

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

Helena, Montana  
March 28, 2009

Senate Chambers  
State Capitol

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

Roll Call. All members present, except Senators Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy, excused. Quorum present.

**BILLS AND JOURNALS:**

3/28/2009

Correctly printed: **SB 509, SJR 33, SR 18, SR 21, SR 22, SR 23, SR 24, SR 25, SR 26, SR 27, SR 28, HB 103, HB 116, HB 163, HB 211, HB 246, HB 356, HB 357, HB 371, HB 373, HB 380, HB 416, HB 499, HJR 15.**

Correctly engrossed: **SB 38, SB 370, SB 511, HB 190, HB 318, HB 374, HB 443, HB 478, HB 531, HB 584.**

Signed by the President at 7:30 a.m., March 28, 2009: **SR 10.**

Signed by the Secretary of the Senate at 12:55 p.m., March 27, 2009: **SR 10.**

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

Senator Curtiss, Chair

**REPORTS OF STANDING COMMITTEES**

**JUDICIARY** (Perry, Chairman):  
**HB 628**, be amended as follows:

3/27/2009

1. Title, line 6 through line 7.

**Following:** "'AN ACT" on line 6

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

2. Title, line 8.

**Following:** "PROSECUTION"

**Strike:** "AND PROVIDING PENALTIES"

**Insert:** "OF CARELESS DRIVING RESULTING IN DEATH AND RECKLESS DRIVING RESULTING IN DEATH"

**Strike:** "SECTIONS"

**Insert:** "SECTION"

3. Title, line 8 through line 9.

**Following:** "45-1-205," on line 8

**Strike:** remainder of line 8 through "61-8-716," on line 9

4. Page 3, line 1.

**Following:** "death"

**Strike:** "under 61-8-301"

5. Page 3, line 3.

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**Following:** "death"  
**Strike:** "under 61-8-302"

6. Page 3, line 6 through page 5, line 18.  
**Strike:** section 2 through section 6 in their entirety

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

**LOCAL GOVERNMENT** (Esp, Chairman):  
**HB 420**, be amended as follows:

3/27/2009

1. Page 2, line 25.  
**Following:** "adopt"  
**Insert:** "voluntary"  
**Strike:** "BASED ON"  
**Insert:** "for the purpose of"

2. Page 4, line 26.  
**Following:** "adopt"  
**Insert:** "voluntary"

3. Page 4, line 27.  
**Strike:** "BASED ON"  
**Insert:** "for the purpose of"

4. Page 5, line 25.  
**Following:** "adopt"  
**Insert:** "voluntary"

5. Page 5, line 26.  
**Strike:** "BASED ON"  
**Insert:** "for the purpose of"

6. Page 6, line 28.  
**Following:** "with the"  
**Insert:** "voluntary"

7. Page 6, line 29 through page 7, line 3.  
**Strike:** ";" on page 6, line 29 through "INCENTIVE" on page 7, line 3  
**Insert:** "the building meets or exceeds those standards"

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

**HB 630**, be amended as follows:

1. Title, lines 9 and 10.  
**Strike:** "EXCLUDING" on line 9 through "LEVIES;" on line 10

2. Title, line 11.  
**Following:** "7-12-4225,"

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**Insert:** "AND"

3. Title, line 12.

**Strike:** "AND 15-10-420,"

4. Page 9, line 22 through page 11, line 28.

**Strike:** section 9 in its entirety

**Renumber:** subsequent section

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

**FIRST READING AND COMMITMENT OF BILLS**

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

**SJR 34**, introduced by Juneau, referred to Education and Cultural Resources.

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

**SR 29**, introduced by Steinbeisser, referred to Agriculture, Livestock and Irrigation.

**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 R. Brown in the chair.

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

**SB 73 - House Amendments** - Senator Hawks moved House amendments to **SB 73 be not concurred in**. Motion carried as follows:

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

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy.

Total 5

**SB 79 - House Amendments** - Senator Juneau moved House amendments to **SB 79 be not concurred in**. Motion carried as follows:

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

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy.

Total 5

**SB 108 - House Amendments** - Senator Jent moved House amendments to **SB 108 be not concurred in**. Motion carried as follows:

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

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy.

Total 5

**HB 19** - Senator Shockley moved **HB 19** be concurred in. Motion carried as follows:

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

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy.

Total 5

**HB 95** - Senator Shockley moved **HB 95** be concurred in. Motion carried as follows:

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

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy.

Total 5

Senator Brueggeman present at this time.

Senator Keane excused at this time.

**HB 147** - Senator Cooney moved **HB 147** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, Brueggeman, Cooney, Esp, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.

Total 27

Nays: Balyeat, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gallus, Gebhardt, Hinkle, Jackson, McGee, Murphy, Peterson, Ripley, Steinbeisser, Tutvedt, Windy Boy, Mr. President.

Total 18

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Keane, Perry, Stewart-Peregoy.

Total 5

Senator Keane present at this time.

**HB 177** - Senator Laslovich moved **HB 177** be concurred in. Motion carried as follows:

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

Total 46

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: Barkus, Erickson, Perry, Stewart-Peregoy.  
Total 4

**HB 218** - Senator Jent moved consideration of **HB 218** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

**HB 222** - Senator Jent moved **HB 222** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 43

Nays: Gebhardt, Hinkle, McGee.  
Total 3

Absent or not voting: None.  
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.  
Total 4

**HB 301** - Senator Laslovich moved **HB 301** be concurred in. Motion carried as follows:

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

Nays: Balyeat.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.  
Total 4

**HB 328** - Senator Shockley moved **HB 328** be concurred in. Motion carried as follows:

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

Nays: McGee.  
Total 1

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Absent or not voting: None.  
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.  
Total 4

**HB 362** - Senator J. Peterson moved consideration of **HB 362** be placed at the bottom of the second reading board.  
Motion carried.

