

**SENATE JOURNAL
62ND LEGISLATURE
SIXTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
March 26, 2011

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Peterson presiding. Invocation by Chaplain Keith Johnson. Pledge of Allegiance to the Flag. Roll Call. All members present, except Senators Priest, Sonju, and Stewart-Peregoy, excused. Quorum present.

Senator Williams announced the Democrats would caucus.

Senator Essmann announced the Republicans would caucus

Senate in recess.

Senate reconvened.

Senator Stewart-Peregoy present.

BILLS AND JOURNALS:

3/26/2011

Correctly printed: **SB 129, SB 157, SB 253, SB 322, SB 371, SB 372, SB 409, SB 412, SB 415, SB 417, SB 420, SB 424, SJR 18, SJR 20, SR 3, HB 131, HB 166, HB 271, HB 277, HB 291, HB 342, HB 416, HB 421, HB 508, HB 538, HB 542, HB 547.**

Correctly engrossed: **SB 187, SB 348, SB 359, SB 390, SB 400, SB 410, SJR 19, HB 132, HB 249, HB 265, HB 334, HB 405, HB 525.**

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 129 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, Vuckovich, Walker, Wittich, 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, Wanzenried, Williams, Windy Boy, Zinke.

Total 22

Paired: Priest, Sonju, Aye; Augare, Gillan, No.

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 253 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, Williams, Windy Boy.

Total 22

Paired: Priest, Sonju, Aye; Augare, Gillan, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 319 passed as follows:

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

Total 43

Nays: Hinkle, Hutton, Vincent, Walker, Wittich.

Total 5

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

SB 322 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,

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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

Paired: Priest, Sonju, Aye; Augare, Gillan, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 371 passed as follows:

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

Total 39

Nays: Branae, Erickson, Hawks, Kaufmann, Larsen, Moss, Stewart-Peregoy, Williams, Windy Boy.

Total 9

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

SB 372 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, Williams, Windy Boy.

Total 22

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Paired: Priest, Sonju, Aye; Augare, Gillan, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 409 passed as follows:

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

Total 44

Nays: Hawks, Kaufmann, Moss, Stewart-Peregoy.

Total 4

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 131 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, Shockley, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Wittich, Mr. President.

Total 44

Nays: Ripley, Steinbeisser, Walker, Zinke.

Total 4

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 166 concurred in as follows:

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

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Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Wittich, Zinke, Mr. President.

Total 46

Nays: Essmann, Windy Boy.

Total 2

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 271 concurred in as follows:

Yeas: Arthun, Balyeat, Barrett, Blewett, Brenden, Brown, Buttrey, Essmann, Gillan, Hamlett, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Shockley, Steinbeisser, Tutvedt, Van Dyk, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 29

Nays: Augare, Branae, Caferro, Erickson, Facey, Gallus, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Ripley, Stewart-Peregoy, Tropila, Vuckovich, Wanzenried, Williams, Windy Boy.

Total 19

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 277 concurred in as follows:

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

Total 38

Nays: Balyeat, Branae, Facey, Jackson, Moore, Ripley, Shockley, Steinbeisser, Vincent, Wittich.

Total 10

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

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HB 291 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, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Lake, Ripley, Vincent, Walker, Wittich.

Total 5

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 342 concurred in as follows:

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

Total 28

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

Total 20

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 538 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

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Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 542 concurred in as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, 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, Moss, Mowbray, Murphy, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.

Total 24

Paired: Priest, Sonju, Aye; Augare, Gillan, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 575 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, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 47

Nays: Larsen.

