

**SENATE JOURNAL  
61ST LEGISLATURE  
EIGHTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana  
April 24, 2009

Senate Chambers  
State Capitol

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

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

**BILLS AND JOURNALS:**

4/24/2009

Correctly printed: **HB 158, HB 213, HB 644, HJR 39, HJR 43.**

Correctly enrolled: **SB 235, SB 290, SB 400, SB 446, SJR 39.**

Delivered to the Secretary of State at 2:57 p.m., April 23, 2009: **SR 37.**

Signed by the President at 6:00 p.m., April 22, 2009: **SB 100.**

Signed by the Speaker at 9:00 a.m., April 24, 2009: **SB 100.**

Signed by the Secretary of the Senate at 2:35 p.m., April 22, 2009: **SB 100.**

Delivered to the Governor for approval at 9:20 a.m., April 24, 2009: **SB 100.**

Amendatory veto returned to Governor, not concurred in, at 12:40 p.m., April 23, 2009: **SB 349**

Signed by the President at 6:15 p.m., April 23, 2009: **SR 36.**

Signed by the Secretary of the Senate at 3:20 p.m., April 23, 2009: **SR 36.**

Delivered to the Governor for approval at 12:00 p.m., April 23, 2009: **SB 507.**

Delivered to the Secretary of State at 11:38 a.m., April 24, 2009: **SJR 3, SJR 28, SJR 37, SR 36.**

Signed by the Speaker at 9:00 a.m., April 24, 2009: **SB 343, SB 425, SB 475, SB 509, SJR 3, SJR 28, SJR 29, SJR 37.**

Signed by the President at 5:45 p.m., April 24, 2009: **SB 343, SB 425, SB 475, SB 509, SJR 3, SJR 28, SJR 29, SJR 37, SR 37.**

Signed by the Secretary of the Senate at 2:35 p.m., April 22, 2009: **SB 343, SB 425, SB 475, SB 509, SJR 3, SJR 28, SJR 29, SJR 37, SR 37.**

Delivered to the Secretary of State at 3:01 p.m., April 24, 2009: **SJR 35.**

Delivered to the Governor for approval at 12:40 p.m., April 24, 2009: **SB 343, SB 425, SB 475, SB 509.**

**REPORTS OF SELECT COMMITTEES**

**FREE CONFERENCE COMMITTEE**

on **Senate Joint Resolution 30**

Report No. 1, April 23, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Joint Resolution 30** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Joint Resolution 30** (reference copy -- salmon) be amended as follows:

1. Title, line 6.

**Following:** "SYSTEM"

**Insert:** "AND LAWS RELATED TO THE MONTANA STATE FUND"

2. Title, line 7.

**Following:** "DRIVERS"

**Insert:** "AND THE MONTANA STATE FUND"

3. Page 1, line 23.

**Following:** "COMPENSATION"

**Insert:** "; and

WHEREAS, a February 2009 Legislative Audit Division report concluded that legal compliance risks faced by the Montana State Fund may be higher because of an internal and external lack of regulatory oversight mechanisms, which is of potential significance because of Montana State Fund's current market dominance of 67% of a market that is shared with private carriers providing workers' compensation insurance, excluding self-insured employers; and

WHEREAS, statutory direction for the Montana State Fund to operate as a self-sustaining business in a manner similar to that of a privately operated mutual insurance business has resulted in the Montana State Fund developing compensation and incentive plans and premium and other performance measures similar to those of private companies"

4. Page 2, line 11.

**Following:** "COMPENSATION"

**Insert:** ";

(6) structural issues in Montana, particularly as they relate to the three-tiered system involving self-insurers, private carriers, and the Montana State Fund"

5. Page 2, following line 23.

**Insert:** "BE IT FURTHER RESOLVED, that the study examine the operation and structure of the Montana State Fund, the Montana State Fund's relationship with state government and other insurers, and state oversight of the Montana State Fund."

