

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

Helena, Montana
February 17, 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.

BILLS AND JOURNALS:

2/17/2011

Correctly printed: **SB 42, SB 54, SB 111, SB 134, SB 184, SB 205, SB 224, SB 228, SB 229, SB 267, SB 270, SB 271, SB 275, SB 285, SB 296, SB 335, HJR 4.**

Correctly engrossed: **SB 13, SB 114, SB 198, SB 207, SB 212, SB 225, SB 226, SB 227, SB 237, SB 251, SB 255, SB 258, SB 269, SB 272, SB 277, SJR 4, HB 132.**

SPECIAL ORDERS OF THE DAY

PROCLAMATION to Recognize the Centennial Year of the
Montana Nurses Association

WHEREAS, in 2012 the Montana Nurses Association will celebrate its 100th anniversary of providing invaluable services to those in need of health care across our state; and

WHEREAS, for a century, the Montana Nurses Association, supported by its professional staff and resources, has proudly represented the voice of licensed nurses across the state; and

WHEREAS, in Montana there are over 16,000 nurses, including Registered Nurses, Licensed Practical Nurses, and Advanced Practice Registered Nurses, working in hospitals, nursing homes, home care, hospice, outpatient clinics, nursing education, schools, public health, the insurance industry, and much more; and

WHEREAS, scientific research has shown that the direct involvement and sufficient numbers of professional nurses positively impact patient outcomes and are the key to the delivery of safe, effective patient care; and

WHEREAS, the Montana Nurses Association provides leadership for the nursing profession and promotes quality health care for consumers through research, continuing education, and advocacy and by influencing health care policy in Montana.

NOW, THEREFORE, BE IT PROCLAIMED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the State of Montana recognizes the Montana Nurses Association's contributions to the health of the citizens of our state for the past 100 years.

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BE IT FURTHER RESOLVED that the 62nd Session of the Montana Legislature commends and salutes the centennial of the Montana Nurses Association during the year and the celebration of this historic event commencing on February 17, 2011.

BE IT FURTHER RESOLVED, that a copy of this proclamation be transmitted to the Montana Nurses Association at 20 Old Montana State Highway, Montana City, Montana 59634.

Submitted by: Representative Cynthia Hiner, February 17, 2011.

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman): 2/17/2011
SB 260, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: the first "THE"

Insert: "GENERAL"

2. Page 1, line 15.

Following: "customer."

Insert: "For the purposes of this subsection, the term "factors" means general levels of insurance score rankings, case characteristics, and general rating information but does not include trade secrets, proprietary rating information, or algorithms used to develop insurance scores."

3. Page 1, line 17.

Following: "customers."

Insert: "The format may include internet websites or standard language in the coverage outline."

And, as amended, do pass. Report adopted.

SB 287, introduced bill, be amended as follows:

1. Page 3, line 8.

Strike: "except as provided in subsection (3),"

Following: "corporation or"

Insert: ", except as provided in subsection (3), a"

2. Page 4, line 22.

Following: "company_i"

Insert: "or"

3. Page 4, lines 23 line 24.

Strike: subsection (v) in its entirety

Renumber: subsequent subsection

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4. Page 6, line 8.

Following: "company₂"

Insert: "or"

5. Page 6, lines 9 through 10.

Strike: subsection (v) in its entirety

Renumber: subsequent subsection

And, as amended, do pass. Report adopted.

SB 289, do pass. Report adopted.

SB 290, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Zinke, Chairman):

2/16/2011

SB 208, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "PUPIL-INSTRUCTION-RELATED"

Insert: "PUPIL-INSTRUCTION"

Following: "DAY"

Insert: "AND DOES NOT COUNT TOWARD THE MINIMUM AGGREGATE HOURS OF PUPIL INSTRUCTION"

2. Page 1, line 18.

Strike: "pupil-instruction-related"

Insert: "pupil-instruction"

Following: "day"

Strike: ", as defined in 20-1-304"

Insert: "and does not count toward minimum aggregate hours of pupil instruction provided for in 20-1-301"

Following: ";₁"

Insert: "and"

3. Page 1, line 19 through line 20.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

And, as amended, do pass. Report adopted.

SB 280, do pass. Report adopted.

SJR 11, introduced joint resolution, be amended as follows:

1. Title, line 10.

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Following: "REPORT TO THE"
Strike: "MONTANA LEGISLATURE"
Insert: "EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE"

2. Page 1, line 17 through line 18.
Strike: line 17 through line 18 in its entirety

3. Page 2, line 15.
Following: "teaching,"
Insert: "research, or community service,"

4. Page 2, line 16.
Strike: "2-year"
Insert: "standard"

5. Page 2, line 23 through line 24.
Strike: "Montana Legislature"
Insert: "Education and Local Government Interim Committee"
Following: "than"
Strike: "September 30"
Insert: "August 15"

And, as amended, do pass. Report adopted.

JUDICIARY (Murphy, Chairman):
SB 279, introduced bill, be amended as follows:

2/17/2011

1. Title, line 5.
Following: "FOR"
Strike: "LEGISLATORS AND"

2. Page 1, line 25.
Following: "by a"
Strike: "legislator or a"

And, as amended, do pass. Report adopted.

SB 337, introduced bill, be amended as follows:

1. Page 2, line 18.
Following: "45-7-201"
Strike: "or, where applicable,"
Insert: "and is punishable as"

2. Page 3, line 18.

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Following: "perjury"

Strike: "or, where applicable,"

Insert: "and is punishable as"

3. Page 4, line 21.

Following: "guardianship, or the"

Strike: "conservatee"

Insert: "protected person"

4. Page 4, line 23.

Following: "estate,"

Strike: "guardianship, or conservatorship"

Insert: "ward, or protected person"

5. Page 4, line 25 through line 26.

Following: "estate," on line 25

Strike: remainder of line 25 through "conservatorship" on line 26

Insert: "ward, or protected person"

6. Page 4, lines 27 and 28.

Following: "estate," on line 27

Strike: remainder of line 27 through "appointed" on line 28

Insert: "ward, or protected person"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Sonju, Chairman):
SB 91, introduced bill, be amended as follows:

2/16/2011

1. Page 1.

Following: line 23

Insert: "NEW SECTION. Section 2. Contingent voidness. If [LC 1283] is not passed and approved, then [this act] is void."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 183, introduced bill, be amended as follows:

1. Title, line 6.

Following: "CIRCUMSTANCES;"

Insert: "PROHIBITING ESTABLISHMENT OF AN INTERIM ZONING DISTRICT OR INTERIM REGULATION TO PREVENT AGRICULTURAL ACTIVITIES;"

2. Page 2, line 14.

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Strike: "or federal"

Following: "agency"

Insert: "under Title 75, Title 76, chapter 4, or Title 82"

3. Page 2, line 15.

Strike: "a complete"

Insert: "an"

4. Page 2.

Following: line 17

Insert: "(5) A board of county commissioners may not establish an interim zoning district or interim regulation to prevent agricultural activities, as provided in Title 76, chapter 2, part 9."

And, as amended, do pass. Report adopted.

SB 191, introduced bill, be amended as follows:

1. Page 1, line 7 through line 17.

Strike: "WHEREAS" on line 7 through "inspection." on line 17

2. Page 2, lines 2 and 3.

Strike: "on" on line 2 through "executed" on line 3

Strike: "an offer for" on line 3

3. Page 2, line 4.

Strike: "or seller's agent"

4. Page 2, line 7 through line 11.

Strike: "WHERE" on line 7 through "INFRASTRUCTURE" on line 11

Insert: "THAT COLLECTS, TREATS, AND DISPOSES OF SEWAGE. A POORLY MAINTAINED SEPTIC SYSTEM MAY MALFUNCTION, DAMAGING PROPERTY AND DEGRADING WATER QUALITY. THE BUYER UNDERSTANDS THAT SEPTIC SYSTEMS REQUIRE REGULAR MAINTENANCE, REPAIR, AND POTENTIAL REPLACEMENT TO PROTECT PUBLIC HEALTH, WATER QUALITY, AND PRIVATE PROPERTY. IT IS THE BUYER'S OBLIGATION TO DETERMINE THE CONDITION OF THE SEPTIC SYSTEM. THE BUYER MAY HIRE A QUALIFIED INSPECTOR TO INSPECT THE SEPTIC SYSTEM AND ASSOCIATED INFRASTRUCTURE AND MAKE ANY CONTRACT CONTINGENT UPON THE RESULTS OF THAT INSPECTION"

5. Page 2, line 12.

Following: "If"

Insert: "the information is"

Strike: "after reasonable investigation"

Strike: "or the seller's agent"

Following: "shall provide"

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Insert: "for the disclosure"

6. Page 2, line 13.

Strike: "or upon entry into a contract for"

7. Page 2, line 14.

Following: "system;"

Insert: "and

(b) any other records of septic system and drainfield maintenance, repair, and location."

8. Page 2, lines 15 through 18.

Strike: "(b)" on line 15 through "property." on line 18

9. Page 2, line 20.

Strike: "or the seller's agent"

10. Page 2, lines 23 and 24.

Strike: subsection (4) in its entirety

And, as amended, do pass. Report adopted.

SB 234, introduced bill, be amended as follows:

1. Page 1, line 12.

Following: "~~(4)~~"

Insert: "(1)"

2. Page 1, line 16 through line 19.

Strike: "until" on line 16 through "69-12-314." on line 19

3. Page 1.

Following: line 29

Insert: "for 5 years following annexation or incorporation except upon a proper showing to the public service commission that the existing carrier is unable to or refuses to provide adequate service to the annexed or incorporated area.

(2) In order to provide garbage and solid waste disposal service to the annexed or incorporated area, the municipality shall first fully compensate the private motor carrier for the resulting damage to its business, including but not limited to the diminished fair market value of the business and diminished value of the Class D certificate issued by the public service commission under 69-12-314.

(3) For the purposes of determining whether an existing motor carrier provides adequate service, those services provided by the carrier prior to annexation are considered adequate services."

And, as amended, do pass. Report adopted.

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SB 236, introduced bill, be amended as follows:

1. Title, line 7.

Strike: "SECTIONS 7-14-4105 AND"

Insert: "SECTION"

2. Page 1, line 12 through line 21.

Strike: section 1 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 283, do pass. Report adopted.

SB 302, do pass. Report adopted.

NATURAL RESOURCES (Barrett, Chairman):

2/16/2011

SB 286, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "CLARIFYING"

Insert: "MODIFYING"

2. Title, page 1, line 5 through line 6.

Strike: "CLARIFYING" on line 5 through "PROCEDURES;" on line 6

3. Page 1, line 11 through page 3, line 15.

Strike: section 1 in its entirety

Insert: "**Section 1.** Section 82-4-226, MCA, is amended to read:

"82-4-226. Prospecting permit. (1) Except as provided in subsection ~~(8)~~ (7), prospecting by any person on land not included in a valid strip-mining or underground-mining permit is unlawful without possessing a valid prospecting permit issued by the department as provided in this section. A prospecting permit may not be issued until the person submits an application, the application is examined, amended if necessary, and approved by the department, and an adequate reclamation performance bond is posted, all of which prerequisites must be done in conformity with the requirements of this part.

(2) ~~An~~ Except for an application filed pursuant to subsection (8), an application for a prospecting permit must be made in writing, notarized, and submitted to the department in duplicate upon forms prepared and furnished by it. The application must include among other things a prospecting map and a prospecting reclamation plan of substantially the same character as required for a surface-mining or underground-mining map and reclamation plan under this part. The department shall determine by rules the precise nature of the required prospecting map and reclamation plan. Any applicant who intends to prospect by means of core drilling shall specify the location and number of holes to be drilled, methods to be used in sealing aquifers, and other information that may be required by the department. The applicant shall state what types of prospecting and excavating techniques will be employed on the affected land. The application must

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also include any other or further information that the department may require.

(3) Before the department gives final approval to the prospecting permit application, the applicant shall file with the department a reclamation and revegetation bond in a form and in an amount as determined in the same manner for strip-mining or underground-mining reclamation and revegetation bonds under this part.

(4) In the event that the holder of a prospecting permit desires to strip mine or underground mine the area covered by the prospecting permit and has fulfilled all the requirements for a strip-mining or underground-mining permit, the department may permit the postponement of the reclamation of the acreage prospected if that acreage is incorporated into the complete reclamation plan submitted with the application for a strip-mining or underground-mining permit. Any land actually affected by prospecting or excavating under a prospecting permit and not covered by the strip-mining or underground-mining reclamation plan must be promptly reclaimed.

(5) The prospecting permit is valid for 1 year and is subject to renewal, suspension, and revocation in the same manner as strip-mining or underground-mining permits under this part.

(6) The holder of the prospecting permit shall file with the department the same progress reports, maps, and revegetation progress reports as are required of strip-mining or underground-mining operators under this part.

(7) (a) Prospecting that is not conducted in an area designated unsuitable for coal mining pursuant to 82-4-227 or 82-4-228, that is not conducted for the purpose of determining the location, quality, or quantity of a mineral deposit, and that does not remove more than 250 tons of coal is not subject to subsections (1) through (6). In addition, coal prospecting that is conducted to determine the location, quality, or quantity of a mineral deposit outside an area designated unsuitable, that does not remove more than 250 tons of coal, and that does not substantially disturb the natural land surface is not subject to subsections (1) through (6). However, except for a prospecting operation for which a permit is required by subsection (7)(b), a person who conducts prospecting described in this subsection shall file with the department a notice of intent to prospect that contains the information required by the department before commencing prospecting operations. If this prospecting substantially disturbs the natural land surface, it must be conducted in accordance with the performance standards of the board's rules regulating the conduct and reclamation of prospecting operations that remove coal. The department may inspect these prospecting and reclamation operations at any reasonable time.

(b) Prospecting conducted to determine the location, quality, or quantity of coal outside an area designated unsuitable that is not included in a valid strip-mining or underground-mining permit and that does not remove more than 250 tons of coal may not be conducted without a valid prospecting permit issued pursuant to subsection (8).

(8) (a) An application for a coal prospecting permit required by subsection (7)(b) must contain:

- (i) the name, address, and telephone number of the person who seeks to prospect;
- (ii) the name, address, and telephone number of the person's representative who will be present at and responsible for conducting the prospecting activities;
- (iii) a narrative describing the proposed prospecting area or a map of the prospecting area at a scale of 1:24,000 or greater showing:
 - (A) the general location of drill holes and trenches;
 - (B) existing and proposed roads;
 - (C) occupied dwellings;
 - (D) topographic features;

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- (E) bodies of water; and
(F) pipelines;
(iv) a copy of the documents upon which the applicant bases its legal right to prospect, including documentation that the owners of the land affected have been notified and understand that the department will make investigations and inspections to ensure compliance;
(v) a statement of the period of intended prospecting; and
(vi) a description of the method of prospecting to be used and the practices that will be followed to protect the environment and reclaim disturbed areas, including plugging of prospecting holes in accordance with rules adopted by the board.
(b) Within 10 working days of receipt of an application, the department shall notify the applicant in writing as to whether the application is complete and preliminarily acceptable. If the department determines that the application is not complete or not preliminarily acceptable, the department shall include a detailed identification of information necessary to cure the deficiency.
(c) Within 5 working days of receipt of the applicant's response to the identified deficiencies, the department shall review the response and notify the person as to whether the application is complete and preliminarily acceptable. If the department determines the application is not complete or preliminarily acceptable, the department shall notify the person in writing and include a detailed identification of information necessary to make the application complete and preliminarily acceptable.
(d) When the department determines that the application is complete and preliminarily acceptable, the department shall notify the applicant in writing. The notification must include the amount of bond that is required to be posted in order for the permit to be issued.
(e) Upon receipt of the department's determination of preliminary acceptability, the applicant shall place an advertisement in a newspaper of general circulation in the locality of the proposed prospecting. The notice must describe the application and a place in the locality where the public may examine the application and must notify the public that it may submit written comments by delivering or mailing them to the department within 10 days following publication of the notice.
(f) After close of the public comment period, the department shall notify the applicant as to whether the application is acceptable. The department shall issue the notification within 5 working days of the close of the comment period if no comments are received and within 10 working days if comments are received. In the notice of acceptability, the department shall notify the applicant of any adjustment in the amount of the bond.
(g) A permit issued pursuant to this subsection (8) is subject to subsections (3) through (6)."

And, as amended, do pass. Report adopted.

SB 299, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Following: "STATE;"

Insert: "DEFINING THE TERM "NAVIGABLE";

Following: "MCA;"

Insert: "REPEALING SECTION 70-18-202, MCA;"

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2. Page 1, line 17.

Strike: "change"

Insert: "avulsion occurred"

Following: "in"

Insert: "the"

3. Page 1, line 18.

Strike: "an island"

Insert: "wholly surrounded by water"

4. Page 1.

Following: line 20

Insert: "(4) For the purposes of this section, "navigable" means a river or stream adjudicated as navigable for title purposes by a court of competent jurisdiction."

5. Page 1, line 24.

Following: the second "section"

Insert: "and subject to Title 70, chapter 18, part 2"

6. Page 2.

Following: line 4

Insert: "(3) For the purposes of this section:

(a) "abandoned bed" means a river bed or stream bed with no water over it; and

(b) "navigable" means a river or stream adjudicated as navigable for title purposes by a court of competent jurisdiction."

Insert: "NEW SECTION. Section 3. Repealer. The following section of the Montana Code Annotated is repealed:

70-18-202. Sudden removal of bank -- right of owner to reclaim."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

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

2/16/2011

SB 2, do pass. Report adopted.

SB 241, introduced bill, be amended as follows:

1. Page 2, line 17.

Following: "conversion factor is"

Strike: "a minimum of"

2. Page 2, line 19.

Following: "services."

Insert: "The conversion factor may be adjusted by the department in order to maintain reimbursement, at a minimum, at the fiscal year 2010 reimbursement rate."

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And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):
SB 113, introduced bill, be amended as follows:

2/16/2011

1. Page 4, line 8 through line 14.

Strike: section 2 in its entirety

Insert: "NEW SECTION. Section 2. Transfer of excess school district retirement fund reserves to retirement systems. (1) On September 1, 2011, the trustees of a district maintaining a retirement fund as provided in 20-9-501 shall pay to the teachers' retirement system and the public employees' retirement system the lesser of:

(a) the amount earmarked as an operating reserve on the adopted retirement fund budget for fiscal year 2011 minus 20% of the adopted retirement fund budget for fiscal year 2011; or

(b) the retirement fund balance for fiscal year 2011 minus the allowable retirement fund operating reserve for fiscal year 2012.

(2) To determine the amounts to be paid to each retirement system as required by subsection (1), the trustees of a district shall use the same ratio of payments made to the retirement systems in fiscal year 2011."

And, as amended, do pass. Report adopted.

SB 284, introduced bill, be amended as follows:

1. Page 1, line 24 through line 25.

Following: "(3)"

Strike: remainder of line 24 through line 25

2. Page 1, line 26.

Following: "chosen"

Insert: "under either subsection (1) or (2)"

And, as amended, do pass. Report adopted.

SB 311, introduced bill, be amended as follows:

1. Page 2, line 23.

Following: line 22

Insert: "(c) "Current term", as used in Article IV, section 8, of the Montana constitution, means the term for which the candidate seeking office is filing."

And, as amended, do pass. Report adopted.

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MESSAGES FROM THE GOVERNOR

February 16, 2011

The Honorable Jim Peterson
President, Montana State Senate
Capitol Station
Helena, Montana 59620

Dear President Peterson:

Attached please find an additional list of appointments to various boards, councils and commissions that require Senate confirmation. For each appointment, the following information has been supplied:

- " Reference to statute and a brief description of the statute
- " Name, address and phone number(s) for each appointee
- " Appointee qualifications and term of appointment
- " Brief biographies

Additional information, including a complete list of gubernatorial appointees, is available online at: <http://boards.mt.gov>. Please don't hesitate to contact our office if my staff or I can be of assistance to you.

Sincerely yours,

BRIAN SCHWEITZER
Governor

Copy to: Marilyn Miller, Senate Secretary; Susan Fox, Legislative Services Division

Board of Architects and Landscape Architects
Bayliss Ward, Bozeman

Electrical Board
Keith Simendinger, Helena

Facility Finance Authority
Joe Quilici, Butte
Kimberly Rickard, Helena
Matthew B. Thiel, Missoula

Human Rights Commission
Cynthia Wolken, Missoula
Lucy Simpson, Helena

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Board of Livestock

Linda Nielsen, Nashua
Ed Waldner, Chester
Jeffery S. Lewis, Corvallis

Board of Personnel Appeals

Steve Johnson, Missoula
Jerry Rukavina, Great Falls
David Gallik, Helena
Amy Verlanic, Anaconda

Board of Public Assistance

Helen Barta Schmitt, Sidney

Board of Regents

Major Robinson, Billings

Research and Commercialization Technology Board

On January 12, 2011, the name of Major Robinson, Billings, was sent to the Montana State Senate for confirmation to the Research and Commercialization Technology Board. Mr. Robinson has since resigned from the Board, so confirmation of Mr. Robinson to the Research and Commercialization Technology Board is no longer required. The Governor appointed Mr. Robinson to the Board of Regents, and a request for confirmation of Mr. Robinson's appointment to the seat is listed above.

Board of Speech-Language Pathologists and Audiologists

Cheri Fjare, Big Timber
Alida Wright, Columbia Falls
Beverly Stiller, Lame Deer

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 2/16/2011

HB 86, introduced by Wilmer

HB 237, introduced by Menahan

HB 264, introduced by Vance

HB 265, introduced by Vance

HB 295, introduced by Cook

HB 318, introduced by Warburton

HB 379, introduced by Menahan

HB 206, introduced by MacLaren, 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: 2/16/2011

Yeas - 67

Nays - 31

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MOTIONS

Senator Hinkle moved that **SB 116** be taken from Judiciary and brought before the Committee of the Whole.

Motion **failed** as follows:

Yeas: Balyeat, Brenden, Buttrey, Hamlett, Hinkle, Hutton, Jackson, Lake, Lewis, Moore, Priest, Shockley, Steinbeisser, Walker, Windy Boy.

Total 15

Nays: Arthun, Augare, Barrett, Blewett, Branae, Brown, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hawks, Jent, Jones, Kaufmann, Keane, Larsen, Moss, Mowbray, Murphy, Olson, Ripley, Sonju, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Wittich, Zinke, Mr. President.

Total 35

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Tutvedt moved **SB 353, SB 373, SB 383** be moved from the Local Government committee to the Taxation committee. Without objection, so ordered.

FIRST READING AND COMMITMENT OF BILLS

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

SB 384, introduced by Van Dyk, referred to Agriculture, Livestock and Irrigation.

SB 385, introduced by Caferro, referred to Education and Cultural Resources.

SB 386, introduced by Stewart-Peregoy, referred to Education and Cultural Resources.

**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 Facey in the chair.

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

SB 144 - Senator Brenden moved **SB 144** do pass. Motion carried as follows:

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

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

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

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 168 - Senator Van Dyk moved **SB 168** 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 242 - Senator Brenden moved **SB 242** do pass. Motion carried as follows:
Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gillan, Hamlett, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Wittich, Zinke, Mr. President.
Total 36

Nays: Augare, Blewett, Branae, Erickson, Gallus, Hawks, Kaufmann, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Williams, Windy Boy.
Total 14

Absent or not voting: None.
Total 0

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Excused: None.

Total 0

SB 97 - Senator Shockley moved **SB 97** 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, Windy Boy, Wittich, Zinke, Mr. President.

Total 29

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

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 111 - Senator Sonju moved **SB 111** do pass.

SB 111 - Senator Sonju moved **SB 111**, second reading copy, be amended as follows:

1. Page 2, line 7.

Following: line 6

Insert: "(5) The limitation on liability established by this section based on a violation of the requirement for motor vehicle insurance under 61-6-301 does not apply if, at the time the conduct causing the death or injury occurred, the claimant was not operating or was not a passenger in the claimant's uninsured motor vehicle."

Renumber: subsequent subsections

Amendment adopted as follows:

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

Total 40

Nays: Blewett, Erickson, Kaufmann, Keane, Moss, Stewart-Peregoy, Van Dyk, Wanzenried, Williams, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

SB 111 - Senator Sonju moved **SB 111**, as amended, do pass. Motion carried as follows:
Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 26

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

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 268 - Senator Balyeat moved **SB 268** 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

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

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

Total 30

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

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

Senator Lewis moved **SB 377**, **SB 382** be moved from the Finance and Claims committee to the Taxation committee. Without objection, so ordered.

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 42 passed as follows:

Yeas: Augare, Balyeat, Barrett, Blewett, Branae, Brown, Erickson, Essmann, Facey, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Olson, Shockley, Steinbeisser, Tropila, Van Dyk, Vuckovich, Walker, Wanzenried, Williams, Wittich, Zinke, Mr. President.

Total 33

Nays: Arthun, Brenden, Buttrey, Caferro, Gallus, Hinkle, Jones, Kaufmann, Keane, Murphy, Priest, Ripley, Sonju, Stewart-Peregoy, Tutvedt, Vincent, Windy Boy.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 54 passed 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,

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Williams, Windy Boy.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 134 passed as follows:

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

Total 30

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

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 184 passed as follows:

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

Total 38

Nays: Augare, Caferro, Erickson, Gillan, Kaufmann, Keane, Moss, Steinbeisser, Stewart-Peregoy, Williams, Windy Boy, Zinke.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 229 passed as follows:

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

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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 267 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, Windy Boy, Wittich, Zinke, Mr. President.
Total 49

Nays: Williams.
Total 1

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., Friday, February 18, 2011. Motion carried.
Senate adjourned at 3:09 a.m.

MARILYN MILLER
Secretary of the Senate

JIM PETERSON
President of the Senate