) The department may designate in writing a representative to act specifically on behalf of the department but only within the scope of the written authority.

(2) The representative shall attend and supervise a combative professional boxing event and has the authority from the department to enforce rules adopted under this chapter."

{Internal References to 23-3-402: None.}"

Insert: "**Section 3.** Section 23-3-404, MCA, is amended to read:

"**23-3-404. Jurisdiction -- license required -- contestant participation.** (1) The department has sole management, control, and jurisdiction over each professional ~~or semiprofessional combative~~ boxing event involving recognition, a prize, or a purse and at which an admission fee is charged, either directly or indirectly, in the form of dues or otherwise, to be held within the state, ~~except a combative event conducted:~~

— (a) by a university, college, or high school; or

— (b) by the military.

(2) An organization or individual may not conduct a combative professional boxing event within the department's jurisdiction unless the organization or individual is the holder of an appropriate license granted by the department.

(3) A referee, manager, or judge may not participate in a combative professional boxing event within the

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department's jurisdiction unless:

(a) the individual is licensed by the department; and

(b) the ~~combative~~ professional boxing event is conducted by an organization or individual licensed by the department.

(4) A contestant may not participate in a ~~combative~~ professional boxing event within the department's jurisdiction unless:

(a) the contestant is licensed by the department;

(b) the ~~combative~~ professional boxing event is conducted by an organization or individual licensed by the department; and

(c) the department has not suspended the right of the contestant to participate under 23-3-603."

{Internal References to 23-3-404: None.}"

Insert: "Section 4. Section 23-3-405, MCA, is amended to read:

"23-3-405. Rules. (1) The department may adopt rules for the administration and enforcement of this chapter.

(2) (a) The rules must include the granting, suspension, and revocation of licenses and the qualification requirements for those to be licensed to conduct ~~combative~~ professional boxing events or to be licensed as referees, managers, or judges. License qualifications must include appropriate knowledge, experience, and integrity.

(b) The rules may include but are not limited to the following:

(i) the labeling of a match as a championship match;

(ii) the number and length of rounds and the weight of gloves;

(iii) the extent and timing of the physical examination of contestants;

(iv) the attendance of a referee and the referee's powers and duties; and

(v) review of decisions made by officials.

(3) The rules must:

(a) meet or exceed the safety codes required by recognized professional boxing, ~~wrestling, and other~~ organizations conducting ~~combative~~ professional boxing events;

(b) provide reasonable measures for the fair conduct of the ~~combative~~ professional boxing events and for the protection of the health and safety of the contestants;

(c) require a physical examination of each contestant prior to each ~~combative~~ professional boxing event;

(d) provide for the qualifications of judges, referees, and seconds and for their payment by the promoter; and

(e) provide for the attendance at ringside of one or more of the following and require the promoter to pay for that person's attendance:

(i) a licensed physician as defined in 37-3-102;

(ii) a licensed physician assistant as defined in 37-20-401; or

(iii) a licensed advanced practice registered nurse as defined in 37-8-102."

{Internal References to 23-3-405: None.}"

Insert: "Section 5. Section 23-3-501, MCA, is amended to read:

"23-3-501. Licenses -- fees. (1) The department may issue a license to a professional ~~or semiprofessional~~ promoter of ~~combative~~ professional boxing events, whether an individual or organization, for the sole purpose of conducting professional ~~or semiprofessional~~ combative boxing events.

(2) The department may issue licenses to qualified referees, managers, contestants, seconds, trainers, and judges.

(3) A license issued in accordance with subsections (1) and (2) expires on the date set by department rule.

(4) Each application for a license under this section must be accompanied by a fee, as provided in 37-1-134, set by the department."

{Internal References to 23-3-501: None.}"

Insert: "Section 6. Section 23-3-502, MCA, is amended to read:

"23-3-502. Bond -- conditions. (1) A license to conduct professional ~~or semiprofessional~~ combative boxing events may not be issued unless the licensee has executed a bond in the sum of not less than \$5,000.

(2) The bond must be conditioned on faithful compliance by the licensee with the provisions of this chapter and the rules of the department."

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{Internal References to 23-3-502: None.}"

Insert: "Section 7. Section 23-3-601, MCA, is amended to read:

"23-3-601. Report of ticket sales -- tax on gross receipts -- disposition of money received. (1) An individual or organization licensed to conduct a combative professional boxing event shall, within 24 hours after the completion of each combative event, furnish to the department a written report, verified by one of its officers or owners, showing the number of tickets sold for the combative event, the amount of gross proceeds, and other matters that the department prescribes and shall also within 24 hours pay to the department a tax of 5% of its total gross receipts after deducting the federal admission tax, if any, from the sale of tickets.

(2) All taxes and fees collected by the department under this chapter must be deposited in the state special revenue fund for the use of the program, subject to 37-1-101(6)."

{Internal References to 23-3-601:

23-3-602 X}"

Insert: "Section 8. Section 23-3-602, MCA, is amended to read:

"23-3-602. Examination of books and records on failure to make report or on unsatisfactory report -- penalty for failure to pay tax. (1) If an individual or organization fails to make a report of a combative professional boxing event at the time prescribed by 23-3-601 or if the report is unsatisfactory to the department, the department may examine the books and records of the individual or organization and subpoena and examine witnesses under oath for the purpose of determining the total amount of its gross receipts for a combative professional boxing event and the amount of tax due under this chapter.

(2) If the individual or organization remains in default in the payment of tax ascertained to be due for a period of 20 days after notice to the individual or organization of the amount due, the delinquent individual or organization forfeits its license and is disqualified from receiving a new license."

