

**SENATE JOURNAL  
62<sup>ND</sup> LEGISLATURE  
TWENTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana  
February 4, 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. Quorum present.

**SPECIAL ORDERS OF THE DAY**

The Dillon Junior Fiddlers, founded by Jeannie and Sandy James, performed three songs for the Senate.

**BILLS AND JOURNALS:**

2/4/2011

Correctly printed: **SB 34, SB 90, SB 109, SB 182, SB 194, SJR 6.**

Correctly engrossed: **SB 89, SB 204, SB 223.**

Correctly enrolled: **SR 2.**

Examined by the sponsor and found to be correct: **SR 2.**

Signed by the President at 4:10 p.m., February 3, 2011: **SR 2.**

Signed by the Secretary of the Senate at 3:40 p.m., February 3, 2011: **SR 2.**

Delivered to the Secretary of State at 8:33 a.m., February 4, 2011: **SR 2.**

**REPORTS OF STANDING COMMITTEES**

**AGRICULTURE, LIVESTOCK AND IRRIGATION** (Steinbeisser, Chairman):

2/3/2011

**SB 195**, do pass. Report adopted.

**SB 216**, do pass. Report adopted.

**SB 218**, introduced bill, be amended as follows:

1. Title, page 1, line 5.

**Following:** "LAWS;"

**Insert:** "ALLOWING CONFIDENTIALITY;"

2. Page 2, line 4.

**Following:** "procedures"

**Insert:** " -- confidentiality"

3. Page 2, line 7.

**Following:** "shall"

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

**Following:** "sampling"

**Insert:** "; (b) notify the grower that the grower may ask that the sampling be done by the department; and

(c) notify the department that a claim is being made"

SENATE JOURNAL  
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2011

4. Page 2, line 22.

**Following:** "claimant"

**Insert:** "or the grower"

5. Page 3, lines 6 and 7.

**Strike:** "made available" on line 6 and 7

**Insert:** "sent"

**Following:** "claimant"

**Insert:** "by certified mail within 30 days"

6. Page 3, line 8.

**Insert:** "(8) The results of all sampling and testing are confidential unless both the grower and the claimant agree to make them public."

7. Page 4, line 19.

**Following:** ";

**Strike:** "and"

8. Page 4, line 20.

**Following:** "process"

**Insert:** "; and

(4) a sampling protocol that provides that:

(a) the standards used for the field sampling and laboratory tests meet minimum standards as requested by the claimant; and (b) samples must be submitted for testing within 10 days of the date of sampling"

And, as amended, do pass. Report adopted.

**BUSINESS, LABOR, AND ECONOMIC AFFAIRS** (Balyeat, Chairman):  
**SB 256**, do pass. Report adopted.

2/4/2011

**ENERGY AND TELECOMMUNICATIONS** (Olson, Chairman):  
**SB 96**, introduced bill, be amended as follows:

2/3/2011

1. Page 1, line 16.

**Strike:** "through (4)(d)"

**Insert:** "and (4)(c)"

2. Page 1, line 18.

**Strike:** "two"

**Insert:** "four"

3. Page 1, line 25.

**Following:** "(iii)"

**Insert:** "local government or"

SENATE JOURNAL  
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2011

4. Page 1, line 27 through line 28.

**Strike:** line 27 through line 28 in their entirety

5. Page 2, line 3.

**Strike:** "pursuant to 2-15-1821(4)(a)(i)"

And, as amended, do pass. Report adopted.

**SB 226**, introduced bill, be amended as follows:

1. Page 2.

**Following:** line 24

**Insert:** "NEW SECTION. Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

**Renumber:** subsequent sections

2. Page 2, line 28.

**Strike:** "agreements entered into"

**Insert:** "equipment or facilities installed"

And, as amended, do pass. Report adopted.

**SB 246**, do pass. Report adopted.

**HB 22**, be concurred in. Report adopted.

**HIGHWAYS AND TRANSPORTATION** (Jones, Chairman):

2/3/2011

**SB 192**, do pass. Report adopted.

**SB 213**, introduced bill, be amended as follows:

1. Title, page 1, line 4.

**Strike:** "PINTLAR"

**Insert:** "PINTLER"

2. Page 1, line 11.

**Strike:** "Pintlar"

**Insert:** "Pintler"

3. Page 1, line 12.

**Strike:** "Pintlar"

**Insert:** "Pintler"

And, as amended, do pass. Report adopted.

SENATE JOURNAL  
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2011

**JUDICIARY** (Murphy, Chairman):

2/4/2011

**SB 15**, introduced bill, be amended as follows:

1. Page 1, line 21.

**Following:** "offense;"

**Insert:** "or"

2. Page 1, line 25.

**Following:** "offense"

**Strike:** "; or"

**Insert:** "."

3. Page 1, line 26 through line 27.

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

And, as amended, do pass. Report adopted.

