SENATE JOURNAL 63RD LEGISLATURE THIRTY-FOURTH LEGISLATIVE DAY

Helena, Montana February 15, 2013 Senate Chambers State Capitol

Senate convened at 1:01 p.m. President Essmann presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS (Buttrey, Chair):

2/15/2013

Correctly printed: SB 308, SB 309, SB 310, SB 311, SB 312, SB 313, SB 314, SB 315, SB 316, SB 317, SB 318, SB 319, SB 320, SB 321, SB 322, SB 323, SJR 10, SJR 15, SJR 16, HB 36, HB 47, HB 94, HB 152, HB 192.

Correctly engrossed: SB 14, SB 197.

Transmitted to the House: SB 196, SB 209, HB 164.

Senator Wittich moved the Senate recess for the purpose of a Republican caucus. Without objection, so ordered.

Senate reconvened at 1:16 p.m.

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Brown, Chair):

2/14/2013

HB 115, be concurred in. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Sonju, Chair):

2/15/2013

HB 138, be concurred in. Report adopted. **HB 141**, be concurred in. Report adopted. **HB 202**, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Olson, Chair):

2/14/2013

SB 125, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: ";" through "IMPOSED"

Insert: "AND"

"2. Page 3, line 5.

Strike: "," Insert: ": (a)"

3. Page 3, line 9.

Following: "procure"

Strike: ". A"

Insert: "; (b) if a public utility is unable to meet the standards established in subsections (3)(b) or (4)(b) in any compliance year, that public utility shall pay an administrative penalty, assessed by the commission, of \$500 for each megawatt of nameplate capacity from which the public utility failed to purchase renewable energy credits and electricity;

(c) a"

4. Page 3, line 9.

Strike: "this penalty"

Insert: "the penalties assessed in accordance with subsection (10)(a) or (10)(b)"

5. Page 3, line 10.

Strike: "these penalties"

Insert: "the penalties assessed in accordance with subsection (10)(a) or (10)(b)"

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Ripley, Chair):

2/14/2013

SB 236, do pass. Report adopted.

HB 18, be concurred in. Report adopted. **HB 81**, be concurred in. Report adopted.

FISH AND GAME (Brenden, Chair):

2/14/2013

SB 200, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "REQUIRING" through "SECTIONS;"

2. Title, page 1, line 10.

Strike: "87-1-623, 87-1-625,"

3. Title, page 1, line 11.

Strike: "REPEALING" through "87-5-132, MCA;"

4. Page 1, line 17.

Strike: "(3)" **Insert**: "(2)"

5. Page 1, line 21 through line 23. **Strike:** subsection (2) in its entirety **Renumber:** subsequent subsections

6. Page 1, line 24.

Strike: "A"

Insert: "The commission shall adopt rules to allow a"

Strike: "may" Insert: "to"

7. Page 1, line 25. Following: "license"

Strike: "."

Insert: "when the wolf is a potential threat to human safety, livestock, or dogs. The rules must:

- (a) be consistent with the Montana gray wolf conservation and management plan and the adaptive management principles of the commission and the department for the Montana gray wolf population;
- (b) require a landowner or the landowner's agent who takes a wolf pursuant to this subsection (2) to promptly report the taking to the department and to preserve the carcass of the wolf;
- (c) establish a quota each year for the total number of wolves that may be taken pursuant to this subsection (2); and
- (d) allow the commission to issue a moratorium on the taking of wolves pursuant to this subsection (2) before a quota is reached if the commission determines that circumstances require a limitation of the total number of wolves taken.

(3)"

8. Page 1, line 26.

Strike: "subsection (8)" **Insert:** "87-5-131(3)(b)"

9. Page 1, line 28 through page 2, line 20.

Strike: subsection (4) through subsection (8) in their entirety

Renumber: subsequent subsections

10. Page 2, line 22. Following: "of"

Insert: "87-5-131, 87-5-132, and"

11. Page 2, line 24 through page 3, line 19. **Strike:** sections 2 and 3 in their entirety

Renumber: subsequent sections

12. Page 6, line 16 through line 19. **Strike:** section 9 in its entirety **Renumber:** subsequent sections

And, as amended, do pass. Report adopted.