**HB 403** - Senator Larsen moved **HB 403** be concurred in. Motion carried as follows:

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

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.  
Total 4

**HB 488** - Senator Laible moved **HB 488** be concurred in. Motion carried as follows:

Yeas: Bales, Black, Branae, T. Brown, Brueggeman, Cooney, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke.  
Total 29

Nays: Balyeat, Barrett, Brenden, R. Brown, Curtiss, Esp, Gallus, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Tutvedt, Wanzenried, Mr. President.  
Total 17

Absent or not voting: None.  
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.  
Total 4

**HB 517** - Senator Esp moved **HB 517** be concurred in. Motion carried as follows:

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

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Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.  
Total 4

**HB 542** - Senator J. Tropila moved **HB 542** be concurred in. Motion carried as follows:

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

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.  
Total 4

Senator McGee assumed the chair.

**HB 544** - Senator R. Brown moved **HB 544** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 44

Nays: Cooney, Kaufmann.  
Total 2

Absent or not voting: None.  
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.  
Total 4

**HB 546** - Senator Gillan moved **HB 546** be concurred in. Motion carried as follows:

Yeas: Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Peterson, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.  
Total 33



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Nays: Bales, Balyeat, Brenden, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Murphy, Ripley, Shockley, Tutvedt, Zinke.

Total 13

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

**HB 557** - Senator Windy Boy moved **HB 557** be concurred in. Motion carried as follows:

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

Total 46

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

**HB 563** - Senator Laslovich moved **HB 563** be concurred in. Motion carried as follows:

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

Total 43

Nays: Gebhardt, Jackson, Zinke.

Total 3

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

**HJR 4** - Senator Curtiss moved **HJR 4** be concurred in. Motion carried as follows:

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

Total 33

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Nays: Branae, Cooney, Gillan, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Wanzenried, Williams.

Total 13

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

**HB 338** - Senator Black moved **HJR 338** be concurred in. Motion carried as follows:

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

Total 40

Nays: Balyeat, Cooney, Kaufmann, McGee, Moss, Shockley.

Total 6

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

**HB 343** - Senator Gebhardt moved **HJR 343** be concurred in. Motion carried as follows:

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

Total 44

Nays: Shockley, M. Tropila.

Total 2

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

**HB 402** - Senator Gebhardt moved **HJR 402** be concurred in.

Senator Perry present at this time.

Senator Barkus present at this time.

**HB 402** - Senator Brenden moved **HB 402**, second reading copy, be amended as follows:

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1. Title, page 1, line 5.

**Strike:** "REMOVING THE SUNSET OF THE LAND BANKING PROGRAM;"

2. Page 1, line 13.

**Strike:** "250,000"

**Insert:** "175,000"

3. Page 1, line 15.

**Strike:** "20,000"

**Insert:** "10,000"

4. Page 1.

**Following:** line 18

**Insert:** "(c) Except as provided in subsection (1)(d), of the total state land in a single county, the board may not sell more than 2% in a single year.

(d) The board may exceed the limit established in subsection (1)(c) if the sale would increase the taxable value of the affected county by more than 2% and the board has consulted with and received comment from the governing body of the county. The board may proceed with a proposed sale under this subsection (1)(d) after comments have been received from the governing body or the governing body has indicated in writing that it will have no comments or 90 days have elapsed, whichever occurs first."

5. Page 1, line 21.

**Strike:** "20%"

**Insert:** "10%"

6. Page 2, line 9.

**Strike:** "10"

**Insert:** "30"

7. Page 2, line 16.

**Following:** "~~limit~~"

**Insert:** "process -- time limit"

8. Page 2.

**Following:** line 20

**Insert:** "(1) State land may not be sold through the land banking process pursuant to 77-2-361 through 77-2-367 after October 1, 2011. Land banking purchases under 77-2-364 may continue after October 1, 2011, until all the proceeds in the state land bank fund are expended or revert to the public school fund or the permanent fund of the respective trust pursuant to 77-2-362(2)(d)."

9. Page 2, line 21.

**Following:** "~~(2)~~"

**Insert:** "(2)"

Amendment **not** adopted as follows:

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

Total 20

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Nays: Branae, Brueggeman, Cooney, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.  
Total 28

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**HB 402** - Senator Gebhardt moved **HB 402** be concurred in. Motion carried as follows:

Yeas: Barrett, Branae, T. Brown, Brueggeman, Cooney, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.  
Total 33

Nays: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, McGee, Perry, Peterson, Ripley, Shockley, Mr. President.  
Total 15

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**HB 490** - Senator J. Peterson moved consideration of **HB 490** be passed for the day. Motion carried.

**SB 503** - Senator Essmann moved **SB 503** 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, Jent, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.  
Total 29

Nays: Branae, Cooney, Gallus, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.  
Total 19

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**SB 506** - Senator Essmann moved **SB 506** do pass.

**SB 506** - Senator Essmann moved **SB 506**, second reading copy, be amended as follows:

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1. Title, line 7.