**SB 217**, introduced bill, be amended as follows:

1. Title, line 6.

**Following:** "APPLIES"

**Insert:** "ONLY"

2. Page 1, line 16.

**Following:** "fees."

**Insert:** "Only a party seeking to obtain a document or access to a public meeting is entitled to recover costs and attorney fees under this section."

And, as amended, do pass. Report adopted.

**SB 238**, do pass. Report adopted.

**SJR 9**, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

**House bills** passed and transmitted to the Senate for concurrence:

2/3/2011

**HB 152**, introduced by Washburn

**HB 216**, introduced by Miller

**HB 302**, introduced by Taylor

SENATE JOURNAL  
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2011

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 266**, introduced by Olson, Berry, referred to Taxation.

**SB 267**, introduced by Vincent, referred to Natural Resources.

**SB 268**, introduced by Balyeat, Essmann, Priest, Hinkle, Jackson, Vincent, Murphy, Arthun, Sonju, Buttrey, Brown, Stahl, Harris, Ripley, Walker, Klock, Skees, Tutvedt, Blasdel, Hale, Moore, Hendrick, Clark, Brenden, Salomon, McGillvray, Knox, Loney, Cuffe, Greef, Rosendale, Brodehl, Ehli, Skattum, Olson, McNiven, Vance, Burnett, Blyton, Howard, MacLaren, Welborn, Debby Barrett, Steinbeisser, O'Neil, O'Hara, Flynn, G. Bennett, Small, More, Ingraham, C. Smith, Arntzen, Read, Kerns, Warburton, Berry, Washburn, Wittich, Lewis, Roberts, Connell, Hutton, referred to Judiciary.

**SB 269**, introduced by Buttrey, referred to Business, Labor, and Economic Affairs.

**SB 270**, introduced by Wittich, Zinke, Lake, Moore, Steinbeisser, Walker, Balyeat, referred to Business, Labor, and Economic Affairs.

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

**HB 59**, introduced by Belcourt (by request of the Energy and Telecommunications Interim Committee), referred to Energy and Telecommunications.

**HB 78**, introduced by Cook (by request of the Public Service Commission), referred to Energy and Telecommunications.

**HB 91**, introduced by Ingraham (by request of the Secretary of State), referred to State Administration.

**HB 92**, introduced by Knudsen (by request of the Public Service Commission), referred to Energy and Telecommunications.

**HB 117**, introduced by Hunter (by request of the Department of Justice), referred to Judiciary.

**HB 126**, introduced by Hansen (by request of the Department of Justice), referred to Judiciary.

**HB 167**, introduced by Regier, Sonju, Olson, Lavin, Hansen, , G. Bennett, Windy Boy, Wagner, Hutton, Kerns, Jackson, McGillvray, Blyton, Warburton, Hinkle, Howard, C. Smith, Connell, Ingraham, Zinke, McNiven, , K. Peterson, Read, Knox, Miller, Skees, Brodehl, referred to Judiciary.

**HB 171**, introduced by Ingraham, Brown, Hinkle, referred to Highways and Transportation.

**HB 191**, introduced by Flynn, Miller, O'Neil, Murphy, referred to Public Health, Welfare and Safety.

**HB 235**, introduced by Fitzpatrick, referred to Judiciary.

**MOTIONS**

Senator Olson moved **SB 254** be moved from the Judiciary committee to the Energy and Telecommunications committee. Without objection, so ordered.

Senator Priest moved **SB 193** be moved from the Public Health, Welfare and Safety committee to the Judiciary committee. Without objection, so ordered.

SENATE JOURNAL  
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2011

**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 Walker in the chair.

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

**SB 189** - Senator Keane moved **SB 189** 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 117** - Senator Hinkle moved **SB 117** do pass. 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, Zinke, Mr. President.  
Total 28

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.  
Total 22

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

SENATE JOURNAL  
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2011

**SB 132** - Senator Essmann moved **SB 132** 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 43** - Senator Keane moved **SB 43** do pass.

**SB 43** - Senator Keane moved **SB 43**, second reading copy, be amended as follows:

1. Page 1, line 19.  
**Strike:** "(3) LOST CREEK STATE PARK;"  
**Renumber:** subsequent subsections

2. Page 1, line 21.  
**Strike:** "(5) ACKLEY LAKE STATE PARK;"  
**Renumber:** subsequent subsections

**SB 43** - Senator Balyeat moved the amendment be divided. Without objection, so ordered.

Senator Gillan objected to the Chair's ruling and requested a vote. Motion **failed** as follows:

Yeas: Balyeat, Barrett, Brenden, Buttrey, Essmann, Facey, Hinkle, Hutton, Jackson, Jent, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Tutvedt, Vincent, Walker, Windy Boy, Wittich.  
Total 25

Nays: Arthun, Augare, Blewett, Branae, Brown, Caferro, Erickson, Gallus, Gillan, Hamlett, Hawks, Jones, Kaufmann, Keane, Larsen, Moss, Steinbeisser, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Zinke, Mr. President.  
Total 25

Absent or not voting: None.

SENATE JOURNAL  
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2011

Total 0

Excused: None.

Total 0

Thereupon, the amendment was divided.

**SB 43** - Senator Keane moved the amendment (amendment #1—Lost Creek State Park) do pass. Thereupon, amendment #1 was adopted as follows:

Yeas: Arthun, Augare, Brown, Caferro, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jent, Jones, Keane, Lake, Larsen, Murphy, Olson, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Vuckovich, Walker, Williams, Windy Boy, Zinke, Mr. President.

Total 28

Nays: Balyeat, Barrett, Blewett, Branae, Brenden, Buttrey, Erickson, Hinkle, Jackson, Kaufmann, Lewis, Moore, Moss, Mowbray, Priest, Ripley, Shockley, Sonju, Van Dyk, Vincent, Wanzenried, Wittich.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 43** - Senator Keane moved the amendment (amendment #2—Ackley Lake State Park) do pass. Thereupon, amendment #2 was adopted as follows:

Yeas: Arthun, Augare, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jent, Jones, Keane, Lake, Larsen, Lewis, Mowbray, Murphy, Olson, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Vincent, Vuckovich, Walker, Williams, Windy Boy, Zinke, Mr. President.

Total 35

Nays: Balyeat, Barrett, Blewett, Erickson, Hinkle, Jackson, Kaufmann, Moore, Moss, Priest, Ripley, Shockley, Van Dyk, Wanzenried, Wittich.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0



SENATE JOURNAL  
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2011

**SB 43** - Senator Keane moved **SB 43**, as amended, do pass. Motion carried as follows:

Yeas: Arthun, Augare, Barrett, Branae, Brenden, Brown, Buttrey, Caferro, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Jones, Keane, Larsen, Moore, Moss, Murphy, Olson, Priest, Ripley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Vincent, Vuckovich, Walker, Williams, Windy Boy, Zinke, Mr. President.

Total 34

Nays: Balyeat, Blewett, Erickson, Essmann, Hinkle, Hutton, Jackson, Kaufmann, Lake, Lewis, Mowbray, Shockley, Tutvedt, Van Dyk, Wanzenried, Wittich.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 3** - Senator Hawks moved **SB 3** do pass.

**SB 3** - Senator Lake moved **SB 3**, second reading copy, be amended as follows:

1. Page 2, line 2.

**Following:** "system"

**Insert:** "on the first Tuesday in February of every even-numbered year"

2. Page 3, line 29.

**Following:** "~~22-3-422(6)~~"

**Insert:** "on the first Tuesday in February of every even-numbered year"

3. Page 3, line 29 through line 30.

**Following:** "information"

**Strike:** "ON OR" on line 29 through "LEGISLATURE" on line 30

Amendment adopted as follows:

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

Total 43

Nays: Brenden, Brown, Hinkle, Lewis, Ripley, Sonju, Wittich.

Total 7

SENATE JOURNAL  
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2011

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 3** - Senator Hawks moved **SB 3**, as amended, do pass. Motion carried as follows:

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

Total 39

Nays: Balyeat, Barrett, Brenden, Hinkle, Jackson, Lewis, Ripley, Shockley, Sonju, Steinbeisser, Vincent.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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

Yeas: Arthun, Augare, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, 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, Vincent, Vuckovich, Walker, Wanzenried, Windy Boy, Wittich, Zinke, Mr. President.

Total 46

Nays: Balyeat, Kaufmann, Van Dyk, Williams.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL  
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2011

**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 90** 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, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.  
Total 47

Nays: Erickson, Kaufmann, Tropila.  
Total 3

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 109** passed as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Gallus, Hamlett, 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 33

Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gillan, Hawks, Jent, Kaufmann, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Wanzenried, Williams.  
Total 17

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 201** passed as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Gallus, Hamlett, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley,

SENATE JOURNAL  
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2011

Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wanzenried, Wittich, Zinke, Mr. President.  
Total 31

Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gillan, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Williams, Windy Boy.  
Total 19

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SJR 6** adopted as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Gallus, Gillan, Hamlett, 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 34

Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Hawks, Jent, Kaufmann, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Wanzenried, Williams.  
Total 16

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

Committee meetings were announced by the committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 8:00 a.m., Saturday, February 5, 2011. Motion carried.

Senate adjourned at 3:09 a.m.

MARILYN MILLER  
Secretary of the Senate

JIM PETERSON  
President of the Senate