

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

Helena, Montana
March 26, 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, except Senator Laslovich, excused. Quorum present.

BILLS AND JOURNALS:

3/26/2009

Correctly printed: **SB 37, SB 379, SB 418, SB 514, SJR 31, SJR 32, SR 10, SR 19, SR 20, HB 290, HB 301.**

Correctly engrossed: **SB 217, SB 491, SB 508, HB 218, HB 338, HB 343, HB 386, HB 517, HB 591.**

Correctly enrolled: **SB 250.**

Signed by the Speaker at 8:00 a.m., March 26, 2009: **SB 82, SB 208, SB 319, SB 325, SB 432, SJR 22.**

Signed by the President at 12:30 p.m., March 25, 2009: **SB 82, SB 208, SB 319, SB 325, SB 432, SJR 22.**

Signed by the Secretary of the Senate at 10:10 a.m., March 25, 2009: **SB 82, SB 208, SB 319, SB 325, SB 432, SJR 22.**

Signed by the Speaker at 11:00 a.m., March 26, 2009: **SB 74, SB 111, SB 143, SB 185, SB 188, SB 209, SB 273, SB 340, SB 341, SB 395.**

Signed by the President at 8:25 a.m., March 26, 2009: **SB 74, SB 111, SB 143, SB 185, SB 188, SB 209, SB 273, SB 340, SB 341, SB 395.**

Signed by the Secretary of the Senate at 3:55 p.m., March 25, 2009: **SB 74, SB 111, SB 143, SB 185, SB 188, SB 209, SB 273, SB 340, SB 341, SB 395.**

Delivered to the Governor for approval at 10:55 a.m., March 26, 2009: **SB 82, SB 208, SB 319, SB 325, SB 432.**

Returned to the House of Representatives as requested: **SB 299**

Delivered to the Secretary of State at 10:34 a.m., March 26, 2009: **SJR 22.**

Examined by the sponsor and found to be correct: **SB 250.**

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

3/25/2009

HB 488, be amended as follows:

1. Page 1, line 25.

Strike: "School"

Insert: "Registered voters within the exterior boundaries of school"

Strike: "2006"

Insert: "2008"

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

JUDICIARY (Perry, Chairman):

3/26/2009

HB 95, be amended as follows:

1. Title, page 1, line 7.

Following: "SECTIONS"

Insert: "40-5-303,"

2. Page 1, line 11.

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Insert: "Section 1. Section 40-5-303, MCA, is amended to read:

"40-5-303. Petition for income deduction -- who may initiate. (1) If an obligor is exempted from immediate income withholding under 40-5-315 or is not otherwise subject to an income-withholding order, the obligor's income may be withheld for the payment of child support if the obligor becomes delinquent in the payment of support, a person or entity referred to in subsection (2) notifies the obligor that income withholding will be initiated if the delinquent amount is not paid within 8 days of the date of the notice, and the obligor does not pay the delinquent amount within that time. Notification that income withholding will be initiated if a delinquency is not paid within 8 days of the date of the notice is not necessary if such a notice was given for a prior delinquency and the prior delinquency in fact existed. This notice is different from the notice required by 40-5-305.

(2) Income withholding for the payment of child support may be initiated by:

(a) the person named as the recipient of the child support payments in the child support order;

(b) the child or the guardian of the child named in the child support order; ~~or~~

(c) the department of public health and human services; or

(d) the state of Montana, including the department of corrections and respective county attorneys, for the purpose of enforcing contribution orders under 41-5-1525. These contribution orders are considered to be child support orders for purposes of enforcement under this chapter.

(3) (a) At the request of an initiating party who has determined that an obligor is delinquent, the district court shall issue an order for income deductions for immediate service upon the obligor's payor or payors. The order is limited to current support unless modified to include arrears as provided in 40-5-308.

(b) At the same time an income deduction order is issued, the requesting party shall notify the obligor as provided in 40-5-305 that income deductions have been initiated.