**Strike:** ", DISTRIBUTION TO CERTAIN NEARBY LOCAL GOVERNMENTS,"

2. Page 2, line 20.

**Strike:** "Proceeds"

**Insert:** "The amount of 100% of the proceeds"

3. Page 2, line 23 and line 24.

**Strike:** "as follows:" on line 23 through "used" on line 24

**Following:** "offset" on line 24

**Strike:** ";"

**Insert:** "unless"

4. Page 2, line 25.

**Strike:** "(b)" on line 25 through ", or" on line 26

**Following:** "expenditures"

**Insert:** "are"

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, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Tutvedt, Williams, Zinke, Mr. President.

Total 38

Nays: Hansen, Jent, Larsen, Laslovich, Moss, Shockley, J. Tropila, M. Tropila, Wanzenried, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

**SB 506** - Senator Essmann moved **SB 506**, as amended, do pass. Motion **failed** as follows:

Yeas: Branae, R. Brown, Brueggeman, Cooney, Essmann, Gebhardt, Gillan, Hawks, Juneau, Kaufmann, Moss, Schmidt, Williams.

Total 13

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Curtiss, Esp, Gallus, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 35

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

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**SB 506** - Senator Williams moved **SB 506** be indefinitely postponed. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Gallus, Hamlett, Hansen, Hinkle, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 36

Nays: Branae, T. Brown, Brueggeman, Cooney, Essmann, Gebhardt, Gillan, Hawks, Jackson, Kaufmann, Moss, Ripley.  
Total 12

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**SB 508** - Senator Brueggeman moved consideration of **SB 508** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

**HB 378** - Senator Wanzenried moved **HB 378** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, 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 47

Nays: Esp.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**HB 404** - Senator McGee moved **HB 404** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, 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 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

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Excused: Erickson, Stewart-Peregoy.  
Total 2

**HB 412** - Senator Barkus moved **HB 412** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, 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 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**HB 483** - Senator Black moved **HB 483** be concurred in. Motion carried as follows:

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

Nays: Branae, Brueggeman, Cooney, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.  
Total 20

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

Senator McGee assumed the chair.

**HB 567** - Senator R. Brown moved **HB 567** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, 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 48

Nays: None.  
Total 0

Absent or not voting: None.

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Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

Senator R. Brown re-assumed the chair.

**HJR 14** - Senator Hinkle moved **HJR 14** be concurred in. Motion carried as follows:

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

Total 31

Nays: Branae, Cooney, Esp, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Wanzenried, Williams, Windy Boy, Zinke.

Total 17

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

**SB 489** - Senator Essmann moved **SB 489** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, 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 45

Nays: Black, Juneau, Kaufmann.

Total 3

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

**SB 507** - Senator Story moved **SB 507** do pass.

**SB 507** - Senator Story moved **SB 507**, second reading copy, be amended as follows:

1. Page 2, line 10.

**Following:** "."

**Insert:** The annual payment for a license issued under [sections 1 through 7] is \$150.

2. Page 4, line 22.

**Following:** "payment"



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**Insert:** "for leases and easements"

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, 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 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**SB 507** - Senator Story moved **SB 507**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.  
Total 39

Nays: Cooney, Gillan, Juneau, Kaufmann, Moss, Schmidt, Squires, Wanzenried, Williams.  
Total 9

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**HB 71** - Senator Ripley moved **HB 71** be concurred in. Motion carried as follows:

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

Nays: Balyeat, Esp, Gallus, McGee.  
Total 4

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.

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Total 2

**HB 85** - Senator Juneau moved **HB 85** be concurred in. Motion carried as follows:

Yeas: Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Lewis, Moss, Murphy, Perry, Ripley, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 30

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Essmann, Hinkle, Jackson, Keane, Laslovich, McGee, Peterson, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 18

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

**HB 104** - Senator Zinke moved **HB 104** be concurred in. Motion carried as follows:

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

Total 47

Nays: Ripley.

Total 1

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

**HB 161** - Senator Juneau moved **HB 161** be concurred in. Motion carried as follows:

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

Total 46

Nays: Balyeat, Hinkle.

Total 2

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

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Total 2

**HB 409** - Senator Larsen moved **HB 409** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, 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 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**HB 509** - Senator Cooney moved **HB 509** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, 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 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**HB 588** - Senator T. Brown moved **HB 588** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, 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 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.

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Total 2

**HB 591** - Senator Shockley moved **HB 591** be concurred in.

**HB 591** - Senator Shockley moved **HB 591**, second reading copy, be amended as follows:

1. Title, line 5.

**Following:** "OF A"

**Insert:** "STATE-RECOGNIZED OR"

2. Page 1, line 22.

**Following:** "OF A"

**Insert:** "state-recognized or"

3. Page 1, line 23.

**Following:** "MONTANA."

**Insert:** "The tribal member may not be required to hear and act on all American Indian applications before the board."

Amendment adopted as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, 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 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

**HB 591** - Senator Shockley moved **HB 591**, as amended, be concurred in. Motion carried as follows:

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

Total 44

Nays: Brenden, T. Brown, Gebhardt, Ripley.

Total 4

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

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**HB 626** - Senator Debby Barrett moved **HB 626** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, 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 47

Nays: Bales.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**HJR 1** - Senator Hawks moved **HJR 1** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 41

Nays: Barkus, Brenden, Brueggeman, Esp, Hinkle, McGee, Steinbeisser.  
Total 7

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**HB 218** - Senator Jent moved **HB 218** be concurred in.

