

**SENATE JOURNAL
62ND LEGISLATURE
SEVENTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
April 6, 2011

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Peterson presiding. Invocation by Chaplain Keith Johnson. Pledge of Allegiance to the Flag. Roll Call. All members present, except Senators Gillan, Olson, and Priest, excused. Quorum present.

Senator Gillan present.

Senator Priest present.

BILLS AND JOURNALS:

4/6/2011

Correctly printed: **SR 7, SR 8, SR 9, SR 10, SR 11, SR 12, HB 8, HB 51, HB 83, HB 165, HB 196, HB 411, HB 551, HB 574, HB 602.**

Correctly engrossed: **HB 4, HB 5, HB 6, HB 9, HB 10, HB 351, HB 375, HB 587, HB 613, HB 619.**

Correctly enrolled: **SB 28, SB 36, SB 43, SB 52, SB 120, SB 146, SB 174, SB 222, SB 288, SB 298, SB 307, SB 337, SB 352, SB 357.**

Examined by the sponsor and found to be correct: **SB 28, SB 36, SB 43, SB 52, SB 120, SB 146, SB 174, SB 222, SB 288, SB 298, SB 352, SB 355, SB 357.**

Signed by the Speaker at 4:05 a.m., April 5, 2011: **SB 3, SB 5, SB 55, SB 159, SB 208, SB 210, SB 305, SB 356, SJR 10.**

Signed by the President at 3:20 p.m., April 5, 2011: **SB 3, SB 5, SB 55, SB 159, SB 208, SB 210, SB 305, SB 356, SJR 3, SJR 10.**

Signed by the Secretary of the Senate at 10:00 a.m., April 5, 2011: **SB 3, SB 5, SB 55, SB 159, SB 208, SB 210, SB 305, SB 356, SJR 10, SR 3.**

Delivered to the Governor for approval at 9:45 a.m., April 6, 2011: **SB 3, SB 5, SB 55, SB 159, SB 208, SB 210, SB 305, SB 356.**

Delivered to the Secretary of State at 9:47 a.m., April 6, 2011: **SJR 10, SR 3.**

REPORTS OF STANDING COMMITTEES

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

4/6/2011

SR 17, be adopted. **Preliminary** report adopted.

SR 19, be adopted. Report adopted.

HR 615, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Zinke, Chairman):

4/5/2011

SR 13, be adopted. Report adopted.

FINANCE AND CLAIMS (Lewis, Chairman):

4/5/2011

HB 604, be amended as follows:

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1. Title, page 1, line 4.

Following: "AUTHORIZING"

Strike: "A"

2. Title, page 1, line 5.

Strike: "TRANSFER"

Insert: "TRANSFERS"

3. Title, page 1, line 6.

Following: "ACCOUNT"

Insert: "AND THE OLDER MONTANANS TRUST FUND"

4. Title, page 1, line 11.

Following: "FUND"

Insert: "AND THE STATE COMPENSATION INSURANCE FUND"

Following: "SECTIONS"

Insert: "39-71-2311, 39-71-2316, 39-71-2320, 39-71-2321, 39-71-2322, 39-71-2323, 39-71-2351, 39-71-2352, 52-3-115,"

5. Title, page 1, line 12.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

6. Page 1, line 16 through line 20.

Following: "(1)" on line 16

Strike: remainder of line 16 through "(2)" on line 20

Renumber: subsequent subsections

7. Page 1, line 25.

Strike: "\$8"

Insert: "\$8.5"

8. Page 1.

Following: line 29

Insert: "NEW SECTION. Section 2. Transfer of funds to general fund. (1) By August 15, 2011, the state treasurer shall transfer \$1.85 million from the telecommunications services and specialized telecommunications equipment account provided for in 53-19-310 to the general fund. (2) The state treasurer shall transfer \$9,166,502 from the older Montanans trust fund, provided for in 52-3-115, to the general fund for the biennium beginning July 1, 2011, for the purpose of funding the prescription drug plus discount program provided for in Title 53, chapter 6, part 10, and for providing grants to the area agencies on aging and funds for tobacco prevention and cessation."

Renumber: subsequent sections

9. Page 2, lines 1 through 2.

Strike: "the lesser" on line 1 through "\$50" on line 2

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Insert: "\$13"

10. Page 2.

Following: line 2

Insert: "(2) (a) The state fund shall, by August 12, 2012, transfer from its surplus to the old state fund account the amount of the outstanding liability determined in subsection (2)(b) from either of the following or a combination of both:

(i) investment earnings and interest on premiums paid between fiscal year 1999 and fiscal year 2003; or

(ii) the amount of surplus as of June 30, 2012, that is greater than a reserve-to-surplus ratio of 2.5 to 1.