(4) Deductions under this section for current support may be terminated only if:

(a) the district court determines after a hearing that the obligor was not delinquent when the deduction order was issued;

(b) the obligation to pay support has terminated and all delinquencies are paid in full; or

(c) the department of public health and human services has superseded the deduction order under authority of Title 40, chapter 5, part 4.

(5) As used in this part, the following definitions apply:

(a) "Employer" includes a payor.

(b) (i) "Income" means any form of periodic payment to a person, regardless of source, including commissions, bonuses, workers' compensation, disability benefits, payments under a pension or retirement program, interest and earnings, and wages.

(ii) Income does not include:

(A) an amount, other than creditor claims, required by law to be withheld, including federal, state, and local taxes and social security; or

(B) an amount exempted from judgment, execution, or attachment by federal or state law.

(c) "Payor" means any entity that pays income to an obligor on a periodic basis and includes any person, firm, corporation, association, employer, trustee, political subdivision, or state agency or an agent of any one of them, subject to the jurisdiction of the courts of this state under Rule 4B of the Montana Rules of Civil Procedure."

Renumber: subsequent sections

3. Page 8, lines 4 through line 18.

Strike: subsection (7) through subsection (9) in their entirety.

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

HB 477, be concurred in. Report adopted.

HB 504, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/26/2009

HB 495, be concurred in. Report adopted.

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

HB 546, be amended as follows:

1. Title, line 10.

Following: "INTEREST;"

Insert: "ALLOWING FOR REGULATION OF SIGN SIZE AND PLACEMENT; AND"

2. Title, line 11.

Strike: "; AND PROVIDING AN APPLICABILITY DATE"

3. Page 1.

Following: line 21

Insert: "(2) A person, homeowners' association, property owners' association, corporation, or other private entity may impose limits on the size of signs allowed to be displayed within the jurisdiction of the private entity and may regulate the location of sign placement and the time period during which signs may be displayed."

Renumber: subsequent subsections

4. Page 4, line 15 through line 19.

Strike: sections 11 and 12 in their entirety

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

HB 563, be amended as follows:

1. Page 1, line 10 through line 12.

Strike: "A" on line 10 through "exist:" on line 12

Insert: "The county commission or a directly affected person, if the person has appeared before a regular meeting of the county commission to notify the commission of the person's intent, may request that a district court recognize a route of a county road that is maintained by the county and used by the public as the legal route if any of the following conditions exist:"

2. Page 1, line 20.

Following: "The"

Insert: "county commission or the"

3. Page 1, line 27.

Following: "may"

Insert: ", subject to subsection (4),"

4. Page 1, line 29.

Following: "NOTICE"

Insert: "and the opportunity for a public hearing"

Following: "LANDOWNERS"

Insert: ", the county commission, and directly affected persons"

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

STATE ADMINISTRATION (Shockley, Chairman):

3/26/2009

HB 19, be amended as follows:

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

1. Page 40.

Following: line 27

Insert: "COORDINATION SECTION. Section 59. Coordination instruction. If [this act] and Senate Bill No. 394 are both passed and approved and both bills amend 13-19-205, then the sections amending 13-19-205 are void and 13-19-205 must be amended as follows:

"13-19-205. Written plan for conduct of election -- amendments -- approval procedures. (1) The election administrator shall prepare a written plan, including a timetable, for the conduct of the election and shall submit it to the secretary of state and the governing body concerned in a manner that ensures that it is received at least 60 days prior to the date set for the election.

(2) (a) The written plan must include:

(i) a timetable for the election;

(ii) the location of places of deposit for ballots;

(iii) the location of any accessible places of deposit that would include the use of specialized voting equipment designed to accommodate physically disabled voters;

(iv) a description of any other voter services to be provided at the places of deposit;

(v) any specific effort designed to increase or enhance the ability of a person to participate in the election;

and

(vi) sample written instructions that will be sent to the electors. The instructions must include but are not limited to information on the estimated amount of postage required to return the ballot and, if the information is available, the location of places of deposit for ballots and the days and times when ballots may be returned to the places of deposit.