{Internal References to 23-3-602: None.}"

Insert: "Section 9. Section 23-3-603, MCA, is amended to read:

"23-3-603. Discipline. (1) A license issued under the provisions of this chapter may, after notice and opportunity for hearing, be revoked or suspended by the department for a violation of the provisions of this chapter or any rule of the department.

(2) The department may, after notice and opportunity for hearing, reprimand any contestant or suspend, for a period not to exceed 1 year, the contestant's right to participate in any combative professional boxing event conducted by any licensee for:

(a) conduct unbecoming a contestant while engaged in or arising directly from any combative professional boxing event;

(b) failure to compete in good faith or engaging in any sham combative professional boxing event; or

(c) the use of threatening or abusive language toward officials or spectators."

{Internal References to 23-3-603:

23-3-404 x}"

Insert: "NEW SECTION. Section 10. {standard} Effective date. [This act] is effective on passage and approval."

March 23, 2009

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

Dear President Story:

Attached is a list of appointments requiring confirmation by the Montana State Senate. We have supplied the following information for appointees:

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Reference to statute, and a brief description of the statute where appropriate
Name, address, and phone number(s) for each board or commission appointee
Appointee qualifications and term of appointment for boards and commissions
Brief biographies or resumes

Additional information, including a complete list of gubernatorial appointees, is available online at:
<http://boards.mt.gov/> or at <http://governor.mt.gov>. Meanwhile, please don't hesitate to contact our office if my staff or I can be of assistance to you.

Sincerely yours,

BRIAN SCHWEITZER
Governor

Directors and Other Council Members

The following individuals have been appointed as Directors of state agencies in accordance with Montana Code Annotated 2-15-111. (Their resumes are attached.)

- Anthony Preite, Director of the Department of Commerce
- Mike Ferriter, Director of the Department of Corrections
- Richard Opper, Director of the Department of Environmental Quality
- Joe Maurier, Director of the Department of Fish, Wildlife and Parks
- Mary Sexton, Director of the Department of Natural Resources and Conservation
- Anna Whiting-Sorrell, Director of the Department of Public Health and Human Services
- Dan Bucks, Director of the Department of Revenue

In addition, the following are appointed as council members of the Northwest Power and Conservation Council, in accordance with Montana Code Annotated 2-15-111. (Their resumes are attached.)

- Rhonda Whiting

Montana Arts Council -- 22-2-102, Montana Code Annotated

The council consists of 15 members appointed by the governor for 5-year terms. Where possible, members are to come from various geographical areas and have a keen interest in the arts. The governor designates a chair and a vice chair.

Mark Kuipers, 4770 Duncan Dr, Missoula MT 59802 (Member)

Contact Phone(s): 406-327-9990,

Appointment date: 3/23/2009; Term ends: February 1, 2010

Qualification: public representative

Kuipers owns MAK Direct, a marketing firm operating out of Missoula and California. He has a BA in sociology and American studies from Western Michigan University, a master's degree in English/American studies from Washington State University and an MBA from Washington State University. His clients include TIVO, Best Buy, Ancestry.com, Patagonia, Safeway and many others.

Board of Barbers and Cosmetologists -- 2-15-1747, Montana Code Annotated

The board consists of nine members who serve staggered, 5-year terms: three licensed cosmetologists; one licensed electrologist, esthetician, or manicurist; three licensed barbers and two members of the public who are not engaged in the practice of barbering, cosmetology, electrology, esthetics, or manicuring. Not more than two members of the

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board may be members of or affiliated with a school.

Thayne Orton, 5349 Maverick Way, Florence MT 59833 (Member)

Contact Phone(s): 406-273-0248, 406-273-6595

Appointment date: 3/20/2009; Term ends: October 1, 2012

Qualification: barber

Orton has been in the barber profession since 1975, and has owned Thayne's Prime Cuts for 30 years. He's active in the Lone Rock Bible Church.

Board of Crime Control -- 2-15-2006, Montana Code Annotated

The board is designated as a quasi-judicial board and consists of 18 members. Statute calls for representatives of state and local law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime and representatives of citizens and professional and community organizations, including organizations directly related to delinquency prevention.

Angela Russell, PO Box 333, Lodge Grass MT 59050 (Member)

Contact Phone(s): 406-638-4052, 406-638-4050

Appointment date: 3/23/2009; Term ends: January 1, 2011

Qualification: tribal court representative

Russell is a lawyer and a judge for the Crow Tribe. She has a social work degree from Tulane University and her JD from the University of Montana. She is a former legislator who served on the Judiciary Committee.

Montana Historical Society Board of Trustees -- 22-3-104, Montana Code Annotated

The board has 15 trustees who serve staggered, 5-year terms. The Governor is encouraged to use geographical diversity in making appointments, while appointing trustees who have an interest in the Montana Historical Society, who are fit to discharge their duties and are willing to devote time and effort in the public interest. One member shall be a recognized historian and one member shall be a recognized archaeologist.

Lee Rostad, 169 Bozeman Fork Rd, Martinsdale MT 59053 (Member)

Contact Phone(s): , 406-220-5528

Appointment date: 7/1/2009; Term ends: July 1, 2014

Qualification: public member

Rostad was a Fulbright Scholar and studied at the University of London. She has a BA in history and political science from the University of Montana. She was a teacher in Great Falls, Japan, White Sulphur Springs and Helena, and also operated the family ranch with her husband. She has served in leadership spots in numerous organizations, including the Charles M. Bair Family Trust and the Montana Committee for the Humanities.