(b) The governor's office of budget and program planning shall determine the outstanding liability of the old state fund account as reported in the financial statements as of June 30, 2012, and inform the state fund of the amount to be transferred."

Renumber: subsequent subsection

11. Page 2.

Following: line 5

Insert: "**Section 4.** Section 39-71-2311, MCA, is amended to read:

"39-71-2311. Intent and purpose of plan -- expense constant defined. (1) It is the intent and purpose of the state fund to allow employers an option to insure their liability for workers' compensation and occupational disease coverage with the state fund. The state fund must be neither more nor less than self-supporting. Premium rates must be set at least annually at a level sufficient to ensure the adequate funding of the insurance program, including the costs of administration, benefits, and adequate reserves, during and at the end of the period for which the rates will be in effect. In determining premium rates, the state fund shall make every effort to adequately predict future costs. When the costs of a factor influencing rates are unclear and difficult to predict, the state fund shall use a prediction calculated to be more than likely to cover those costs rather than less than likely to cover those costs. The prediction must take into account the goal of pooling risk and may not place an undue burden on employers that are not eligible for the tier with the lowest-rated premium for workers' compensation purposes.

(2) Unnecessary surpluses that are created by the imposition of premiums found to have been set higher than necessary because of a high estimate of the cost of a factor or factors may be refunded, subject to 39-71-2316(1)(h), by the declaration of a dividend as provided in this part. For the purpose of keeping the state fund solvent, the board of directors may implement multiple rating tiers as provided in 39-71-2330 and may assess an expense constant, a minimum premium, or both.

(3) As used in this section, "expense constant" means a premium charge applied to each workers' compensation policy to pay expenses related to issuing, servicing, maintaining, recording, and auditing the policy.""

Insert: "**Section 5.** Section 39-71-2316, MCA, is amended to read:

"39-71-2316. Powers of state fund. (1) For the purposes of carrying out its functions, the state fund may:

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(a) insure any employer for workers' compensation and occupational disease liability as the coverage is required by the laws of this state and, as part of the coverage, provide related employers' liability insurance upon approval of the board;

(b) sue and be sued;

(c) enter into contracts relating to the administration of the state fund, including claims management, servicing, and payment;

(d) collect and disburse money received;

(e) adopt classifications and charge premiums for the classifications so that the state fund will be neither more nor less than self-supporting. Premium rates for classifications may be adopted and changed only by using a process, a procedure, formulas, and factors set forth in rules adopted under Title 2, chapter 4, parts 2 through 4. After the rules have been adopted, the state fund need not follow the rulemaking provisions of Title 2, chapter 4, when changing classifications and premium rates. The contested case rights and provisions of Title 2, chapter 4, do not apply to an employer's classification or premium rate. The state fund is required to belong to a licensed workers' compensation advisory organization or a licensed workers' compensation rating organization under Title 33, chapter 16, part 4, and may use the classifications of employment adopted by the designated workers' compensation advisory organization, as provided in Title 33, chapter 16, part 10, and corresponding rates as a basis for setting its own rates. Except as provided in Title 33, chapter 16, part 10, a workers' compensation advisory organization or a licensed workers' compensation rating organization under Title 33, chapter 16, part 4, or other person may not, without first obtaining the written permission of the employer, use, sell, or distribute an employer's specific payroll or loss information, including but not limited to experience modification factors.

(f) pay the amounts determined to be due under a policy of insurance issued by the state fund;

(g) hire personnel;

(h) declare dividends if there is an excess of assets over liabilities. ~~However, dividends may not be paid until~~ adequate actuarially determined reserves are have been set aside, and the reserve-to-surplus ratio is 2.5 to 1 or better.

(i) adopt and implement one or more alternative personal leave plans pursuant to 39-71-2328;

(j) upon approval of the board, contract with licensed resident insurance producers;

(k) upon approval of the board, enter into agreements with licensed workers' compensation insurers, insurance associations, or insurance producers to provide workers' compensation coverage in other states to Montana-domiciled employers insured with the state fund;

(l) upon approval of the board, expend funds for scholarship, educational, or charitable purposes;

(m) upon approval of the board, including terms and conditions, provide employers coverage under the federal Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901, et seq., the federal Merchant Marine Act, 1920 (Jones Act), 46 U.S.C. 688, and the federal Employers' Liability Act, 45 U.S.C. 51, et seq.;

(n) perform all functions and exercise all powers of a private insurance carrier that are necessary, appropriate, or convenient for the administration of the state fund.

(2) The state fund shall include a provision in every policy of insurance issued pursuant to this part that incorporates the restriction on the use and transfer of ~~money~~ premiums collected by the state fund as provided for in 39-71-2320."