Total 1

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

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MESSAGES FROM THE GOVERNOR

March 25, 2011

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

Dear Senator Peterson:

Please be informed that I have signed **Senate Bill 203** sponsored by Senator Zinke, **Senate Bill 211** sponsored by Senator Hutton, **Senate Bill 256** sponsored by Senator Gillan, **Senate Bill 258** sponsored by Senator Buttrey, **Senate Bill 289** sponsored by Senator Zinke, and **Senate Bill 335** sponsored by Senator Shockley on March 25, 2011.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/25/2011

HB 140, introduced by Hiner
HB 209, introduced by Washburn
HB 243, introduced by Kary
HB 283, introduced by Bangerter
HB 296, introduced by Sesso
HB 377, introduced by Warburton
HB 423, introduced by Belcourt
HB 502, introduced by Hunter
HB 567, introduced by Reichner
HB 585, introduced by G. Bennett
HB 615, introduced by K. Williams
HB 621, introduced by Ankney

Senate amendments to House bills concurred in: 3/25/2011

HB 49, introduced by Hands
HB 110, introduced by Welborn
HB 439, introduced by Hollenbaugh, 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:

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3/25/2011

Yeas - 72
Nays - 25

MOTIONS

Senator Hamlett moved that **SB 82** be taken from Highways and Transportation and brought before the Committee of the Whole and placed on second reading on Monday, March 28, 2011. Motion **failed** as follows:

Yeas: Blewett, Branae, Caferro, Erickson, Facey, Gillan, Hamlett, Hawks, Jackson, Jent, Kaufmann, Larsen, Moss, Shockley, Tropila, Van Dyk, Vuckovich, Walker, Wanzenried, Williams, Windy Boy.

Total 21

Nays: Arthun, Augare, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Gallus, Hinkle, Hutton, Jones, Keane, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Ripley, Steinbeisser, Stewart-Peregoy, Tutvedt, Vincent, Wittich, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

Senator Gallus rose on a point of parliamentary procedure and stated a motion to take a bill from the table is a non-debatable motion. President Peterson clarified the rule.

Senator Hamlett moved that **SB 265** be taken from Taxation and brought before the Committee of the Whole and placed on second reading on Monday, March 28, 2011. Motion **failed** as follows:

Yeas: Augare, Barrett, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Murphy, Shockley, Tropila, Vuckovich, Wanzenried, Williams, Windy Boy.

Total 23

Nays: Arthun, Balyeat, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Olson, Ripley, Steinbeisser, Stewart-Peregoy, Tutvedt, Van Dyk, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

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**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 Kaufmann in the chair.

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

HB 318 - Senator Essmann moved consideration of **HB 318** and **HB 566** be passed for the day. Motion carried.

HB 430 - Senator Hawks moved **HB 430** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Priest, Sonju.
Total 2

HB 498 - Senator Steinbeisser moved **HB 498** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Priest, Sonju.
Total 2

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HB 548 - Senator Hinkle moved **HB 548** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 593 - Senator Walker moved **HB 593** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

SB 94 - Senator Erickson moved **SB 94** do pass. Motion carried as follows:

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

Total 39

Nays: Balyeat, Brenden, Hinkle, Hutton, Murphy, Ripley, Walker, Wittich, Zinke.

Total 9

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Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

SB 382 - Senator Gillan moved **SB 382** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

SB 358 - Senator Buttrey moved consideration of **SB 358** be placed below HB 297 on the second reading board. Motion carried.

SB 413 - Senator Balyeat moved **SB 413** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

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Senator Gallus rose on a point of parliamentary procedure regarding absent votes recorded for Senator Jent and Senator Steinbeisser on SB 382. President Peterson clarified the absent Senators could make motions to have their votes recorded.

HB 12 - Senator Jent moved **HB 12** be concurred in. Motion carried as follows:

Yeas: Augare, Balyeat, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Shockley, Tropila, Van Dyk, Vincent, Walker, Wanzenried, Williams, Wittich, Mr. President.
Total 35

Nays: Arthun, Barrett, Brenden, Gallus, Jones, Kaufmann, Ripley, Steinbeisser, Stewart-Peregoy, Tutvedt, Vuckovich, Windy Boy, Zinke.
Total 13