Jim Utterback, 1923 Lime Kiln Rd, Helena MT 59601 (Member)

Contact Phone(s): , 406-442-3336

Appointment date: 7/1/2009; Term ends: July 1, 2014

Qualification: public member

Utterback is a partner and director of CSI Financial Services, LLC. Prior to CSI, Utterback owned three auto dealerships in Montana. He has served as director for First Bank Helena, State National Bank El Paso, St. Peter's Hospital and Shepard Trucking, Inc. Utterback has also served in leadership positions with the Helena Chamber of Commerce.

Jim Court, 18 Heatherwood Lane, Billings MT 59102 (Member)

Contact Phone(s): , 406-259-5099

Appointment date: 7/1/2009; Term ends: July 1, 2014

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Qualification: public member

Court was superintendent of the Little Big Horn (Custer) Battlefield from 1978-1986. He now operates a tour business, focusing on the battlefield and surrounding areas. His 27 years of National Park experience include assignments at Rocky Mountain, Yellowstone, Big Bend and Mesa Verde National Parks.

Steve Carney, PO Box 1122, Scobey MT 59263 (Member)

Contact Phone(s): 406-893-4476, 406-487-2081

Appointment date: 3/23/2009; Term ends: July 1, 2012

Qualification: public member

Carney has a political science degree from the University of Montana. He's a farmer-developer, and is a director of Cenex Harvest States and served on the ASCS County Committee. He has also served as director and vice chair of the Daniels Memorial Hospital.

Board of Nursing Home Administrators -- 2-15-1735, Montana Code Annotated

The board consists of five members who serve staggered 5-year terms: three are nursing home administrators; one represents the public at large and must be 55 years of age or older at the time of appointment and two must be representatives of professions or institutions concerned with the care of chronically ill and infirm aged patients and may not be from the same profession or have a financial interest in a nursing home.

Loren Hines, Highlands Hospice, 3703 Harrison Ave, Butte MT 59701 (Member)

Contact Phone(s): 406-533-0020,

Appointment date: 5/28/2009; Term ends: May 28, 2014

Qualification: representative of an institution caring for chronically ill or aged

Hines has a bachelor of science degree in nursing from Montana State University. He is the patient care coordinator for Highlands Hospice, and serves as the senior director of clinical services for Easter Seals-Goodwill Northern Rocky Mountain region. Hines also is a member of the St. James Healthcare Ethics Committee and a member of its governing board.

Board of Physical Therapy Examiners -- 2-15-1748, Montana Code Annotated

The board consists of five members who serve 3-year terms (maximum of two consecutive terms): three licensed physical therapists who have been actively engaged in the practice of physical therapy for the 3 years preceding appointment to the board; one licensed physician, who has been actively engaged in the practice of medicine for the 3 years preceding appointment to the board; and one member of the general public who is not a physician or a physical therapist. Each member must have been a resident of Montana for the 3 years preceding appointment to the board.

Kim Miller, PO Box 32, Virginia City MT 59755 (Member)

Contact Phone(s): , 406-843-5888

Appointment date: 7/1/2009; Term ends: July 1, 2012

Qualification: public member

Miller is the owner of Aunt Julia's Emporium, and previously worked as a grant writer/administrator for Madison County. She has a degree in sociology from the University of Montana.

Patti Jo Lane, 1101 26th St S, Great Falls MT 59405 (Member)

Contact Phone(s): 406-455-5000, 406-268-1655

Appointment date: 7/1/2009; Term ends: July 1, 2012

Qualification: physical therapist

Lane has worked as a physical therapist in the private sector, the academic field and in a hospital setting. She has also managed a medical clinic. She has been a licensed physical therapist since 1993.

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Board of Private Security -- 2-15-1781, Montana Code Annotated

The board consists of seven voting members who serve staggered 3-year terms: one contract security company or proprietary security organization, as defined by statute; one electronic security company, as defined by statute; one city police department; one county sheriff's office; one member of the public; one member of the peace officers' standards and training advisory council (renamed the Public Safety Officer Standards and Training Council by the 2007 legislature); and a licensed private investigator or a registered process server. Members must be at least 25 years of age and have been residents of this state for more than 5 years.

Daniel Taylor, 120 Cherry Creek St, Glasgow MT 59230 (Member)

Contact Phone(s): 406-228-4998, 406-263-1190

Appointment date: 3/20/2009; Term ends: August 1, 2009

Qualification: contract security company representative

Taylor is the owner of Hi-Line Security, Inc. He was with the Valley County Sheriff's Department from 1968-1994 and served as the county sheriff for 22 years. He graduated from the National Sheriff Academy and the Montana Law Enforcement Academy.

Professional Engineers and Land Surveyors -- 2-15-1763, Montana Code Annotated

The board consists of nine members, each of whom must be a United States citizen and Montana resident, and who serve staggered 4-year terms (maximum of 3 consecutive terms): five professional engineers (no more than two from the same branch of engineering) who have been engaged in the practice of engineering for at least 12 years and who have been in responsible charge of engineering teaching or important engineering work for at least 5 years and licensed in Montana for at least 5 years; two professional and practicing land surveyors who have been engaged in the practice of land surveying for at least 12 years and who have been in responsible charge of land surveying or important land surveying work for at least 5 years and licensed in Montana for at least 5 years; and two representatives of the public who are not engaged in or directly connected with the practice of engineering or land surveying.