(b) If the information described in subsection (2)(a)(vi) is not available when the plan is submitted under subsection (1), the sample written instructions must include a section that will allow the information to be added before the instructions are mailed to electors.

~~(2)~~(3) The plan may be amended by the election administrator any time prior to the 35th day before election day by notifying the secretary of state in writing of any changes. Only the governing body concerned must be notified of any changes to information required in subsection (2).

~~(3)~~(4) Within 5 days of receiving the plan and as soon as possible after receiving any amendments, the secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

~~(4)~~(5) When the written plan has been approved, the election administrator shall proceed to conduct the election according to the approved plan unless the election is canceled for any reason provided by law." "

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

MESSAGES FROM THE GOVERNOR

March 25, 2009

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

Dear Senator Story:

Please be informed that I have signed **Senate Bill 5** sponsored by Senator Erickson, **Senate Bill 21** sponsored by Senator Story, **Senate Bill 25** sponsored by Senator Wanzenried, **Senate Bill 40** sponsored by Senator Juneau, **Senate Bill 54** sponsored by Senator Steinbeisser, **Senate Bill 77** sponsored by Senator Juneau, **Senate Bill 88** sponsored by Senator M. Tropila, **Senate Bill 89** sponsored by Senator M. Tropila, **Senate Bill 102** sponsored by Senator Brueggeman, **Senate Bill 120** sponsored by Senator Zinke, **Senate Bill 135** sponsored by Senator Larsen, **Senate Bill**

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

150 sponsored by Senator Brueggeman, **Senate Bill 155** sponsored by Senator Cooney, **Senate Bill 160** sponsored by Senator Jent, **Senate Bill 170** sponsored by Senator Gebhardt, **Senate Bill 182** sponsored by Senator Esp, **Senate Bill 196** sponsored by Senator Windy Boy, **Senate Bill 219** sponsored by Senator Squires, **Senate Bill 255** sponsored by Senator Tutvedt, **Senate Bill 262** sponsored by Senator Wanzenried, **Senate Bill 296** sponsored by Senator Essmann, **Senate Bill 331** sponsored by Senator Balyeat, **Senate Bill 376** sponsored by Senator Black, **Senate Bill 390** sponsored by Senator McGee, **Senate Bill 438** sponsored by Senator Juneau, on March 25, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

March 25, 2009

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

Dear Senator Story:

Please be informed that I have signed **Senate Bill 256** sponsored by Senator Shockley, on March 23, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

March 25, 2009

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

Dear Senator Story:

Please be informed that I have signed **Senate Bill 23** sponsored by Senator Wanzenried, **Senate Bill 35** sponsored by Senator Jent, **Senate Bill 53** sponsored by Senator Lewis, **Senate Bill 72** sponsored by Senator Laslovich, **Senate Bill 78** sponsored by Senator Brenden, **Senate Bill 91** sponsored by Senator Juneau, **Senate Bill 98** sponsored by Senator Keane, **Senate Bill 103** sponsored by Senator Moss, **Senate Bill 140** sponsored by Senator Perry, **Senate Bill 152** sponsored by Senator Brueggeman, **Senate Bill 157** sponsored by Senator Shockley, **Senate Bill 161** sponsored by Senator Debby Barrett, **Senate Bill 201** sponsored by Senator Laslovich, **Senate Bill 215** sponsored by Senator Steinbeisser, **Senate Bill 252** sponsored by Senator Cooney, on March 20, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

MESSAGES FROM THE OTHER HOUSE

HB 10, introduced by Wiseman, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

3/25/2009

Yeas - 67

Nays - 33

House bills passed and transmitted to the Senate for concurrence:

3/25/2009

HB 5, introduced by Sesso
HB 6, introduced by McNutt
HB 11, introduced by Sesso
HB 130, introduced by Stoker
HB 131, introduced by Stoker
HB 132, introduced by Stoker
HB 152, introduced by Hamilton
HB 173, introduced by Hendrick
HB 213, introduced by Sesso
HB 250, introduced by MacLaren
HB 258, introduced by McChesney
HB 333, introduced by P. Noonan
HB 411, introduced by McChesney
HB 459, introduced by Grinde
HB 487, introduced by McNutt
HB 548, introduced by McAlpin
HB 577, introduced by Caferro
HB 611, introduced by Jones
HB 629, introduced by Glaser
HB 659, introduced by Roberts

Senate amendments to House bills concurred in:

3/25/2009

HB 55, introduced by Hawk
HB 623, introduced by Milburn

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/25/2009

SB 250, introduced by Wanzenried

FIRST READING AND COMMITMENT OF BILLS

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

HB 5, introduced by Sesso (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 6, introduced by McNutt (by request of the Department of Natural Resources and Conservation), referred to Finance and Claims.

HB 10, introduced by Wiseman (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

- HB 11**, introduced by Sesso (by request of the Department of Natural Resources and Conservation and the Office of Budget and Program Planning), referred to Finance and Claims.
- HB 130**, introduced by Stoker (by request of the Law and Justice Interim Committee), referred to Local Government.
- HB 131**, introduced by Stoker (by request of the Law and Justice Interim Committee), referred to Finance and Claims.
- HB 132**, introduced by Stoker (by request of the Law and Justice Interim Committee), referred to Judiciary.
- HB 152**, introduced by Hamilton (by request of the Governor), referred to Finance and Claims.
- HB 173**, introduced by Hendrick, Villa, referred to Public Health, Welfare and Safety.
- HB 213**, introduced by Sesso, Gallus, Gebhardt, Keane, Laslovich, Lewis, Ankney, A. Noonan, Hiner, Villa, Furey, McClafferty, P. Noonan, B. Beck, referred to Finance and Claims.
- HB 250**, introduced by MacLaren, Steinbeisser, referred to Public Health, Welfare and Safety.
- HB 258**, introduced by McChesney (by request of the State Auditor), referred to Finance and Claims.
- HB 333**, introduced by P. Noonan, Villa, Mendenhall, Sesso, Hollenbaugh, Hiner, A. Noonan, Keane, Ankney, McClafferty, Ebinger, Ingraham, Menahan, De. Barrett, Gallus, Welborn, referred to Energy and Telecommunications.
- HB 411**, introduced by McChesney, Getz, Ankney, referred to Local Government.
- HB 459**, introduced by Grinde, Augare, Debby Barrett, Dick Barrett, Becker, Belcourt, Blewett, Calf Boss Ribs, Cohenour, Driscoll, Ebinger, Fleming, French, Furey, Glaser, Grinde, Hamilton, Hands, Hollenbaugh, Kottel, Malek, MacDonald, McClafferty, A. Noonan, P. Noonan, Pease-Lopez, Pomnichowski, Reinhart, Roundstone, Steenson, Van Dyk, Villa, Wilson, Wiseman, referred to Education and Cultural Resources.
- HB 487**, introduced by McNutt, Jones, referred to Taxation.
- HB 548**, introduced by McAlpin, A. Noonan, O'Hara, Fleming, Wilson, referred to Agriculture, Livestock and Irrigation.
- HB 577**, introduced by Caferro, Henry, Sands, referred to Education and Cultural Resources.
- HB 611**, introduced by Jones, Glaser, Augare, Mehlhoff, referred to Education and Cultural Resources.
- HB 629**, introduced by Glaser, Story, referred to Education and Cultural Resources.
- HB 659**, introduced by Roberts, Stahl, referred to State Administration.

MOTIONS

Senator Peterson moved to recess until 1:20 p.m. for caucuses. Motion carried.

Senate in recess.

Senate reconvened.

Roll call. All members present.