For the Senate:

Zinke, Chair  
Laslovich  
Perry

For the House:

Hunter, Vice Chair  
B. Beck  
Boland  
Mendenhall

#### MESSAGES FROM THE GOVERNOR

April 23, 2009

The Honorable Robert Story, Jr.  
President of the Senate  
State Capitol  
Helena, MT 59620

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

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 507, "**AN ACT GENERALLY REVISING AND CLARIFYING LAWS RELATED TO THE TREATMENT OF PROPERTY CONSISTING OF THE BED OF NAVIGABLE RIVERS; REQUIRING AUTHORIZATION FROM THE BOARD OF LAND COMMISSIONERS FOR USES ON THE BEDS OF NAVIGABLE RIVERS; REQUIRING THE BOARD OF LAND COMMISSIONERS TO ADOPT**

**RULES FOR PROVIDING EASEMENTS, LEASES, OR LICENSES FOR USES ON THE BEDS OF NAVIGABLE RIVERS; RESTRICTING REQUIREMENTS FOR INSURANCE OR INDEMNITY; CLARIFYING THE AUTHORITY OF THE BOARD OF LAND COMMISSIONERS TO GRANT EASEMENTS; REQUIRING THE STATE TO SURVEY RIVERS AND STREAMS ADJUDICATED AS NAVIGABLE FOR TITLE PURPOSES; AND AMENDING SECTION 77-2-101, MCA.”**

Senate Bill 507 addresses the regulatory authority of the Department of Natural Resources and Conservation (“DNRC”) over the use of the beds of navigable waters, with certain exceptions such as uses existing prior to statehood and uses associated with hydroelectric sites. The bill limits the DNRC’s regulatory authority to only those rivers adjudicated as navigable or meandered by federal surveyors at or near the time of statehood.

In the process of navigating its way through the legislature, Senate Bill 507 was amended to prohibit DNRC from requiring a prospective lessor, licensee, or easement holder to obtain liability insurance as a condition for issuance of the lease, license, or easement. My amendment removes this prohibition. I do not believe the prohibition makes good business sense, I object to the absolute nature of the prohibition, and I do not believe it makes good fiscal sense for the State of Montana.

I have discussed my proposed amendments with the bill’s sponsor, Senator Story, who supports them. I ask for your support, as well.

Sincerely,

BRIAN SCHWEITZER  
GOVERNOR

Amendments to Senate Bill No. 507  
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch  
April 23, 2009

1. Title, line 9.

**Strike:** "RESTRICTING REQUIREMENTS FOR INSURANCE"

**Following:** "INDEMNITY"

**Strike:** "."

2. Page 4, line 29.

**Strike:** "PROHIBITION"

**Strike:** "(1)"

3. Page 5, line 2.

**Strike:** "(A)"

**Insert:** "(1)"

**Renumber:** subsequent subsections

4. Page 5, lines 14 through 18.

**Strike:** subsection (2) in its entirety

April 24, 2009

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

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

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 65, **"AN ACT GENERALLY REVISING TRUST LAND FUNDING LAWS; DEFINING "DISTRIBUTABLE REVENUE"; PROVIDING A NEW FUNDING FORMULA; REVISING LAWS GOVERNING TRUST LAND ADMINISTRATION ACCOUNTS AND THEIR USES; CREATING AN EARNINGS RESERVE ACCOUNT; CREATING THE FOREST IMPROVEMENT ACCOUNT; ELIMINATING THE RESOURCE DEVELOPMENT ACCOUNT, THE RECREATIONAL USE ACCOUNT, THE STATE TIMBER SALE ACCOUNT, AND THE STATE SPECIAL REVENUE ACCOUNT FOR COMMERCIAL LEASING RENTAL PAYMENTS; TRANSFERRING UNENCUMBERED BALANCES; REQUIRING THE BOARD OF REGENTS TO DESIGNATE HOW CERTAIN TIMBER SALE PROCEEDS ARE DISTRIBUTED; AMENDING SECTIONS 17-2-107, 17-3-1003, 18-2-107, 20-9-341, 20-9-620, 20-25-422, 77-1-101, 77-1-108, 77-1-109, 77-1-127, 77-1-605, 77-1-613, 77-1-802, 77-1-808, 77-1-809, 77-1-810, 77-1-815, 77-1-905, 77-2-328, 77-2-362, 77-5-204, AND 77-5-219, MCA; REPEALING SECTIONS 77-1-602, 77-1-604, 77-1-606, 77-1-607, 77-1-608, AND 77-1-609, MCA; AND PROVIDING AN EFFECTIVE DATE"** for the following reasons.

Senate Bill 65, sponsored by Senator Hawks, generally revises trust land funding laws by changing the statutory limits for the funding of administrative costs and consolidating numerous funding sources.

The purpose of my amendment is to restore Senate Bill 65 back to its original version as introduced and requested by the Department of Natural Resources and Conservation ("DNRC"). The bill was amended in the House to shift almost \$4 million onto the state's general fund from mineral royalties to pay for DNRC's trust administration costs beginning in fiscal year 2014. Given the economic situation, I do not believe this is the time to support such a significant cost-shift onto the general fund, despite the fact that the cost-shift would not occur until July 1, 2013.

Sincerely,

BRIAN SCHWEITZER  
Governor

Amendments to Senate Bill No. 65  
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch  
April 23, 2009

1. Page 8, line 15.

**Strike:** "25"  
**Insert:** "23"

2. Page 8, line 22.

**Strike:** "25"  
**Insert:** "23"

3. Page 9, lines 9 through 11.

**Following:** "DIFFERENCE." on line 9  
**Strike:** remainder of line 9 through line 11 in their entirety

4. Page 9, line 13 through page 10, line 29.

**Strike:** section 9 in its entirety  
**Renumber:** subsequent sections

5. Page 12, line 5 through page 13, line 7.

**Strike:** section 11 in its entirety  
**Renumber:** subsequent subsections

6. Page 21, line 19.

**Strike:** "26"  
**Insert:** "24"

7. Page 23, line 5.

**Strike:** "25"  
**Insert:** "23"

8. Page 23, line 18.

**Strike:** "25"  
**Insert:** "23"

9. Page 23, line 20.

**Strike:** "25"  
**Insert:** "23"

10. Page 23, line 22.

**Strike:** "26"  
**Insert:** "24"

11. Page 23, line 24.

**Strike:** "26"  
**Insert:** "24"

12. Page 23, line 26.

**Following:** "act"  
**Strike:** remainder of line 26 in its entirety  
**Insert:** "[This"

13. Page 23, line 28.

**Strike:** subsection (2) in its entirety

April 23, 2009

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

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

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 11, "**AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS THROUGH THE TREASURE STATE ENDOWMENT PROGRAM; AUTHORIZING GRANTS FROM THE TREASURE STATE ENDOWMENT STATE SPECIAL REVENUE ACCOUNT; PLACING CONDITIONS UPON GRANTS AND FUNDS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR EMERGENCY GRANTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR PRELIMINARY ENGINEERING GRANTS; APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR FINANCIAL ASSISTANCE TO REGIONAL WATER AUTHORITIES FOR REGIONAL WATER PROJECTS; TERMINATING CERTAIN PRIOR TREASURE STATE ENDOWMENT GRANTS; AMENDING SECTION 90-6-701, MCA, AND SECTION 1, CHAPTER 383, LAWS OF 2007; AND PROVIDING EFFECTIVE DATES**" for the following reasons.

My amendments are to correct a clerical error to an internal section reference in House Bill 11, the TSEP bill. I ask for your support.

Sincerely,

BRIAN SCHWEITZER  
Governor

GOVERNOR'S AMENDMENTS  
TO HOUSE BILL 11

Amendments to House Bill No. 11  
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch  
April 23, 2009

1. Page 1, line 24.

**Strike:** "7"

**Insert:** "11"

## MESSAGES FROM THE OTHER HOUSE

**Governor's amendments to Senate bills** concurred in and returned to the Senate: 4/23/2009

**SB 235**, introduced by Murphy

**SB 290**, introduced by Jackson

**SB 371**, introduced by Perry

**SB 400**, introduced by Laslovich

**SB 446**, introduced by Story

**Senate bill** concurred in as amended and returned to the Senate: 4/23/2009

**SB 498**, introduced by Bales

**SB 322** - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free Conference Committee** to meet with a like committee from the Senate to confer on **SB 322**:

4/23/2009

Representative Jopek, Vice Chair

Representative Butcher

Representative French

Representative Taylor

**Free Conference Committee Report No.1** adopted: 4/23/2009

**HB 3**, introduced by Ankney

**Free Conference Committee Report No.1** adopted: 4/23/2009

**HB 331**, introduced by Morgan

## MOTIONS

Senator Peterson moved the Senate recess until 8:25 a.m. for the purpose of caucuses. Motion carried.

Senate in recess.

Senator Hinkle present at this time.

## REPORTS OF SELECT COMMITTEES

### FREE CONFERENCE COMMITTEE

on **Senate Bill 322**

Report No. 1, April 23, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 322** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 322** (reference copy -- salmon) be amended as follows:

1. Title, line 7 through line 8.

**Strike:** "APPLICATION" on line 7 through "FEES" on line 8

**Insert:** "REGISTRATION PROVISIONS"

2. Page 1, line 15.

**Strike:** "WHO IS NOT A HOBBYIST BEEKEEPER AND IS"

3. Page 2, line 27.

**Strike:** "A"

**Insert:** "Except as provided in 80-6-114, a"

4. Page 3, line 4.

**Strike:** "(I)"

**Strike:** "EXCEPT AS PROVIDED IN SUBSECTION (2)(B)(II), THE"

**Insert:** "The"

5. Page 3, line 7.

**Strike:** subsection (ii) in its entirety

6. Page 9, line 22.

**Following:** "~~VOLUNTARY~~"

**Insert:** "-- voluntary"

7. Page 9.

**Following:** line 25

**Insert:** "(1) A hobbyist apiary site is exempt from the registration provisions of this part, but a hobbyist beekeeper may voluntarily register with the department under this section. A hobbyist beekeeper voluntarily registering a site shall pay any required registration fee but is not required to reregister pursuant to 80-6-102."

**Renumber:** subsequent subsections

8. Page 13, line 26.

**Strike:** "A"

**Insert:** "Except as provided in subsection (2), a"

9. Page 13, line 28.

**Strike:** "\$25,000"

**Insert:** "\$1,000"

10. Page 14.

**Following:** line 5

**Insert:** "(2) (a) A person violating or aiding in the violation of the provisions of 80-6-202 is subject to an administrative civil penalty of not more than \$10,000 for each offense. Assessment of a penalty under this subsection (2)(a) may be made in conjunction with any other warning, order, or administrative action that is issued by the department under this part. The proceeds of an administrative civil penalty must be deposited in the state special revenue account provided for in 80-6-315.

(b) A person who is assessed a penalty for violating 80-6-315 is also subject to payment of costs incurred by the department for inspections or investigations related to the violation."

**Renumber:** subsequent subsections

For the Senate:

Curtiss, Chair  
Hinkle  
Windy Boy

For the House:

Jopek, Vice Chair  
Butcher  
French  
Taylor



## MOTIONS

Senator Peterson moved that a Free Conference Committee be appointed on the Governor's amendments to **SB 171**. Motion carried. President Story appointed Senators Barkus (Chair), Perry, and Jent.

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

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

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

**SB 498** - Senator Bales moved consideration of **SB 498** be placed at the bottom of the second reading board. Motion carried.

Senator Schmidt excused at this time.

**HB 158** - Senator Juneau moved **HB 158** be concurred in. Motion carried as follows:

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

Total 36

Nays: Balyeat, Barkus, Barrett, Brenden, T. Brown, Gebhardt, Hinkle, Jackson, McGee, Ripley, Shockley, Steinbeisser, Tutvedt.

Total 13

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

Senator Schmidt present at this time.

**HJR 43** - Senator Wanzenried moved **HJR 43** be concurred in. Motion **failed** as follows:

Yeas: Branae, T. Brown, Brueggeman, 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 25

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

Total 25

Absent or not voting: None.

Total 0

Excused: None.  
Total 0

**HJR 43** - Senator J. Peterson moved **HJR 43** be **indefinitely postponed**. Motion carried as follows:

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

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, Zinke.  
Total 24

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 418 - Conference Committee Report No. 1** - Senator Branae moved the Conference Committee report to **SB 418** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 498 - House Amendments** - Senator Bales moved House amendments to **SB 498** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.  
Total 43

Nays: Balyeat, Jackson, Kaufmann, McGee, Shockley, M. Tropila, Wanzenried.  
Total 7

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

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

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

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

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

**SB 507 - Governor's Amendments** - Senator Story moved Governor's amendments to **SB 507** be concurred in. Motion carried as follows:

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

Nays: Kaufmann, M. Tropila, Wanzenried.  
Total 3

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SJR 30 - Free Conference Committee Report No. 1** - Senator Zinke moved the Free Conference Committee report to **SJR 30** be adopted. Motion carried as follows:

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

Nays: Esp, Gillan, Keane, Wanzenried.  
Total 4

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

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

### 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 119, Conference Committee Report No. 1**, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**HB 3, Free Conference Committee Report No. 1**, adopted as follows:

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

Nays: Balyeat, Essmann, Hinkle.  
Total 3

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**HB 602, Free Conference Committee Report No. 1**, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Hamlett, Hansen, Hinkle, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Windy Boy, Zinke, Mr. President.  
Total 37

Nays: Branae, T. Brown, Gebhardt, Gillan, Hawks, Jackson, Jent, Juneau, Kaufmann, Larsen, Steinbeisser,

Tutvedt, Williams.  
Total 13

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**HB 674** concurred in as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 37

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Esp, Essmann, Hinkle, McGee, Ripley, Steinbeisser, Tutvedt.  
Total 13

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**HJR 39** concurred in as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, 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

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Esp, Essmann, Gallus, Gebhardt, 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

## ANNOUNCEMENTS

Committee meetings were announced by Committee chairmen.

Senator Peterson moved the Senate recess until 1:30 p.m. Motion carried.

Senate in recess.

Senate reconvened at 1:30 p.m.

Roll Call. All members present. Quorum present.

**REPORTS OF SELECT COMMITTEES**

**FREE CONFERENCE COMMITTEE**

**on Senate Bill 171**

Report No. 1, April 24, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 171** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 171** (reference copy -- salmon) be amended as follows:

1. Page 1, line 13.

**Strike:** the first "\$500"

**Insert:** "\$1,000"

**Strike:** the second "\$500"

**Insert:** "\$1,000"

2. Page 1, line 24.

**Following:** "COURT"

**Insert:** "pursuant to 46-18-201(5) and 46-18-241 through 46-18-249"

3. Page 1, line 25 through line 28.

**Strike:** "UPON" on line 25 through "CONVICTED."

For the Senate:

Barkus, Chair  
Jent  
Perry

For the House:

Kottel, Vie Chair  
Blewett  
K. Peterson  
Regier

**MESSAGES FROM THE OTHER HOUSE**

**Senate joint resolution** concurred in and returned to the Senate: 4/24/2009

**SJR 39**, introduced by Brueggeman

**Governor's amendments to Senate bill** concurred in and returned to the Senate: 4/24/2009

**SB 465**, introduced by Hamlett

**Free Conference Committee Report No.1** adopted: 4/24/2009

**HB 602**, introduced by Cohenour

**Conference Committee Report No.1** adopted: 4/24/2009

**SB 119**, introduced by Esp

**Governor's amendments to House bills** concurred in and transmitted to the Senate for concurrence in the

Governor's amendments:

4/24/2009

**HB 52**, introduced by McNutt

**HB 123**, introduced by Jones

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

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

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

**SB 65 - Governor's Amendments - Senator Hawks** moved Governor's amendments to SB 65 be concurred in. Motion **carried** as follows:

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

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 322 - Conference Committee Report No. 1 - Senator Curtiss** moved the Conference Committee report to SB 322 be adopted. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, 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 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Yeas: Bales, Brueggeman, Cooney, Erickson, Esp, Gallus, Hamlett, Hansen, Hawks, Jent, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Schmidt, Shockley, Squires, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 27

Nays: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gebhardt, Gillan, Hinkle, Jackson, Juneau, Kaufmann, Lewis, Peterson, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HB 52** - Governor's Amendments - Senator Perry moved Governor's amendments to **HB 52** be concurred in. Motion carried as follows:

Yeas: Bales, Brueggeman, Cooney, Erickson, Esp, Gallus, Hamlett, Hansen, Hawks, Jent, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Schmidt, Shockley, Squires, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 27

Nays: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gebhardt, Gillan, Hinkle, Jackson, Juneau, Kaufmann, Lewis, Peterson, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report **not** 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 418, Conference Committee Report No. 1**, adopted as follows:

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

Nays: Hinkle, Jackson, McGee.

Total 3

Absent or not voting: None.



Total 0

Excused: None.

Total 0

**SB 498, as amended by the House**, passed as follows:

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

Total 43

Nays: Balyeat, Barkus, Hinkle, Jackson, Kaufmann, Shockley, Wanzenried.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 507, as amended by the Governor**, passed as follows:

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

Total 43

Nays: Juneau, Kaufmann, Larsen, M. Tropila, Wanzenried, Williams, Zinke.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SJR 30, Free Conference Committee Report No. 1**, adopted 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, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Erickson, Esp, Keane, Ripley.

Total 4

Absent or not voting: None.

Total 0

Excused: None.  
Total 0

### MOTIONS

Senator Peterson moved to appoint a Free Conference Committee on the Governor's Amendments to **SB 371**. Motion carried. President Story appointed Senators Perry (Chair), Senator Steinbeisser, and Senator Laslovich.

### SPECIAL ORDERS OF THE DAY

Senator Barkus thanked the Pages for their work during the week of April 20-24, 2009.

Peterson moved the Senate recess until 4:00 p.m. this day. Motion carried.

Senate in recess.

Senate reconvened at 4:00 p.m.

Roll Call. All members present, except Essmann, Gebhardt, Gillan, Kaufmann, Steinbeisser, Tutvedt. Quorum present.

Senator Gebhardt present at this time.  
Senator Kaufmann present at this time.  
Senator Gillan present at this time.  
Senator Steinbeisser present at this time.  
Senator Essmann present at this time.  
Senator Tutvedt present at this time.

### SPECIAL ORDERS OF THE DAY

Representative O'Hara introduced Libby Gurnett, Helena, who gave a narrative about former Montana Governor, Judy Martz.

### MESSAGES FROM THE GOVERNOR

April 24, 2009

The Honorable Robert Story, Jr.  
President of the Senate  
State Capitol  
Helena, MT 59620

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

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 263, **“AN ACT REVISING LAWS GOVERNING THE OFFICE OF STATE PUBLIC DEFENDER; REQUIRING ASSIGNED COUNSEL TO FILE CERTAIN COSTS WITH THE DISTRICT COURT; CLARIFYING THAT AN ASSIGNMENT OF COUNSEL BY THE OFFICE OF STATE PUBLIC DEFENDER IS SUBJECT TO INQUIRY AND DENIAL BY A COURT;**

**AMENDING SECTIONS 46-8-113 AND 47-1-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”**

My amendment changes the effective date from passage and approval to July 1, 2009. Implementation of the bill will require the Office of Public Defender to change its accounting system as a result of mandatory costs against convicted clients, and the Office of Public Defender needs a window of time to make the necessary changes to its system.

I have discussed my amendment with the sponsor of the bill, Senator Jackson, who supports the amendment.

Sincerely,

BRIAN SCHWEITZER  
GOVERNOR

Amendments to Senate Bill No. 263  
Reference Copy (Ivory)

By Request of the Governor  
For the Senate Committee of the Whole

Prepared by Susan Byorth Fox  
April 24, 2009

1. Title, line 14.

**Strike:** "IMMEDIATE"

2. Page 12, line 18.

**Strike:** "on passage and approval"

**Insert:** "July 1, 2009"

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

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

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

**SB 263 - Governor's Amendments** - Senator Shockley moved Governor's amendments to **SB 263** be concurred in. Motion carried as follows:

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

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 171 - Free Conference Committee Report No. 1** - Senator Barkus moved the Free Conference Committee report to **SB 171** be adopted. Motion carried as follows:

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

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 123 - Governor's Amendments** - Senator Bales moved Governor's amendments to **SB 123** be concurred in. Motion **failed** as follows:

Yeas: Bales, R. Brown, T. Brown, Cooney, Curtiss, Esp, Gallus, Gillan, Hansen, Hawks, Juneau, Keane, Laible, Lewis, McGee, Moss, Schmidt, Stewart-Peregoy, J. Tropila, Windy Boy, Mr. President.

Total 21

Nays: Balyeat, Barkus, Barrett, Black, Branae, Brenden, Brueggeman, Erickson, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Kaufmann, Larsen, Laslovich, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 123** - Senator McGee made a **substitute motion** that **SB 123** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair.

### 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 65, as amended by the Governor**, passed as follows:

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

Total 38

Nays: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Essmann, Gebhardt, Hinkle, Jackson, McGee, Steinbeisser.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 322, Free Conference Committee Report No. 1**, adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, 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 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 10:00 a.m., Monday, April 27, 2009. Motion carried.

Senate adjourned at 4:27 p.m.

MARILYN MILLER  
Secretary of the Senate

ROBERT STORY  
President of the Senate