John Neil, 2750 Evergreen Dr., Great Falls MT 59404 (Member)

Contact Phone(s): 406-453-5478, 406-727-2518

Appointment date: 7/1/2009; Term ends: July 1, 2013

Qualification: licensed civil engineer

Neil is a consulting civil engineer with NCI Engineering Co. He's a graduate of Montana State University (civil engineering), and is a member of the American Society of Civil Engineers and the Wastewater Environmental Federation.

Tom Heinecke, P.O. Box 8057, Kalispell MT 59901 (Member)

Contact Phone(s): 406-752-2216,

Appointment date: 7/1/2009; Term ends: July 1, 2013

Qualification: licensed mechanical engineer

Heinecke is a mechanical engineer with Morrison-Maierle. He is certified to do energy audits, and is also a certified asbestos inspector and management planner. Heinecke has also served on the board of the Montana Society of Engineers.

Board of Real Estate Appraisers -- 2-15-1758, Montana Code Annotated

The board consists of seven members who serve staggered 3-year terms (maximum of two consecutive terms). Five members are licensed or certified real estate appraisers, and two members are representatives of the public are not engaged in the occupation of real estate appraisal.

Kathleen Susan Gallaher, 516 E. Lamme St, Bozeman MT 59715 (Member)

Contact Phone(s): 406-585-3924, 406-587-8447

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Appointment date: 5/1/2009; Term ends: May 1, 2012

Qualification: public representative

Gallagher is a real estate lender with First Security Bank where she is the chairperson of the bank's appraisal committee. She has a sociology degree from Montana State University. She has also served on the boards of Energy Share and Heart of the Valley Animal Shelter.

Darwin Ernst, 702 W. Desta St, Hamilton MT 59840 (Member)

Contact Phone(s): 406-363-7008, 406-239-2222

Appointment date: 5/1/2009; Term ends: May 1, 2012

Qualification: real estate appraiser

Ernst is a member of the Montana Cadastral Technical Advisory Team and the Bitterroot Board of Realtor's technology committee. He's a certified residential appraiser and operates Darwin Ernst Appraisal Services, Inc. He has a BA in biology from Concordia College.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/23/2009

HB 42, introduced by Vincent

HB 154, introduced by Bergren

Senate amendments to House bill concurred in: 3/23/2009

HB 41, introduced by Cohenour

Senate bills concurred in and returned to the Senate: 3/23/2009

SB 82, introduced by Steinbeisser

SB 208, introduced by Lewis

SB 209, introduced by Laslovich

SB 273, introduced by Laslovich

SB 319, introduced by Keane

SB 325, introduced by Perry

SB 341, introduced by Laslovich

SB 395, introduced by Gebhardt

SB 432, introduced by R. Brown

Senate joint resolution concurred in and returned to the Senate: 3/23/2009

SJR 22, introduced by Zinke

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 3/23/2009

SB 26, introduced by Murphy

SB 108, introduced by Jent

SB 171, introduced by Barkus

Conference Committee Report No.1 adopted: 3/23/2009

SB 74, introduced by Laible

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Senator Bob Story
President of the Senate
Capitol Building
Helena, MT 59601

March 23, 2009

Mr. President:

I am directed by the House of Representatives to request the return of **SB 299** to the House of Representatives.

The House has voted to reconsider its action on third reading and wishes to further consider **SB 299**.

Sincerely,

David L. Hunter
Chief Clerk of the House

MOTIONS

Senator Peterson moved that a Free Conference Committee be appointed for **SB 79** and requested that the House appoint a like committee. Motion carried. President Story appointed Senator Murphy (Chair), Senator Juneau, and Senator Laible. (House amendment to **SB 79 not concurred in** on March 28, 2009.)

FIRST READING AND COMMITMENT OF BILLS

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

SJR 18, introduced by Steinbeisser (by request of Senate Agriculture, Livestock, and Irrigation Standing Committee), referred to Agriculture, Livestock and Irrigation.

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

HB 42, introduced by Vincent (by request of the Fire Suppression Committee), referred to Fish and Game.

HB 154, introduced by Bergren (by request of the Office of Budget and Program Planning), referred to Fish and Game.

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 22 passed as follows:

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

Total 43

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Nays: Bales, Balyeat, Esp, Hinkle, Keane, Laslovich, J. Tropila.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 244 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, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 446 passed as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Barrett, Esp, Essmann, Hinkle, Tutvedt.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 495 passed 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, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

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Total 42

Nays: Balyeat, R. Brown, Hinkle, Juneau, Schmidt, J. Tropila, M. Tropila, Wanzenried.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 498 passed as follows:

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

Total 42

Nays: Balyeat, Barkus, Esp, Hinkle, Jackson, Juneau, Kaufmann, Shockley.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 74 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, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 54 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,

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Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 146 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Branae, 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, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Barkus, Black, Brenden, Esp, Hinkle, Perry.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 197 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, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 317 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, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 365 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, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 622 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 40

Nays: Barkus, Black, Esp, Gallus, Gebhardt, Hinkle, Keane, McGee, Ripley, Mr. President.
Total 10

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

**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 Laslovich in the chair.

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

HB 243 - Senator McGee moved **HB 243** 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, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 63 - Senator Laible moved **SB 63** do pass. Motion **failed** as follows:

Yeas: Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Keane, Laible, Larsen, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Jent, Kaufmann, Laslovich, McGee, Peterson, Ripley, Squires, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 63 - Senator J. Peterson moved **SB 63** be **indefinitely postponed**. Motion **failed** as follows:

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

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Essmann, Gebhardt, Hinkle, Jackson, Jent, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 25

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

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 183 - Senator Balyeat moved **SB 183** do pass. Motion **failed** as follows:

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

Total 23

Nays: Branae, T. Brown, Cooney, Erickson, Essmann, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 183 - Senator Williams moved **SB 183** be **indefinitely postponed**. Motion carried as follows:

Branae, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Gebhardt, Hinkle, Jackson, Lewis, McGee, Murphy, Perry, Ripley, Shockley, Steinbeisser, Zinke.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 217 - Senator Debby Barrett moved **SB 217** do pass. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Brueggeman, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 25

Nays: Branae, R. Brown, T. Brown, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 217 - Senator Williams moved **SB 217** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 24

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

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 402 - Senator J. Peterson moved **SB 402** do pass.

