

**SENATE JOURNAL
62ND LEGISLATURE
EIGHTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
April 19, 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 Augare and Balyeat, excused. Quorum present.

BILLS AND JOURNALS:

4/19/2011

Correctly printed: **HB 198, HJR 8.**

Correctly engrossed: **HB 211, HB 526.**

Correctly enrolled: **SB 207, SB 215, SB 233, SB 283, SB 299, SB 331, SB 410, SB 411, SB 418, SB 429, SR 25, SR 26, SR 29.**

Signed by the President at 8:52 a.m., April 19, 2011: **SB 212.**

Signed by the Speaker at 9:05 a.m., April 19, 2011: **SB 212.**

Signed by the Secretary of the Senate at 12:35 p.m., April 13, 2011: **SB 212.**

Delivered to the Governor for approval at 9:10 a.m., April 19, 2011: **SB 212.**

Signed by the Speaker at 9:00 a.m., April 19, 2011: **SB 15, SB 87, SB 99, SB 110, SB 173, SB 255, SB 267, SB 296, SB 311, SB 333, SB 340, SB 347, SB 376, SB 402.**

Signed by the President at 4:15 p.m., April 18, 2011: **SB 15, SB 87, SB 99, SB 110, SB 173, SB 255, SB 267, SB 296, SB 311, SB 333, SB 340, SB 347, SB 376, SB 402.**

Signed by the Secretary of the Senate at 5:00 p.m., April 12, 2011: **SB 15, SB 87, SB 99, SB 110, SB 173, SB 255, SB 267, SB 296, SB 311, SB 333, SB 340, SB 347, SB 376, SB 402.**

Delivered to the Governor for approval at 11:05 a.m., April 19, 2011: **SB 15, SB 87, SB 99, SB 110, SB 173, SB 255, SB 267, SB 296, SB 311, SB 333, SB 340, SB 347, SB 376, SB 402.**

Examined by the sponsor and found to be correct: **SB 207, SB 215, SB 233, SB 283, SB 299, SB 331, SB 410, SB 411, SB 418, SB 429, SR 25, SR 26, SR 29.**

Mr. President: We, your committee on Bills and Journals, having examined the daily journals for the sixty-first, sixty-second, sixty-third, sixty-fourth, and sixty-fifth legislative days, find the same to be correct.

Senator Brown, Chair

MESSAGES FROM THE GOVERNOR

April 18, 2011

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

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Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 36 (SB 36), **"AN ACT PROVIDING A DISTRICT COURT DISCRETION TO AWARD REASONABLE COSTS AND ATTORNEY FEES INCURRED AS A RESULT OF AN APPEAL OF A FINAL DECISION ON A PERMIT APPLICATION OR A CHANGE IN APPROPRIATION RIGHT; ALLOWING THE AWARD OF COSTS AND ATTORNEY FEES INCURRED AS A RESULT OF ADMINISTRATIVE PROCEEDINGS; AMENDING SECTION 85-2-125, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."**

Senate Bill 36, By Request of the Water Policy Committee, concerns the subject of attorney fee awards in water adjudication cases. It amends the current statute primarily by replacing a mandatory attorney fee provision in current law with a discretionary one, giving the district court discretion as to whether to allow the prevailing party to recover attorney fees and costs. I support these amendments to current law in SB 36.

My proposed amendments address the question of whether a district court may award attorney fees incurred during administrative proceedings. I believe the better public policy is to require each party to pay their own costs and fees at the administrative level. I am concerned that allowing the court to award the prevailing party attorney fees incurred during administrative proceedings could have a chilling effect on senior water rights holders, who tend to be individual farmers and ranchers, when they appear to protect and defend their water rights.

I respectfully ask for your support of my amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 19, 2011

Governor's recommendations for amendments to **Senate Bill 36** (reference copy -- salmon) are as follows:

1. Title, line 8.

Strike: "ALLOWING"

Insert: "PROHIBITING"

2. Page 1, line 18.

Following: "~~NOT NOT~~"

Insert: "not"

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April 18, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 277 (SB 277), **"AN ACT CLARIFYING THAT THE BEEF CHECK-OFF IS TO BE PAID ONLY ON CATTLE SOLD; LIMITING THE FEE CHARGEABLE BY THE DEPARTMENT OF LIVESTOCK FOR COLLECTING THE NATIONAL BEEF CHECK-OFF; REQUIRING THE LEGISLATIVE AUDITOR TO AUDIT THE DEPARTMENT OF LIVESTOCK'S DIRECT COSTS FOR COLLECTING THE BEEF CHECK-OFF; AMENDING SECTIONS 81-1-102, 81-8-901, AND 81-8-902, MCA; AND PROVIDING AN EFFECTIVE DATE."**

Senate Bill 277 addresses the Montana Department of Livestock's responsibilities to contract with the Montana Beef Council for collection of the beef check-off assessments as required by the national Beef Promotion and Research Act of 1985. Current law requires that the Beef Council reimburse the department for its expenses in collecting the check-off, but SB 277 caps the reimbursement at 5% of the total check-off funds collected. Additionally, SB 277 requires the Legislative Auditor to verify the costs the Department incurs through the collection process.

I agree that collection by the Department is probably the most efficient way to secure the required check-off payments. I also agree with the requirements in SB 277 that a third party - the Legislative Auditor - verify the Department's reimbursable expenses.

However, I disagree with capping reimbursement of the Department's expenses at 5%. The Department's expenses to collect the fee do not fluctuate significantly based on the number of cattle sold, as most of the Department's expenses are fixed costs, and historically, the expenses have exceeded 5%. Therefore, imposing a cap will prevent the Department from recovering its actual costs to perform this function for the livestock industry.

My amendments remove the 5% cap on reimbursement. In this way, the Department will recover its actual costs to administer the check-off, as verified by the Legislative Auditor. Under my amendments, should the verified reimbursement amount exceed 5%, the Montana Beef Council would either have to pay the actual expenses incurred by the Department or negotiate with the Department a procedure that would be less costly.

I encourage those negotiations to take place and ask for your support of my proposed amendments.

Sincerely,

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BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1 April 19, 2011

Governor's recommendations for amendments to **Senate Bill 277** (reference copy -- salmon) are as follows:

1. Title, line 5 through line 6.

Strike: "LIMITING" on line 5 through "CHECK-OFF;" on line 6

2. Title, line 8.

Strike: "81-1-102,"

3. Page 1, line 12 through line 23.

Strike: section 1 in its entirety

Renumber: subsequent sections

4. Page 2, line 3.

Strike: "(a)"

Strike: "EXCEPT" through "THE"

Insert: "Any"

5. Page 2, line 4 through line 5.

Following: "fee" on line 4

Strike: "1" on line 4 through "collected," on line 5

Following: "to"

Insert: "be paid to the department to"

6. Page 2, line 8 through line 11.

Strike: line 8 through line 11

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in:

4/18/2011

HB 4, introduced by Mehlhoff

HB 5, introduced by Sesso

HB 6, introduced by McChesney

HB 7, introduced by Belcourt

HB 9, introduced by Hollenbaugh

HB 10, introduced by Hollenbaugh

HB 133, introduced by Salomon

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HB 262, introduced by Sands
HB 296, introduced by Sesso
HB 351, introduced by Cook
HB 366, introduced by Rosendale
HB 495, introduced by Cook
HB 587, introduced by McNutt
HB 613, introduced by Roberts
HB 619, introduced by Ankney

Senate bills concurred in and returned to the Senate: 4/18/2011

SB 132, introduced by Essmann
SB 143, introduced by Barrett
SB 225, introduced by Priest
SB 354, introduced by Jent

Senate joint resolutions concurred in and returned to the Senate: 4/18/2011

SJR 17, introduced by Tutvedt
SJR 18, introduced by Gillan

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

4/18/2011

SJR 15, introduced by Tutvedt
SJR 20, introduced by Wittich

Conference Committee Report No.1 adopted:

4/18/2011

SB 198, introduced by Balyeat
HB 29, introduced by McNiven
HB 47, introduced by K. Peterson
HB 132, introduced by Hoven
HB 258, introduced by Edmunds
HB 297, introduced by Berry
HB 525, introduced by McNiven

Free Conference Committee Report No.1 adopted:

4/18/2011

HB 43, introduced by MacLaren

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REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 338**
Report No. 1, April 18, 2011

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 338** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that House amendments to **Senate Bill 338** (reference copy -- salmon) be accepted by the Senate.

For the Senate:

Brown, Chair
Arthun

For the House:

G. Bennett, Vice Chair
Kennedy

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 593**
Report No. 1, April 18, 2011

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 593** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 593** (reference copy -- salmon) be amended as follows:

1. Page 1, line 24.

Strike: "SHALL"

Insert: "may"

For the Senate:

Olson, Chair
Keane
Walker

For the House:

Ankney, Vice Chair
McChesney
Stahl

MOTIONS

Senator Tutvedt moved to reconsider the second reading action on **SB 372** and place **SB 372** on second reading on Tuesday, April 29, 2011. Motion carried as follows:

Yeas: Arthun, Barrett, Brenden, Brown, Buttrey, Essmann, Gallus, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Vincent, Vuckovich, Walker, Windy Boy, Wittich,

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Zinke, Mr. President.
Total 34

Nays: Blewett, Branae, Caferro, Erickson, Facey, Gillan, Kaufmann, Keane, Larsen, Moss, Tropila,
Van Dyk, Wanzenried, Williams.
Total 14

Absent or not voting: None.
Total 0

Excused: Augare, Balyeat.
Total 2

**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 Gallus in the chair.

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

HJR 8 - Senator Caferro moved **HJR 8** be concurred in. Motion carried as follows:
Yeas: Blewett, Branae, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moss, Mowbray, Murphy, Olson, Shockley, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 36

Nays: Arthun, Barrett, Brenden, Brown, Hinkle, Moore, Priest, Ripley, Sonju, Steinbeisser, Walker, Wittich.
Total 12

Absent or not voting: None.
Total 0

Excused: Augare, Balyeat.
Total 2

SB 11 - Governor's Amendments - Senator Erickson moved Governor's amendments to **SB 11** be concurred in. Motion carried as follows:
Yeas: Arthun, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker,

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

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Augare, Balyeat.

Total 2

Senator Balyeat present.

SB 356 - Governor's Amendments - Senator Hamlett moved Governor's amendments to **SB 356** be concurred in.

SB 356 - Senator Essmann made a **substitute motion** that consideration of **SB 356** be passed for the day. Motion carried.

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

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

Total 47

Nays: Gillan, Wanzenried.

Total 2

Absent or not voting: None.

Total 0

Excused: Augare.

Total 1

THIRD READING OF BILLS

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

SB 187, as amended by the House, passed as follows:

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

Total 28

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

Total 22

Paired: Hinkle, Aye; Augare, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 253, as amended by the House, 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: Hinkle, Aye; Augare, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 295, as amended by the House, passed as follows:

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

Total 45

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Nays: Blewett, Tropila, Van Dyk, Wanzenried, Windy Boy.
Total 5

Paired: Augare, Aye; Blewett, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 326, as amended by the House, passed as follows:

Yeas: Augare, Barrett, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Jones, Kaufmann, Keane, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Arthun, Balyeat, Brenden, Essmann, Hinkle, Hutton, Jackson, Lake, Priest, Sonju, Tutvedt, Wittich.
Total 12

Paired: Augare, Aye; Hinkle, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 379, as amended by the House, passed as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Gallus, Hinkle, Hutton, Jackson, Jones, Keane, Lake, Lewis, Moore, Mowbray, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Mr. President.
Total 28

Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gillan, Hamlett, Hawks, Jent, Kaufmann, Larsen, Moss, Murphy, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke.
Total 22

Paired: Keane, Aye; Augare, No.

Absent or not voting: None.
Total 0

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Excused: None.

Total 0

SB 409, as amended by the House, passed as follows:

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

Total 47

Nays: Blewett, Van Dyk.

Total 2

Absent or not voting: None.

Total 0

Excused: Augare.

Total 1

SB 417, as amended by the House, passed as follows:

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

Total 43

Nays: Arthun, Essmann, Priest, Shockley, Vincent, Wittich.

Total 6

Absent or not voting: None.

Total 0

Excused: Augare.

Total 1

HB 211 failed as follows:

Yeas: Augare, Branae, Brown, Facey, Gillan, Hawks, Hinkle, Jent, Kaufmann, Larsen, Moss, Stewart-Peregoy, Tutvedt, Vuckovich, Williams.

Total 15

Nays: Arthun, Balyeat, Barrett, Blewett, Brenden, Buttrey, Caferro, Erickson, Essmann, Gallus, Hamlett, Hutton, Jackson, Jones, Keane, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tropila, Van Dyk, Vincent, Walker, Wanzenried, Windy

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Boy, Wittich, Zinke, Mr. President.

Total 35

Paired: Augare, Aye; Blewett, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 90, as amended by the Governor, concurred in 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, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Balyeat, Brenden, Hinkle, Hutton, Walker, Wittich.

Total 6

Paired: Augare, Aye; Hinkle, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 559, as amended by the Governor, concurred in as follows:

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

Total 47

Nays: Brenden, Tropila.

Total 2

Absent or not voting: None.

Total 0

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Excused: Augare.
Total 1

MOTIONS

Senator Essmann moved to appoint a **Free** Conference Committee on **SB 265** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:

4/19/2011

Senator Tutvedt, Chair
Senator Hamlett
Senator Lake

Senator Vincent moved that **HB 198** be taken from Energy and Telecommunications and brought before the Committee of the Whole and placed on second reading on April 19, 2011.

Motion **passed** as follows:

Yeas: Blewett, Brown, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hutton, Jackson, Jent, Kaufmann, Lake, Larsen, Lewis, Mowbray, Murphy, Olson, Sonju, Steinbeisser, Tutvedt, Vincent, Vuckovich, Williams, Zinke, Mr. President.

Total 26

Nays: Arthun, Balyeat, Barrett, Branae, Brenden, Essmann, Hamlett, Hawks, Hinkle, Jones, Keane, Moore, Moss, Priest, Ripley, Shockley, Stewart-Peregoy, Tropila, Van Dyk, Walker, Wanzenried, Windy Boy, Wittich.

Total 23

Absent or not voting: None.

Total 0

Excused: Augare.

Total 1

Senator Blewett moved that **HB 14** be taken from Judiciary and brought before the Committee of the Whole and placed on second reading on April 20, 2011.

Motion **failed** as follows:

Yeas: Blewett, Branae, Erickson, Facey, Gillan, Hawks, Kaufmann, Keane, Larsen, Moss, Shockley, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams.

Total 16

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

Total 33

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Absent or not voting: None.
Total 0

Excused: Augare.
Total 1

Senator Balyeat moved to change his vote on **SB 326** from Yes to No. Without objection, so ordered.

Senator Shockley moved to change his vote on **SB 253** from No to Yes. Without objection, so ordered.

SPECIAL ORDERS OF THE DAY

Senator Jones moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 20**. 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, 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: Augare.
Total 1

Senator Olson moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 23**. 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, 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: Augare.

Total 1

MOTIONS

Senator Steinbeisser moved to change his vote on **SB 253** from No to Yes. Without objection, so ordered.

Senator Gillan rose on a point of parliamentary procedure and reminded the Senate that all caucus meetings must be open to the public.

Senator Essmann moved the Senate recess until 1:00 p.m. Motion carried.

Senate in recess.

Senate reconvened at 1:04 p.m.

Senator Augare present.

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman): 4/19/2011
HB 563, be concurred in. Report adopted.
HJR 25, be concurred in. Report adopted.

ADVERSE COMMITTEE REPORT

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman): 4/19/2011
SR 18, not be adopted. Adverse Committee Report adopted:

JUDICIARY (Murphy, Chairman): 4/19/2011
HB 627, be amended as follows:

1. Title, line 5.

Strike: "OR INCOMPETENT PERSON"

2. Page 2, line 13 through line 14.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

3. Page 2, line 19.

Strike: "18"

Insert: "16"

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4. Page 2, line 26.

Following: "minor"

Strike: "or an incompetent person"

5. Page 2, line 27.

Following: "minor"

Strike: "or incompetent person"

6. Page 3, line 22.

Following: "minors"

Strike: "and incompetent persons"

7. Page 3, line 24.

Following: "minor"

Strike: "or incompetent person"

8. Page 8, line 12.

Following: line 11

Insert: "COORDINATION SECTION. **Section 14. Coordination instruction.** If both Senate Bill No. 97 and [this act] are passed and approved, then [this act] is void."

Renumber: subsequent sections

9. Page 8, line 19.

Following: "minor"

Strike: "or incompetent person"

10. Page 8, line 21.

Following: "minor"

Strike: "or incompetent person"

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

TAXATION (Tutvedt, Chairman):

4/19/2011

HJR 13, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "OR" on line 6 through "SOURCES" on line 7

2. Page 1, line 21 through line 22.

Strike: line 21 through line 22 in their entirety

3. Page 2, line 5.

Strike: "adequacy, efficiency, burden"

Insert: "obligation"

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4. Page 2, line 6 through line 7.

Strike: ", costs" on line 6 through "behavior" on line 7

5. Page 2, line 27.

Strike: ";

Insert: "."

6. Page 2, line 28 through line 30.

Strike: subsection (8) in its entirety

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

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **Senate Bill 348**

Report No. 1, April 19, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 348** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 348** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 5.

Strike: ", MONITORING,"

2. Title, page 1, LINE 6.

Following: "MCA;"

Insert: "AMENDING SECTION 87-5-132, MCA;"

3. Page 2.

Following: line 20

Insert: "**Section 1.** Section 87-5-132, MCA, is amended to read:

"87-5-132. Use of radio-tracking collars for monitoring wolf packs. (1) As part of a wolf management plan approved by the department, a radio-tracking collar or a collar that uses global positioning system technology must be attached to at least one wolf in each wolf pack that is active near livestock or near a population center in areas where depredations are chronic or likely.

(2) The department ~~shall~~ may expend ~~only the state and~~ federal funds for wolf management purposes to fulfill the requirements of this section.

(3) The department may collaborate and cooperate with other state and federal agencies to fulfill the requirements of this section.""

Renumber: subsequent sections

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4. Page 2, line 22 through page 3, line 4.

Strike: "(1)" on page 2, line 22 through "SEASONS." on page 3, line 4

Insert: "(1) The department shall allocate \$900,000 annually for wolf management.

(2) For the purposes of this section, the term "management" has the same meaning provided in 87-5-102 and includes:

(a) wolf collaring conducted pursuant to 87-5-132; and

(b) lethal action conducted pursuant to 87-1-217 to take problem wolves that attack livestock.

(3) Not more than 25% of the total funding allocated under this section may be used for administrative costs."

Renumber: subsequent subsections

5. Page 3, line 9.

Strike: "SOME OF"

6. Page 3.

Following: line 9

Insert: "NEW SECTION. Section 3. Appropriation. (1) The following money is appropriated to the department of fish, wildlife, and parks from the general license account for the purposes established in [section 1]:

Fiscal year 2012 \$274,000

Fiscal year 2013 \$274,000

(2) The following money is appropriated to the department of fish, wildlife, and parks from federal funds received from the United States fish and wildlife service for wolf management and the purposes established in [section 1]:

Fiscal year 2012 \$626,000

Fiscal year 2013 \$626,000

(3) The department may not expend more than 25% of the total appropriation in each fiscal year on administrative costs."

Renumber: subsequent sections

7. Page 3, line 11.

Strike: "[SECTION 1]"

Insert: "[Section 2]"

8. Page 3, line 13.

Strike: "[SECTION 1]"

Insert: "[section 2]"

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For the Senate:

Debby Barrett, Chair
Hamlett

For the House:

K. Peterson, Vice Chair
Connell
Phillips

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 97**
Report No. 1, April 19, 2011

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 97** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 97** (reference copy -- salmon) be amended as follows:

1. Title, line 6.

Strike: "18"

Insert: "16"

2. Page 2, line 18.

Strike: "18"

Insert: "16"

3. Page 3, line 23.

Strike: "OR JUSTICE'S"

4. Page 3, line 26 through line 27.

Strike: "OR JUSTICE'S"

5. Page 4, line 21.

Strike: "OR JUSTICE'S"

For the Senate:

Essmann, Chair
Shockley

For the House:

K. Peterson, Vice Chair
Bangerter

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MESSAGES FROM THE GOVERNOR

April 18, 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 140** sponsored by Senator Erickson, **Senate Bill 179** sponsored by Senator Wittich, **Senate Bill 180** sponsored by Senator Sonju, **Senate Bill 184** sponsored by Senator Van Dyk, **Senate Bill 213** sponsored by Senator Vuckovich, **Senate Bill 304** sponsored by Senator Shockley, and **Senate Bill 320** sponsored by Senator Jones on April 18, 2011. In addition, **Senate Bill 89** was returned to the Secretary of State without signature.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bill not concurred in and returned to the Senate: 4/18/2011

SB 303, introduced by Brenden

Senate joint resolution not concurred in and returned to the Senate: 4/18/2011

SJR 21, introduced by J. Peterson

House joint resolution passed and transmitted to the Senate for concurrence: 4/19/2011

HJR 33, introduced by MacLaren

Senate amendments to House bills concurred in: 4/19/2011

HB 106, introduced by Lavin

HB 111, introduced by Stahl

HB 152, introduced by Washburn

HB 167, introduced by Regier

HB 172, introduced by Washburn

HB 249, introduced by Fitzpatrick

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HB 265, introduced by Vance
HB 405, introduced by Taylor
HB 408, introduced by C. Smith
HB 414, introduced by Harris
HB 460, introduced by K. Peterson
HB 530, introduced by Washburn
HB 543, introduced by Fitzpatrick

Conference Committee Report No.1 adopted: 4/19/2011

SB 153, introduced by Jent
SB 221, introduced by Gillan

Governor's amendments to House bill not concurred in and transmitted to the Senate for consideration of the Governor's amendments: 4/19/2011

HB 416, introduced by Klock

SB 265 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 265**: 4/19/2011

Representative Blasdel, Vice Chair
Representative Lavin
Representative Williams

FIRST READING AND COMMITMENT OF BILLS

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

HJR 33, introduced by MacLaren, McGillvray, Milburn, J. Peterson, Tutvedt, referred to Business, Labor, and Economic Affairs.

MOTIONS

Senator Essmann moved the Conference Committee on **HB 122** be dissolved and that a **Free** Conference Committee be appointed. Motion Carried. President Peterson appointed: 4/19/2011

Senator Balyeat, Chair
Senator Jent
Senator Shockley

Senator Essmann moved the Conference Committee on **HB 612** be dissolved and that a **Free** Conference Committee be appointed. Motion Carried. President Peterson appointed: 4/19/2011

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Senator Lewis, Chair
Senator Hamlett
Senator Priest

**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 Sonju in the chair.

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

HB 526 - Senator Priest moved **HB 526** be concurred in. Motion carried as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Caferro, Essmann, Gallus, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.
Total 30

Nays: Augare, Blewett, Branae, Erickson, Facey, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 126 - Conference Committee Report No. 1 - Senator Brown moved the Conference Committee report to **SB 126** be adopted. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: None.

Total 0

SB 229 - Senator Sonju moved consideration of **SB 229** be placed at the bottom of the second reading board. Motion carried.

SB 305 - Governor's Amendments - Senator Jackson moved Governor's amendments to **SB 305** be concurred in. Motion carried as follows:

Yeas: Arthun, Augare, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Lewis, Moss, Mowbray, Murphy, Olson, Shockley, Sonju, Steinbeisser, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Zinke, Mr. President.

Total 38

Nays: Balyeat, Barrett, Brenden, Hinkle, Larsen, Moore, Priest, Ripley, Stewart-Peregoy, Walker, Windy Boy, Wittich.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 372 - House Amendments - Senator Tutvedt moved House amendments to **SB 372** not be concurred in. Motion carried as follows:

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

Total 33

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

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 198 - Senator Olson moved **HB 198** be concurred in.

Senator Wittich expressed a conflict of interest.

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Senator Peterson expressed a conflict of interest.

HB 198 - Senator Wittich moved **HB 198**, second reading copy, be amended as follows:

1. Title, line 7 through line 9.

Strike: "CLARIFYING" on line 7 through "DOMAIN;" on line 8

Following: "DATE" on line 8

Strike: "AND" on line 8 through "DATE" on line 9

2. Page 1, line 20 through line 23.

Strike: section 2 in its entirety

Renumber: subsequent sections

3. Page 1, line 28.

Strike: "(1)"

4. Page 1, line 30 through page 2, line 1.

Strike: subsection (2) in its entirety

5. Page 2, line 9 through line 10.

Strike: section 6 in its entirety

Amendment **not** adopted as follows:

Yeas: Augare, Balyeat, Barrett, Brenden, Essmann, Hinkle, Moore, Moss, Priest, Ripley, Sonju, Stewart-Peregoy, Tropila, Walker, Wanzenried, Windy Boy, Wittich.

Total 17

Nays: Arthun, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Mowbray, Murphy, Olson, Shockley, Steinbeisser, Tutvedt, Van Dyk, Vincent, Vuckovich, Williams, Zinke, Mr. President.

Total 33

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 198 - Senator Wittich moved **HB 198**, second reading copy, be amended as follows:

1. Page 2, line 3 through line 5.

Strike: section 4 in its entirety

Renumber: subsequent sections

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Amendment **not** adopted as follows:

Yeas: Balyeat, Barrett, Brenden, Essmann, Hinkle, Moore, Priest, Ripley, Stewart-Peregoy, Tropila, Walker, Wanzenried, Windy Boy, Wittich.

Total 14

Nays: Arthun, Augare, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moss, Mowbray, Murphy, Olson, Shockley, Sonju, Steinbeisser, Tutvedt, Van Dyk, Vincent, Vuckovich, Williams, Zinke, Mr. President.

Total 36

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 198 - Senator Ripley made a **substitute motion** that consideration of **HB 198** be passed for the day. Motion failed as follows:

Yeas: Augare, Balyeat, Barrett, Brenden, Essmann, Hinkle, Moore, Moss, Priest, Ripley, Sonju, Stewart-Peregoy, Tropila, Walker, Wanzenried, Windy Boy, Wittich.

Total 17

Nays: Arthun, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Mowbray, Murphy, Olson, Shockley, Steinbeisser, Tutvedt, Van Dyk, Vincent, Vuckovich, Williams, Zinke, Mr. President.

Total 33

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 198 - Thereupon, the Senate reverted to the original motion of Senator Olson which passed as follows:

Yeas: Blewett, Branae, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jackson, Jent, Kaufmann, Keane, Lake, Larsen, Lewis, Mowbray, Murphy, Olson, Shockley, Tutvedt, Van Dyk, Vincent, Vuckovich, Williams, Zinke, Mr. President.

Total 28

Nays: Arthun, Augare, Balyeat, Barrett, Brenden, Brown, Essmann, Hinkle, Hutton, Jones, Moore, Moss, Priest, Ripley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Walker, Wanzenried, Windy Boy, Wittich.

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Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Gallus assumed the chair.

SB 229 - Governor's Amendments - Senator Sonju moved Governor's amendments to **SB 229 not** be concurred in. Motion carried as follows:

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

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Essmann moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Sonju 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, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Williams, Wittich, Zinke, Mr. President.

Total 47

Nays: Priest, Wanzenried, Windy Boy.

Total 3

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

MOTIONS

Senator Balyeat moved to reconsider the third reading action on **SB 426** and that **SB 426** be placed on second reading on April 20, 2011. Motion carried as follows:

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

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Essmann moved **SB 356** be placed on second reading on April 20, 2011. Without objection, so ordered.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 8:00 a.m., Wednesday, April 20, 2011. Motion carried.

Senate adjourned at 3:55 a.m.

MARILYN MILLER
Secretary of the Senate

JIM PETERSON
President of the Senate