THIRD READING OF BILLS

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

SB 37 passed as follows:

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

Total 29

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

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

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 217 passed 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, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

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

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 291 passed as follows:

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

Total 31

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

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 379 passed as follows:

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

Total 26

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

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

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 402 passed as follows:

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

Total 32

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

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 418 passed as follows:

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

Total 42

Nays: Balyeat, Barkus, Brenden, Hinkle, McGee, Shockley, Steinbeisser, Zinke.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 435 passed as follows:

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

Total 26

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Nays: Branae, 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, Windy Boy.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 290 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

**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 Gillan in the chair.

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

SB 260 - Senator Gillan moved **SB 260** 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, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 37

Nays: Cooney, Erickson, Hamlett, Hansen, Jent, Juneau, Kaufmann, Laslovich, Schmidt, Squires, Stewart-Peregoy, Wanzenried, Williams.
Total 13

Absent or not voting: None.

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Total 0

Excused: None.

Total 0

SB 499 - Senator Essmann moved **SB 499** do pass.

SB 499 - Senator Essmann moved **SB 499**, second reading copy, be amended as follows:

1. Page 1, line 28.

Following: "applicable"

Insert: "surface or underground mining rate[, but not to the auger mining]"

2. Page 5, line 8.

Insert: "COORDINATION SECTION. Section 4. Coordination instruction. If Senate Bill No. 292 is not passed and approved, then the bracketed language in [section 1 of this act] amending 15-35-103(4)(a) is void."

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, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Hawks, Jent, Larsen, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 499 - Senator Gillan moved **SB 499**, second reading copy, be amended as follows:

1. Title, line 4.

Following: "ESTABLISHING A "

Insert: "15-YEAR"

2. Page 2, line 10.

Following: "quarter"

Insert: "and terminates in 15 years on the last day of the fiscal quarter"

Amendment adopted as follows:

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

Total 39

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Nays: Erickson, Hawks, Juneau, Kaufmann, Larsen, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Windy Boy.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 499 - Senator Essmann moved **SB 499**, as amended, do pass. Motion carried as follows:

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

Total 30

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

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Gillan assumed the chair.

HB 400 - Senator Brueggeman moved **HB 400** be concurred in. Motion carried as follows:

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

Total 39

Nays: Curtiss, Esp, Gillan, Hansen, Hinkle, Jent, Juneau, McGee, Schmidt, Stewart-Peregoy, Windy Boy.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 530 - Senator Balyeat moved **HB 530** 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, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires,

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

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

Total 47

Nays: Hawks, Jent, Perry.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 465 - Senator Hamlett moved **SB 465** do pass. Motion carried as follows:

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

Total 48

Nays: Hawks, Jent.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator J. Peterson moved consideration of **SB 489** and **SB 507** be passed for the day. Motion carried.

SB 510 - Senator Gebhardt moved **SB 510** do pass. Motion carried as follows:

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

Total 45

Nays: Hawks, Juneau, Kaufmann, Stewart-Peregoy, Wanzenried.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 144 - Senator Cooney moved **HB 144** be concurred in. Motion carried as follows:

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

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, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: McGee.

Total 1

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 Gillan moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman): 3/26/2009

HB 572, be concurred in. Report adopted.

HB 635, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman): 3/26/2009

HB 147, be amended as follows:

1. Title, page 1, line 7 through line 8.

Strike: "SPECIFYING" on line 7 through "REPORTS;" on line 8

2. Page 1, line 23.

Following: the second "election"

Insert: ";"

3. Page 1, line 23 through line 25.

Strike: ". The report" on line 23 through "13-37-225." on line 25

4. Page 2, line 7.

Following: the second "election"

Insert: ";"

5. Page 2, line 7 through line 9.

Strike: ". The report" on line 7 through "13-37-225."

6. Page 2, line 19.

Following: "~~by mail or~~"

Insert: "by mail or"

Following: "~~communication~~"

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Strike: "filing" through "service"
Insert: "communication"

7. Page 3, line 5.

Following: "more"

Insert: "for election material described in 13-35-225(1)"

8. Page 3, line 5 through 7

Following: the second "election"

Insert: " ; "

Strike: ". The report" on line 5 through "13-37-225."

