

**SENATE JOURNAL
62ND LEGISLATURE
NINETEENTH LEGISLATIVE DAY**

Helena, Montana
January 25, 2011

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Peterson presiding. Invocation by Chaplain Keith Johnson. Pledge of Allegiance to the Flag. Roll Call. All members present, except Senators Jent and Vuckovich, excused. Quorum present.

BILLS AND JOURNALS:

1/25/2011

Correctly printed: **SB 24, SB 28, SB 51, SB 99, SB 100, SB 108, SB 115, SB 118, SB 186.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
SB 165, introduced bill, be amended as follows:

1/25/2011

1. Title, page 1, line 8.

Following: "COMPETITION"

Insert: "EXCEPT WHEN NECESSARY FOR PUBLIC HEALTH AND SAFETY"

2. Page 1, line 20.

Following: "competition"

Insert: "unless necessary to protect public health and safety"

And, as amended, do pass. Report adopted.

SB 203, do pass. Report adopted.

NATURAL RESOURCES (Barrett, Chairman):
SB 9, introduced bill, be amended as follows:

1/25/2011

1. Page 4, line 26.

Following: "board."

Insert: "Upon review, the board may request that the corrective action plan be amended pursuant to [section 5] to include a petroleum mixing zone. If the department finds that the conditions for establishment of a petroleum mixing zone in [section 5] are satisfied, the corrective action plan must be amended to include a petroleum mixing zone."

2. Page 7, line 19.

Following: "standards"

Insert: "for petroleum and petroleum constituents"

3. Page 10, line 2.

Strike: "reasonably accessible"

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Following: "removed"

Insert: "to the maximum extent practicable"

4. Page 10, line 3.

Strike: "plume" through "is"

Insert: "extent of petroleum contamination has been"

5. Page 10, line 14 through line 15.

Strike: "result" on line 14 through "rule" on line 15

Insert: "exceed a water quality standard adopted by the board pursuant to 75-5-301"

6. Page 10, line 16.

Strike: "Once"

Insert: "If"

Following: "established"

Insert: "and maintained"

7. Page 10, line 19.

Following: "a"

Insert: "no-further-action"

Following: "that"

Strike: "no" through "required"

Insert: "a petroleum mixing zone has been established for the release and describing any conditions required to maintain the petroleum mixing zone"

8. Page 10, line 20 through line 21.

Strike: "prior" on line 20 through "act]" on line 21

Following: "section" on line 21

Insert: ", including a corrective action plan approved prior to [the effective date of this act]"

And, as amended, do pass. Report adopted.

SB 103, introduced bill, be amended as follows:

1. Title, line 5.

Following: "USE IN"

Insert: "CERTAIN"

2. Page 2, line 5 through line 6.

Strike: "for use in heating or cooling" on line 5 through "stream conditions." on line 6

Insert: "with a maximum appropriation of 350 gallons a minute or less for use in nonconsumptive geothermal heating or cooling exchange applications if all of the water extracted is returned without delay to the same source aquifer and if the distance between the extraction well and both the nearest existing well and the hydraulically connected surface waters is more than twice the distance between the extraction well and the injection well."

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And, as amended, do pass. Report adopted.

SB 142, introduced bill, be amended as follows:

1. Page 1, line 13.

Strike: "**Transplantation**"

Insert: "**Notification of transplantation**"

2. Page 2, line 2.

Following: "animal and"

Strike: ", if" through "animal's"

Insert: "if the animal has a"

3. Page 2, line 10.

Strike: "November 30"

Insert: "July 1"

And, as amended, do pass. Report adopted.

TAXATION (Tutvedt, Chairman):

1/25/2011

SB 166, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/24/2011

HB 78, introduced by Cook

HB 91, introduced by Ingraham

HB 126, introduced by Hansen

HB 191, introduced by Flynn

FIRST READING AND COMMITMENT OF BILLS

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

SB 216, introduced by J. Peterson, Milburn, referred to Agriculture, Livestock and Irrigation.

SB 217, introduced by Murphy, Shockley, referred to Judiciary.

SB 218, introduced by Steinbeisser, Arthun, Murphy, Larsen, J. Peterson, Ripley, Hamlett, Brown, Jones, Stewart-Peregoy, Tutvedt, Jackson, Olson, McNutt, Sonju, Moore, referred to Agriculture, Livestock and Irrigation.

SB 219, introduced by Branae, Windy Boy, MacDonald, Brown, Van Dyk, Arntzen, Moss, Gillan, referred to Taxation.

MOTIONS

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Senator Balyeat moved **SB 198** be moved from the State Administration committee to the Finance and Claims committee.

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

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

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

SB 25 - Senator Kaufmann moved **SB 25** do pass. Motion **failed** as follows:

Yeas: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.

Total 22

Nays: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 25 - Senator Essmann moved **SB 25** be **indefinitely postponed**. Motion carried as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Mr. President.

Total 27

Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke.

Total 23

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

SB 52 - Senator Tropila moved **SB 52** do pass. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 75 - Senator Sonju moved **SB 75** do pass. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 120 - Senator Brenden moved **SB 120** do pass. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent,

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Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 138 - Senator Jones moved **SB 138** do pass. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 158 - Senator Facey moved **SB 158** do pass. Motion **failed** as follows:

Yeas: Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Larsen, Moore, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams.

Total 20

Nays: Arthun, Augare, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jackson, Jones, Keane, Lake, Lewis, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Windy Boy, Wittich, Zinke, Mr. President.

Total 30

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

Senator Gallus disclosed a potential conflict of interest since his spouse has been appointed as the Commissioner of Political Practices.

SB 158 - Senator Essmann moved **SB 158** be **indefinitely postponed**. Motion carried as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Gallus, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Vuckovich, Walker, Windy Boy, Wittich, Zinke, Mr. President.

Total 33

Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gillan, Hamlett, Hawks, Kaufmann, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Wanzenried, Williams.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 25 - Senator Hawks moved that **SB 25** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion **failed** as follows:

Yeas: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.

Total 22

Nays: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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Senator Essmann moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Hawks moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Arthun, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Essmann, Gallus, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jones, Keane, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Vuckovich, Walker, Windy Boy, Wittich, Zinke, Mr. President.

Total 35

Nays: Augare, Blewett, Caferro, Erickson, Facey, Gillan, Jent, Kaufmann, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Wanzenried, Williams.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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 24 passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 28 passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 51 passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 99 passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 47

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Nays: Erickson, Kaufmann, Tutvedt.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 100 passed as follows:

Yeas: Arthun, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Gallus, Gillan, Hamlett, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Larsen, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Vincent, Vuckovich, Walker, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 40

Nays: Augare, Blewett, Erickson, Facey, Hawks, Kaufmann, Moss, Tropila, Van Dyk, Wanzenried.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 108 passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Wittich, Zinke, Mr. President.

Total 47

Nays: Erickson, Kaufmann, Windy Boy.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 115 passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Wittich, Zinke, Mr. President.
Total 48

Nays: Tropila, Windy Boy.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 118 passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 186 passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 1:00 p.m., Wednesday, January 26, 2011. Motion carried.

Senate adjourned at 2:25 p.m.

MARILYN MILLER
Secretary of the Senate

JIM PETERSON
President of the Senate