SB 402 - Senator J. Peterson moved **SB 402**, second reading copy, be amended as follows:

1. Page 1, line 30.

Strike: "goodwill and ongoing concern"

2. Page 2, lines 1 and 2.

Strike: subsection (g) in its entirety

Renumber: subsequent subsections

3. Page 2, line 22.

Following: "AUTHORIZATION"

Insert: ", including requirements imposed by federal law"

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4. Page 2.

Following: line 27

Insert: "(5) In order to be protected under subsection (2), the property interests described in subsection (1) must be owned by the claimant at the time of the government action for which a taking is being claimed. In the case of a business interest, the business must have been authorized by law and must have been in existence at the time of the government action for which a taking is being claimed."

Amendment adopted as follows:

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

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 402 - Senator J. Peterson moved **SB 402**, as amended, do pass. Motion carried as follows:

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

Total 31

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

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 245 - Senator Balyeat moved **SB 245**, as amended, do pass. Motion carried as follows:

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

Total 27

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

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Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 291 - Senator Black moved **SB 291** do pass.

SB 291 - Senator Black moved **SB 291**, second reading copy, be amended as follows:

1. Page 6, line 3.

Strike: "(A)"

2. Page 6, lines 4 through 6.

Following: "facilities," on line 4

Strike: "other than"

Insert: "including"

Following: "track" on line 4

Strike: remainder of line 4 through "COMPANY" on line 6

Amendment adopted as follows:

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

Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 291 - Senator Black moved **SB 291**, as amended, do pass. Motion carried as follows:

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

Total 26

Nays: Branae, Cooney, Esp, Gallus, Gebhardt, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.

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Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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

Yeas: Barkus, Black, Branae, 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, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 43

Nays: Bales, Balyeat, Barrett, Brenden, R. Brown, Esp, Zinke.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate recess until 5:15 p.m., this day. Motion carried.

Senate in recess.

Senate reconvened at 5:15 p.m.

Roll Call. All members present, except Senator T. Brown and Senator Stewart-Peregoy. Quorum present.

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

3/24/2009

HB 404, be concurred in. Report adopted.

HB 451, be concurred in. Report adopted.

HB 542, be concurred in. Report adopted.

HB 544, be amended as follows:

1. Title, page 1, line 6.

Strike: "UNUSED"

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Insert: "UNEARNED"

2. Page 1, line 12.

Strike: "unused"

Insert: "unearned"

3. Page 1, line 14.

Strike: "unused"

Insert: "unearned"

4. Page 1, line 14.

Following: "premium."

Insert: "The disability insurer may consider premium to be earned only on a calendar month basis."

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

HB 567, be amended as follows:

1. Page 9, line 25.

Following: "franchisee"

Insert: "or another new motor vehicle dealer of the franchisor in the area"

2. Page 9, line 28.

Following: "(8)"

Insert: "or another new motor vehicle dealer of the franchisor in the area"

3. Page 14, line 21 through line 22.

Following: "dealer"

Strike: "₂" on line 21 through the first "dealer," on line 22

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

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

3/24/2009

HB 98, be concurred in. Report adopted.

HB 483, be concurred in. Report adopted.

HB 529, be concurred in. Report adopted.

TAXATION (Essmann, Chairman):

3/24/2009

SB 489, introduced bill, be amended as follows:

1. Page 2, line 19.

Strike: "injection" through "natural gas"

Insert: "interconnection with a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission"

2. Page 2, line 26.

Following: line 25

Insert: "(6) The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services to

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third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to central assessment under 15-23-101. For purposes of this subsection, the gas gathering line ownership of all affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be aggregated for purposes of determining the 500-mile threshold."

3. Page 3, line 12.

Following: "utilities,"

Insert: "rate-regulated"

Following: "gas"

Insert: "transmission"

4. Page 3, line 13.

Strike: "or common carrier pipelines"

Insert: "a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or the gas gathering facilities specified in 15-6-138(6)"

5. Page 4, line 2.

Strike: "consisting of"

Insert: "including but not limited to"

6. Page 4, line 4.

Following: "(b)"

Insert: "rate-regulated"

Following: "gas"

Insert: "transmission"

7. Page 4, line 6.

Following: "pipelines"

Insert: "as defined in 69-13-101 or a pipeline carrier as defined in 49 U.S.C. 15101(2)"

8. Page 4.

Following: line 7

Insert: "(e) the gas gathering facilities specified in 15-6-138(6);"

Renumber: subsequent subsections

9. Page 4, line 24.

Following: "a"

Insert: "rate-regulated"

Following: "gas"

Insert: "transmission"

Following: "oil"

Insert: "transmission"

10. Page 4, line 25.

Following: "pipeline"

Insert: "as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15101(2)"

And, as amended, do pass. Report adopted.

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TAXATION (Essmann, Chairman):

3/24/2009

SB 490, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "\$5 MILLION"

Insert: "\$20,000"

Following: "LESS"

Insert: "AND ONE-THIRD OF THE MARKET VALUE BETWEEN \$20,000 AND \$5 MILLION"

2. Title, line 8.

Strike: "\$5 MILLION"

3. Page 5, line 18.

Strike: "\$5 million"

Insert: "\$20,000"

4. Page 5, line 20.

Following: "taxation"

Insert: "[and 33 1/3% of market value between \$20,000 and \$5 million is exempt from taxation]"

5. Page 6, line 22.

Strike: "first \$5 million or less of"

6. Page 15, line 26 through line 29.

Strike: "If" on line 26 through "void." on line 29

Insert: "If House Bill No. 2 is passed and approved and does not contain a line item appropriation designating funding for the reimbursement of the exemption provided in the bracketed language in [section 3] amending 15-6-138(4), then the bracketed language is void."

And, as amended, do pass. Report adopted.

SB 503, introduced bill, be amended as follows:

1. Page 2, line 5.

Strike: "November"

Insert: "January"

2. Page 6, line 18.

Strike: "of a Montana business, such as"

Insert: "held for investment or the production of income by a Montana farm, ranch, or business, whether organized as a C. corporation, S. corporation, partnership, limited liability company, other pass-through entity, trust, or sole proprietorship, including but not limited to"

And, as amended, do pass. Report adopted.

SB 506, introduced bill, be amended as follows:

1. Title, line 10.

Following: "COMMUNITIES"

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Insert: ", "
Strike: "AND"
Following: "AREAS"
Insert: ", AND RESORT AREA DISTRICTS"

2. Page 2, line 6.

Following: "equipment"
Strike: ";

Insert: ". However, the rental of vehicles by insurance companies under policy coverages that include temporary vehicle replacement coverage is exempt from the tax."

3. Page 2, line 26.

Strike: "under"

Insert: "after an election conducted pursuant to the procedures set forth in [section 5] that submits to the voters the ballot question in"

4. Page 2, line 29.

Following: "community"

Insert: ", "

Strike: "or"

5. Page 2, line 30.

Following: "area"

Insert: ", or a resort area district"

6. Page 3, line 2.

Following: "community"

Insert: ", "

Strike: "or"

Following: "area"

Insert: ", or resort area district"

7. Page 3, line 28.

Following: "to the"

Insert: "property tax offset"

8. Page 4, line 14.

Strike: "2%"

Insert: "4%"

9. Page 5, line 20.

Following: "community"

Insert: ", "

Strike: "or"

Following: "area"

Insert: ", or resort area district"

10. Page 5, line 30.

Following: "community"

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Insert: ", "
Strike: "or"
Following: "area"
Insert: ", or resort area district"

11. Page 6, line 15.
Following: "community"
Insert: ", "
Strike: "or"
Following: "area"
Insert: ", or resort area district"

12. Page 6, line 17.
Following: "revenue"
Insert: "available after distribution pursuant to [sections 3(1)(a) and 8]"

13. Page 6.
Following: line 24
Insert: "(2) The distribution to municipalities under subsection (1) must be used as provided in [section 3(2)]."
Renumber: subsequent subsections

14. Page 6, line 25.
Following: "community"
Insert: ", "
Strike: "or"
Following: "area"
Insert: ", or resort area district"

And, as amended, do pass. Report adopted.

SB 507, introduced bill, be amended as follows:

1. Page 1, line 21.
Strike: "the full market value is paid for the use of the riverbed"
Insert: "statutory provisions are met"

2. Page 1, line 27.
Strike: "and"

3. Page 1, line 29.
Following: "riverbed"
Insert: "; and
(f) the department has not consistently required payment for riverbed uses over time"

4. Page 2, line 8.
Strike: "of adjacent property"
Insert: "as determined by rule or statute"

5. Page 3, line 2.
Following: "board."

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Insert: "The authorization must be approved if the requirements of this section are met."

6. Page 3, line 14.

Strike: "or"

7. Page 3, line 16.

Following: "act]"

Insert: "; or"

(d) associated with a power site regulated pursuant to Title 77, chapter 4, part 2"

8. Page 3, line 29.

Following: "factors."

Insert: "There is no presumption of navigability because an entity has applied for or received a lease, license, or easement."

9. Page 4, line 10.

Following: the second "footprint"

Insert: "and the applicant has the appropriate state or federal permits"

10. Page 4, line 14.

Following: "that"

Insert: "the department asserts"

11. Page 4, line 21.

Insert: "(5) Rules must be adopted under this section pursuant to Title 2, chapter 4, but any appeal of the location of navigable rivers is not a contested case or subject to judicial review under Title 2, chapter 4, part 7. An appeal must be filed in district court for a trial de novo for determination of navigability for title purposes. A determination by the board pursuant to subsection (1) is not considered a presumption of navigability."

12. Page 5, line 22.

Following: "state"

Insert: "or are not school trust lands"

And, as amended, do pass. Report adopted.

SB 509, introduced bill, be amended as follows:

1. Page 4, line 24 through line 26.

Strike: subsection (10) in its entirety

Renumber: subsequent subsections

2. Page 5, line 27 through line 28.

Strike: "being" on line 27 through "destination" on line 28

Insert: "primary and secondary crushing"

And, as amended, do pass. Report adopted.

SB 510, introduced bill, be amended as follows:

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1. Title, line 5.