Absent or not voting: None.
Total 0

Excused: Priest, Sonju.
Total 2

HB 30 - Senator Hutton moved **HB 30** be concurred in. Motion carried as follows:
Yeas: Arthun, Balyeat, Barrett, Branae, Brenden, Brown, Caferro, Essmann, Facey, Gallus, Hamlett, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Ripley, Shockley, Steinbeisser, Tropila, Tutvedt, Vincent, Vuckovich, Walker, Wittich, Zinke, Mr. President.
Total 36

Nays: Augare, Blewett, Buttrey, Erickson, Gillan, Hawks, Kaufmann, Stewart-Peregoy, Van Dyk, Wanzenried, Williams, Windy Boy.
Total 12

Absent or not voting: None.
Total 0

Excused: Priest, Sonju.
Total 2

HB 41 - Senator Moss moved **HB 41** 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, Moss, Mowbray, Murphy, Olson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

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Total 46

Nays: Moore, Wittich.

Total 2

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 69 - Senator Jent moved **HB 69** be concurred in. Motion carried as follows:

Yeas: Augare, Blewett, Branae, Brown, Buttrey, Erickson, Essmann, Facey, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jent, Lake, Larsen, Moore, Moss, Murphy, Olson, Shockley, Tropila, Tutvedt, Van Dyk, Vincent, Walker, Wanzenried, Williams, Mr. President.

Total 29

Nays: Arthun, Balyeat, Barrett, Brenden, Caferro, Gallus, Jackson, Jones, Kaufmann, Keane, Lewis, Mowbray, Ripley, Steinbeisser, Stewart-Peregoy, Vuckovich, Windy Boy, Wittich, Zinke.

Total 19

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 91 - Senator Gillan moved **HB 91** be concurred in. Motion carried as follows:

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

Total 40

Nays: Brenden, Hinkle, Hutton, Ripley, Steinbeisser, Vincent, Walker, Wittich.

Total 8

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 102 - Senator Hinkle moved **HB 102** be concurred in. Motion carried as follows:

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

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

Total 45

Nays: Brenden, Jones, Ripley.

Total 3

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 107 - Senator Gillan moved **HB 107** be concurred in. Motion carried as follows:

Yeas: Arthun, 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 46

Nays: Augare, Walker.

Total 2

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 123 - Senator Gallus moved **HB 123** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: Priest, Sonju.

Total 2

HB 135 - Senator Balyeat moved **HB 135** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 185 - Senator Hutton moved **HB 185** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Windy Boy, Wittich, Zinke, Mr. President.

Total 47

Nays: Williams.

Total 1

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

Senator Essmann moved the committee rise, report progress, and beg leave to sit again.

Motion carried. Committee arose. Senate resumed. President Peterson in the chair.

Chairman Kaufmann 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich,

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

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

Senate in recess.

Senate reconvened.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Murphy, Chairman):

3/25/2011

SB 423, introduced bill, be amended as follows:

1. Title, page 1, line 11.

Following: "45-9-127,"

Insert: "45-9-203,"

2. Title, page 1, line 12.

Following: "45-10-107,"

Insert: "50-46-201, 50-46-202,"

Following: "69-1-401, MCA;"

Insert: "REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA;"

3. Page 3, line 27.

Strike: "person"

Insert: "physician"

4. Page 4, line 11.

Following: "means"

Insert: ", at a minimum"

5. Page 4, line 12.

Following: "physician"

Insert: "or referral physician"

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6. Page 4, line 13.

Following: "physician"

Insert: "or referral physician"

7. Page 4, line 22.

Strike: "a referral physician" through "referral physician"

Insert: "the second physician who"

8. Page 4, line 23.

Following: "certification"

Insert: "for a minor or a qualifying patient whose debilitating medical condition is severe chronic pain"

9. Page 5, line 28.

Following: "family medicine"

Insert: "or internal medicine"

Strike: "gynecology"

Insert: "ophthalmology"

10. Page 8, line 13.

Following: "individual is"

Insert: "in the custody of or"

11. Page 8, line 14.

Following: "corrections"

Insert: ", a district court, a court of limited jurisdiction,"

12. Page 9, line 24.

Following: "physician's"

Insert: "business"

Following: "address"

Insert: ", if any"

13. Page 9, line 29.

Following: "has a"

Insert: "bona fide"

14. Page 10, line 25.

Following: "(4)"

Insert: "(a)"

15. Page 10, line 29.

Insert: "(b) The physician whose practices are under review shall pay the costs of the board's review activities."

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16. Page 11, line 4.

Following: "(2)"

Strike: "A violation of"

Insert: "A registered cardholder who violates"

Strike: "\$10,000"

Insert: "\$500"

17. Page 11, line 5.

Strike: "1 year"

Insert: "6 months"

18. Page 13, line 15.

Following: "landlord's"

Insert: "written"

19. Page 13, line 18.

Following: "marijuana"

Insert: ". Except as provided in subsection (2)(b), the cardholder shall keep the marijuana"

20. Page 13, line 19.

Following: "1 ounce"

Insert: "of the cardholder's usable marijuana"

21. Page 14, line 16.

Strike: "\$1,000"

Insert: "\$500"

22. Page 14, line 18.

Strike: "An"

Insert: "Except as provided in [section 14] and subject to the provisions of subsection (7), an"

23. Page 15, line 19.

Following: line 18

Insert: "(7) The provisions of subsection (1) relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card, license, or registration prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card, license, or registration after an arrest or the filing of a criminal charge."

24. Page 16, line 20.

Strike: "or private health insurer"

Insert: ", a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116"

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25. Page 16, line 22.

Following: "marijuana"

Strike: "in any workplace"

26. Page 16.

Following: line 22

Insert: "(5) Nothing in this chapter may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the medical use of marijuana; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

Renumber: subsequent subsections

27. Page 17, line 12.

Strike: "\$1,000"

Insert: "\$500"

Strike: "1 year"

Insert: "6 months"

28. Page 18.

Following: line 8

Insert: "(1)(a) The state licensing authority shall determine the number of licenses to be issued for therapeutic marijuana growers, therapeutic marijuana-infused products manufacturers, and couriers based upon an initial review and periodic reviews of the number of registered cardholders who have indicated to the department that they plan to obtain therapeutic marijuana from a grower or manufacturer.

(b) Based upon its initial review and periodic reviews of the number of registered cardholders and the resulting need for therapeutic marijuana, the state licensing authority may:

(i) issue temporary licenses; and

(ii) reduce the number of plants, seedlings, cuttings, and clones and the inventory of usable marijuana a grower may cultivate, manufacture, or possess."

Renumber: subsequent subsections

29. Page 21, line 27.

Following: "registrations for"

Insert: "a laboratory as allowed under [section 19] and for"

30. Page 27, line 10.

Following: "individual"

Insert: "who is in the custody of or"

Following: "corrections"

Insert: ", a district court, a court of limited jurisdiction,"

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31. Page 44, line 25.

Insert: "Section 51. Section 45-9-203, MCA, is amended to read:

"45-9-203. Surrender of license or registry identification card. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to [section 4] for the therapeutic use of marijuana is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 6]."

Renumber: subsequent sections

32. Page 45, line 10.

Insert: "Section 54. Section 50-46-201, MCA, is amended to read:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued pursuant to ~~50-46-103~~ before the effective date of [section 61(4)] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

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(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

Insert: "Section 55. Section 50-46-202, MCA, is amended to read:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty. (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card.

~~(1)(2)~~ (2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)(3)~~ (3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Renumber: subsequent sections

33. Page 46, line 22.

Strike: "department of revenue"

Insert: "state licensing authority as defined in [section 2]"

34. Page 47, line 16.

Insert: "NEW SECTION. Section 60. Repealer. The following sections of the Montana Code Annotated are repealed:

50-46-101. Short title.

50-46-102. Definitions.

50-46-103. Procedures -- minors -- confidentiality -- report to legislature.

50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.

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- 50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.
- 50-46-205. Limitations of Medical Marijuana Act.
- 50-46-206. Affirmative defense.
- 50-46-207. Fraudulent representation of medical use of marijuana -- penalty.
- 50-46-210. Rulemaking -- fees."

Renumber: subsequent sections

35. Page 48, line 3.

Strike: "September 30"

Insert: "October 1"

36. Page 48, line 5.

Following: ", and"

Strike: "2 ounces"

Insert: "the following amounts"

Following: "residence"

Insert: ":

- (a) 8 ounces from July 1 through July 31;
- (b) 6 ounces from August 1 through August 31;
- (c) 4 ounces from September 1 through September 30; and
- (d) 2 ounces on or after October 1"

37. Page 48, line 28 and 29.

Strike: section 59 in its entirety

38. Page 48, line 30.

Insert: "NEW SECTION. Section 63. Instructions to code commissioner.

(1)Wherever a reference to "medical use of marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "therapeutic use of marijuana".

(2) Wherever a reference to "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "therapeutic marijuana".

(3) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2] of Senate Bill No. 423.

(4) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 14] of Senate Bill No. 423."

Renumber: subsequent sections

39. Page 49, line 8.

Following: "4]"

Insert: " and, except as provided in subsection (4), [section 60]"

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Strike: "is"

Insert: "are"

40. Page 49, line 9.

Strike: "[Section 61] is"

Insert: "[Section 59], the repeal of 50-46-103 provided for in [section 60], [sections 61 and 63], and this section are"

And, as amended, do pass. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

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

SB 429, introduced by Wittich, referred to Business, Labor, and Economic Affairs.

**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 Kaufmann in the chair.

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

HB 269 - Senator Jent moved **HB 269** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 279 - Senator Augare moved **HB 279** 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,

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Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 292 - Senator Essmann moved **HB 292** be concurred in. Motion **failed** as follows:

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

Total 24

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, Wittich, Zinke.

Total 24

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 295 - Senator Lake moved **HB 295** 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, Ripley, Shockley, Steinbeisser, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Stewart-Peregoy, Wittich.

Total 2

Absent or not voting: None.

Total 0

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Excused: Priest, Sonju.

Total 2

HB 297 - Senator Jones moved **HB 297** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Wittich.

Total 1

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

SB 358 - Senator Buttrey moved **SB 358** do pass.

SB 358 - Senator Tutvedt moved **SB 358**, second reading copy, be amended as follows:

1. Title, page 1, lines 7 through 10.

Strike: "REMOVING" on line 7 through "." on line 10

2. Page 29, line 4.

Strike: "AS SPECIFIED IN SUBSECTION (2)(B)"

3. Page 29, line 5.

Following: "property,"

Insert: ", except for the university system mills levied and assessed against property,"

4. Page 29, line 8 through line 13.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

5. Page 40, line 15 through line 16.

Strike: "January" on line 15 through "2011," on line 16

Insert: "[the effective date of this act]"

Amendment adopted as follows:

Yeas: Arthun, Augare, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake,

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Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Ripley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Balyeat, Essmann, Hinkle, Shockley, Walker, Wittich.

Total 6

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

SB 358 - Senator Buttrey moved **SB 358**, as amended, do pass. Motion carried as follows:

Yeas: Augare, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Kaufmann, Keane, Lake, Larsen, Moss, Mowbray, Olson, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Mr. President.

Total 30

Nays: Arthun, Balyeat, Barrett, Brenden, Essmann, Hinkle, Jones, Lewis, Moore, Murphy, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Walker, Windy Boy, Wittich, Zinke.

Total 18

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 310 - Senator Shockley moved **HB 310** be concurred in. Motion carried as follows:

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

Total 39

Nays: Augare, Blewett, Erickson, Essmann, Gillan, Kaufmann, Van Dyk, Vuckovich, Windy Boy.

Total 9

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

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HB 391 - Senator Olson moved **HB 391** be concurred in. Motion carried as follows:

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

Total 39

Nays: Caferro, Erickson, Facey, Hawks, Kaufmann, Larsen, Tropila, Wanzenried, Williams.

Total 9

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 431 - Senator Shockley moved **HB 431** be concurred in. Motion **failed** as follows:

Yeas: Arthun, Balyeat, Brenden, Brown, Buttrey, Essmann, Hawks, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Olson, Ripley, Shockley, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 22

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

Total 26

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 431 - Senator Williams moved **HB 431** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Augare, Barrett, 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 23

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

Total 25

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Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 480 - Senator Blewett moved consideration of **HB 480** be passed for the day. Motion carried.

HB 487 - Senator Facey moved **HB 487** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Wittich.

Total 1

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 522 - Senator Mowbray moved **HB 522** 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

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HB 594 - Senator Mowbray moved **HB 594** 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, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moss, Mowbray, Murphy, Olson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Hinkle, Moore, Tutvedt, Walker, Wittich.

Total 5

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

Senator Essmann moved the committee rise, report progress, and beg leave to sit again.

Motion carried. Committee arose. Senate resumed. President Peterson in the chair.

Chairman Kaufmann 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

Senator Essmann announced the Senate would recess for caucuses.

Senate in recess

Senate reconvened.

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**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 Kaufmann in the chair.

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

HB 334 - Senator Tutvedt moved **HB 334** be concurred in.

HB 334 - Senator Wanzenried moved **HB 334**, second reading copy, be amended as follows:

1. Page 23, line 21.

Strike: "A CLASS 2 OR GREATER CLASS OF"

Insert: "an"

2. Page 23, line 22.

Strike: "AS CONVERTED TO THE WHOLE PERSON"

Amendment **not** adopted as follows:

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

Total 22

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

Total 26

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

HB 334 - Thereupon, the Senate reverted to the original motion of Senator Tutvedt which carried as follows:

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

Total 43

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Nays: Erickson, Gallus, Kaufmann, Stewart-Peregoy, Windy Boy.

Total 5

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

Senator Essmann moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Kaufmann moved the Committee of the Whole report be adopted. Report adopted 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, Ripley, Shockley, Steinbeisser, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Wittich, Zinke, Mr. President.

Total 44

Nays: Erickson, Kaufmann, Stewart-Peregoy, Windy Boy.

Total 4

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

MOTIONS

Senator Zinke moved that **HB 161** be taken from Judiciary and brought before the Committee of the Whole on Wednesday, March 30, 2011.

Senator Wanzenried made a substitute motion to table Senator Zinke's motion. Motion **failed** as follows:

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

Total 24

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

Total 24

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Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

Thereupon, the original motion of Senator Zinke failed as follows:

Yeas: Arthun, Barrett, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jackson, Jent, Jones, Lake, Moore, Mowbray, Olson, Ripley, Shockley, Steinbeisser, Tutvedt, Walker, Wittich, Zinke, Mr. President.

Total 23

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

Total 25

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

Senator Jackson moved to reconsider action on **HB 179** and place on second reading on Wednesday, March 30, 2011. Motion **failed** as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Mowbray, Olson, Steinbeisser, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 21

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

Total 27

Absent or not voting: None.

Total 0

Excused: Priest, Sonju.

Total 2

Senator Steinbeisser moved to change his vote on **SB 382** from Not Voting to Yes. Without objection, so ordered.

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Senator Jent moved to change his vote on **SB 382** from Not Voting to Yes. Without objection, so ordered.

Senator Hamlett moved to change his vote on **amendment HB0334001** from No to Yes. Without objection, so ordered.

SPECIAL ORDERS OF THE DAY

Senator Brown thanked the pages for their work during the week of March 21-26, 2011.

Mr. President, I move that the following undersigned name be **ADDED** as sponsor to **SB 326**
Motion carried.

SB 326 (Larsen Chief Sponsor)
Representative Furey.

Senator Williams inquired about the Senate's plan to complete **HB 2** in one day. Senator Peterson explained the proposed schedule.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 10:00 a.m., Monday, March 28, 2011. Motion carried.

Senate adjourned at 12:51 p.m.

MARILYN MILLER
Secretary of the Senate

JIM PETERSON
President of the Senate