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

HB 328, be amended as follows:

1. Title, line 4.

Strike: "REVISING" through "OF"

Insert: "ELIMINATING THE REQUIREMENT FOR"

Strike: "NEEDED"

2. Title, line 6.

Strike: "SECTIONS" through "AND"

Insert: "SECTION"

3. Page 1, line 10 through line 24.

Strike: section 1 in its entirety

Renumber: subsequent section

4. Page 2, line 1 through line 2.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

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

HB 384, be amended as follows:

1. Title, line 11.

Following: "17-5-1302"

Insert: " , "

Strike: the first "AND"

Following: "17-5-1312,"

Insert: "AND 17-5-2201,"

2. Page 3.

Following: line 14

Insert: "**Section 3.** Section 17-5-2201, MCA, is amended to read:

"17-5-2201. Fee for issuance of bonds. Except for issuers of general obligation bonds ~~which~~ that are payable solely by general fund revenues and as provided in 17-5-1312(2)(a), each state bond issuer shall, upon issuance of the bonds, pay 30 cents per thousand of bonds ~~to~~ unless another fee is specifically provided for a type of

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

bonds. The fee must be deposited in the state general fund for the purpose of funding a portion of the comprehensive annual financial report audit."

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

HB 475, be concurred in. Report adopted.

TAXATION (Essmann, Chairman):

3/26/2009

SB 342, introduced bill, be amended as follows:

1. Title, line 11.

Strike: "AN IMMEDIATE"

Insert: "A DELAYED"

2. Title, line 12.

Following: the first "DATE"

Insert: ", "

Strike: "AND A RETROACTIVE"

Insert: "AN"

Following: the second "DATE"

Insert: ", AND A TERMINATION DATE"

3. Page 1, line 29.

Strike: "or preschool program"

4. Page 1, line 30.

Strike: "qualifies at or below 150% of"

Insert: "is the child of a household with an income of 150% or less of the eligibility guidelines for"

Strike: "or"

Insert: "and"

Strike: "rate"

Insert: "program"

5. Page 2, line 4.

Strike: "or reduced"

Insert: "and reduced-price"

Strike: "rates"

Insert: "program eligibility guidelines"

6. Page 2, line 7.

Strike: "or reduced"

Insert: "and reduced-price"

Strike: "rates"

Insert: "program eligibility guidelines"

7. Page 2, line 12.

Strike: "is in the process of becoming accredited"

Insert: "has applied for accreditation or is provisionally accredited"

8. Page 2, line 13.

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Strike: "or other nationally recognized accreditation association"

9. Page 2, line 21.

Strike: "90%"

Insert: "95%"

10. Page 2, line 22.

Strike: "of their parents' choice"

Insert: "or program"

11. Page 2, line 24.

Following: "school"

Insert: "or group of affiliated schools"

12. Page 2, line 28.

Strike: "90%"

Insert: "95%"

13. Page 3, line 1.

Strike: "eligible private school"

Insert: "qualified school or program"

14. Page 3, lines 2 through 4.

Strike: "maintain" on line 2 through "schools" on line 4

Insert: "provide scholarships to attend a qualified school or program only to:

(i) students who when granted a scholarship were full-time public school students; or

(ii) students entering kindergarten or enrolling for the first time in a school in this state"

15. Page 3, line 5.

Strike: "\$2,500 in"

Following: "the"

Insert: "following"

Strike: "of each scholarship;"

Insert: "for scholarships for each year listed:

Calendar Year Amount

2011	\$2,000
2012	\$2,000
2013	\$2,000
2014	\$2,000
2015	\$2,500
2016	\$2,500
2017	\$2,500
2018	\$3,000
2019	\$3,000
2020	\$3,000
2020	\$3,500

16. Page 3, line 6.

Following: "pupil a"

