

**SENATE JOURNAL
62ND LEGISLATURE
THIRTY-FIRST LEGISLATIVE DAY**

Helena, Montana
February 8, 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 Senator Jones, excused. Quorum present.

BILLS AND JOURNALS: 2/8/2011

Correctly printed: **SB 182, SB 192, SB 204, SB 213, SB 216, SB 218, SB 238, SB 256.**

REPORTS OF STANDING COMMITTEES

LOCAL GOVERNMENT (Sonju, Chairman): 2/7/2011
SB 248, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "FIVE-MEMBER"

Following: "BOARD"

Insert: "WITH THE NUMBER OF MEMBERS OVER THREE TO BE DETERMINED BY THE COUNTY"

2. Title, line 6.

Strike: "FIVE-MEMBER"

Following: "BOARDS"

Insert: "OF MORE THAN THREE MEMBERS"

Following: ", "

Insert: "ONLY"

3. Page 1, line 13.

Strike: "three-member or five-member"

Following: ", with"

Insert: "a minimum of three members and with"

4. Page 1, line 27.

Strike: "five"

Insert: "more than three"

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Barrett, Chairman): 2/7/2011
SB 233, introduced bill, be amended as follows:

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1. Page 2, line 1.

Following: "public"

Insert: "and public officials"

2. Page 5, line 3.

Following: "(2)"

Strike: "An"

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

3. Page 5.

Following: line 5

Insert: "(b) An environmental review conducted pursuant to subsection (1) may include a review of actual or potential impacts beyond Montana's borders if it is conducted by:

(i) the department of fish, wildlife, and parks for the management of wildlife;

(ii) an agency reviewing an application for a project that is not a state-sponsored project to the extent that the review is required by law, rule, or regulation; or

(iii) by a state agency and a federal agency to the extent the review is required by the federal agency."

4. Page 9, line 12.

Following: "itself."

Insert: "The term includes alternatives required pursuant to Title 75, chapter 20."

5. Page 10, line 12.

Following: "(ii)"

Insert: "except as provided in subsection (8)(b)(i)(D),"

6. Page 10, line 14.

Following: "(iii)"

Insert: "except as provided in subsection (8)(b)(i)(D),"

7. Page 10, line 17.

Following: "licenses,"

Insert: "leases, easements, grants, loans,"

8. Page 10, line 21.

Strike: "Title"

Insert: "Titles 76, 77, 82, and"

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Priest, Chairman):

2/7/2011

SB 210, do pass. Report adopted.

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STATE ADMINISTRATION (Shockley, Chairman):
SB 247, do pass. Report adopted.

2/7/2011

MOTIONS

Mr. President, I move that the following undersigned name be **REMOVED** as sponsor to **SB 185**
Motion carried.

SB 185 (Wanzenried Chief Sponsor)
Senator Wanzenried, Read.

MESSAGES FROM THE OTHER HOUSE

HB 292, introduced by Kennedy, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

Yeas - 63
Nays - 32

2/5/2011

House bills passed and transmitted to the Senate for concurrence:

2/7/2011

HB 198, introduced by K. Peterson
HB 261, introduced by Rosendale
HB 319, introduced by McNutt

FIRST READING AND COMMITMENT OF BILLS

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

SB 279, introduced by Jackson, Shockley, Wagner, Regier, K. Peterson, Kerns, O'Neil, Gallus, Brown, Blyton, Hutton, Randall, Balyeat, Flynn, Warburton, Edmunds, Small, Skees, Hale, C. Smith, Priest, Hinkle, Skattum, Osmundson, More, Miller, Blasdel, Sonju, referred to Judiciary.
SB 280, introduced by Brown, referred to Education and Cultural Resources.
SB 281, introduced by Brown, referred to Taxation.
SB 282, introduced by Lewis, Windy Boy, Olson, Essmann, Stewart-Peregoy, Small, O'Hara, Klock, referred to Taxation.
SB 283, introduced by Essmann, referred to Local Government.
SB 284, introduced by Blewett, Van Dyk, referred to State Administration.
SB 285, introduced by Olson, referred to Energy and Telecommunications.
SB 286, introduced by Olson, referred to Natural Resources.
SB 287, introduced by Keane, referred to Business, Labor, and Economic Affairs.

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

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SJR 11, introduced by J. Peterson, Essmann, Milburn, McGillvray, referred to Education and Cultural Resources.

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

HB 20, introduced by Hendrick, Lavin (by request of the Law and Justice Interim Committee), referred to Local Government.

HB 64, introduced by Stahl (by request of the Legislative Audit Committee), referred to State Administration.

HB 80, introduced by Arntzen (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 95, introduced by McNutt (by request of the Department of Labor and Industry), referred to Judiciary.

HB 106, introduced by Lavin, Brodehl, Hiner, Hollenbaugh, Howard, Menahan, O'Neil, K. Peterson, Regier, Reichner, Skees, Taylor, Augare, Blewett, Buttrey, Jackson, Olson, Sonju, Vincent, Jent, Kaufmann, Larsen (by request of the Department of Justice), referred to Judiciary.

HB 110, introduced by Welborn (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 118, introduced by Hunter (by request of the Economic Affairs Interim Committee), referred to Business, Labor, and Economic Affairs.

HB 125, introduced by Klock (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.

HB 131, introduced by Menahan, Hendrick (by request of the Department of Military Affairs), referred to State Administration.

HB 144, introduced by Washburn, referred to Fish and Game.

HB 156, introduced by F. Smith, MacLaren, referred to State Administration.

HB 176, introduced by Kary, C. Smith, Salomon, Brown, Cuffe, Balyeat, Essmann, Skees, Greef, Regier, Knox, Olson, Blyton, Rosendale, Lewis, referred to Fish and Game.

HB 236, introduced by Greef, referred to Business, Labor, and Economic Affairs.

HB 249, introduced by Fitzpatrick, referred to Business, Labor, and Economic Affairs.

HB 258, introduced by Edmunds, Connell, referred to Business, Labor, and Economic Affairs.

HB 268, introduced by Klock, Steinbeisser, Vuckovich, Noonan, referred to Business, Labor, and Economic Affairs.

HB 270, introduced by Lavin, Sonju, Hollenbaugh, Noonan, Berry, O'Neil, Zinke, Salomon, Skees, Blasdel, Brodehl, referred to Highways and Transportation.

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

HJR 4, introduced by K. Peterson, referred to Agriculture, Livestock and Irrigation.

**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 Tutvedt 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 96 - Senator Gillan moved consideration of **SB 96** be passed for the day. Motion carried.

SB 179 - Senator Wittich moved **SB 179** 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, 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 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

SB 222 - Senator Augare moved **SB 222** 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, 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 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

SB 226 - Senator Priest moved **SB 226** do pass. Motion **failed** as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Essmann, Hinkle, Hutton, Jackson, Lake, Lewis, Moore, Murphy, Olson, Priest, Ripley, Shockley, Tutvedt, Walker, Wittich.

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Total 20

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

Total 29

Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

SB 226 - Senator C. Williams moved **SB 226** be indefinitely postponed. 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, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

SB 246 - Senator Olson moved **SB 246** 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, 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, Zinke, Mr. President.

Total 48

Nays: Wittich.

Total 1

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Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

HB 22 - Senator Erickson moved **HB 22** be concurred in. Motion carried as follows:

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

Total 43

Nays: Essmann, Mowbray, Sonju, Tutvedt, Vincent, Wittich.

Total 6

Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

Senator Essmann moved that the committee rise and report. Motion carried. Senator Essmann moved that **SB 226** be segregated from the Committee of the Whole report and the remainder of the Committee of the Whole report be adopted. Motion carried as follows:

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

Total 26

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

Total 23

Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

MOTIONS

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Senator Essmann moved **SB 226** be moved from the Committee of the Whole committee to the Energy and Telecommunications committee.

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jackson, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Zinke, 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.
Total 22

Absent or not voting: None.
Total 0

Excused: Jones.
Total 1

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 172, passed as follows:

Yeas: Arthun, Blewett, Branae, Brenden, Brown, Caferro, Erickson, Facey, Gallus, Hamlett, Hawks, Jackson, Jent, Kaufmann, Keane, Lake, Larsen, Lewis, Moss, Mowbray, Murphy, Olson, Ripley, Steinbeisser, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Zinke, Mr. President.
Total 31

Nays: Augare, Balyeat, Barrett, Buttrey, Essmann, Gillan, Hinkle, Hutton, Moore, Priest, Shockley, Sonju, Stewart-Peregoy, Vincent, Walker, Williams, Windy Boy, Wittich.
Total 18

Absent or not voting: None.
Total 0

Excused: Jones.
Total 1

SB 182 passed as follows:

Yeas: Arthun, Augare, Balyeat, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson,

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Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Kaufmann, Keane, Larsen, Lewis, Moss, Murphy, Olson, Priest, Shockley, Sonju, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 43

Nays: Barrett, Lake, Moore, Mowbray, Ripley, Steinbeisser.

Total 6

Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

SB 192 passed as follows:

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

Total 44

Nays: Balyeat, Hinkle, Moore, Steinbeisser, Wittich.

Total 5

Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

SB 204 passed as follows:

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

Total 40

Nays: Brenden, Jackson, Lewis, Mowbray, Sonju, Van Dyk, Windy Boy, Wittich, Zinke.

Total 9

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Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

SB 213 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, 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 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

SB 216 passed as follows:

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

Total 29

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

Total 20

Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

SB 218 passed as follows:

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Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, 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 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jones.
Total 1

SB 238 passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, 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 47

Nays: Erickson, Facey.
Total 2

Absent or not voting: None.
Total 0

Excused: Jones.
Total 1

SB 256 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, 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 49

Nays: None.
Total 0

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Absent or not voting: None.

Total 0

Excused: Jones.

Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 1:00 p.m., Wednesday, February 9, 2011. Motion carried.

Senate adjourned at 2:17 p.m.

MARILYN MILLER
Secretary of the Senate

JIM PETERSON
President of the Senate