**HB 218** - Senator Jent moved **HB 218**, second reading copy, be amended as follows:

1. Page 6, line 15.

**Following:** "(3)"

**Insert:** "(a)"

2. Page 6, line 16.

**Following:** line 15

**Insert:** "(b) Pelts of muskrat and beaver killed pursuant to 87-3-501(2) are exempt from this section."

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, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires,

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Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**HB 218** - Senator Jent moved **HB 218**, as amended, be concurred in. Motion carried as follows:

Bales, Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 38

Nays: Balyeat, Barrett, Brenden, R. Brown, Essmann, Gebhardt, Hinkle, McGee, Ripley, Steinbeisser.  
Total 10

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**HB 362** - Senator Perry moved **HB 362** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, 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 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Erickson, Stewart-Peregoy.  
Total 2

**SB 508** - Senator J. Peterson moved consideration of **SB 508** be passed for the day. Motion carried.

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

**REPORTS OF STANDING COMMITTEES**

**LOCAL GOVERNMENT** (Esp, Chairman):  
**HB 486**, be amended as follows:

3/28/2009

1. Title, line 4.

**Strike:** "ANNEXATION AND SUBDIVISION"

**Insert:** "LAND USE"

**Following:** "LAWS;"

**Insert:** "CLARIFYING SUBDIVISION REVIEW FOR CONDOMINIUMS; INCLUDING SAND AND GRAVEL RESOURCES AMONG THE ITEMS THAT MUST BE MAPPED IN A GROWTH POLICY;"

2. Title, line 7.

**Following:** "CONDITION;"

**Insert:** "PROVIDING PENALTIES FOR VIOLATION OF CERTAIN ZONING REGULATIONS; REQUIRING A COUNTY TO ATTEMPT TO OBTAIN COMPLIANCE WITH ZONING REGULATIONS BEFORE FILING A COMPLAINT; REVISING PUBLIC NOTICE REQUIREMENTS FOR ZONING AND REQUIRING PUBLIC NOTICE FOR INTERIM ZONING;"

3. Title, line 10.

**Following:** "SECURITY;"

**Insert:** "PROVIDING THAT A PARK DEDICATION MAY NOT BE REQUIRED FOR A FIRST MINOR SUBDIVISION FROM A TRACT OF RECORD;"

4. Title, line 11.

**Following:** "70-23-301,"

**Insert:** "76-1-601,"

**Following:** "76-2-107,"

**Insert:** "76-2-113,"

**Following:** "76-2-205,"

**Insert:** "76-2-206, 76-2-210,"

5. Title, line 12.

**Following:** "76-3-507,"

**Insert:** "76-3-510,"

**Following:** "76-3-620,"

**Insert:** "76-3-621,"

6. Page 3.

**Following:** line 1

**Insert:** "**Section 2.** Section 76-1-601, MCA, is amended to read:

**"76-1-601. Growth policy -- contents.** (1) A growth policy may cover all or part of the jurisdictional area.

(2) The extent to which a growth policy addresses the elements listed in subsection (3) is at the full discretion of the governing body.

(3) A growth policy must include:

(a) community goals and objectives;

(b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, including:

(i) land uses;

(ii) population;

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- (iii) housing needs;
  - (iv) economic conditions;
  - (v) local services;
  - (vi) public facilities;
  - (vii) natural resources; ~~and~~
  - (viii) sand and gravel resources; and
  - ~~(viii)~~(ix) other characteristics and features proposed by the planning board and adopted by the governing bodies;
- (c) projected trends for the life of the growth policy for each of the following elements:
- (i) land use;
  - (ii) population;
  - (iii) housing needs;
  - (iv) economic conditions;
  - (v) local services;
  - (vi) natural resources; and
  - (vii) other elements proposed by the planning board and adopted by the governing bodies;
- (d) a description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to subsection (3)(a);
- (e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;
- (f) an implementation strategy that includes:
- (i) a timetable for implementing the growth policy;
  - (ii) a list of conditions that will lead to a revision of the growth policy; and
  - (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary;
- (g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains:
- (i) if a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy;
  - (ii) if a governing body is a county, how the governing body will coordinate and cooperate with cities and towns located within the county's boundaries on matters related to the growth policy;
- (h) a statement explaining how the governing bodies will:
- (i) define the criteria in 76-3-608(3)(a); and
  - (ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a);
- (i) a statement explaining how public hearings regarding proposed subdivisions will be conducted; and
- (j) an evaluation of the potential for fire and wildland fire in the jurisdictional area, including whether or not there is a need to:
- (i) delineate the wildland-urban interface; and
  - (ii) adopt regulations requiring:
    - (A) defensible space around structures;
    - (B) adequate ingress and egress to and from structures and developments to facilitate fire suppression activities; and
    - (C) adequate water supply for fire protection.
- (4) A growth policy may:
- (a) include one or more neighborhood plans. A neighborhood plan must be consistent with the growth policy.
  - (b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;
  - (c) establish an infrastructure plan that, at a minimum, includes:
    - (i) projections, in maps and text, of the jurisdiction's growth in population and number of residential, commercial, and industrial units over the next 20 years;
    - (ii) for a city, a determination regarding if and how much of the city's growth is likely to take place outside



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of the city's existing jurisdictional area over the next 20 years and a plan of how the city will coordinate infrastructure planning with the county or counties where growth is likely to take place;

(iii) for a county, a plan of how the county will coordinate infrastructure planning with each of the cities that project growth outside of city boundaries and into the county's jurisdictional area over the next 20 years;

(iv) for cities, a land use map showing where projected growth will be guided and at what densities within city boundaries;