SB 249, introduced bill, be amended as follows:

1. Page 2, line 8 through line 11.

Strike: "seek" on line 8 through "species" on line 11

Insert: "actively seek advice, information, and guidance from a county or tribal government in all matters that may have a harmful effect on agricultural production or livestock operations or that may pose a risk to human health or safety in that county or on those tribal lands"

And, as amended, do pass. Report adopted.

SB 250, introduced bill, be amended as follows:

1. Page 7, line 13. Following: "and" Insert: "and"

2. Page 7, line 15. **Strike:** "; and" **Insert:** "."

3. Page 7, line 16. **Strike:** line 16

And, as amended, do pass. Report adopted.

TAXATION (Tutvedt, Chair):

2/14/2013

SB 56, introduced bill, be amended as follows:

1. Title, page 1, line 8. **Following:** "7-13-4524"

Insert: ","

Strike: the first "AND" Following: "15-10-305,"

Insert: "85-7-2136, AND 85-8-601,"

2. Title, page 1, line 9. **Strike:** "AN IMMEDIATE" **Insert:** "A DELAYED"

3. Page 2, line 12.

Insert: "Section 3. Section 85-7-2136, MCA, is amended to read:

"85-7-2136. Collection of taxes or assessment. (1) On or before the third Monday in August of each year, the board of commissioners shall furnish to the department of revenue county treasurer a correct list of all the district lands in the county, together with the amount of the total taxes or assessments against the lands for district purposes. The department of revenue county treasurer shall immediately upon receipt of the list enter the taxes or assessment roll in on the

property tax record of the county subject to taxation or assessment under 85-7-2104 for each year.

- (2) The county treasurer of each county in which any irrigation district is located, in whole or in part, shall collect and receipt for all taxes and assessments levied by the district, in the same manner and at the same time as is required in the collection of taxes upon real estate for county purposes as provided in 15-16-102. The treasurer must receive from any taxpayer, at any time, the amount due on account of any district assessments of any kind, whether other taxes on the same real estate are paid or not.
- (3) During the water delivery season, as determined by the irrigation district commissioners, the county treasurer shall make available to the board of commissioners of an irrigation district notice of the receipt of payments of district assessments by 9 a.m. on the day following receipt of those payments.
- (4) If requested in writing by a board of commissioners of an irrigation district, the county treasurer may receive assistance from an employee of the irrigation district or a commissioner of the district for the purpose of collecting district assessments as provided in 15-16-102, investing district funds as directed by the board of commissioners of the district, and preparing district assessment notices.
- (5) When any real estate on account of which the district taxes and assessments have been levied has been sold to the county and a tax lien sale certificate is held by the county, the taxpayer may pay to the treasurer at any time any semiannual installment of the district tax or assessment, together with the penalty and interest to date of payment on the installment. However, the payment may not be considered a redemption of the property from the tax lien sale but must be credited on account of any redemption that may be made. In case of any payment pursuant to this subsection, a separate tax receipt must be issued showing exactly what assessments have been paid and showing that no other tax on the real estate has been received by the treasurer. The county treasurer may not collect, receive, or receipt for any taxes levied for county purposes upon real estate situated wholly or in part within any irrigation district upon which an assessment for the purposes of the irrigation district has been levied unless the assessment levied for irrigation district purposes is either paid as permitted in this section and the receipt for the payment is presented to the county treasurer at the time the taxes are paid or paid at the time the irrigation district taxes are paid.""

Insert: "Section 4. Section 85-8-601, MCA, is amended to read:

- **"85-8-601. Certification and collection of district taxes.** (1) Subject to 15-10-420 and on or before the third Monday in August of each year, the commissioners shall certify to the department of revenue county treasurer a correct list of all the district lands in each county and the owners of the lands, together with a statement of the amount of the total tax or assessment against the lands for district purposes for that year. The department of revenue county treasurer shall immediately enter the taxes or assessment roll in on the property tax record of the county for each year.
- (2) The county treasurer of each county in which a drainage district is located, in whole or in part, shall collect and receipt for all taxes and assessments levied by the district in the same manner and at the same time as is required in the collection of taxes upon real estate for county purposes as provided in 15-16-102. However, the treasurer must receive from any taxpayer, at any time, the amount due on account of any district assessments of any kind, whether other taxes on the same real estate are paid or not. When any real estate on account of which the district taxes and assessments have been levied has been sold to the county and the tax lien sale certificate is

held by the county, the taxpayer may pay to the treasurer at any time any semiannual installment of the district tax or assessment, together with the penalty and interest to date of payment on the installment. However, the payment may not be considered a redemption of the property from the tax lien sale, but must be credited on account of any redemption that may later be made. In case of any payment pursuant to this subsection, a separate tax receipt must be issued showing exactly what assessments have been paid and showing that no other tax on the real estate has been received by the treasurer. However, the county treasurer may not collect, receive, or receipt for any taxes levied for county purposes upon real estate situated wholly or in part within any drainage district upon which an assessment for the purposes of the drainage district has been levied unless the assessment levied for the drainage district purposes is either paid as provided in this section and the receipt is presented to the county treasurer at the time the real estate taxes are paid or paid at the time the drainage district taxes are paid.""

Renumber: subsequent sections

4. Page 2, line 13.

Strike: "on passage and approval"

Insert: "October 1, 2014"

And, as amended, do pass. Report adopted.

REPORTS OF SELECT COMMITTEES

JOINT SELECT COMMITTEE ON PENSIONS (Lewis, Chair):

2/14/2013

HB 54, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/14/2013

HB 12, introduced by Pease-Lopez

HB 233, introduced by Lavin

HB 321, introduced by Greef

HB 325, introduced by Regier

HB 328, introduced by Washburn

HB 337, introduced by Redfield

HB 356, introduced by Clark

HB 277, introduced by McChesney, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

2/14/2013

Yeas - 80, Nays - 19

House joint resolution passed and transmitted to the Senate for concurrence: 2/14/2013

HJR 9, introduced by McNiven

MOTIONS

Senator Lewis moved **HB 54** be referred to the State Administration committee. Without objection, so ordered.

Senator Sonju moved **SB 243** be moved from the Business, Labor, and Economic Affairs committee to the Energy and Telecommunications committee. Without objection, so ordered.

Senator Jent moved **SB 187** be taken from second reading this date and re-referred to the Judiciary committee. Without objection, so ordered.

Senator Sesso rose on a point of order to ask about the placement of bills (which have been amended during second reading) on third reading. He asserted the criteria should be applied consistently for all bills. President Essmann noted the point of order and indicated the question would be put to the Rules committee at its meeting scheduled for Monday, February 18, 2013.

Senator Tropila moved consideration of **SB 81** be moved from third reading this date to third reading tomorrow, February 16, 2013. Motion passed as follows:

Yeas: Arthun, Augare, Barrett Dick, Blewett, T. Brown, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Malek, Olson, Phillips, Ripley, Sales, Sesso, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy. Total 29

Nays: Arntzen, Barrett Debby, Boulanger, Brenden, D. Brown, Fielder, Jackson, Lewis, Moore, Murphy, Peterson, Priest, Rosendale, Sonju, Taylor, Thomas, Vincent, Walker, Webb, Wittich, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 253, introduced by Taylor, Buttrey, Lewis, referred to Local Government.

SB 324, introduced by Rosendale, Buttrey, Edmunds, Hertz, Hill, Kary, Larsen, F. Moore, Washburn, referred to Local Government.

SB 325, introduced by Olson, referred to Energy and Telecommunications.

SB 326, introduced by Malek, Arntzen, Augare, Dick Barrett, Blewett, Buttrey, Coffin, Driscoll, Gursky, Hill, Jackson, Jent, L. Jones, Kary, Kaufmann, Keane, Larsen, MacDonald, McCarthy,

Olson, Phillips, Sales, Sonju, Vincent, referred to Judiciary.

SB 327, introduced by Olson, referred to Energy and Telecommunications.

SB 328, introduced by Augare, Boulanger, Jent, Malek, O'Hara, C. Smith, Stewart-Peregoy, Taylor, Vincent, Windy Boy, Wittich, referred to Fish and Game.

SB 329, introduced by Boulanger, referred to Business, Labor, and Economic Affairs.

SB 330, introduced by Debby Barrett, Jent, referred to Natural Resources.

SB 331, introduced by Murphy, referred to Judiciary.

SB 332, introduced by Tutvedt, Connell, referred to Natural Resources.

SB 333, introduced by Arthun, referred to Joint Select Committee on Pensions

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 6, introduced by Murphy, referred to Judiciary.

SR 7, introduced by Murphy, referred to Judiciary.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Wittich 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 139 - Senator Walker moved **SB 139** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Fielder, Hamlett, Jackson, Jones, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Tutvedt, Vincent, Walker, Wanzenried, Webb, Wittich, Mr. President.

Total 35

Nays: Barrett Dick, Blewett, Driscoll, Facey, Jent, Jergeson, Kaufmann, Keane, Larsen, Sesso, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Windy Boy.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 114 - Senator Taylor moved **SB 114** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Boulanger, Brenden, D. Brown, T.

Brown, Buttrey, Caferro, Driscoll, Fielder, Hamlett, Jackson, Jent, Jones, Keane, Lewis, Malek, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Vincent, Walker, Webb, Windy Boy, Wittich, Mr. President. Total 39

Nays: Blewett, Facey, Jergeson, Kaufmann, Larsen, Phillips, Sesso, Tutvedt, Van Dyk, Vuckovich, Wanzenried.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 192 - Senator Wanzenried moved SB 192 do pass. Motion carried as follows:

Yeas: Augare, Barrett Dick, Blewett, T. Brown, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Malek, Murphy, Olson, Peterson, Phillips, Sesso, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Walker, Wanzenried, Windy Boy, Mr. President.

Total 30

Nays: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, Fielder, Jackson, Lewis, Moore, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Vincent, Webb, Wittich. Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 166 - Senator Dick Barrett moved SB 166 do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Dick, Blewett, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Peterson, Phillips, Sesso, Stewart-Peregoy, Thomas, Tropila, Van Dyk, Vuckovich, Wanzenried, Windy Boy. Total 29

Nays: Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Fielder, Jackson, Murphy, Olson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Tutvedt, Vincent, Walker, Webb, Wittich, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 189 - Senator Webb moved **SB 189** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 50

Nays: None. Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 238 - Senator Hamlett moved SB 238 do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Mr. President. Total 47

Nays: Boulanger, Sales, Wittich.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Wittich moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Essmann presiding. Chair Tutvedt moved the Committee of the

Whole report be adopted. Report adopted as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

THIRD READING OF BILLS

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

SJR 10 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Murphy, Olson, Peterson, Phillips, Priest, Sesso, Sonju, Stewart-Peregoy, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Mr. President.

Total 43

Nays: Jackson, Moore, Ripley, Rosendale, Sales, Taylor, Wittich.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 47 concurred in as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, D. Brown, T.

Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President. Total 49

Nays: Brenden.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 201 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 50

Nays: None. Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Brenden acknowledged and thanked this week's pages for their service.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Wittich moved that the Senate adjourn until 8:00 a.m., Saturday, February 16, 2013, the thirty-fifth legislative day. Motion carried.

Senate adjourned at 2:27 p.m.

MARILYN MILLER Secretary of the Senate JEFF ESSMANN President of the Senate