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Insert: "Section 6. Section 39-71-2320, MCA, is amended to read:

"39-71-2320. Property of state fund -- investment required -- exception. ~~At (1) Except~~ as provided in subsection (2), all premiums and other money paid to the state fund, all property and securities acquired through the use of money belonging to the state fund, and all interest and dividends earned upon money belonging to the state fund are the sole property of the state fund and must be used exclusively for the operations and obligations of the state fund. The money premiums collected by the state fund for claims for injuries occurring on or after July 1, 1990, may not be used for any other purpose and may not be transferred by the legislature to other funds or used for other programs. However, state fund money premiums and other money paid to the state fund must be invested by the board of investments provided for in 2-15-1808, and subject to the investment agreement with the board of investments and the provisions of subsection (2) of this section, the earnings on investments are the sole property of the state fund except as provided in subsection (2) of this section.

(2) A transfer by the state fund from the account for injuries occurring on or after July 1, 1990, to the account for injuries occurring before July 1, 1990, is not a transfer as described in subsection (1) if the transfer involves interest income or other money paid prior to July 1, 2003, and does not include premiums paid after July 1, 1990."

Insert: "Section 7. Section 39-71-2321, MCA, is amended to read:

"39-71-2321. What to be deposited in state fund. (1) All premiums, penalties, recoveries by subrogation, interest earned upon money belonging to the state fund, securities acquired by or through use of premiums, interest, and other money earned or recovered by the state fund, and all interest and penalties on taxes in accordance with 17-2-124 must be deposited in the state fund. Except for a transfer authorized under 39-71-2320(2) or 39-71-2352, the money must be separated into two accounts based upon whether they relate to claims for injuries resulting from accidents that occurred before July 1, 1990, or claims for injuries resulting from accidents that occur on or after that date.

(2) All funds premiums, penalties, recoveries, interest earned, and other money deposited in the state fund may be spent as provided in 17-8-101(2)(b)."

Insert: "Section 8. Section 39-71-2322, MCA, is amended to read:

"39-71-2322. Money in state fund held in trust -- disposition of funds upon repeal of chapter. The money premiums, penalties, interest, and other money earned, as listed in 39-71-2321, and coming into the state fund must be held in trust for the purpose for which the premiums and other money was were collected. If this chapter is repealed, the money is premiums, penalties, interest, and other money earned are subject to the disposition provided by the legislature repealing this chapter. In the absence of a legislative provision, distribution must be in accordance with the justice of the matter, due regard being given to obligations of compensation incurred and existing."

Insert: "Section 9. Section 39-71-2323, MCA, is amended to read:

"39-71-2323. Surplus in state fund -- payment of dividends. Subject to the provisions of 39-71-2316, if at the end of any fiscal year there exists in the state fund account created by 39-71-2321 for claims for injuries resulting from accidents that occur on or after July 1, 1990, an excess of assets over liabilities, including necessary actuarially adequate reserves set aside, and ~~an appropriate surplus a reserve-to-surplus ratio of 2.5 to 1 as determined by the board in accordance with 39-71-2330~~, and if the excess may be refunded safely as determined by the board, then the board, after consultation with the independent actuary engaged pursuant to 39-71-2330, may declare a dividend. The rules of the state fund must prescribe the manner of

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payment to those employers who have paid premiums into the state fund in excess of liabilities.""

Insert: "Section 10. Section 39-71-2351, MCA, is amended to read:

"39-71-2351. Purpose of separation of state fund liability as of July 1, 1990, and of separate funding of claims before and on or after that date. (1) An unfunded liability exists in the state fund. It has existed since at least the mid-1980s and has grown each year. There have been numerous attempts to solve the problem by legislation and other methods. These attempts have alleviated the problem somewhat, but the problem has not been solved.

(2) The legislature has determined that it is necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability. The legislature has determined that the most cost-effective and efficient way to provide a source of funding for and to ensure payment of the unfunded liability and the best way to administer the unfunded liability is to separate the liability of the state fund on the basis of whether a claim is for an injury resulting from an accident that occurred before July 1, 1990, or an accident that occurs on or after that date. The legislature also recognizes that the separation of accounts does not absolve the unfunded liability of the state fund and that through the use of accrued interest, sound business practices, and savings that may be achieved there is an opportunity to provide limited transfers to the account for injuries that occurred before July 1, 1990, to help resolve the unfunded liability.

(3) The legislature further determines that in order to prevent the creation of a new unfunded liability with respect to claims for injuries for accidents that occur on or after July 1, 1990, certain duties of the state fund should be clarified and legislative oversight of the state fund should be increased.""

Insert: "Section 11. Section 39-71-2352, MCA, is amended to read:

"39-71-2352. Separate payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990, and on or after July 1, 1990 -- spending limit -- authorizing transfer of money. (1) Premiums paid to the state fund based upon wages payable before July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Premiums paid to the state fund based upon wages payable on or after July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occur on or after July 1, 1990.

(2) The state fund shall:

(a) determine the cost of administering and paying claims for injuries resulting from accidents that occurred before July 1, 1990, and separately determine the cost of administering and paying claims for injuries resulting from accidents that occur on or after July 1, 1990;

(b) keep adequate and separate accounts of the costs determined under subsection (2)(a);
and

(c) fund administrative expenses and benefit payments for claims for injuries resulting from accidents that occurred before July 1, 1990, and claims for injuries resulting from accidents that occur on or after July 1, 1990, separately from the sources provided by law.

(3) The state fund may not spend more than \$1.25 million a year to administer claims for injuries resulting from accidents that occurred before July 1, 1990.

(4) As used in this section, "adequately funded" means the present value of:

(a) the total cost of future benefits remaining to be paid; and

(b) the cost of administering the claims.

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(5) An amount of funds in excess of the adequate funding amount established in subsection (4), based on audited financial statements adjusted for unrealized gains and losses, must be transferred to the general fund.

(6) If in any fiscal year after the old fund liability tax is terminated claims for injuries resulting from accidents that occurred before July 1, 1990, are not adequately funded, any amount necessary to pay claims from the account for injuries resulting from accidents that occurred before July 1, 1990, must be transferred to that account by the state fund, based on an adequate surplus as provided in 39-71-2323, or by the state treasurer from the general fund to the account provided for in 39-71-2324.

(7) The independent actuary engaged by the state fund pursuant to 39-71-2330 shall project the unpaid claims liability for claims for injuries resulting from accidents that occurred before July 1, 1990, each fiscal year until all claims are paid."

Insert: "Section 12. Section 52-3-115, MCA, is amended to read:

"52-3-115. (Temporary) Older Montanans trust fund. (1) There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative appropriation as provided in this section.

(2) (a) The money in the fund may be used to create new, innovative services or to expand existing services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those Montanans. The interest and income produced by the trust fund and appropriated to the department by the legislature is intended to increase services referred to in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level of appropriations for those services.

(b) As used in subsection (2)(a), the phrase "trended traditional level of appropriations" means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized, and payment amount during the past five biennial budgets.

(3) The department may accept contributions and gifts for the trust fund in money or other forms, and when accepted, the contributions and gifts must be deposited in the trust fund.

(4) Interest and income earned on money in the trust fund must be retained within the fund except as provided in this section. Until the year 2015, if assets in the fund reach the following amounts, money may be appropriated by the legislature and used in the following amounts for the programs specified in subsection (2):

(a) When the fund balance reaches \$20 million, 50% of the interest earned may be appropriated.

(b) When the fund balance reaches \$50 million, 60% of the interest earned may be appropriated.

(c) When the fund balance reaches \$100 million, 80% of the interest earned may be appropriated.

(5) On and after January 1, 2015, 90% of the interest earned on the trust fund may be appropriated for the programs specified in subsection (2).

(6) The department shall provide to the legislature a biennial report of the expenditures of the money appropriated from the older Montanans trust fund as provided in 5-11-210. (Terminates June 30, 2011--sec. 82, Ch. 489, L. 2009.)

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52-3-115. (Effective July 1, 2011) Older Montanans trust fund. (1) There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative appropriation as provided in this section.

(2) The money in the fund may be used to ~~create:~~

~~(a) fund new, innovative services or to expand existing services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those Montanans; and The interest and income produced by the trust fund and appropriated to the department by the legislature is intended to increase services referred to in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level, as used in 53-6-1201, of appropriations for those services.~~

~~(b) fund tobacco prevention and cessation activities.~~

(3) The department may accept contributions and gifts for the trust fund in money or other forms, and when accepted, the contributions and gifts must be deposited in the trust fund.

(4) Interest and income earned on money in the trust fund must be retained within the fund except as provided in this section. ~~Until the year 2015, if assets in the fund reach the following amounts, money~~ Money may be appropriated by the legislature and used in the following amounts for the programs specified in subsection (2):

~~(a) When the fund balance reaches \$20 million, 50% of the interest earned may be appropriated.~~

~~(b) When the fund balance reaches \$50 million, 60% of the interest earned may be appropriated.~~

~~(c) When the fund balance reaches \$100 million, 80% of the interest earned may be appropriated.~~

~~(5) On and after January 1, 2015, 90% of the interest earned on the trust fund may be appropriated for the programs specified in subsection (2).~~

~~(6)~~(5) The department shall provide to the legislature a biennial report of the expenditures of the money appropriated from the older Montanans trust fund as provided in 5-11-210.""

Renumber: subsequent sections

12. Page 6, line 16.

Following: "instruction."

Insert: (1)"

13. Page 6, line 18.

Strike: "1(4)"

Insert: "1(3)"

14. Page 6, line 20.

Strike: "1(4)"

Insert: "1(3)"

15. Page 6, line 21.

Insert: "If Senate Bill No. 424 and [this act] are both passed and approved, then Senate Bill No. 424 is void."

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16. Page 6.

Following: line 26

Insert: "NEW SECTION. Section 21. Termination. [Sections 2 and 12] terminate June 30, 2013."

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

FISH AND GAME (Brenden, Chairman):
HB 159, be amended as follows:

4/5/2011

1. Title, line 12.

Strike: "PROVIDING PENALTIES;"

Insert: "AND"

2. Title, line 13.

Strike: "87-1-102,"

Strike: "87-1-506,"

3. Title, line 13 through line 14.

Strike: "; AND" on line 13 through "MCA" on line 14

4. Page 2, line 19 through page 6, line 12.

Strike: section 1 in its entirety

Renumber: subsequent sections

5. Page 8, line 16.

Strike: "OR"

6. Page 8, line 17.

Following: "87-3-403"

Insert: "; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-3-401"

7. Page 10, line 24.

Strike: "OR"

8. Page 10, line 25.

Following: "87-3-403"

Insert: "; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-3-401"

9. Page 12, line 28 through page 13, line 26.

Strike: section 6 in its entirety

Renumber: subsequent sections

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10. Page 14, line 11 through line 13.

Strike: section 8 in its entirety

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

HB 363, be concurred in. Report adopted.

HB 475, be concurred in. Report adopted.

TAXATION (Tutvedt, Chairman):

4/6/2011

SJR 23, introduced joint resolution, be amended as follows:

1. Page 1, line 21 through line 22.

Strike: line 21 through line 22 in their entirety

2. Page 2, line 22 through page 3, line 6.

Following: "resources" on page 2, line 22

Insert: ";

Strike: ". The" on page 2, line 22 through "owned;" on page 3, line 6

3. Page 3, line 7 through line 8.

Strike: "(g)" on line 7

Insert: "(10)"

Following: "base" on line 7

Strike: "; and" on line 7 through "(h)" on line 8

Insert: "and"

Renumber: Subsequent subsection

And, as amended, do pass. Report adopted.

HB 444, be concurred in. Report adopted.

HB 585, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in:

4/5/2011

HB 12, introduced by Menahan

HB 69, introduced by Menahan

HB 107, introduced by Hollenbaugh

HB 125, introduced by Klock

HB 216, introduced by Miller

HB 295, introduced by Cook

HB 310, introduced by Blyton

HB 336, introduced by Menahan

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HB 469, introduced by Clark
HB 522, introduced by Kary
HB 541, introduced by Welborn
HB 552, introduced by Hale
HB 584, introduced by Mehlhoff

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/5/2011

SB 16, introduced by Brown
SB 29, introduced by Moss
SB 75, introduced by Sonju
SB 126, introduced by Larsen
SB 149, introduced by Essmann
SB 172, introduced by Lake
SB 338, introduced by Arthun
SB 389, introduced by Van Dyk

Senate joint resolution concurred in as amended and returned to the Senate for concurrence in House amendments:

4/5/2011

SJR 4, introduced by Wittich

This amended bill was returned after the deadline for General Bills. Joint Rule 40-200 requires a 2/3 vote for the bill to be considered by the receiving house.

Senate bills concurred in and returned to the Senate:

4/5/2011

SB 11, introduced by Erickson
SB 30, introduced by Wanzenried
SB 35, introduced by Hamlett
SB 68, introduced by Jent
SB 218, introduced by Steinbeisser
SB 219, introduced by Branae
SB 224, introduced by Priest
SB 237, introduced by Arthun
SB 242, introduced by Brenden
SB 266, introduced by Olson
SB 277, introduced by Moore
SB 278, introduced by Mowbray
SB 312, introduced by Vincent
SB 330, introduced by Walker

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MOTIONS

Senator Essmann moved the Senate accede to the House of Representative's request to appoint a **Free** Conference Committee on **HB 43**. Motion Carried. President Peterson appointed:
4/6/2011

Senator Moore, Chair
Senator Tutvedt
Senator Facey

Senator Essmann moved the Senate accede to the House of Representative's request to appoint a Conference Committee on **HB 525**. Motion Carried. President Peterson appointed:
4/6/2011

Senator Facey, Chair
Senator Jackson
Senator Steinbeisser

Senator Essmann moved the Senate accede to the House of Representative's request to appoint a Conference Committee on **HB 258**. Motion Carried. President Peterson appointed:
4/6/2011

Senator Mowbray, Chair
Senator Jackson
Senator Tropila

Senator Essmann moved the Senate accede to the House of Representative's request to appoint a Conference Committee on **HB 297**. Motion Carried. President Peterson appointed:
4/6/2011

Senator Shockley, Chair
Senator Jones
Senator Augare

Senator Essmann moved to appoint a **Free** Conference Committee on **SB 156** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:
4/6/2011

Senator Murphy, Chair
Senator Windy Boy
Senator Priest

Senator Essmann moved to appoint a Conference Committee on **SB 221** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:
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Senator Gillan, Chair
Senator Murphy
Senator Priest

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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 Balyeat in the chair.

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

HB 3 - Senator Zinke moved **HB 3** be concurred in. Motion carried as follows:

Yeas: Arthun, Augare, Barrett, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Priest, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 40

Nays: Balyeat, Brenden, Essmann, Hinkle, Hutton, Sonju, Vincent, Walker, Wittich.
Total 9

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

HB 4 - Senator Hamlett moved **HB 4** be concurred in.

HB 4 - Senator Hamlett moved **HB 4**, second reading copy, be amended as follows:

1. Page 2.

Following: line 3

Insert: "2011 help America vote grant FY 2011 \$48,126 Federal"

2. Page 2, line 7.

Following: "for"

Insert: "the 2011 help America vote grant,"

Following: "grant"

Strike: "and"

Insert: ", the"

3. Page 2, line 8.

Following: the first "grant"

Insert: ", "

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4. Page 12.

Following: line 12

Insert: "All remaining fiscal year 2011 federal budget amendment authority to provide statewide training on sex offender assessment, treatment, reentry, supervision, and monitoring as identified by the center for sex offender management's assessment of Montana is authorized to continue into federal fiscal year 2012."

Amendment adopted as follows:

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

Total 41

Nays: Barrett, Brenden, Hinkle, Jackson, Ripley, Sonju, Walker, Wittich.

Total 8

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

HB 4 - Senator Hamlett moved **HB 4**, as amended, be concurred in. Motion carried as follows:

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

Total 38

Nays: Balyeat, Essmann, Hinkle, Hutton, Jackson, Lake, Mowbray, Sonju, Steinbeisser, Walker, Wittich.

Total 11

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

HB 7 - Senator Keane moved **HB 7** be concurred in. Motion carried as follows:

Yeas: Arthun, Augare, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Priest, Ripley, Shockley, Steinbeisser,

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Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Balyeat, Hinkle, Lake, Sonju, Walker, Wittich.

Total 6

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

HB 15 - Senator Brown moved **HB 15** be concurred in. Motion carried 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, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Balyeat, Essmann, Hinkle, Priest, Sonju, Vincent, Walker, Wittich.

Total 8

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

HB 230 - Senator Zinke moved **HB 230** be concurred in. Motion carried as follows:

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

Total 26

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

Total 23

Absent or not voting: None.

Total 0

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Excused: Olson.

Total 1

HB 533 - Senator Brown moved **HB 533** be concurred in.

HB 533 - Senator Kaufmann moved **HB 533**, second reading copy, be amended as follows:

1. Page 2, line 1.

Following: "shall"

Insert: "conduct an appraisal,"

2. Page 2, line 3.

Strike: "giving"

Insert: "and provide"

Following: "evaluation"

Insert: "and appraisal"

3. Page 2, line 4.

Strike: line 4 in its entirety

Insert: "(b)(i) The board shall allow for a competitive bidding process."

Amendment **not** adopted as follows:

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

Total 21

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

Total 28

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

HB 533 - Thereupon, the Senate reverted to the original motion of Senator Brown which passed as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Gallus, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jones, Keane, Lake, Lewis, Moore, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tropila, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Windy Boy, Wittich, Zinke, Mr. President.

Total 35

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Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gillan, Jent, Kaufmann, Larsen, Moss, Stewart-Peregoy, Van Dyk, Williams.
Total 14

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

SB 1 - House Amendments - Senator Tutvedt moved House amendments to **SB 1** 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, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

SB 15 - House Amendments - Senator Jent moved House amendments to **SB 15** be concurred in. Motion carried as follows:

Yeas: Augare, Blewett, Branae, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Kaufmann, Keane, Lake, Larsen, Lewis, Moss, Mowbray, Murphy, Priest, Shockley, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Walker, Wanzenried, Williams, Mr. President.
Total 34

Nays: Arthun, Balyeat, Barrett, Brenden, Brown, Hinkle, Jones, Moore, Ripley, Sonju, Steinbeisser, Vincent, Windy Boy, Wittich, Zinke.
Total 15

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

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SB 42 - House Amendments - Senator Shockley moved House amendments to **SB 42** be concurred in. Motion carried as follows:

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

Total 43

Nays: Balyeat, Hinkle, Murphy, Vincent, Windy Boy, Wittich.

Total 6

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 100 - Senator Shockley moved consideration of **SB 100** be passed for the day. Motion carried.

Senator Sonju assumed the chair.

SB 198 - House Amendments - Senator Balyeat moved House amendments to **SB 198** be concurred in. Motion **failed** as follows:

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

Total 24

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

Total 25

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

Senator Balyeat reassumed the chair.

SB 347 - House Amendments - Senator Lake moved House amendments to **SB 347** be concurred in. Motion carried as follows:

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

Total 45

Nays: Kaufmann, Larsen, Wanzenried, Williams.

Total 4

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

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

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

Total 45

Nays: Balyeat, Kaufmann, Wanzenried, Windy Boy.

Total 4

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SJR 22 adopted as follows:

Yeas: Arthun, Balyeat, Blewett, Branae, Brenden, Brown, Caferro, Erickson, Essmann, Facey, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jones, Kaufmann, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Priest, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wanzenried, Williams, Wittich, Zinke, Mr. President.

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Total 37

Nays: Augare, Barrett, Buttrey, Gallus, Jent, Keane, Ripley, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Windy Boy.

Total 12

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SJR 25 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, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

HB 196 concurred in as follows:

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

Total 40

Nays: Augare, Blewett, Erickson, Essmann, Hawks, Jent, Kaufmann, Tropila, Van Dyk.

Total 9

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

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HB 602 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, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: Van Dyk.

Total 1

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 54 passed as follows:

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

Total 27

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

Total 22

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 59 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, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Priest, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 46

Nays: Lake, Ripley, Walker.

Total 3

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Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 108 passed as follows:

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

Total 42

Nays: Erickson, Jent, Kaufmann, Larsen, Van Dyk, Williams, Windy Boy.

Total 7

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 124 passed as follows:

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

Total 46

Nays: Caferro, Kaufmann, Windy Boy.

Total 3

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 135 passed as follows:

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

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Total 38

Nays: Branae, Caferro, Erickson, Gallus, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Van Dyk, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 136 passed as follows:

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

Total 45

Nays: Erickson, Kaufmann, Stewart-Peregoy, Van Dyk.

Total 4

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 138 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, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: Tropila.

Total 1

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

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SB 173 passed as follows:

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

Total 43

Nays: Blewett, Erickson, Jackson, Kaufmann, Van Dyk, Wittich.

Total 6

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 201 passed as follows:

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

Total 29

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

Total 20

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 212 passed as follows:

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

Total 30

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

Total 19

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Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 234 passed as follows:

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

Total 45

Nays: Erickson, Hawks, Kaufmann, Van Dyk.

Total 4

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 238 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, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 241 passed as follows:

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

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Total 40

Nays: Augare, Blewett, Erickson, Essmann, Facey, Stewart-Peregoy, Van Dyk, Vuckovich, Windy Boy.

Total 9

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 255 passed as follows:

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

Total 26

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.

Total 23

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 279 passed as follows:

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

Total 29

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: Olson.

Total 1

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SB 311 passed as follows:

Yeas: Arthun, Augare, 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, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Balyeat, Tropila, Wittich.

Total 3

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 327 passed as follows:

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

Total 43

Nays: Arthun, Balyeat, Hinkle, Lake, Sonju, Walker.

Total 6

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 340 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, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

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Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SB 367 passed as follows:

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

Total 46

Nays: Augare, Facey, Stewart-Peregoy.

Total 3

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SPECIAL ORDERS OF THE DAY

SR 7- Senator Barrett moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 7**. 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, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SR 8 - Senator Barrett moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 8**. Motion carried as follows:

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Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 47

Nays: Jackson, Vincent.
Total 2

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

SR 9 - Senator Barrett moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 9**. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moss, Mowbray, Murphy, Priest, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Brenden, Hinkle, Moore, Ripley, Walker, Wittich.
Total 6

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

SR 10 - Senator Barrett moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 10**. Motion carried as follows:

Yeas: Arthun, Augare, Barrett, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moss, Murphy, Priest, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 42

Nays: Balyeat, Brenden, Jackson, Moore, Mowbray, Ripley, Vincent.
Total 7

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Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SR 11 - Senator Barrett moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 11**. 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, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: Moore.

Total 1

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

SR 12 - Senator Barrett moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 12**. Motion carried as follows:

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

Total 45

Nays: Brenden, Jackson, Moore, Wittich.

Total 4

Absent or not voting: None.

Total 0

Excused: Olson.

Total 1

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REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman): 4/5/2011
SR 4, introduced resolution, be amended as follows:

1. Page 1, line 15.

Strike: "January 1, 2013"

Insert: "April 18, 2013"

And, as amended, be adopted. **Preliminary** report adopted.

FINANCE AND CLAIMS (Lewis, Chairman): 4/6/2011
HB 388, be concurred in. Report adopted.
HB 611, be amended as follows:

1. Title, page 1, line 5.

Following: "ACT;"

Insert: "REVISING THE ADVANCING AGRICULTURAL EDUCATION IN MONTANA PROGRAM ACCOUNT; PROVIDING INFLATIONARY INCREASES TO THE BASIC ENTITLEMENT, THE PER-ANB ENTITLEMENT, AND THE QUALITY EDUCATOR PAYMENT;"

2. Title, page 1, line 8.

Following: "SECTIONS"

Insert: "20-7-334, 20-9-306,"

Following: "20-9-516;"

Insert: ", "

3. Page 1, line 12.

Insert: "**Section 1.** Section 20-7-334, MCA, is amended to read:

"20-7-334. Advancing agricultural education in Montana program account. (1)

There is an advancing agricultural education in Montana program account in the state special revenue fund provided for in 17-2-102.

(2) Money in the account and money appropriated by the legislature for the purpose of this section must be used by the office of public instruction for addressing the stability of and making improvements to Montana's agricultural education programs. The office of public instruction shall adopt rules to implement the national quality program standards.

(3) (a) Each agricultural education program in the state that completes the national quality program standard evaluation as adopted by rule and submits a plan of improvement to the office of public instruction's agricultural education specialist ~~must~~ may receive a ~~one-time~~ payment of \$500. An agricultural education program may not receive more than one payment in a school year.

(b) Each agricultural education program in the state that submits a detailed budget to increase the quality of its agricultural education program based on the plan of improvement may receive a ~~one-time~~ payment of up to \$1,000. An agricultural education program may not

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receive more than one payment in a school year.

(c) Each school that adds agricultural education to its curriculum and recruits and retains an endorsed agricultural education teacher must receive a one-time payment of up to \$7,500.

(d) Program administrators in Bozeman and Helena must receive a total of \$11,250 annually for the costs of providing a minimum of one onsite visit each year to each participating school."''

Insert: "Section 2. Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment; and

(f) the total American Indian achievement gap payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) for each high school district:

(i) ~~\$246,085~~ \$258,284 for fiscal year ~~2010~~ 2012; and

(ii) ~~\$253,468~~ \$262,236 for each succeeding fiscal year;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) ~~\$22,141~~ \$23,238 for fiscal year ~~2010~~ 2012;

(ii) ~~\$22,805~~ \$23,594 for each succeeding fiscal year; and

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

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- (i) for kindergarten through grade 6 elementary program:
 - (A) ~~\$22,141~~ \$23,238 for fiscal year ~~2010~~ 2012; and
 - (B) ~~\$22,805~~ \$23,594 for each succeeding fiscal year; plus
- (ii) for an approved and accredited junior high school program, 7th and 8th grade program, or middle school:
 - (A) ~~\$62,704~~ \$65,812 for fiscal year ~~2010~~ 2012; and
 - (B) ~~\$64,585~~ \$66,819 for each succeeding fiscal year.
- (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.
- (8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.
- (9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, and the greater of:
 - (a) 175% of special education allowable cost payments; or
 - (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.
- (10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.
- (11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.
- (12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.
- (13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.
- (14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:
 - (a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$6,097~~ \$6,399 for fiscal year ~~2010~~ 2012 and ~~\$6,280~~ \$6,497 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;
 - (b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of ~~\$4,763~~ \$4,999 for fiscal year ~~2010~~ 2012 and ~~\$4,906~~ \$5,075 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

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(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of ~~\$4,763~~ \$4,999 for fiscal year ~~2010~~ 2012 and ~~\$4,906~~ \$5,075 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$6,097~~ \$6,399 for fiscal year ~~2010~~ 2012 and ~~\$6,280~~ \$6,497 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying ~~\$3,036~~ \$3,042 for fiscal year ~~2008~~ 2012 and ~~\$3,042~~ \$3,089 for each succeeding fiscal year times the number of full-time equivalent educators as provided in 20-9-327."

Renumber: subsequent sections

4. Page 3, line 9.

Insert: "COORDINATION SECTION. Section 5. Coordination instruction. If House Bill No. 2 is not passed and approved, then [this act] is void."

Renumber: subsequent sections

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

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 1:00 p.m., Thursday, April 7, 2011. Motion carried.

Senate adjourned at 2:39 p.m.

MARILYN MILLER
Secretary of the Senate

JIM PETERSON
President of the Senate

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