Insert: "transportation"

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

17. Page 3, line 12.

Strike: "120"

Insert: "60"

18. Page 3, line 23.

Following: "shall"

Insert: ", within 120 days after completion of the student scholarship organization's fiscal year,"

19. Page 3, line 24.

Strike: "by April 15 of each year"

20. Page 4, line 9.

Strike: the first "the private school"

Insert: "a qualified school or program"

Strike: the second "private school"

Insert: "qualified school or program"

21. Page 4, line 10.

Strike: "private school"

Insert: "qualified school or program"

22. Page 4, line 14.

Strike: "private" through "student"

Insert: "parent of an eligible student may not accept one or more scholarship awards from a student scholarship organization"

23. Page 4, line 15 through line 16.

Strike: "school" on line 15 through "scholarship" on line 16

Insert: "qualified school or program for that student"

24. Page 4, line 22.

Strike: "80%"

Insert: "70%"

Strike: "qualified education expenses"

Insert: "charitable donations made to student scholarship organizations"

25. Page 4, line 23.

Following: "individual"

Insert: ", "

Strike: "or"

Following: "household,"

Insert: " or a married taxpayer filing a separate return,"

26. Page 4, line 25.

Strike: "qualified education expenses"

Insert: "charitable donations made to student scholarship organizations"

27. Page 4, line 26.

Following: "taxpayer"

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Insert: "or otherwise engages in any attempt to directly or indirectly direct the distribution of the scholarships by the student scholarship organization"

28. Page 5, line 3.

Strike: "\$10.3 million"

Insert: "the following amount"

29. Page 5, line 4.

Strike: "a"

Insert: "the applicable"

Following: "year"

Strike: "."

Insert: ":

Tax Year	Amount
2011	\$1.75 million
2012	\$2.75 million
2013	\$3 million
2014	\$4 million
2015	\$5 million
2016	\$6 million
2017	\$7 million
2018	\$8 million
2019	\$9 million
2020	\$10 million"

30. Page 5, line 8.

Following: "department"

Insert: "on or before October 1"

31. Page 5, line 10.

Following: "donor."

Insert: "If within 30 days the department fails to preapprove or deny the request, the request is considered approved."

32. Page 5, line 14.

Following: "(5)(a)"

Insert: "and the donor may not receive the credit"

33. Page 5, line 26.

Strike: ""qualified education expense""

Insert: ""charitable donation""

Strike: "expenditure"

Insert: "payment"

34. Page 5, line 28.

Following: "program"

Insert: "and to provide scholarships for transportation"

35. Page 6, line 3.

Strike: "80%"

Insert: "70%"

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Strike: "qualified education expenses"

Insert: "charitable donations made to student scholarship organizations"

36. Page 6, line 4.

Strike: "80%"

Insert: "the lesser of 70%"

Strike: "\$250,000, whichever is less."

Insert: ":

Tax Year	Amount
2011	\$90,000
2012	\$90,000
2013	\$110,000
2014	\$130,000
2015	\$150,000
2016	\$170,000
2017	\$190,000
2018	\$210,000
2019	\$230,000
2020	\$250,000"

37. Page 11, line 16.

Strike: "on passage and approval"

Insert: "January 1, 2011"

38. Page 11, lines 18 and 19.

Strike: "Retroactive applicability" on line 18

Insert: "Applicability"

Strike: "retroactively" on line 18 through "1-2-109," on line 19

Strike: "2008"

Insert: "2010"

39. Page 11, line 20.

Insert: "NEW SECTION. **Section 13. Termination.** [This act] terminates December 31, 2020."

And, as amended, do pass. Report adopted.

SPECIAL ORDERS OF THE DAY

SR 10 - Senator Steinbeisser moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolutions No. 10, and that the ayes and nays be spread upon the journal.

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, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Stewart-Peregoy.

Total 1

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, March 27, 2009. Motion carried.

Senate adjourned at 3:00 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate