

**SENATE JOURNAL  
62<sup>ND</sup> LEGISLATURE  
FORTY-NINTH LEGISLATIVE DAY**

Helena, Montana  
March 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.

**BILLS AND JOURNALS:**

3/4/2011

Correctly printed: **SB 244, SB 266, HB 38, HB 39, HB 58, HB 65, HB 76, HB 97, HB 101, HB 156, HB 263.**

Correctly engrossed: **HB 42.**

**REPORTS OF STANDING COMMITTEES**

**BUSINESS, LABOR, AND ECONOMIC AFFAIRS** (Balyeat, Chairman):

3/4/2011

**HB 17**, be concurred in. Report adopted.

**HB 63**, be concurred in. Report adopted.

**HB 110**, be amended as follows:

1. Page 9, line 11.

**Following:** "business"

**Insert:** "as required by 39-71-417(4)"

And, as amended, be concurred in. Report adopted.

**HB 127**, be concurred in. Report adopted.

**HB 268**, be concurred in. Report adopted.

**HB 307**, be concurred in. Report adopted.

**HB 359**, be concurred in. Report adopted.

**FISH AND GAME** (Brenden, Chairman):

3/4/2011

**HB 47**, be amended as follows:

1. Title, line 6.

**Strike:** "DAY"

**Insert:** "WEEKEND"

2. Page 1, line 30.

**Strike:** "the first Saturday of June"

**Insert:** "Father's Day weekend"

3. Page 2, line 2.

**Strike:** "day"

**Insert:** "weekend"

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4. Page 2.

**Following:** line 2

**Insert:** "COORDINATION SECTION. Section 2. Coordination instruction. If both Senate Bill No. 124 and [this act] are passed and approved, then [sections 1 and 4 of this act] are void and [this act] must read as follows:

NEW SECTION. Section 1. Free fishing weekend. Each year on Father's Day weekend, a person may fish for any fish within this state without obtaining a fishing license pursuant to this part as long as the person does so in accordance with any other law or regulation of the department in effect on that weekend.

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 87, chapter 2, part 3, and the provisions of Title 87, chapter 2, part 3, apply to [section 1].

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval."

**Insert:** "COORDINATION SECTION. Section 3. Coordination instruction. If both Senate Bill No. 124 and [this act] are passed and approved, then [section 22] of Senate Bill No. 124 must read as follows:

NEW SECTION. Section 22. Hunting, fishing, or trapping without a license. (1) Except as provided in [section 1 of House Bill No. 47] and subsection (2) of this section, a person may not:

(a) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess within this state any game animal, game bird, fur-bearing animal, game fish, or parts of those animals or birds except as provided by law or as provided by the department;

(b) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish, except at the places and during the periods and in the manner established by law or as prescribed by the department;

(c) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or parts of fur-bearing animals without first having obtained a proper and valid license or permit from the department to do so;

(d) trap or attempt to trap predatory animals or nongame wildlife without a license, as prescribed in 87-2-603, if that person is not a resident; or

(e) hunt migratory game birds without first having obtained a valid migratory game bird license from the department if the person is 16 years of age or older.

(2) The provisions of this section do not require a person who accompanies a licensed disabled hunter, as authorized under 87-2-803(4), to be licensed in order to kill or attempt to kill a game animal that has been wounded by a disabled hunter when the disabled hunter is unable to pursue and kill the wounded game animal. However, the person must meet the qualifications for a license in the person's state of residence.

(3) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt,

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fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A person convicted of hunting without a license may be subject to the additional penalties provided in [sections 63 and 64].

(5) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].""

**Renumber:** subsequent sections

And, as amended, be concurred in. Report adopted.

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

3/3/2011

**HB 187**, be amended as follows:

1. Page 1, line 12 through 14.

**Strike:** "W-BEAM" on line 12 through "MATERIALS" on line 14

**Insert:** "guardrail posts, fenceposts, and signposts when appropriate and when the cost of wooden materials is less than or equal to the cost of other materials"

2. Page 1, line 19 through line 20.

**Strike:** "W-BEAM" on line 19 through "MATERIALS" on line 20

**Insert:** "guardrail posts, fenceposts, and signposts when appropriate and when the cost of wooden materials is less than or equal to the cost of other materials"

3. Page 1, line 26 through line 28.

**Strike:** "W-BEAM" on line 26 through "MATERIALS" on line 28

**Insert:** "guardrail posts, fenceposts, signposts, and decking when appropriate and when the cost of wooden materials is less than or equal to the cost of other materials"

And, as amended, be concurred in. Report adopted.

**HB 210**, be concurred in. Report adopted.

**JUDICIARY** (Murphy, Chairman):

3/4/2011

**HB 71**, be concurred in. Report adopted.

**HB 96**, be concurred in. Report adopted.

**HB 106**, be concurred in. Report adopted.

**HB 114**, be concurred in. Report adopted.

**TAXATION** (Tutvedt, Chairman):

3/4/2011

**SB 261**, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

**Following:** "MEET" on line 6

**Strike:** remainder of line 6 through "TO" on line 7

**Insert:** "FOR NO MORE THAN"

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**Following:** "80" on line 7  
**Strike:** remainder of line 7

2. Title, line 8.  
**Following:** "DAYS"  
**Strike:** "THAT" through "SESSIONS"

3. Title, line 9 through line 10.  
**Following:** "PERIOD"  
**Insert:** "IN ANNUAL SESSIONS"  
**Following:** ";"  
**Strike:** remainder of line 9 through "SESSION;" on line 10

4. Page 1, line 17.  
**Following:** "session."  
**Insert:** "The legislature shall meet in annual sessions as provided by law."

5. Page 1, line 18 through line 26.  
**Strike:** line 18 through line 26 in their entirety  
**Renumber:** subsequent subsection

6. Page 2, line 1.  
**Strike:** "budget"  
**Strike:** "and regular sessions"

7. Page 2, line 11 and line 12.  
**Following:** "FOR"  
**Strike:** remainder of line 11 through "years" on line 12  
**Insert:** "reducing total legislative days from 90 to 80 to be split between annual sessions as provided by law"

8. Page 2, line 13 and line 14.  
**Following:** "AGAINST"  
**Strike:** remainder of line 13 through "years" on line 14  
**Insert:** "reducing total legislative days from 90 to 80 to be split between annual sessions as provided by law"

And, as amended, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

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

3/3/2011

**HB 116**, introduced by Ingraham  
**HB 122**, introduced by Malek

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**HB 135**, introduced by Squires

**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 Caferro in the chair.

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

**SB 296** - Senator Tutvedt moved **SB 296** 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 379** - Senator Olson moved **SB 379** do pass. Motion carried as follows:

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

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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**SPECIAL ORDERS OF THE DAY**

Terry and Judy Fosbury performed three songs on the guitar and fiddle.

**SECOND READING (Cont'd)**

**SB 383** - Senator Jones moved **SB 383** do pass. Motion **failed** as follows:

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

Total 21

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

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 383** - Senator C. Williams moved **SB 383** be **indefinitely postponed**. Motion carried as follows:

Yeas: Augare, Blewett, Branae, Brown, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jent, Kaufmann, Keane, Larsen, Moss, Mowbray, Murphy, Olson, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy, Wittich, Zinke.

Total 31

Nays: Arthun, Balyeat, Barrett, Brenden, Buttrey, Jackson, Jones, Lake, Lewis, Moore, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HB 44** - Senator Facey moved **HB 44** be concurred in. 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

**HB 57** - Senator Tropila moved **HB 57** be concurred in. 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, Mr. President.  
Total 48

Nays: Wittich, Zinke.  
Total 2

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**HB 84** - Senator Facey moved **HB 84** be concurred in. Motion carried as follows:  
Yeas: 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 49

Nays: Arthun.  
Total 1

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

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**HJR 4** - Senator Ripley moved **HJR 4** be concurred in. Motion carried as follows:

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

Total 32

Nays: Blewett, Branae, Caferro, Erickson, Facey, Gallus, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Zinke.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HJR 5** - Senator Murphy moved **HJR 5** be concurred in. 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

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



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Nays: Williams.

Total 1

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:

**HB 19** concurred in 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 244** passed as follows:

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

Total 26

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

Total 24

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

**SB 266** passed as follows:

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

Total 34

Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Tropila, Van Dyk, Williams, Windy Boy.

Total 16

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 8:00 a.m., Saturday, March 5, 2011. Motion carried.

Senate adjourned at 2:38 p.m.

MARILYN MILLER  
Secretary of the Senate

JIM PETERSON  
President of the Senate