(v) for cities and counties, a land use map that designates infrastructure planning areas adjacent to cities showing where projected growth will be guided and at what densities;

(vi) using maps and text, a description of existing and future public facilities necessary to efficiently serve projected development and densities within infrastructure planning areas, including, whenever feasible, extending interconnected municipal street networks, sidewalks, trail systems, public transit facilities, and other municipal public facilities throughout the infrastructure planning area. For the purposes of this subsection (4)(c)(vi), public facilities include but are not limited to drinking water treatment and distribution facilities, sewer systems, wastewater treatment facilities, solid waste disposal facilities, parks and open space, schools, public access areas, roads, highways, bridges, and facilities for fire protection, law enforcement, and emergency services;

(vii) a description of proposed land use management techniques and incentives that will be adopted to promote development within cities and in an infrastructure planning area, including land use management techniques and incentives that address issues of housing affordability;

(viii) a description of how and where projected development inside municipal boundaries for cities and inside designated joint infrastructure planning areas for cities and counties could adversely impact:

(A) threatened or endangered wildlife and critical wildlife habitat and corridors;

(B) water available to agricultural water users and facilities;

(C) the ability of public facilities, including schools, to safely and efficiently service current residents and future growth;

(D) a local government's ability to provide adequate local services, including but not limited to emergency, fire, and police protection;

(E) the safety of people and property due to threats to public health and safety, including but not limited to wildfire, flooding, erosion, water pollution, hazardous wildlife interactions, and traffic hazards;

(F) natural resources, including but not limited to forest lands, mineral resources, sand and gravel resources, streams, rivers, lakes, wetlands, and ground water; and

(G) agricultural lands and agricultural production; and

(ix) a description of measures, including land use management techniques and incentives, that will be adopted to avoid, significantly reduce, or mitigate the adverse impacts identified under subsection (4)(c)(viii).

(5) The planning board may propose and the governing bodies may adopt additional elements of a growth policy in order to fulfill the purpose of this chapter."

**Renumber:** subsequent sections

7. Page 3, line 13.

**Strike:** "60 days"

**Insert:** "6 months"

8. Page 4.

**Following:** line 18

**Insert:** "NEW SECTION. Section 6. Violations and penalties. A violation of this part or of a resolution adopted pursuant to this part is a misdemeanor and is punishable by a fine of up to \$500 or by imprisonment in the county jail for a term not exceeding 6 months, or both. The violation is an absolute liability offense as provided for in 45-2-104."

**Insert:** "Section 7. Section 76-2-113, MCA, is amended to read:

**"76-2-113. Enforcement of zoning provisions.** (1) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any building, structure, or land is used in violation of this part or of any resolution adopted under this part, the county, in addition to other remedies, may take any appropriate action or begin proceedings to:

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~~(1)~~(a) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

~~(2)~~(b) restrain, correct, or abate a violation;

~~(3)~~(c) prevent the occupancy of a building, structure, or land; or

~~(4)~~(d) prevent any illegal act, conduct, business, or use in or near the premises.

(2) The county shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation of this part that is subject to the penalties under [section 6]."

**Renumber:** subsequent sections

9. Page 4, line 30.

**Strike:** "60 days"

**Insert:** "6 months"

10. Page 6, lines 21 and 22.

**Strike:** "must" on line 21 through "notice" on line 22

**Following:** "must" on line 22

**Insert:** ": (a)"

11. Page 6, line 23.

**Strike:** "(a)"

**Insert:** "(i)"

12. Page 6, line 24.

**Strike:** "(b)"

**Insert:** "(ii)"

13. Page 6, line 25.

**Strike:** "(c)"

**Insert:** "(iii)"

14. Page 6, line 26.

**Strike:** "(d)"

**Insert:** "(iv)"

15. Page 6, line 27.

**Following:** "recorder"

**Insert:** ";

(b) be posted not less than 45 days before the public hearing in at least five public places within the proposed district; and

(c) be published once a week for 2 weeks in a newspaper of general circulation within the county"

16. Page 7.

**Following:** line 20

**Insert:** "Section 11. Section 76-2-206, MCA, is amended to read:

"76-2-206. **Interim zoning map or regulation.** (1) ~~The~~ Subject to subsection (3), the board of county commissioners may ~~adopt~~ establish an interim zoning ~~map~~ district or interim regulation as an emergency measure in order to promote the public health, safety, morals, and general welfare if:

(a) the purpose of the interim zoning ~~map~~ district or interim regulation is to classify and regulate those uses and related matters that constitute the emergency; and

(b) the county:

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(i) is conducting or in good faith intends to conduct studies within a reasonable time; or  
(ii) has held or is holding a hearing for the purpose of considering any of the following:  
(A) a growth policy;  
(B) zoning regulations; or  
(C) a revision to a growth policy, to a master plan, as provided for in 76-1-604(6) and 76-2-201(2), or to zoning regulations pursuant to this part.

(2) ~~An interim A~~ resolution for an interim zoning district or interim regulation must be limited to 1 year from the date it becomes effective. ~~The Subject to subsection (3)(c), the~~ board of county commissioners may extend the interim resolution for 1 year, but not more than one extension may be made.

(3) The board of county commissioners shall observe the following procedures in the establishment of an interim zoning district or interim regulation:

(a) Notice of a public hearing on the proposed interim zoning district boundaries or of the interim regulation must be published once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:

(i) the boundaries of the proposed district;  
(ii) the specific emergency or exigent circumstance compelling the establishment of the proposed interim zoning district or interim regulation;  
(iii) the general character of the proposed interim zoning district or interim regulation;  
(iv) the time and place of the public hearing; and  
(v) that the proposed interim zoning district or interim regulation is on file for public inspection at the office of the county clerk and recorder.

(b) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed establishment of an interim zoning district or interim regulation.

(c) After the hearing, the board of county commissioners may adopt a resolution to establish an interim zoning district or interim regulation."

**Insert:** "Section 12. Section 76-2-210, MCA, is amended to read:

**"76-2-210. Enforcement of zoning provisions.** (1) ~~In case~~ If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part or of any resolution ~~made under authority conferred hereby, the proper authorities of adopted under this part,~~ the county, in addition to other remedies, may institute any appropriate action or proceedings to:

(a) prevent ~~such~~ the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; ~~to~~

(b) restrain, correct, or abate ~~such~~ a violation; ~~to~~

(c) prevent the occupancy of ~~such~~ the building, structure, or land; or ~~to~~

(d) prevent any illegal act, conduct, business, or use in or ~~about~~ such ~~near~~ the premises.

(2) The county shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation of this part that is subject to the penalties under 76-2-211.

(~~2~~)(3) The board of county commissioners may appoint enforcing officers to supervise and enforce the provisions of the zoning resolutions."

**Renumber:** subsequent sections

17. Page 8, line 30 through page 9, line 1.

**Following:** "subdivision," on page 8, line 30

**Insert:** "the"

**Strike:** "and" on page 8, line 30 through "lots" on page 9, line 1

18. Page 13, line 10.

**Strike:** "deny or conditionally"

**Following:** "approve"

**Insert:** ", conditionally approve, or deny"

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19. Page 14.

**Following:** line 18

**Insert:** "**Section 18.** Section 76-3-510, MCA, is amended to read:

**"76-3-510. Payment for extension of capital facilities.** (1) A local government may require a subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. A local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

(2) All fees, costs, or other money paid by a subdivider under this section must be expended on the capital facilities for which the payments were required."

**Renumber:** subsequent sections

20. Page 18.

**Following:** line 18

**Insert:** "**Section 23.** Section 76-3-621, MCA, is amended to read:

**"76-3-621. Park dedication requirement.** (1) Except as provided in 76-3-509 or subsections (2), (3), and (6) through (9) of this section, a subdivider shall dedicate to the governing body a cash or land donation equal to:

(a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

(b) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;

(c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and

(d) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.

(2) When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a growth policy under chapter 1 or pursuant to zoning regulations under chapter 2, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the growth policy or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection (1) and may not exceed 0.03 acres per dwelling unit.

(3) A park dedication may not be required for:

(a) land proposed for subdivision into parcels larger than 5 acres;

(b) subdivision into parcels that are all nonresidential;

(c) a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; ~~or~~

(d) a subdivision in which only one additional parcel is created; or

(e) a first minor subdivision from a tract of record as described in 76-3-609(2).

(4) The governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.

(5) (a) In accordance with the provisions of subsections (5)(b) and (5)(c), the governing body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.

(b) The governing body may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas or for the purchase of public open space or conservation easements only if:

(i) the park, recreational area, open space, or conservation easement is within a reasonably close proximity to the proposed subdivision; and

(ii) the governing body has formally adopted a park plan that establishes the needs and procedures for use of the money.

(c) The governing body may not use more than 50% of the dedicated money for park maintenance.

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- (6) The local governing body shall waive the park dedication requirement if:
- (a) (i) the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and
  - (ii) the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection (1);
  - (b) (i) the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and
  - (ii) the area of the land proposed to be subdivided, by virtue of providing long-term protection provided for in subsection (6)(b)(i), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1);
  - (c) the area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (6)(a) and (6)(b), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1); or
  - (d) (i) the subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and
  - (ii) the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection (1).
- (7) The local governing body may waive the park dedication requirement if:
- (a) the subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and
  - (b) the area of the land to be subject to long-term protection, as provided in subsection (7)(a), equals or exceeds the area of the dedication required under subsection (1).
- (8) A local governing body may, at its discretion, require a park dedication for a subsequent minor subdivision as described in 76-3-609(3). A local governing body that chooses to require a park dedication shall specify in regulations the circumstances under which a park dedication will be required.
- (9) Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection (1) to a school district, adequate to be used for school facilities or buildings.
- (10) For the purposes of this section:
- (a) "cash donation" is the fair market value of the unsubdivided, unimproved land; and
  - (b) "dwelling unit" means a residential structure in which a person or persons reside.
- (11) A land donation under this section may be inside or outside of the subdivision."

**Renumber:** subsequent sections

21. Page 19.

**Following:** line 15

**Insert:** "NEW SECTION. Section 26. Codification instruction. [Section 6] is intended to be codified as an integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 6]."

**Renumber:** subsequent sections

22. Page 19.

**Following:** line 17

**Insert:** "NEW SECTION. Section 28. Applicability. [Sections 15, 22, and 24], concerning adoption of regulations and time references in the regulations, apply upon adoption of regulations under [section 15] or on May 1, 2010, whichever occurs first."

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

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

3/28/2009

**SJR 30**, do pass. Report adopted.

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**HB 34**, be amended as follows:

1. Page 7.

**Following:** line 5

**Insert:** "COORDINATION SECTION. Section 7. Coordination instruction. If [this act] and House Bill No. 363 are both passed and approved and if [section 1] of House Bill No. 363 establishes a new section dealing with the re-employment of certain retired teachers, specialists, and administrators, then [section 1 of this act] must read as follows:

NEW SECTION. Section 1. Resumption of employment by retired member -- suspension of benefits.

(1) Except as provided in [section 1 of House Bill No. 363], if a retired member returns to full-time employment in a position covered by the retirement system and becomes an active contributing member, benefits must be suspended until the member terminates all employment and applies to have benefits reinstated.

(2) Except as provided in subsection (4), upon termination and retirement of a previously retired member who was reinstated to active membership pursuant to 19-20-731 before July 1, 2009:

(a) if the member earned less than 1 year of creditable service, the original benefit and retirement option the member was receiving at the time of suspension of benefits must be reinstated beginning either the first of the month following termination or on July 1 following the date on which the retired member was re-employed, whichever is later; or

(b) if the member earned 1 year or more of creditable service, retirement benefits must be recalculated under 19-20-804 if the member would qualify for a service retirement benefit under 19-20-801 or under 19-20-802 if the member is eligible for early retirement. The recalculated benefit must include the service credit accumulated at the time of the member's previous retirement, plus any service credit accumulated subsequent to reemployment. The recalculated benefit amount must be increased by the amount of any benefit enhancement received pursuant to 19-20-719 that the retired member was receiving when the member's benefits were suspended.

(3) (a) Except as provided in subsection (4), upon the subsequent retirement of a formerly retired member who was reinstated to active membership pursuant to 19-20-731 on or after July 1, 2009, and earned:

(i) at least 3 years of membership service following suspension of benefits, the member is entitled to resume receiving the suspended benefit in accordance with the retirement benefit option and beneficiary previously selected, plus an additional benefit based upon the new creditable service and compensation earned. The second benefit must be calculated as provided under 19-20-804 if the member is eligible for a service retirement benefit or under 19-20-802 if the member is eligible for early retirement. The second benefit must be paid under the same retirement allowance with the same beneficiary originally elected.

(ii) less than 3 years of membership service following suspension of benefits, the member is entitled to resume receiving the suspended benefit in accordance with the retirement benefit option previously selected, plus a refund of the employee contributions contributed after the member was reinstated to active service, plus interest.

(b) If a member dies during the period of reemployment following an initial retirement, the member must be considered as retiring on the day preceding the date of death and benefits must be determined according to the following:

(i) If the member elected the normal form benefit prior to reemployment, the member's designated beneficiary must receive an amount equal to the member's accumulated contributions on deposit.

(ii) If the member elected a retirement option pursuant to 19-20-702 prior to reemployment, the benefits due are payable in accordance with the terms of the original option elected and this subsection (3).

(4) If a retired member who has not attained normal retirement age is reemployed with the same employer within 30 days from the member's effective date of retirement or if that member is guaranteed reemployment with the same employer, the member must be considered to have continued in the status of an active member and not to have separated from service. Any retirement allowance payments received by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement allowance must be canceled."

**Insert:** "COORDINATION SECTION. Section 8. Coordination instruction. If [this act] and House Bill No. 59 are both passed and approved and both contain a section that amends 19-20-731, then the section in House Bill No. 59 that amends 19-20-731 is void."

**Insert:** "COORDINATION SECTION. Section 9. Coordination instruction. If [this act] and House Bill No. 363

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are both passed and approved and if both contain a section that amends 19-20-731, then the sections that amend 19-20-731 are void and 19-20-731 must be amended as follows:

**"19-20-731. Postretirement employment limitations -- cancellation and recalculation of benefits.** (1) (a) Except as provided in [section 1 of House Bill No. 363] or as otherwise provided in this section, a retired member may be employed part-time by a school district, state agency, or unit of the university system in a position eligible to participate in the retirement system and may earn, without an adjustment of retirement benefits, an amount not to exceed the greater of:

(i) one-third of the sum of the member's average final compensation; or  
(ii) one-third of the median of the average final compensation for members retired during the preceding fiscal year as determined by the retirement board.

(b) For the purposes of this subsection (1), the maximum compensation that a retired member may earn under subsection (1)(a) without an adjustment of retirement benefits includes all remuneration paid to the retired member, excluding:

(i) the amount of health insurance premiums paid by the employer on the retired member's behalf;  
(ii) the value of housing provided by the employer to the retired member;  
(iii) the amount of employment-related travel expenses reimbursed to the retired member by the employer;  
(iv) de minimis fringe benefits, as defined in 26 U.S.C. 132(e), paid by the employer to or on behalf of the retired member; and  
(v) payroll taxes paid by the employer on behalf of the retired member.

(2) On July 1 of each year following the member's retirement effective date, the maximum that a retired member may earn under subsection (1)(a)(i) is increased by an amount equal to the consumer price index increase for urban wage earners compiled by the bureau of labor statistics of the United States department of labor or its successor agency in the preceding calendar year.

(3) Except as provided in ~~subsection (5)~~ [section 1 of House Bill No. 34] and [section 1 of House Bill No. 363], the retirement benefit of a retired member:

(a) employed in a part-time position or earning more than allowed by subsections (1) and (2) must be temporarily reduced by \$1 for each dollar earned over the maximum allowed. Monthly benefits must be reduced beginning as soon as practical after the excess earnings have been reported to the retirement system by the employer. The retirement benefit must be canceled if the retired member's earnings over the maximum allowed exceed the gross monthly benefit amount.