Following: "NEW"

Insert: "OR EXPANDING"

2. Title, line 6.

Strike: "5"

Insert: "10"

3. Title, line 7.

Strike: "APPROVAL"

Insert: "NOTIFICATION"

4. Page 1, line 13.

Strike: "and"

Insert: "or"

5. Page 1, line 14.

Following: "new"

Insert: "or expanding"

Following: "5"

Insert: "or 10"

6. Page 1, line 16.

Strike: "shall approve"

Insert: "must be notified of"

7. Page 1, line 21 through line 22.

Strike: "or" on line 21

Insert: ", and upon expiration of that period,"

Strike: "be made" on line 21 through "and" on line 22

Strike: "up to 4 more consecutive tax years"

Insert: "one more 5-tax-year period"

8. Page 1, line 25.

Insert: "(4) (a) Production from a new underground mine is all production from a mine that in the year prior to tax year in which the first abatement will apply had production of less than 500,000 tons of coal and the production during the course of the abatement period is estimated to be and actually amounts to at least five times the preabatement production amount.

(b) Production from an expanding underground mine is that portion of the mine's production that exceeds the average production for the previous 3 years. To qualify for the abatement, the total of the prior average production and the new production may not decrease during the time of the abatement."

9. Page 2, line 2.

Following: "new"

Insert: "or expanding"

10. Page 2, line 25.

Following: "new"

Insert: "or expanding"

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11. Page 2, line 27.

Following: "tax"

Insert: "subject to the abatement"

And, as amended, do pass. Report adopted.

SB 465, introduced bill, be amended as follows:

1. Title, line 10.

Following: "SECTIONS"

Insert: "61-8-371,"

2. Page 1, line 13.

Insert: "WHEREAS, the Department of Natural Resources and Conservation has asserted regulatory jurisdiction over the beds of various rivers and streams based on the premise that the streams are navigable and that the state therefore owns the riverbeds and streambeds; and

WHEREAS, very few Montana rivers or streams have been adjudicated as navigable, either in whole or in part; and

WHEREAS, it is not economically feasible for either the Department of Revenue or the Department of Natural Resources and Conservation to obtain judicial determinations of riverbed or streambed ownership by statewide quiet title actions, yet that ownership determination may not be made legally by unilateral administrative decisions; and

WHEREAS, if the Department of Natural Resources and Conservation wishes to assert regulatory control over the bed of a river or stream that has not been adjudicated to be navigable, it is required to provide written notice of the claim of state ownership to the affected property owners; and

WHEREAS, because the present claims of state ownership of riverbeds and streambeds is contrary to longstanding administrative practice and because the test for navigability depends upon evidence concerning the log floating capability of a stream at the time of statehood, there is no presumption of correctness attached to a navigability claim made by any state agency."

3. Page 1, line 16.

Insert: "NEW SECTION. Section 1. Findings. The legislature finds that:

(1) for 120 years since the admission of Montana as a state in 1889, the department of revenue and its predecessor agencies have taxed landowners whose property abuts a river or stream on the assumption that each riparian landowner owns the property to the middle of the river or stream;

(2) in *Montana v. United States*, 450 U.S. 544 (1981), the United States supreme court recognized that if a river or stream is not navigable, the abutting riparian landowners own the land in the bed of the stream to the middle of the stream, but if a river or stream is navigable, the state owns the bed of the river or stream, having acquired ownership from the United States when the state was admitted to the union, and therefore Montana owns the bed of the Bighorn River where it flows through the Crow reservation;

(3) for the purpose of determining the ownership of a riverbed or streambed, the test of navigability is whether logs could be floated in the stream at the time of statehood as stated in *Montana Coalition for Stream Access v. Curran*, 210 Mont. 38, 682 P.2d 163 (1984), based upon *The Montello*, 87 U.S. 430 (1874), *Sierra Pacific Power Co. v. Federal Energy Regulatory Commission*, 681 F.2d 1134 (9th Cir. 1982), and *State of Oregon v. Riverfront Protection Association*, 672 F.2d 792 (9th Cir. 1982);

(4) beginning with tax assessments that were effective January 1, 2008, the lien date for real property taxes, the department of revenue reassessed the property of riparian landowners whose land abuts various rivers and streams by reducing the amount of land assessed based upon the premise that the landowners did not own to the middle of the river or stream because the river or stream was navigable and these reassessments, if correct, have enormous impact upon the riparian landowners because they affect land titles, acreage owned, qualification for

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various conservation and price support programs, and ownership of water diversion facilities and other structures that the riparian landowners have constructed for water usage;

(5) the 2008 reassessments were made by simply sending out tax bills without any notice that they were based upon a claim of state ownership of the riverbeds or streambeds and some riparian landowners have paid the first installment of 2008 real property taxes based upon the reassessments without realizing that a claim of state ownership of the riverbeds and streambeds was the basis for the reassessments;

(6) procedural due process requires that if a claim of change in ownership is involved, the state agency involved shall afford the affected property owners both notice of the claim and the opportunity to be heard;

(7) the 2008 real property tax assessments based upon claims of state ownership did not comply with the constitutional requirement for procedural due process and under that circumstance payment by the property owners of taxes based on the reassessment does not constitute *acquiescence in the underlying state ownership claim;

(8) if the department of revenue wishes to use the appeal mechanisms available through the county tax appeal boards and the state tax appeal board to determine whether riverbeds and streambeds are taxable to the abutting riparian landowners, it is required to provide written notice to the affected property owners of the state's claim of ownership so that the affected property owners have a fair opportunity to be heard and to dispute the government's claim."

Renumber: subsequent sections

4. Page 1, line 16.

Following: "property"

Insert: "-- presumption of taxability"

Following: "property."

Insert: "(1)"

5. Page 1.

Following: line 19

Insert: "(2) In the absence of adjudication of the ownership of the bed of any river or stream, it is the policy of the state that the department shall assess all land that is part of the bed and banks of a river or stream to the owner of record of the property."

6. Page 1, lines 28 and 29.

Following: "property of the" on line 28

Insert: "original"

Following: "owner" on line 28

Strike: remainder of line 28 through "built" on line 29

Insert: "or the original owner's successors in interest or assignees"

7. Page 2, line 5.

Insert: "Section 5. Section 61-8-371, MCA, is amended to read:

"61-8-371. Operation of motor vehicle or off-highway vehicle below high-water mark on certain state or federal lands prohibited -- exceptions. (1) Except as provided in 77-1-111(3), 77-1-806(4), and subsections (2) and (3) of this section, a person may not operate a motor vehicle or an off-highway vehicle below the ordinary high-water mark, as defined in 23-2-301, of class I or class II waters, as defined in 23-2-301, that occurs on state or federal lands or below the ordinary high-water mark of class I waters flowing through private lands, within that portion of the streambed that is covered with water.

(2) A motor vehicle or an off-highway vehicle may be operated below the ordinary high-water mark on state or federal lands on an established road or trail that enters or crosses a stream, but the stream crossing must be by the shortest practical or designated route to the road or trail on the opposite bank.

(3) The prohibition in subsection (1) does not apply to:

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(a) off-highway or motor vehicle use that occurs on state or federal land that is designated for off-highway or motor vehicle use below the ordinary high-water mark if the use is in accordance with the requirements of the authorization;

(b) off-highway or motor vehicle use conducted on state or federal land pursuant to and in accordance with a specific written authorization from the appropriate land management agency for that use below the ordinary high-water mark; and

(c) operation of an off-highway vehicle by a nonambulatory person who is using the vehicle for recreational use, as defined in 23-2-301, as long as operation of the vehicle is prudent and minimizes destruction.

(4) The state may authorize the use of a motor vehicle or off-highway vehicle on state property below the ordinary high-water mark only when the state has determined that the use will have a minimal impact on the streambed and on the fish and wildlife ecology of the stream or river. Federal land management agencies are requested to apply the same criteria when authorizing use of federal land."

Renumber: subsequent sections

8. Page 4, line 30.

Strike: "3"

Insert: "4"

9. Page 5, line 15.

Strike: "3"

Insert: "4"

10. Page 5, line 25.

Strike: "3"

Insert: "4"

11. Page 5, line 29.

Strike: "3"

Insert: "4"

12. Page 7, line 4.

Strike: "3"

Insert: "4"

13. Page 7, line 8.

Strike: "3"

Insert: "4"

14. Page 7, line 11.

Strike: "3"

Insert: "4"

15. Page 7, line 19.

Strike: "3"

Insert: "4"

16. Page 8, line 22.

Strike: "3"

Insert: "4"

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17. Page 8, line 29.

Strike: "1"

Insert: "2"

18. Page 9, line 1.

Strike: "1"

Insert: "2"

19. Page 9, line 2.

Strike: "2"

Insert: "3"

20. Page 9, line 3.

Strike: "2"

Insert: "3"

21. Page 9, line 4.

Strike: "3"

Insert: "4"

22. Page 9, line 5.

Strike: "3"

Insert: "4"

And, as amended, do pass. Report adopted.

Senator Stewart-Peregoy present at this time.

Senator T. Brown present at this time.

FIRST READING AND COMMITMENT OF BILLS

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

SB 512, introduced by Windy Boy, Belcourt, D. Brown, Ankney, referred to Taxation.

**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 Laslovich in the chair.

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

SB 435 - Senator Brenden moved **SB 435** do pass.

SB 435 - Senator Zinke moved **SB 435**, second reading copy, be amended as follows:

1. Page 5, line 21.

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Following: "state."

Insert: "The net gain restriction does not apply to land acquired for the purposes of economic development or maintaining historic land use."

2. Page 6, line 17.

Following: "ACCESS."

Insert: "The net gain restriction does not apply to land acquired for the purposes of economic development or maintaining historic land use."

3. Page 11, line 1.

Following: "2003."

Insert: "The net gain restriction does not apply to land acquired for the purposes of economic development or maintaining historic land use."

4. Page 16, line 15.

Following: "state."

Insert: "The net gain restriction does not apply to land acquired for the purposes of economic development or maintaining historic land use."

Amendment adopted as follows:

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

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 435 - Senator Brenden moved **SB 435**, as amended, do pass. Motion carried as follows:

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

Total 26

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

Total 24

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SB 500 - Senator Peterson moved **SB 500** do pass. Motion carried as follows:

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

Total 29

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

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 502 - Senator Keane moved **SB 502** do pass. Motion carried as follows:

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

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 505 - Senator Bales moved **SB 505** do pass. Motion carried as follows:

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

Total 28

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

Total 22

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 241 - Senator Balyeat moved **SB 241** 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, Tutvedt, Wanzenried, Zinke, Mr. President.
Total 34

Nays: Cooney, Erickson, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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

FIRST READING AND COMMITMENT OF BILLS

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

SB 513, introduced by Brueggeman, Kaufmann, referred to Taxation.

**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 Laslovich 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, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Esp, Hinkle, Jackson, Lewis, Murphy, Shockley, Steinbeisser,

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Tutvedt.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Gallus, Hinkle, Laslovich, Williams.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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

MOTIONS

Senator Black moved to change his vote on **SB 234** from no to yes. Without objection, so ordered.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate recess until 1:00 p.m., March 25, 2009. Motion carried.

Senate adjourned at 7:42 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate