

**SENATE JOURNAL  
62<sup>ND</sup> LEGISLATURE  
EIGHTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana  
April 27, 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 Caferro and Priest, excused. Quorum present.

Senator Caferro present.

Senator Priest present.

**BILLS AND JOURNALS:**

4/27/2011

Correctly engrossed: **HJR 38.**

Correctly enrolled: **SJR 15, SJR 18.**

Examined by the sponsor and found to be correct: **SB 97, SB 338, SB 348, SJR 15, SJR 20.**

**THIRD READING OF BILLS**

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

**HB 122, Free Conference Committee Report No. 1**, adopted as follows:

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

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HB 165, as amended by the Governor**, concurred in as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser,

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Stewart-Peregoy, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Williams, Wittich, Zinke, Mr. President.  
Total 43

Nays: Blewett, Branae, Brenden, Keane, Tropila, Van Dyk, Windy Boy.  
Total 7

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**HB 565, as amended by the Governor**, concurred in as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 49

Nays: Wittich.  
Total 1

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**HB 621, Free Conference Committee Report No. 1**, adopted as follows:

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

**HJR 32**, concurred in as follows:

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

Total 40

Nays: Arthun, Erickson, Gallus, Mowbray, Priest, Ripley, Steinbeisser, Van Dyk, Walker, Zinke.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HJR 38**, concurred in as follows:

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

Total 27

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

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HJR 39**, concurred in as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Essmann, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Vincent, Vuckovich, Wanzenried, Williams, Wittich, Mr. President.

Total 37

Nays: Blewett, Caferro, Erickson, Facey, Gallus, Kaufmann, Larsen, Priest, Ripley, Van Dyk, Walker, Windy Boy, Zinke.

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Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 166, as amended by the Governor**, passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, 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 48

Nays: Brenden, Gallus.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 212, as amended by the Governor**, passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Brown, Buttrey, Caferro, Essmann, Facey, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Lewis, Moore, 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 43

Nays: Branae, Brenden, Erickson, Gallus, Kaufmann, Larsen, Moss.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 279, as amended by the Governor**, passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Brenden, Brown, Buttrey, Essmann, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Lake, Lewis, Moore, Mowbray, Murphy,

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Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Windy Boy, Wittich, Zinke, Mr. President.  
Total 38

Nays: Branae, Caferro, Erickson, Facey, Gallus, Kaufmann, Keane, Larsen, Moss, Tropila, Wanzenried, Williams.  
Total 12

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 423, Free Conference Committee Report No. 1**, adopted as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Essmann, Gillan, Hamlett, Hinkle, Hutton, Jackson, Jent, Jones, Lake, Lewis, Moore, Mowbray, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.  
Total 33

Nays: Blewett, Caferro, Erickson, Facey, Gallus, Hawks, Kaufmann, Keane, Larsen, Moss, Murphy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.  
Total 17

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SJR 23, as amended by the House**, adopted as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Facey, Hamlett, Hinkle, Hutton, Jackson, Jones, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Williams, Wittich, Mr. President.  
Total 37

Nays: Blewett, Branae, Caferro, Erickson, Gallus, Gillan, Hawks, Jent, Kaufmann, Tropila, Van Dyk, Windy Boy, Zinke.  
Total 13

Absent or not voting: None.  
Total 0

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Excused: None.  
Total 0

**REPORTS OF SELECT COMMITTEES**

**FREE CONFERENCE COMMITTEE**  
on **House Bill 316**  
Report No. 1, April 26, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 316** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 316** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 13.

**Following:** "~~TAXES;~~"

**Insert:** "REVISING THE ALLOCATION OF METALLIFEROUS MINES LICENSE TAXES;"

2. Title, page 1, line 20.

**Following:** "~~TAXES;~~"

**Insert:** "REVISING THE ALLOCATION OF THE LODGING FACILITY USE TAX;"

3. Title, page 1, line 27 through line 28.

**Strike:** "LIMITING" through "TAXES;"

4. Title, page 1, line 30.

**Following:** "~~15-37-117;~~"

**Insert:** "15-37-117,"

5. Title, page 2, line 1.

**Following:** "~~16-11-119;~~"

**Insert:** "15-65-121,"

6. Title, page 2, line 3.

**Strike:** "AN"

7. Title, page 2, line 4.

**Strike:** "DATE" through "DATE"

**Insert:** "DATES AND TERMINATION DATES"

8. Page 8, line 25.

**Insert:** "**Section 3.** Section 15-37-117, MCA, is amended to read:

**"15-37-117. Disposition of metalliferous mines license taxes.** (1) Metalliferous mines license taxes collected under the provisions of this part must, in accordance with the provisions of

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17-2-124, be allocated as follows:

(a) to the credit of the general fund of the state, ~~57%~~ 60.45% of total collections each year;  
(b) to the state special revenue fund to the credit of a hard-rock mining impact trust account, ~~2.5%~~ 2.25% of total collections each year;

(c) to the hard-rock mining reclamation debt service fund established in 82-4-312, 8.5% of total collections each year;

(d) to the natural resources operations state special revenue account established in 15-38-301, ~~7%~~ 6.3% of total collections each year; and

(e) within 60 days of the date the tax is payable pursuant to 15-37-105, to the county or counties identified as experiencing fiscal and economic impacts, resulting in increased employment or local government costs, under an impact plan for a large-scale mineral development prepared and approved pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if an impact plan has not been prepared, to the county in which the mine is located, ~~25%~~ 22.5% of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 37.5% to the county hard-rock mine trust account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection (1)(e)(i) to be further allocated as follows:

(A) 33 1/3% is allocated to the county for general planning functions or economic development activities as described in 7-6-2225(3)(c) through (3)(e);

(B) 33 1/3% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine; and

(C) 33 1/3% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection (1)(e) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which metals are produced the tax collections allocated under subsection (1)(e). The allocation to the county described by subsection (1)(e) is a statutory appropriation pursuant to 17-7-502."

**Renumber:** subsequent sections

9. Page 20, line 14.

**Insert: "Section 6.** Section 15-65-121, MCA, is amended to read:

**"15-65-121. Distribution of tax proceeds.** (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsections (1)(a) through ~~(1)(e)~~ (1)(f) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the fund or

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funds from which in-state lodging expenditures were paid by state agencies. The amount of ~~\$400,000~~ \$360,000 each year must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004, and the amount of \$40,000 each year must be deposited in the state general fund. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies, ~~or deposited in the heritage preservation and development account,~~ or deposited in the state general fund under this section is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:

(a) ~~4%~~ 0.9% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) ~~2.5%~~ 2.25% to the university system for the establishment and maintenance of a Montana travel research program;

(c) ~~6.5%~~ 5.85% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(d) ~~67.5%~~ 60.75% to be used directly by the department of commerce; ~~and~~

(e) (i) except as provided in subsection (1)(e)(ii), ~~22.5%~~ 20.25% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if ~~22.5%~~ 20.25% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds ~~\$35,000~~ \$31,500, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district; and

(f) the remainder to be deposited in the state general fund.

(2) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials. ""

**Renumber:** subsequent sections

10. Page 20, line 27 through page 21, line 10.

**Strike:** section 6 in its entirety

**Renumber:** subsequent sections



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11. Page 39, line 6 through line 7.

**Strike:** section 12 in its entirety

**Renumber:** subsequent sections

12. Page 39, line 8.

**Insert:** "COORDINATION SECTION. Section 13. Coordination instruction. If House Bill No. 477 and [this act] are both passed and approved and if both of these bills contain a section that amends 15-65-121, then the sections amending 15-65-121 are void and 15-65-121 must be amended as follows:

**"15-65-121. Distribution of tax proceeds.** (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsections ~~(1)(a)~~ (2)(a) through ~~(1)(e)~~ (2)(g) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies. The amount of ~~\$400,000~~ \$360,000 each year must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004, and the amount of \$40,000 each year must be deposited in the state general fund.

(2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies, or deposited in the heritage preservation and development account, or deposited in the state general fund under this section is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical interpretation state special revenue account, to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:

(a) ~~4%~~ 0.9% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) ~~2.5%~~ 2.25% to the university system for the establishment and maintenance of a Montana travel research program;

(c) ~~6.5%~~ 5.85% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(d) ~~67.5%~~ 58.41% to be used directly by the department of commerce; ~~and~~

(e) (i) ~~except as provided in subsection (1)(e)(ii)~~ (2)(e)(ii), 22.5% 20.25% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if ~~22.5%~~ 20.25% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds ~~\$35,000~~ \$31,500, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to

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the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district;

(f) 2.34% to the Montana historical interpretation state special revenue account established in [section 1 of House Bill No. 477]; and

(g) the remainder to be deposited in the general fund.

~~(2)~~(3) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

~~(3)~~(4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(5) The tax proceeds received that are transferred to a state special revenue account pursuant to subsections (2)(a) through (2)(e) are statutorily appropriated to the entities as provided in 17-7-502.

(6) The tax proceeds received that are transferred to the Montana historical interpretation state special revenue account pursuant to subsection (2)(f) are subject to appropriation by the legislature."

**Insert:** "COORDINATION SECTION. Section 14. Coordination instruction. If House Bill No. 477 and [this act] are both passed and approved and if both of these bills contain a section that amends 15-65-121, then the sections amending 15-65-121 are void and 15-65-121 must be amended as follows:

**"15-65-121. Distribution of tax proceeds.** (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsections ~~(1)(a)~~ (2)(a) through ~~(1)(e)~~ (2)(f) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies. The amount of \$400,000 each year must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004.

(2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies, or deposited in the heritage preservation and development account is ~~statutorily appropriated, as provided in 17-7-502,~~ and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical interpretation state special revenue account,

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to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program;

(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(d) ~~67.5%~~ 64.9% to be used directly by the department of commerce; and

(e) (i) except as provided in subsection ~~(1)(e)(ii)~~ (2)(e)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district; and

(f) 2.6% to the Montana historical interpretation state special revenue account established in [section 1 of House Bill No. 477].

~~(2)(3)~~ If a city, consolidated city-county, resort area, or resort area district qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

~~(3)(4)~~ If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(5) The tax proceeds received that are transferred to a state special revenue account pursuant to subsections (2)(a) through (2)(e) are statutorily appropriated to the entities as provided in 17-7-502.

(6) The tax proceeds received that are transferred to the Montana historical interpretation state special revenue account pursuant to subsection (2)(f) are subject to appropriation by the legislature."

{Internal References to 15-65-121:

15-65-122x 15-65-131x 15-65-131x 17-7-502x }

**Renumber:** subsequent sections

13. Page 39, line 13.

**Strike:** " date"

**Insert:** " dates"

**Strike:** "[This act] "

**Insert:** "(1) Except as provided in subsection (2), [this act]"

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14. Page 39, line 14.

**Following:** line 13

**Insert:** "(2) The amendments to 15-65-121 contained in [section 14] are effective July 1, 2014."

15. Page 39, line 15 through 16.

**Strike:** "EXCEPT" on page 39, line 15 through "TERMINATES" on line 16

**Insert:** "[Sections 1, 2, 4, 5, and 7 through 12] terminate"

16. Page 39, line 17.

**Strike:** "SECTION 6] TERMINATES"

**Insert:** "[Sections 3 and 6 and the amendments to 15-65-121 contained in section 13] terminate"

For the Senate:

Lewis, Chair  
Zinke

For the House:

McNutt, Vice Chair  
Esp

**FREE CONFERENCE COMMITTEE**  
on **House Bill 611**  
Report No. 1, April 27, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 611** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 611** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 4.

**Strike:** "VARIOUS"

2. Title, page 1, line 5.

**Strike:** "TO" through "ACT"

3. Title, page 1, line 6 through line 8.

**Strike:** "PROVIDING" on page 1, line 6 through "PAYMENT;" on line 8

4. Title, page 1, line 10.

**Following:** "COMMERCE;"

**Insert:** "REVISING THE USE OF THE RESEARCH AND COMMERCIALIZATION ACCOUNT TO INCLUDE THE DEPARTMENT OF AGRICULTURE;"

5. Title, page 1, line 10 and 11.

**Strike:** "1" on line 10 through "20-9-516<sub>1</sub>;" on line 11

**Following:** "90-1-203<sub>1</sub>;"

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**Insert:** "AND 90-3-1003,"

6. Page 2, line 5 through page 5, line 17.

**Strike:** section 2 through section 3 in their entirety

**Renumber:** subsequent sections

7. Page 6, line 28.

**Insert:** "**Section 2.** Section 90-3-1003, MCA, is amended to read:

**"90-3-1003. Research and commercialization account -- use.** (1) The research and commercialization account provided for in 90-3-1002 is statutorily appropriated, as provided in 17-7-502, to the board of research and commercialization technology, provided for in 2-15-1819, for the purposes provided in this section.

(2) The establishment of the account in 90-3-1002 is intended to enhance the economic growth opportunities for Montana and constitute a public purpose.

(3) The account may be used only for:

(a) loans that are to be used for research and commercialization projects to be conducted at research and commercialization centers located in Montana;

(b) grants that are to be used for production agriculture research, development, and commercialization projects, clean coal research and development projects, or renewable resource research and development projects to be conducted at research and commercialization centers located in Montana;

(c) matching funds for grants from nonstate sources that are to be used for research and commercialization projects to be conducted at research and commercialization centers located in Montana; ~~or~~

(d) the Montana food and agricultural development program provided for in 80-11-901; or  
~~(d)~~(e) administrative costs that are incurred by the board in carrying out the provisions of this part.

(4) ~~At least 20% \$195,000 of the account funds approved for research and commercialization projects must be directed distributed on an annual basis to the department of agriculture to support and administer the Montana food and agricultural development program provided for in 80-11-901 toward projects that enhance production agriculture.~~

(5) (a) At least 30% of the account funds approved for research and commercialization projects must be directed toward projects that enhance clean coal research and development or renewable resource research and development.

(b) If the board is not in receipt of a qualified application for a project to enhance clean coal research and development or renewable resource research and development, subsection (5)(a) does not apply.

(6) An applicant for a grant shall provide matching funds from nonstate sources equal to 25% of total project costs. The requirement to provide matching funds is a qualifier, but not a criterion, for approval of a grant.

(7) The board shall establish policies, procedures, and criteria that achieve the objectives in its research and commercialization strategic plan for the awarding of grants and loans. The criteria must include:

(a) the project's potential to diversify or add value to a traditional basic industry of the state's economy;

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(b) whether the project shows promise for enhancing technology-based sectors of Montana's economy or promise for commercial development of discoveries;

(c) whether the project employs or otherwise takes advantage of existing research and commercialization strengths within the state's public university and private research establishment;

(d) whether the project involves a realistic and achievable research project design;

(e) whether the project develops or employs an innovative technology;

(f) verification that the project activity is located within the state;

(g) whether the project's research team possesses sufficient expertise in the appropriate technology area to complete the research objective of the project;

(h) verification that the project was awarded based on its scientific merits, following review by a recognized federal agency, philanthropic foundation, or other private funding source; and

(i) whether the project includes research opportunities for students.

(8) The board shall direct the state treasurer to distribute funds for approved projects. Unallocated interest and earnings from the account must be retained in the account. Repayments of loans and any agreements authorizing the board to take a financial right to licensing or royalty fees paid in connection with the transfer of technology from a research and commercialization center to another nonstate organization or ownership of corporate stock in a private sector organization must be deposited in the account.

(9) The board shall refer grant applications to external peer review groups. The board shall compile a list of persons willing to serve on peer review groups for purposes of this section. The peer review group shall review the application and make a recommendation to the board as to whether the application for a grant should be approved. The board shall review the recommendation of the peer review group and either approve or deny a grant application.

(10) The board shall identify whether a grant or loan is to be used for basic research, applied research, or some combination of both. For the purposes of this section, "applied research" means research that is conducted to attain a specific benefit or solve a practical problem and "basic research" means research that is conducted to uncover the basic function or mechanism of a scientific question.

(11) For the purposes of this section:

(a) "clean coal research and development" means research and development of projects that would advance the efficiency, environmental performance, and cost-competitiveness of using coal as an energy source well beyond the current level of technology used in commercial service;

(b) "renewable resource research and development" means research and development that would advance:

(i) the use of any of the sources of energy listed in 69-3-2003(10) to produce electricity; and

(ii) the efficiency, environmental performance, and cost-competitiveness of using renewable resources as an energy source well beyond the current level of technology used in commercial service.""

**Renumber:** subsequent sections

8. Page 6, line 29 through line 30.

**Strike:** section 4 in its entirety

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For the Senate:

Ripley, Chair  
Jones

For the House:

McGillvray, Vice Chair  
Esp  
Mehloff

**MESSAGES FROM THE OTHER HOUSE**

**Governor's amendments to Senate bills not concurred in and returned to the Senate:** 4/26/2011

**SB 106**, introduced by Priest  
**SB 125**, introduced by Wittich  
**SB 229**, introduced by Sonju  
**SB 277**, introduced by Moore  
**SB 356**, introduced by Hamlett  
**SB 366**, introduced by Vincent

**Governor's amendments to House bill not concurred in:** 4/26/2011

**HB 551**, introduced by Flynn

**Senate bill not concurred in and returned to the Senate:** 4/26/2011

**SB 94**, introduced by Erickson

**SB 108** - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 108**:

4/26/2011

Representative Welborn, Vice Chair  
Representative Cuffe  
Representative Wilmer

**SB 136** - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 136**:

4/26/2011

Representative Kennedy, Vice Chair  
Representative Knudsen  
Representative Philips

**SB 312** - 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 312**:

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4/26/2011

Representative Belcourt, Vice Chair  
Representative Ankney  
Representative J. Bennett

**SB 35** - 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 35**:

4/26/2011

Representative McNutt, Vice Chair  
Representative J. Bennett  
Representative Reinhart

**MOTIONS**

Senator Vincent moved that **HB 174** be taken from Judiciary and brought before the Committee of the Whole and be placed on second reading on April 27, 2011.

Motion **passed** as follows:

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

Total 26

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

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Shockley moved that **SB 100** be moved to the next agenda. Without objection, so ordered.

**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 Tutvedt in the chair.



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

**HJR 33** - Senator Mowbray moved **HJR 33** be concurred in. Motion carried as follows:

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

Total 28

Nays: Arthun, Augare, Blewett, Branae, Caferro, Erickson, Facey, Gillan, Hawks, Hutton, Jent, Kaufmann, Keane, Larsen, Priest, Sonju, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Williams, Windy Boy.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 29 - Governor's Amendments** - Senator Moss moved Governor's amendments to **SB 29** be concurred in. Motion carried as follows:

Yeas: Augare, Blewett, Branae, Caferro, Erickson, Essmann, Facey, Gillan, Hamlett, Hawks, Hutton, Jackson, Jent, Jones, Kaufmann, Lake, Larsen, Moss, Mowbray, Murphy, Olson, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Mr. President.

Total 28

Nays: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Gallus, Hinkle, Keane, Lewis, Moore, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Windy Boy, Wittich, Zinke.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 372** - Senator Tutvedt moved consideration of **SB 372** be placed at the bottom of the second reading board. Motion carried.

**SB 426 - Free Conference Committee Report No. 1** - Senator Balyeat moved the Free Conference Committee report to **SB 426** be adopted. 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,

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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 Sonju assumed the chair.

Senator Gillan rose on a point of personal privilege regarding the accuracy of a statement made by Senator Balyeat.

Senator Kaufmann rose on a point of personal privilege regarding a characterization made regarding SB 426.

**SB 372 - Free Conference Committee Report No. 1** - Senator Tutvedt moved the Conference Committee report to **SB 372** be adopted. Motion carried as follows:

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

Total 30

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

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Essmann moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Tutvedt moved the Committee of the Whole report be adopted. Report adopted as follows:

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

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Essmann, Gallus, Gillan, Hamlett, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Ripley, Shockley, Sonju, Steinbeisser, Tropila, Tutvedt, Vincent, Walker, Williams, Wittich, Zinke, Mr. President.

Total 36

Nays: Erickson, Facey, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Priest, Stewart-Peregoy, Van Dyk, Vuckovich, Wanzenried, Windy Boy.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**MESSAGES FROM THE OTHER HOUSE**

**Senate amendments to House bills** concurred in: 4/27/2011

**HB 526**, introduced by Edmunds

**HB 627**, introduced by J. Bennett

**Senate amendments to House joint resolution** concurred in: 4/27/2011

**HJR 13**, introduced by Hansen

**Senate amendments not** concurred in: 4/27/2011

**HB 439**, introduced by Hollenbaugh

**Free Conference Committee Report No.1** adopted: 4/27/2011

**SB 265**, introduced by Hamlett

**SB 423**, introduced by Essmann

**HB 122**, introduced by Malek

**HB 612**, introduced by Roberts

**Governor's amendments to House bills** concurred in and transmitted to the Senate for consideration of the Governor's amendments:

4/27/2011

**HB 2**, introduced by McNutt

**HB 100**, introduced by Vance

**HB 310**, introduced by Blyton

**HB 533**, introduced by Berry

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**ANNOUNCEMENTS**

Committee meetings were announced by committee chairs.

Senator Wanzenried inquired about the revenue estimates. President Peterson stated the revenue estimate currently contained in HB 2 remains the same. President Peterson anticipated receiving an updated status report on HB 2 and the companion bills.

Senator Williams expressed her concerns about adjourning sine die without having agreed upon revenue estimates.

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

Senate in recess.

Senate reconvened at 12:58 p.m.

**BILLS AND JOURNALS:**

4/27/2011

Correctly engrossed: **HJR 33.**

Correctly enrolled: **SB 423, SJR 23.**

Examined by the sponsor and found to be correct: **SB 423, SJR 23, SR 15, SR 18.**

Signed by the Speaker at 9:50 a.m., April 27, 2011: **SJR 26.**

Signed by the President at 8:45 a.m., April 27, 2011: **SJR 26.**

Signed by the Secretary of the Senate at 12:00 p.m., April 26, 2011: **SJR 26.**

Signed by the Speaker at 9:50 a.m., April 27, 2011: **SB 11, SB 126, SB 153, SB 187, SB 221, SB 294, SB 326, SB 351, SB 417.**

Signed by the President at 8:45 a.m., April 27, 2011: **SB 11, SB 126, SB 153, SB 187, SB 221, SB 294, SB 326, SB 351, SB 417.**

Signed by the Secretary of the Senate at 12:00 p.m., April 26, 2011: **SB 11, SB 126, SB 153, SB 187, SB 221, SB 294, SB 326, SB 351, SB 417.**

Delivered to the Governor for approval at 10:25 a.m., April 27, 2011: **SB 11, SB 126, SB 153, SB 187, SB 221, SB 294, SB 326, SB 351, SB 417.**

Signed by the Speaker at 4:30 p.m., April 26, 2011: **SB 379.**

Signed by the President at 4:05 p.m., April 26, 2011: **SB 379.**

Signed by the Secretary of the Senate at 12:00 p.m., April 26, 2011: **SB 379.**

Delivered to the Governor for approval at 9:40 a.m., April 27, 2011: **SB 379.**

Delivered to the Secretary of State at 12:18 p.m., April 27, 2011: **SJR 26.**

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**REPORTS OF SELECT COMMITTEES**

**FREE CONFERENCE COMMITTEE**

on **Senate Bill 35**

Report No. 1, April 27, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 35** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 35** (reference copy -- salmon) be amended as follows:

1. Page 1, line 22.

**Following:** "met;"

**Insert:** "and"

2. Page 1, line 23 through line 28.

**Strike:** line 23 through line 28 in their entirety

3. Page 1, line 29.

**Strike:** "(e)"

**Insert:** "(c)"

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

**Strike:** "; and" on page 1, line 30 through "time" on page 2, line 1

5. Page 2, line 2.

**Strike:** "historic and future"

**Insert:** "process for the"

6. Page 2, line 4.

**Following:** line 3

**Insert:** "(3) Nothing in [sections 1 through 9] diminishes the state's ownership of the beds of navigable rivers, streams, or lakes under any other law."

7. Page 2, line 5.

**Strike:** "For"

**Insert:** "Solely for"

8. Page 2, line 25.

**Strike:** "deemed"

**Insert:** "determined to be"

9. Page 3, line 4.

**Strike:** "deemed"

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**Insert:** "determined to be"

10. Page 3, line 17 through line 18.

**Strike:** "The authorization" on line 17 through "met." on line 18

11. Page 4, line 2.

**Strike:** "deemed"

**Insert:** "determined to be"

12. Page 4, line 8.

**Following:** line 7

**Insert:** "(11) The provisions of this section do not restrict the power of the board to seek adjudication of title pursuant to 77-1-105."

13. Page 4, line 16.

**Strike:** "deemed"

**Insert:** "determined to be"

14. Page 5, line 7.

**Following:** "relocate"

**Insert:** "or increase the size of"

15. Page 5, line 10.

**Following:** "relocated"

**Insert:** "or increased in size"

16. Page 5, line 11.

**Strike:** "The"

**Insert:** "Without prior board approval, the"

17. Page 5, line 12.

**Following:** "may"

**Insert:** "relocate or"

**Following:** "if the"

**Insert:** "relocation or"

18. Page 5, line 13.

**Following:** "granted"

**Strike:** "and if"

**Insert:** ". If the footprint is increased in size,"

**Strike:** "pays"

**Insert:** "shall pay"

19. Page 5, line 14.

**Strike:** "has"

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**Insert:** "shall obtain"

20. Page 5, line 24 through line 25.

**Strike:** "for water" on line 24 through "water right" on line 25

21. Page 5, line 25.

**Following:** "relocate"

**Insert:** "or increase the size of"

For the Senate:

Vincent, Chair  
Hamlett  
Ripley

For the House:

McNutt, Vice Chair  
J. Bennett  
Reinhart

CONFERENCE COMMITTEE  
on **House amendments to Senate Bill 136**  
Report No. 1, April 27, 2011

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 136** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 136** (reference copy -- salmon) be amended as follows:

1. Page 7, line 20.

**Strike:** "twice"

**Insert:** "four times"

For the Senate:

Balyeat, Chair  
Hinkle  
Vuckovich

For the House:

Kennedy, Vice Chair  
Knudsen  
Phillips

**FREE CONFERENCE COMMITTEE**  
on **Senate Bill 312**  
Report No. 1, April 27, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 312** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 312** (reference copy -- salmon) be amended as follows:

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1. Page 18, line 29.

**Strike:** "50"

**Insert:** "25"

For the Senate:

Vincent, Chair  
Keane  
Mowbray

For the House:

Belcourt, Vice Chair  
Ankney  
J. Bennett

**FREE CONFERENCE COMMITTEE**  
on **Senate Bill 329**  
Report No. 1, April 27, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 329** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 329** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 7.

**Following:** "SCHOOLS;"

**Insert:** "CHANGING THE MONTANA VIRTUAL ACADEMY TO THE MONTANA DIGITAL ACADEMY;"

2. Title, page 1, line 25 through line 26.

**Strike:** "ELIMINATING" on line 25 through "ACCOUNT;" on line 26

3. Title, page 1.

**Following:** line 26

**Insert:** "REVISING THE USE OF THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT;"

4. Title, page 1, line 29.

**Following:** "FUND;"

**Insert:** "REQUIRING A SCHOOL DISTRICT TO REPORT BUDGET AMENDMENTS TO THE LEGISLATURE AND THE BOARD OF PUBLIC EDUCATION; LIMITING A SCHOOL DISTRICT'S ENDING FUND BALANCE TO A SPECIFIC PERCENTAGE; PROVIDING AN APPROPRIATION;"

5. Page 1, line 30.

**Strike:** "17-7-502,"

**Following:** "20-3-363,"

**Insert:** "20-7-102, 20-7-1201,"

**Following:** "20-9-104,"

**Insert:** "20-9-161,"



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6. Title, page 2, line 1.

**Strike:** "20-9-622,"

**Insert:** "20-9-516,"

7. Page 2, line 8.

**Strike:** "7"

**Insert:** "8"

8. Page 4, line 1.

**Strike:** "7"

**Insert:** "8"

9. Page 4, line 21.

**Strike:** "7"

**Insert:** "8"

10. Page 4, line 25.

**Strike:** "7"

**Insert:** "8"

11. Page 5, line 16 through page 6, line 18.

**Strike:** section 2 in its entirety

**Renumber:** subsequent sections

12. Page 7, line 20.

**Strike:** "4"

**Insert:** "3"

13. Page 7, line 21.

**Strike:** "5"

**Insert:** "4"

14. Page 9, line 4.

**Insert:** "(6) The superintendent of public instruction shall continually enhance the statewide data system to support the collection of data from schools, implement a data collection plan to reduce redundant data requests, increase data use from the centralized system by various functions within the office of public instruction, and promote transparency in reporting to schools, school districts, communities, and the public. Actionable data analysis must be produced to promote academic improvement.

(7) The superintendent of public instruction shall gather, maintain, and distribute longitudinal, actionable data in the following areas:

- (a) statewide student identifier;
- (b) student-level enrollment data, including average daily attendance;
- (c) student-level statewide assessment data;
- (d) information on untested students;

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- (e) student-level graduation and dropout data;
- (f) ability to match student-level K-12 and higher education data;
- (g) a statewide data audit system;
- (h) a system to track student achievement with a direct teacher-to-student match to help track, report, and create opportunities for improved individual student performance;
- (i) student-level course completion data, including transcripts, to assess career and college readiness; and
- (j) student-level ACT results, scholastic achievement test results, and advanced placement exam data.

(8) The superintendent of public instruction shall emphasize the creation of and distribution of individual diagnostic data for each student in a manner that is timely and protects the privacy rights of students and families as they relate to education so that school districts may use the data to support timely academic intervention as needed and to otherwise improve the academic achievement of the students of each school district.

(9) On or before June 30, 2013, the superintendent of public instruction shall begin presenting longitudinal data on academic achievement and shall develop plans for a measurement of growth for the statewide student assessment required by the board of public education."

15. Page 9, line 4.

**Insert: "Section 5.** Section 20-7-102, MCA, is amended to read:

**"20-7-102. Accreditation of schools.** (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of each school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in 20-9-306~~(14)(c)(ii)~~(14)(a)(iii)(B)."

**Insert: "Section 6.** Section 20-7-1201, MCA, is amended to read:

**"20-7-1201. Montana virtual digital academy -- purposes -- governance.** (1) There is a Montana virtual digital academy at a unit of the Montana university system.

(2) The purposes of the Montana virtual digital academy are to:

(a) make distance learning opportunities available to all school-age children through public school districts in the state of Montana;

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(b) offer high-quality instructors who are licensed and endorsed in Montana and courses that are in compliance with all relevant education and distance learning rules, standards, and policies; and

(c) emphasize the core subject matters required under the accreditation standards, offer advanced courses for dual credit in collaboration with the Montana university system, and offer enrichment courses.

(3) The Montana ~~virtual~~ digital academy must be governed by a board with equal representation from:

(a) the commissioner of higher education or a designee;

(b) the superintendent of public instruction or a designee;

(c) a Montana-licensed and Montana-endorsed classroom teacher appointed by the board of public education;

(d) a Montana-licensed school district administrator appointed by the board of public education;

(e) a trustee of a Montana school district appointed by the board of public education;

(f) the dean of the school of education of the hosting unit of the Montana university system or a designee as a nonvoting member; and

(g) the two officers provided for in subsection (5) as nonvoting members.

(4) The governing board shall elect a presiding officer and vice presiding officer to 2-year terms without limitation on the number of terms.

(5) The governing board shall hire a program director and a curriculum director who shall serve as chief executive officer and vice chief executive officer respectively on the governing board in a nonvoting capacity. The program director shall develop and, upon approval of the governing board, implement policies and guidelines for the Montana ~~virtual~~ digital academy pertaining to:

(a) course offerings;

(b) software and hardware selection;

(c) instructor selection;

(d) partnering school agreements;

(e) instructor training and curriculum development;

(f) course evaluation;

(g) grant opportunities; and

(h) other activities that are essential to the success of a statewide distance learning program.""

**Renumber:** subsequent sections

16. Page 9, line 27.

**Strike:** "8"

**Insert:** "9"

17. Page 9, line 29.

**Strike:** "9"

**Insert:** "10"

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18. Page 10, line 13.

**Strike:** "ESTIMATION,"

**Following:** "ALLOCATION"

**Strike:** " 1 "

19. Page 10, line 13 through line 18.

**Strike:** subsection (1) through subsection (2) in their entirety

**Renumber:** subsequent subsections

20. Page 10, line 20.

**Strike:** "150%"

**Insert:** "130%"

**Following:** "MAXIMUM"

**Strike:** "OR ADOPTED"

21. Page 10, line 26.

**Strike:** "(3)"

**Insert:** "(1)"

22. Page 10, line 28.

**Strike:** "(3)"

**Insert:** "(1)"

**Strike:** "STATE GENERAL FUND"

**Insert:** "guarantee account as provided in 20-9-622"

23. Page 10, line 29.

**Strike:** "(3)"

**Insert:** "(1)"

**Following:** "SHALL"

**Insert:** "budget and"

24. Page 11, line 1 through line 3.

**Strike:** subsections (a) and (b) in their entirety

**Insert:** "(a) for fiscal year 2012, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 25% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

(b) for fiscal year 2013, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 35% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

(c) for fiscal year 2014, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 45% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

(d) for each succeeding fiscal year, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 55% of the total oil and

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natural gas production taxes received by the district in the prior year or the general fund levy requirement;

(e) oil and natural gas production taxes received by the district must be deposited in the general fund until the budgeted amount is reached; and

(f) all remaining oil and natural gas production tax revenue may be deposited in any budgeted fund.

(6) In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall."

**Renumber:** subsequent subsection

25. Page 11, line 4.

**Strike:** "JULY 1,"

**Insert:** "in fiscal year"

26. Page 11, line 5.

**Strike:** "(3)"

**Insert:** "(1)"

27. Page 11, line 9.

**Strike:** "8"

**Insert:** "9"

28. Page 11, line 11.

**Strike:** "9"

**Insert:** "10"

29. Page 11, line 15.

**Strike:** "COUNTIES AND"

30. Page 11, line 16.

**Strike:** "NEIGHBORING"

**Insert:** "contiguous"

31. Page 11, line 19.

**Strike:** "7(5)"

**Insert:** "8(3)"

**Strike:** "20-9-104(6)"

**Insert:** "[section 7]"

32. Page 11, line 20.

**Strike:** "COUNTY OR"

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33. Page 12, line 10.

**Strike:** "20-9-104(6)"

**Insert:** "[section 7]"

**Strike:** "7(5)"

**Insert:** "8(3)"

34. Page 12, line 12.

**Strike:** "20-9-104(6)"

**Insert:** "[section 7]"

**Strike:** "7(5)"

**Insert:** "8(3)"

35. Page 13, line 6.

**Insert:** "**Section 11.** Section 20-9-161, MCA, is amended to read:

**"20-9-161. Definition of budget amendment for budgeting purposes.** As used in this title, unless the context clearly indicates otherwise, the term "budget amendment" for the purpose of school budgeting means an amendment to an adopted budget of the district for the following reasons:

(1) an increase in the enrollment of an elementary or high school district that is beyond what could reasonably have been anticipated at the time of the adoption of the budget for the current school fiscal year whenever, because of the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school, by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering school property unfit for its present school use;

(3) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district;

(5) the receipt of:

(a) a settlement of taxes protested in a prior school fiscal year;

(b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents;

(c) delinquent taxes from a prior school fiscal year; and

(d) a determination by the trustees that it is necessary to expend all or a portion of the taxes received under subsection (5)(a), (5)(b), or (5)(c) for a project or projects that were deferred from a previous budget of the district; or

(6) any other unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting:

(a) the safety of the students and district employees; or (b) the educational functions of the district. Any budget amendment adopted pursuant to this subsection (6)(b) that in combination with other budget amendments within the same school fiscal year exceeds 10% of the district's adopted general fund budget must be reported by the school district to the

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education and local government interim committee and the board of public education with an explanation of why the budget amendment is necessary."

**Renumber:** subsequent sections

36. Page 18, line 1.

**Following:** "(6)"

**Insert:** "(a)"

37. Page 18, line 2.

**Strike:** "(a)"

**Insert:** "(i)"

38. Page 18, line 3.

**Strike:** "(i)"

**Insert:** "(A)"

**Strike:** "\$256,256"

**Insert:** "\$256,003"

**Strike:** "and"

39. Page 18, line 4.

**Strike:** "(ii)"

**Insert:** "(B)"

**Strike:** "\$257,870 for each succeeding fiscal year;"

**Insert:** "\$262,224 for fiscal year 2013; and

(C) except as provided in subsection (6)(b), \$260,099 for each succeeding fiscal year;"

40. Page 18, line 5.

**Strike:** "(b)"

**Insert:** "(ii)"

41. Page 18, line 7.

**Strike:** "(i)"

**Insert:** "(A)"

**Strike:** "\$23,056"

**Insert:** "\$23,033"

42. Page 18, line 8.

**Strike:** "(ii)"

**Insert:** "(B)"

**Strike:** "\$23,201 for each succeeding fiscal year; and"

**Insert:** "\$23,593 for fiscal year 2013; and

(C) except as provided in subsection (6)(b), \$23,402 for each succeeding fiscal year;"

43. Page 18, line 9.

**Strike:** "(c)"

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**Insert:** "(iii)"

44. Page 18, line 11.

**Strike:** "(i)"

**Insert:** "(A)"

45. Page 18, line 12.

**Strike:** "(A)"

**Insert:** "(I)"

**Strike:** "\$23,056"

**Insert:** "\$23,033"

**Strike:** "and"

46. Page 18, line 13.

**Strike:** "(B)"

**Insert:** "(II)"

**Strike:** "\$23,201 for each succeeding fiscal year; plus"

**Insert:** "\$23,593 for fiscal year 2013; and

(III) except as provided in subsection (6)(b), \$23,402 for each succeeding fiscal year; plus"

47. Page 18, line 14.

**Strike:** "(ii)"

**Insert:** "(B)"

48. Page 18, line 16.

**Strike:** "(A)"

**Insert:** "(I)"

**Strike:** "\$65,295"

**Insert:** "\$65,231"

**Strike:** "and"

49. Page 18, line 17.

**Strike:** "(B)"

**Insert:** "(II)"

**Strike:** "\$65,706 for each succeeding fiscal year."

**Insert:** "\$66,816 for fiscal year 2013; and

(III) except as provided in subsection (6)(b), \$66,275 for each succeeding fiscal year.

(b) If fiscal year 2012 general fund revenue, including transfers in, reflected in the audited comprehensive annual financial report exceeds \$1,766,500,000, then the entitlements for fiscal year 2013 in this subsection (6) are the amounts to be paid for succeeding fiscal years."

50. Page 19, line 8.

**Following:** "(14)"



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**Insert:** "(a)"

51. Page 19, line 10.

**Strike:** "(a)"

**Insert:** "(i)"

**Strike:** "\$6,349"

**Insert:** "\$6,343"

52. Page 19, line 11.

**Following:** "2012"

**Insert:** ", "

**Strike:** "and"

**Strike:** "\$6,389"

**Insert:** "\$6,497 for fiscal year 2013, and except as provided in subsection (14)(b), \$6,444"

53. Page 19, line 14.

**Strike:** "(b)"

**Insert:** "(ii)"

54. Page 19, line 15.

**Strike:** "\$4,960"

**Insert:** "\$4,955"

55. Page 19, line 16.

**Following:** "2012"

**Insert:** ", "

**Strike:** "and"

**Strike:** "\$4,991"

**Insert:** "\$5,075 for fiscal year 2013, and except as provided in subsection (14)(b), \$5,034"

56. Page 19, line 19.

**Strike:** "(c)"

**Insert:** "(iii)"

57. Page 19, line 21.

**Strike:** "(i)"

**Insert:** "(A)"

**Strike:** "\$4,960"

**Insert:** "\$4,955"

**Following:** "2012"

**Insert:** ", "

**Strike:** "and"

**Strike:** "\$4,991"

**Insert:** "\$5,075 for fiscal year 2013, and except as provided in subsection (14)(b), \$5,034"

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58. Page 19, line 25.

**Strike:** "(ii)"

**Insert:** "(B)"

**Strike:** "\$6,349"

**Insert:** "\$6,343"

**Following:** "2012"

**Insert:** ", "

**Strike:** "and"

**Strike:** "\$6,389"

**Insert:** "\$6,497 for fiscal year 2013, and except as provided in subsection (14)(b), \$6,444"

59. Page 19.

**Following:** line 28

**Insert:** "(b) If the fiscal year 2012 general fund revenue, including transfers in, reflected in the audited comprehensive annual financial report exceeds \$1,766,500,000, then the entitlements for fiscal year 2013 in this subsection (14) are the amounts to be paid for succeeding fiscal years."

60. Page 24, line 29.

**Insert:** "**Section 19.** Section 20-9-516, MCA, is amended to read:

**"20-9-516. School facility and technology account.** (1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools for:

(a) major deferred maintenance;

(b) improving energy efficiency in school facilities;

(c) critical infrastructure in school districts;

(d) emergency facility needs; ~~and~~

(e) technological improvements; and

(f) state reimbursement for school facilities as provided in 20-9-371.

(2) There must be deposited in the account:

(a) an amount of money equal to the income attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year;

(b) the mineral royalties transferred from the guarantee account as provided in 20-9-622; and

(c) the rental income received from power site leases as provided in 77-4-208.""

**ReNUMBER:** subsequent sections

61. Page 24, line 30 through page 25, line 14.

**Strike:** section 17 in its entirety

**ReNUMBER:** subsequent sections

62. Page 26, line 9.

**Strike:** "one-half of"

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63. Page 27, line 29.

**Insert:** "NEW SECTION. Section 22. Ending fund balance limits. (1) Beginning July 1, 2016, the combined ending fund balance for all budgeted funds of a school district may not exceed 300% of the maximum general fund budget. The 300% limit is not applicable to the building reserve fund, the debt service fund, or the bus depreciation reserve fund.

(2) The county superintendent shall, upon completion of a school fiscal year, redistribute any amounts in excess of the 300% limit among any other school districts in the same county whose combined ending fund balance for all budgeted funds included in subsection (1) has not exceeded the 300% limit. The county superintendent shall redistribute funds equally to the school districts qualifying for redistribution on a per-quality-educator basis, calculated by dividing the total funds by the total number of quality educators, as defined in 20-4-502, employed by the qualifying school districts in the county in the immediately preceding school fiscal year. School districts receiving the funds may place the funds in any budgeted fund of the district at the discretion of the board of trustees of each district.

(3) Unless an exception is granted under subsection (5), upon completion of a school fiscal year, a school district with combined ending fund balances in excess of the 300% limit shall cooperate with the county superintendent in effectuating the redistribution of excess funds as provided in subsection (2). A school district may make the payment required under this subsection from any fund or funds of the district other than the debt service fund, the building reserve fund, and the bus depreciation reserve fund.

(4) Any funds that cannot be redistributed within a county without causing a school district in the county to exceed the 300% limit must be remitted by the county treasurer to the state for deposit in the guarantee account provided for in 20-9-622.

(5) In accordance with 20-9-161, a school district shall report to the education and local government interim committee for any exception taken to the limits prescribed by subsection (1) of this section.

(6) This section does not apply to school districts that are in a nonoperating status under 20-9-505 or that are in the first year of operation after reopening under 20-6-502 or 20-6-503.

(7) Beginning July 1, 2013, the balance of a school district's flexibility fund may not exceed 150% of the school district's maximum general fund budget."

**Insert:** "NEW SECTION. Section 23. Appropriation. (1) There is appropriated \$1 million for fiscal year 2013 from the general fund to the superintendent of public instruction. The purpose of the appropriation is to contribute to interlocal cooperative funds provided for in 20-3-363 to be paid to districts participating in multidistrict cooperatives. The superintendent shall pay to participating districts an amount in proportion to the size of the district's BASE budget compared to the sum of the BASE budgets of participating districts in all multidistrict cooperatives.

(2) By December 31, 2012, the prime applicant of a multidistrict cooperative shall report to the office of public instruction the name of each participating district along with a copy of the finalized agreement pursuant to 20-3-363. The office of public instruction shall pay the district's proportionate share no later than February 1, 2013."

**Renumber:** subsequent sections

64. Page 28, line 4.

**Strike:** "4, 5, AND 7 THROUGH 9"

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**Insert:** "3, 4, 8 through 10, and 22"

65. Page 28, line 6.

**Strike:** "4, 5, AND 7 THROUGH 9"

**Insert:** "3, 4, 8 through 10, and 22"

66. Page 28, line 7.

**"COORDINATION SECTION. Section 26. Coordination instruction.** If House Bill No. 316 is not passed and approved in a form that reallocates at least 10% of the metalliferous mines license tax allocations in 15-37-117(1)(a), (1)(b), (1)(d), and (1)(e) to the state general fund and at least 10% of the lodging and facility use tax allocations in 15-65-121(1)(a) through (1)(e) to the state general fund, then [section 15 of this act], amending 20-9-306, is void and 20-9-306 is amended as follows:

**Insert: "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~~ \$256,003 for fiscal year ~~2010~~ 2012; and
    - (ii) ~~\$253,468~~ \$260,099 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:

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- (i) ~~\$22,144~~ \$23,033 for fiscal year ~~2010~~ 2012;
- (ii) ~~\$22,805~~ \$23,402 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:
  - (i) for kindergarten through grade 6 elementary program:
    - (A) ~~\$22,144~~ \$23,033 for fiscal year ~~2010~~ 2012; and
    - (B) ~~\$22,805~~ \$23,402 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~~ \$65,231 for fiscal year ~~2010~~ 2012; and
    - (B) ~~\$64,585~~ \$66,275 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~~ \$6,343 for fiscal year ~~2010~~ 2012 and ~~\$6,280~~ \$6,444 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

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maximum rate of ~~\$4,763~~ \$4,955 for fiscal year ~~2010~~ 2012 and ~~\$4,906~~ \$5,034 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

(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~~ \$4,955 for fiscal year ~~2010~~ 2012 and ~~\$4,906~~ \$5,034 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~~ \$6,343 for fiscal year ~~2010~~ 2012 and ~~\$6,280~~ \$6,444 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 for fiscal year 2008 and \$3,042 for each succeeding fiscal year times the number of full-time equivalent educators as provided in 20-9-327."

**Insert:** "COORDINATION SECTION. Section 27. Coordination instruction. If [this act] is passed and approved, the general fund appropriation for BASE aid in House Bill No. 2 is increased by \$3,419,812."

**Renumber:** subsequent sections

67. Page 28, line 11.

**Strike:** "8 AND 9"

**Insert:** "9 and 10"

**Following:** "JULY 1,"

**Strike:** "2012"

**Insert:** "2013"

68. Page 28.

**Following:** line 11

**Insert:** "NEW SECTION. Section 29. Termination. [Sections 1, 7, and 8] terminate June 30, 2016."

For the Senate:

Zinke, Chair  
Jones  
Stewart-Peregoy

For the House:

McGillvray, Vice Chair  
Esp

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**MESSAGES FROM THE GOVERNOR**

April 27, 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. 143 (SB 143), **"AN ACT REVISING MONTANA GRIZZLY BEAR POLICY TO AVOID CONFLICTS WITH HUMANS AND LIVESTOCK; AMENDING SECTION 87-5-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

As delivered to me, SB 143 has the potential to jeopardize any delisting opportunity for grizzly bears by instilling doubt about Montana's ability to demonstrate adequate regulatory mechanisms, one of the central criteria required for delisting. My amendments strike the language that places delisting in Montana at risk, while retaining the primary grizzly bear policy changes contained in the bill.

I respectfully ask for your support of my proposed amendments.

Sincerely,

BRIAN SCHWEITZER  
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 27, 2011

Governor's recommendations for amendments to **Senate Bill 143** (reference copy -- salmon) are as follows:

1. Page 1, line 17.

**Strike:** "to:"

**Following:** "and"

**Insert:** "to protect and conserve the grizzly bear and to"

2. Page 1, line 18.

**Strike:** "(a)"

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3. Page 1, line 19 through line 21.

**Strike:** "; and" on line 19 through "measures" on line 21

April 27, 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. 225 (SB 225), **"AN ACT REVISING QUALIFYING SMALL POWER PRODUCTION FACILITY LAWS; REQUIRING THE PUBLIC SERVICE COMMISSION TO SET RATES USING AVOIDED COST; REQUIRING THE COMMISSION TO CONSIDER ELECTRICITY SUPPLY RESOURCE PROCUREMENT PLANS AND INTEGRATED LEAST-COST RESOURCE PLANS WHEN CONSIDERING QUALIFYING SMALL POWER PRODUCTION FACILITY APPLICATIONS; ESTABLISHING INTERCONNECTION REQUIREMENTS; AMENDING SECTIONS 69-3-601, 69-3-602, AND 69-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."**

I offer these amendments to SB 225 to ensure that the law, which implements the federal Public Utility Regulatory Policies Act (PURPA) and related rules in Montana, is consistent with the letter and spirit of that Act.

SB 225 seeks to add criteria to guide the Public Service Commission in setting rates for small power production facilities. The fact is that all states must follow criteria consistent with the federal laws and rules in question. Therefore, to avoid preemption issues, potential litigation, and confusion, I propose eliminating language in the bill that repeats or adds to those federal criteria.

Secondly, the intent of PURPA is to encourage substantial investments in new power facilities. As with any generation facility, these costs can only be recovered over the long term. Therefore, I believe it is a mistake to strike the existing statutory language encouraging long-term contracts, and my amendments restore that language. However, my amendments do not restore the existing statutory language stating that the purpose of long-term contracts is to enhance the economic feasibility of qualifying small production facilities, because that provision has created unnecessary controversy in rate setting cases. The best way to avoid confusion is to limit the criteria that may be used to set rates to those established by PURPA.



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I respectfully ask that you sustain my amendment of SB 225 for these reasons.

Sincerely,

BRIAN SCHWEITZER  
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 27, 2011

Governor's recommendations for amendments to **Senate Bill 225** (reference copy -- salmon) are as follows:

1. Title, line 6 through line 8.

**Strike:** "REQUIRING" on line 6 through "APPLICATIONS;" on line 8

2. Page 2, line 2 through line 4.

**Strike:** subsection (4) in its entirety

**Renumber:** subsequent subsections

3. Page 2, line 24.

**Strike:** "69-3-601(5)(a) and (5)(b)"

**Insert:** "69-3-601(4)(a) and (4)(b)"

4. Page 2, line 26.

**Strike:** "69-3-601(5)(a) and (5)(b)"

**Insert:** "69-3-601(4)(a) and (4)(b)"

5. Page 3, line 4.

**Strike:** "(4)"

**Insert:** "(5)"

6. Page 3, line 7.

**Following:** "facilities:"

**Insert:** "(2) Long-term contracts for the purchase of electricity by the utility from a qualifying small power production facility must be encouraged."

**Renumber:** subsequent subsections

7. Page 3, line 10 through line 14.

**Strike:** "with" on line 10 through "plan" on line 14

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**MESSAGES FROM THE OTHER HOUSE**

**Senate joint resolutions** concurred in and returned to the Senate: 4/27/2011

**SJR 27**, introduced by Caferro

**SJR 29**, introduced by Hinkle

**SJR 30**, introduced by Windy Boy

**Governor's amendments to Senate bill not** concurred in and returned to the Senate: 4/27/2011

**SB 36**, introduced by Hamlett

**MOTIONS**

Senator Essmann moved to appoint a **Free** Conference Committee on **SB 36** and request the House to appoint a like committee. Motion Carried. President Peterson appointed: 4/27/2011

Senator Ripley, Chair

Senator Hamlett

Senator Vincent

Senator Williams announced the Democrats would caucus.

Senator Essmann announced the Republicans would caucus.

Senate in recess.

Senate reconvened at 1:20 p.m.

**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 Tutvedt in the chair.

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

**HB 2 - Governor's Amendments** - Senator Lewis moved Governor's amendments to **HB 2** 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

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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

**HB 375 - Free Conference Committee Report No. 1** - Senator Ripley moved the Free Conference Committee report to **HB 375** be adopted. 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

**HB 612 - Free Conference Committee Report No. 1** - Senator Lewis moved the Free Conference Committee report to **HB 612** be adopted. Motion carried as follows:

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

Total 35

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

Total 15

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

**HB 611 - Free Conference Committee Report No. 1** - Senator Ripley moved the Free Conference Committee report to **HB 611** be adopted. Motion carried as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hamlett, 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, Hawks, Hinkle, 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, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Tutvedt moved the Committee of the Whole report be adopted. Report adopted as follows:

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

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**MESSAGES FROM THE GOVERNOR**

April 27, 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. 207 (SB 207), **"AN ACT CLARIFYING THE REGULATION OF BISON; GRANTING RULEMAKING AUTHORITY TO ESTABLISH A PERMIT AND INSPECTION SYSTEM FOR THE TRANSPORTATION OF BISON; PROVIDING DEFINITIONS; AMENDING SECTIONS 81-1-101, 81-2-120, 81-2-121, 81-3-201, 81-4-603, 81-5-101, AND 85-1104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

While SB 207 attempts to clarify the definitions of bison, wild bison, and domestic bison, including feral domestic bison, the definitions unfortunately remain confusing. My amendments more precisely define "bison" to clarify definitions, remove uncertainty, and better implement the requirements of SB 207.

In addition to clarifying roles and responsibilities of the Departments of Livestock and Fish, Wildlife, and Parks (FWP) related to domestic and wild bison, my amendments also clarify that FWP has the authority to promUlgate rules to authorize the taking of bison when and where necessary to prevent the transmission of a contagious disease by any appropriate means, not just through hunting seasons. The intent is to ensure that all necessary tools are available to FWP to address potential disease conflicts associated with bison, which is important to the long-term sustainability of both livestock and wildlife in Montana. These tools may include "shoot on sight" or similar provisions that may be necessary outside of designated zones.

I respectfully ask for your support of my amendments to SB 207.

Sincerely,

BRIAN SCHWEITZER  
GOVERNOR

cc: Legislative Services Division

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Report No. 1, April 27, 2011

Governor's recommendations for amendments to **Senate Bill 207** (reference copy -- salmon) are as follows:

1. Title, line 9.

**Strike:** "AND"

**Following:** "85-1-104,"

**Insert:** "AND 87-1-216,"

2. Page 1, line 26.

**Following:** "domestic bison"

**Strike:** " "

**Insert:** "or"

**Following:** "feral bison"

**Strike:** ", or wild bison"

3. Page 1, line 27.

**Strike:** "For the purposes of chapter 9, the"

**Insert:** "The"

**Following:** "include"

**Insert:** ":

(i) wild buffalo or wild bison; or

(ii) for the purposes of chapter 9,"

4. Page 2, line 4.

**Strike:** ""Wild bison""

**Insert:** ""Wild buffalo" or "wild bison""

**Following:** "captivity"

**Insert:** "and is not owned by a person"

5. Page 2, line 8.

**Following:** "domestic bison"

**Strike:** " "

**Insert:** "or"

**Following:** "feral bison"

**Strike:** ", or wild bison"

6. Page 2, line 9.

**Strike:** "For the purposes of chapter 9, the"

**Insert:** "The"

**Following:** "include"

**Insert:** ":

(i) wild buffalo or wild bison; or

(ii) for the purposes of chapter 9,"

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7. Page 2, line 15.

**Strike:** ""Wild bison""

**Insert:** ""Wild buffalo" or "wild bison""

**Following:** "captivity"

**Insert:** "and is not owned by a person"

8. Page 7.

**Following:** line 4

**Insert:** "**Section 9.** Section 87-1-216, MCA, is amended to read:

**"87-1-216. Wild buffalo or bison as species in need of management -- policy -- department duties.** (1) The legislature finds that significant potential exists for the spread of contagious disease to persons or livestock in Montana and for damage to persons and property by wild buffalo or bison. It is the purpose of this section:

(a) to designate publicly owned wild buffalo or bison originating from Yellowstone national park as a species requiring disease control;

(b) to designate other wild buffalo or bison as a species in need of management; and

(c) to set out specific duties for the department for management of the species.

(2) The department:

(a) is responsible for the management, including but not limited to public hunting, of wild buffalo or bison in this state that have not been exposed to or infected with a dangerous or contagious disease but may threaten persons or property;

(b) shall consult and coordinate with the department of livestock on implementation of the provisions of subsection (2)(a) to the extent necessary to ensure that wild buffalo or bison remain disease-free; and

(c) shall cooperate with the department of livestock in managing publicly owned wild buffalo or bison that enter the state on public or private land from a herd that is infected with a dangerous disease, as provided in 81-2-120, under a plan approved by the governor. The department of livestock is authorized under the provisions of 81-2-120 to regulate publicly owned wild buffalo or bison in this state that pose a threat to persons or livestock in Montana through the transmission of contagious disease. The department may, after agreement and authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been exposed to or infected with a contagious disease, pursuant to 87-2-730. The department may, following consultation with the department of livestock, adopt rules to authorize the taking of bison where and when necessary to prevent the transmission of a contagious disease.

(3) The department may adopt rules with regard to wild buffalo or bison that have not been exposed to or infected with a contagious disease but are in need of management because of potential damage to person or property.

(4) When adopting and implementing rules regarding the special wild buffalo or bison license issued pursuant to 87-2-730, the department shall consult and cooperate with the department of livestock regarding when and where public hunting may be allowed and the safe handling of wild buffalo or bison parts in order to minimize the potential for spreading any contagious disease to persons or to livestock.""

**Renumber:** subsequent sections

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**MESSAGES FROM THE OTHER HOUSE**

**HB 341** - The House, on motion duly carried, overrode the Governor's veto on **HB 341** and returned the bill to the Senate.

4/27/2011

**HB 456** - The House, on motion duly carried, overrode the Governor's veto on **HB 456** and returned the bill to the Senate.

4/27/2011

**SB 156** - 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 156**:

4/27/2011

Representative Bangerter, Vice Chair  
Representative Read  
Representative Pease-Lopez

**SB 36** - 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 36**:

4/27/2011

Representative McNutt, Vice Chair  
Representative Peterson  
Representative MacDonald

**SPECIAL ORDERS OF THE DAY**

Senators Steinbeisser, Hawks, and Shockley gave their farewell remarks to the Senate.

**MOTIONS**

Senator Jent moved to reconsider action on **SR 14** and that **SR 14** be placed on Order of Business 11 this same day. Motion carried as follows:

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

Total 26

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

Total 24

Absent or not voting: None.

Total 0



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Excused: None.

Total 0

Senator Hamlett moved to reconsider action on **SB 265** and that **SB 265** be placed on second reading this same day. Motion carried as follows:

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

Total 30

Nays: Arthun, Balyeat, Barrett, Brenden, Essmann, Hinkle, Hutton, Jones, Lake, Lewis, Moore, Priest, Ripley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Mr. President.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

#### ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Senator Essmann moved the Senate recess until 5:30 p.m. Motion carried.

Senate in recess.

Senate reconvened at 5:30 p.m.

#### BILLS AND JOURNALS:

4/27/2011

Correctly printed: **HB 174**.

Correctly enrolled: **SJR 27, SJR 29, SJR 30**.

Examined by the sponsor and found to be correct: **SJR 27, SJR 29, SJR 30**.

#### MOTIONS

Senator Facey moved to pass consideration of **SR 14** until the 88<sup>th</sup> legislative day. Without objection, so ordered.

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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 Tutvedt in the chair.

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

**SB 100 - Governor's Amendments** - Senator Shockley moved Governor's amendments to **SB 100** be concurred in. Motion carried as follows:

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

Total 46

Nays: Barrett, Brenden, Ripley, Tropila.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 136 - Conference Committee Report No. 1** - Senator Balyeat moved the Conference Committee report to **SB 136** be adopted. Motion carried as follows:

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

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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**SB 207 - Governor's Amendments** - Senator Moore moved Governor's amendments to **SB 207** 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, 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: Kaufmann.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 265 - Free Conference Committee Report No. 1** - Senator Hamlett moved the Free Conference Committee report to **SB 265** be adopted. Motion carried as follows:

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

Total 29

Nays: Arthun, Balyeat, Barrett, Brenden, Hinkle, Hutton, Jones, Lake, Lewis, Moore, Mowbray, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 266 - Governor's Amendments** - Senator Olson moved Governor's amendments to **SB 266** be concurred in. Motion carried as follows:

Yeas: Arthun, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Gallus, Gillan, Hamlett, Hinkle, Hutton, Jackson, Jones, Keane, Lewis, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Stewart-Peregoy, Vincent, Vuckovich, Walker, Windy Boy, Wittich, Zinke, Mr. President.

Total 33

Nays: Augare, Blewett, Erickson, Facey, Hawks, Jent, Kaufmann, Lake, Larsen, Moore, Moss, Steinbeisser, Tropila, Tutvedt, Van Dyk, Wanzenried, Williams.

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Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HB 533 - Governor's Amendments** - Senator Brown moved Governor's amendments to **HB 533** be concurred in. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brown, Buttrey, Caferro, Essmann, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Larsen, Lewis, Moore, 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 45

Nays: Brenden, Erickson, Facey, Kaufmann, Moss.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HB 174** - Senator Vincent moved **HB 174** be concurred in.

**HB 174** - Senator Vincent moved **HB 174**, second reading copy, be amended as follows:

1. Page 1.

**Following:** line 25

**Insert:** "COORDINATION SECTION. Section 2. Coordination instruction. If both Senate Bill No. 124 and [this act] are passed and approved, then [section 33 of Senate Bill No. 124] reads as follows:

"NEW SECTION. Section 33. Unlawful use of equipment while hunting. (1) A person may not:

(a) hunt or attempt to hunt any game animal or game bird by the aid or with the use of any snare, except as allowed in 87-3-127 and 87-3-128, set gun, projected artificial light, trap, salt lick, or bait;

(b) use any recorded or electrically amplified bird or animal calls or sounds or recorded or electrically amplified imitations of bird or animal calls or sounds to assist in the hunting, taking, killing, or capturing of wildlife except predatory animals and those birds not protected by state or federal law;

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(c) while hunting, possess any electronic motion-tracking device or mechanism, as defined by commission rule, that is designed to track the motion of a game animal and relay information on the animal's movement to the hunter. A radio-tracking collar attached to a dog that is used by a hunter engaged in lawful hunting activities is not considered a motion-tracking device or mechanism for purposes of this subsection (1)(c).

(d) while hunting, use archery equipment that has been prohibited by rule of the commission;

(e) use a shotgun to hunt deer or elk except with weapon type and loads as specified by the department;

(f) use a rifle to hunt or shoot upland game birds unless the use of rifles is permitted by the department. This does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than a number 10 gauge, fired from the shoulder.

(g) use a rifle to hunt or shoot wild turkey during the spring wild turkey season.

(2) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of hunting while using projected artificial light as described in subsection (1)(a) may be subject to the additional penalties provided in [sections 63 and 64].

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

**Renumber:** subsequent sections

Amendment adopted as follows:

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

Total 32

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

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HB 174** - Senator Vincent moved **HB 174**, as amended, be concurred in. Motion carried as follows:

Yeas: Arthun, Balyeat, Barrett, Blewett, Brenden, Brown, Buttrey, Essmann, Hinkle, Jackson, Jones, Lake, Lewis, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Tutvedt, Van

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Dyk, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 27

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

Total 23

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 Tutvedt moved the Committee of the Whole report be adopted. Report adopted as follows:

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

Total 35

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

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

### MOTIONS

Senator Augare moved to change his vote on **SB 266** from Yes to No. Without objection, so ordered.

### ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 8:00 a.m., Thursday, April 28, 2011. Motion carried.

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Senate adjourned at 6:27 p.m.

MARILYN MILLER  
Secretary of the Senate

JIM PETERSON  
President of the Senate