(b) employed in a full-time position must be canceled beginning in the month in which the retired member returns to full-time employment.

~~(4) Upon termination and retirement subsequent to a cancellation of benefits pursuant to subsection (3), the retirement benefit of a member:~~

~~(a) who was reemployed and earned less than 1 year of creditable service must be reinstated beginning either the first of the month following termination or on July 1 following the date on which the retired member was reemployed, whichever is later. The reinstated retirement benefit is the amount and option that the retired member would have been entitled to receive had the retired member not returned to employment.~~

~~(b) who was reemployed and earned at least 1 year of creditable service must be recalculated under 19-20-804 if the member has attained normal retirement age or under 19-20-802 if the member has not attained normal retirement age but is eligible for early retirement. The recalculated benefit must include the service credit accumulated at the time of the member's previous retirement, plus any service credit accumulated subsequent to reemployment. The recalculated normal form benefit amount must be increased by the amount of any benefit enhancement received pursuant to 19-20-719 that the retired member was receiving when the member's benefits were canceled.~~

~~(5) If an early-retired member under 19-20-802 is reemployed with the same employer within 30 days from the member's effective date of retirement or if the early-retired member is guaranteed reemployment with the same employer, the member must be considered to have continued in the status of an active member and not to have separated from service. Any retirement allowance payments received by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement allowance must be canceled.~~

~~(6)~~(4) For purposes of this section, "position eligible to participate in the retirement system" includes work performed by a retiree through a professional employer arrangement, an employee leasing arrangement, or a

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temporary service contractor, as those terms are defined in 39-8-102.

~~(7)(5)~~ The retirement allowance of any retired member who is employed in a position and who elects to participate in the optional retirement program under Title 19, chapter 21, must be suspended until the member is no longer employed in the position and is no longer participating in the optional retirement program."

**Renumber:** subsequent section

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

**HB 59**, be concurred in. Report adopted.

**HB 315**, be concurred in. Report adopted.

**HB 602**, be amended as follows:

1. Page 1, line 11.

**Following:** "state-owned vehicle"

**Strike:** ", " through ", "

2. Page 1, line 12 through line 13.

**Strike:** "if the" on line 12 through "residence" on line 13

3. Page 1, line 14.

**Strike:** "An" through "supervisor"

**Insert:** "The department director"

4. Page 1, line 14 through line 15.

**Strike:** "there" on line 14 through "SUCH AS" on line 15

**Insert:** "the commute from an employee's residence to the employee's worksite is less than 30 miles and if"

5. Page 1, line 16.

**Strike:** "WHEN AN"

**Insert:** "the"

6. Page 1, line 17.

**Following:** "DESCRIPTION"

**Insert:** "and employees in the position have frequently responded to emergency calls in the past"

7. Page 1, line 18.

**Strike:** "WHEN"

8. Page 1, line 19.

**Strike:** "WHEN AN"

**Insert:** "the"

**Strike:** "MUST"

**Insert:** "is required to"

**Following:** "WORKSITE"

**Insert:** "at least once a week"

9. Page 1, line 21.

**Strike:** "WHEN"

10. Page 1, line 23.



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**Following:** "Any exception"

**Insert:** "authorized pursuant to subsection (2)(a)"

11. Page 1, line 24.

**Strike:** "supervisor"

**Insert:** "department director"

**Following:** "head."

**Insert:** "A copy of the letter or memorandum must be sent to the governor."

12. Page 1.

**Following:** line 24

**Insert:** "(c) This section does not apply to the psychiatrist employed by the department of corrections and assigned to the Montana state prison."

13. Page 1, line 25.

**Strike:** "This" through "to use"

**Insert:** "Using"

14. Page 1, line 27.

**Strike:** "if"

**Insert:** "is not permitted under any circumstance unless"

**Following:** "use is"

**Strike:** "not"

**Following:** "authorized"

**Insert:** "by the employee's department director as required in this section and"

**Following:** "pursuant to"

**Strike:** "agency policy or"

15. Page 2, line 6.

**Following:** "governor"

**Strike:** ", "

**Insert:** "or"

**Following:** "general"

**Strike:** ", or the highway patrol"

16. Page 2.

**Following:** line 6

**Insert:** "(3) This part does not apply to a motor vehicle used in the service of the highway patrol."

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

**HB 659**, be concurred in. Report adopted.

**SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

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

**SB 38** - Senator Curtiss moved **SB 38** do pass. Motion carried as follows:

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

Total 30

Nays: Balyeat, Branae, Cooney, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 18

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

**SB 511** - Senator M. Tropila moved **SB 511** do pass. Motion carried as follows:

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

Total 46

Nays: McGee, Windy Boy.

Total 2

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

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

**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 499** passed 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, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

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Total 30

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

Total 20

Paired: Esp, Laible, Aye; Erickson, Stewart-Peregoy, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 509** passed as follows:

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

Total 30

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

Total 20

Paired: Esp, Laible, Aye; Erickson, Stewart-Peregoy, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HB 163** concurred in as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.

Total 29

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

Total 21

Paired: Erickson, Stewart-Peregoy, Aye; Esp, Laible, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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**MOTIONS**

Senator Shockley moved to change his vote on **SB 499** from yes to no. Without objection so ordered.

Senator Shockley moved that **HB 315** be referred to Taxation. Motion carried.

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, March 30, 2009. Motion carried.

Senate adjourned at 2:13 p.m.

MARILYN MILLER  
Secretary of the Senate

ROBERT STORY  
President of the Senate