

**SENATE JOURNAL  
61ST LEGISLATURE  
THIRTY-NINTH LEGISLATIVE DAY**

Helena, Montana  
February 19, 2009

Senate Chambers  
State Capitol

Senate convened at 12:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Jent, Juneau, and Stewart-Peregoy, excused. Quorum present.

**BILLS AND JOURNALS:**

2/19/2009

Correctly printed: **SB 368, SB 371, SB 386, SB 387, SB 404, SB 430, SB 488, SB 489, SB 490, SB 491, SB 492, SB 493, SB 494, SJR 29.**

Correctly engrossed: **SB 257, SB 394, SB 457.**

**REPORTS OF STANDING COMMITTEES**

**AGRICULTURE, LIVESTOCK AND IRRIGATION** (Steinbeisser, Chairman):  
**SB 300**, introduced bill, be amended as follows:

2/19/2009

1. Page 1, line 13.

**Strike:** "80"

**Insert:** "75"

And, as amended, do pass. Report adopted.

**SB 322**, introduced bill, be amended as follows:

1. Title, page 1, line 7.

**Following:** "PROVISIONS;"

**Insert:** "EXEMPTING HOBBYIST APIARY SITES FROM REGISTRATION PROVISIONS;"

2. Page 2, line 25.

**Strike:** "A"

**Insert:** "Except as provided in 80-6-114, a"

3. Page 6, line 3.

**Strike:** "The"

**Insert:** "Except for a hobbyist apiary site, the"

4. Page 9, line 18.

**Following:** "**Hobbyist apiary site**"

**Insert:** "-- voluntary"

**Following:** "**registrations.**"

**Insert:** "(1) A hobbyist apiary site is exempt from the registration provisions of this part, but a hobbyist beekeeper may voluntarily register with the department under this section. A hobbyist beekeeper voluntarily registering a site shall pay any required registration fee but is not required to reregister pursuant to 80-6-102."

**Renumber:** subsequent subsections

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5. Page 9, line 26 through page 10, line 1.

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

6. Page 10, line 17.

**Following:** "is registered"

**Insert:** "or the owner of an unregistered hobbyist apiary site"

7. Page 11, line 20.

**Strike:** "compliance agreement"

**Insert:** "a certificate of health that allows for seasonal transportation of bees and beekeeping equipment into Montana without inspection"

8. Page 13, line 16.

**Strike:** "\$2,500"

**Insert:** "\$25,000"

And, as amended, do pass. Report adopted.

**SJR 20**, do pass. Report adopted.

**EDUCATION AND CULTURAL RESOURCES** (Laible, Chairman):

2/19/2009

**SR 4**, do pass. Report adopted.

**SR 5**, do pass. Report adopted.

**SR 6**, do pass. Report adopted.

**SJR 25**, introduced joint resolution, be amended as follows:

1. Page 1, line 9.

**Following:** "economic"

**Strike:** "and agricultural"

2. Page 1, line 12.

**Following:** "care,"

**Strike:** "and"

**Following:** "educational resources"

**Insert:** ", and agricultural market services"

3. Page 1, line 14.

**Following:** "timber,"

**Strike:** "and"

**Following:** "clean water"

**Insert:** ", and access to hunting, fishing, open space, and recreation"

And, as amended, do pass. Report adopted.

**FINANCE AND CLAIMS** (Bales, Chairman):

2/18/2009

**HB 13**, be concurred in. Report adopted.

**HJR 8**, be amended as follows:

1. Page 1, line 17 through line 19.

**Strike:** "WHEREAS," on page 17 through "; AND" on line 19

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2. Page 1, line 26.

**Following:** "CONSTRUCTION"

**Strike:** ", OPERATION, AND MAINTENANCE OF"

**Insert:** "of the \$700,000 building for"

3. Page 2.

**Following:** line 7

**Insert:** "(2) That the Legislature authorizes construction of a \$700,000 building for the Richland County Extension Office if, in addition to the \$700,000 for construction, an endowment of \$700,000 is received by the Board of Regents to cover future operations and maintenance costs of the Richland County Extension Office; and"

**Renumber:** subsequent sections

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

**JUDICIARY** (Perry, Chairman):

2/19/2009

**SB 221**, introduced bill, be amended as follows:

1. Title, line 6.

**Strike:** "MAY"

**Insert:** "MUST"

2. Page 1, line 30.

**Following:** "animals"

**Insert:** ", a first or subsequent offense of companion animal hoarding,"

**Following:** the second "or"

**Strike:** "of"

3. Page 2, line 16.

**Following:** "(d)"

**Strike:** "may"

**Insert:** "shall"

4. Page 2, line 17.

**Following:** "treatment"

**Strike:** ", at the person's expense, "

5. Page 3, line 1.

**Strike:** "20"

**Insert:** "10"

6. Page 3, line 2.

**Following:** ";;"

**Insert:** "and"

7. Page 3, line 3.

**Following:** "environment"

**Strike:** ";; and"

**Insert:** "."

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8. Page 3, line 4 through line 6.

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

9. Page 3, line 8.

**Following:** "races"

**Insert:** "unless the facilities meet the elements of subsection (5)(a)(i)"

10. Page 3, line 9.

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

And, as amended, do pass. Report adopted.

**LOCAL GOVERNMENT** (Esp, Chairman):

2/19/2009

**SB 231**, do pass. Report adopted.

**SB 305**, introduced bill, be amended as follows:

1. Title, line 5 through line 7.

**Strike:** "REMOVING" on line 5 through "INCLUDING" on line 7

**Insert:** "PROVIDING"

**Following:** "ESTABLISHED"

**Insert:** "SUBDIVISION REVIEW"

2. Title, line 9.

**Strike:** "76-3-501" through "76-3-625,"

**Insert:** "76-3-510, 76-3-604,"

3. Page 1, line 25 through page 14, line 4.

**Strike:** everything after the enacting clause

**Insert:** "**Section 1.** Section 76-3-510, MCA, is amended to read:

**"76-3-510. Payment for extension of capital facilities.** (1) A local government may require a subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. A local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

(2) All fees, costs, or other money paid by a subdivider under this section must be expended on the capital facilities for which the payments were required."

**Insert:** "**Section 2.** Section 76-3-604, MCA, is amended to read:

**"76-3-604. Review of subdivision application -- review for required elements and sufficiency of information.** (1) (a) Within 5 working days of receipt of a subdivision application submitted in accordance with any deadlines established pursuant to 76-3-504(3) and receipt of the review fee submitted as provided in 76-3-602, the reviewing agent or agency shall determine whether the application contains all of the listed materials as required by 76-3-504(1)(a) and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that elements are missing from the application, the reviewing agent or agency shall identify those elements in the notification.

(2) (a) Within 15 working days after the reviewing agent or agency notifies the subdivider or the subdivider's agent that the application contains all of the required elements as provided in subsection (1), the reviewing agent or agency shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provisions of this chapter and the local

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regulations adopted pursuant to this chapter and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that information in the application is not sufficient to allow for review of the proposed subdivision, the reviewing agent or agency shall identify the insufficient information in its notification.

(c) A determination that an application contains sufficient information for review as provided in this subsection (2) does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the reviewing agent or agency or the governing body to request additional information during the review process.

(3) The time limits provided in subsections (1) and (2) apply to each submittal of the application until:

(a) a determination is made that the application contains the required elements and sufficient information; and

(b) the subdivider or the subdivider's agent is notified.

(4) After the reviewing agent or agency has notified the subdivider or the subdivider's agent that an application contains sufficient information as provided in subsection (2), the governing body shall approve, conditionally approve, or deny the proposed subdivision within 60 working days, based on its determination of whether the application conforms to the provisions of this chapter and to the local regulations adopted pursuant to this chapter, unless:

(a) the subdivider and the reviewing agent or agency agree to an extension or suspension of the review period, not to exceed 1 year; or

(b) a subsequent public hearing is scheduled and held as provided in 76-3-615.

(5) If the governing body fails to comply with the time limits under this section, the governing body shall pay to the subdivider a financial penalty of \$50 per lot per month or a pro rata portion of a month, not to exceed the total amount of the subdivision review fee collected by the governing body for the subdivision application, until the governing body denies, approves, or conditionally approves the subdivision.

~~(5)(6)~~ If the governing body denies or conditionally approves the proposed subdivision, it shall send the subdivider a letter, with the appropriate signature, that complies with the provisions of 76-3-620.

~~(6)(7)~~ (a) The governing body shall collect public comment submitted at a hearing or hearings regarding the information presented pursuant to 76-3-622 and shall make any comments submitted or a summary of the comments submitted available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat.

(b) The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the governing body to the:

(i) reviewing authority provided for in Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; and

(ii) local health department or board of health for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

~~(7)(8)~~ (a) For a proposed subdivision that will create one or more parcels containing less than 20 acres, the governing body may require approval by the department of environmental quality as a condition of approval of the final plat.

(b) For a proposed subdivision that will create one or more parcels containing 20 acres or more, the governing body may condition approval of the final plat upon the subdivider demonstrating, pursuant to 76-3-622, that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot.

~~(8)(9)~~ (a) Review and approval, conditional approval, or denial of a proposed subdivision under this chapter may occur only under those regulations in effect at the time a subdivision application is determined to contain sufficient information for review as provided in subsection (2).

(b) If regulations change during the review periods provided in subsections (1) and (2), the determination of whether the application contains the required elements and sufficient information must be based on the new regulations."

**Insert: "Section 3.** Section 76-4-125, MCA, is amended to read:

**"76-4-125. Review of subdivision application -- land divisions excluded from review.** (1) Except as

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provided in subsection (2), an application for review of a subdivision must be submitted to the reviewing authority. The review by the reviewing authority must be as follows:

(a) At any time after the developer has submitted an application under the Montana Subdivision and Platting Act, the developer shall present a subdivision application to the reviewing authority. The application must include preliminary plans and specifications for the proposed development, whatever information the developer feels necessary for its subsequent review, any public comments or summaries of public comments collected as provided in 76-3-604~~(6)~~(7), and information required by the reviewing authority. Subdivision fees assessed by the reviewing authority must accompany the application. If the proposed development includes onsite sewage disposal facilities, the developer shall notify the designated agent of the local board of health prior to presenting the subdivision application to the reviewing authority. The agent may conduct a preliminary site assessment to determine whether the site meets applicable state and local requirements.

(b) Except as provided in 75-1-205(4) and 75-1-208(4)(b), the department shall make a final decision on the proposed subdivision within 60 days after the submission of a complete application and payment of fees to the reviewing authority unless an environmental impact statement is required, at which time this deadline may be increased to 120 days. The reviewing authority may not request additional information for the purpose of extending the time allowed for a review and final decision on the proposed subdivision. If the department approves the subdivision, the department shall issue a certificate of subdivision approval indicating that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction.

(2) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

(a) the exclusions cited in 76-3-201 and 76-3-204;

(b) divisions made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision;

(c) divisions made for purposes other than the construction of water supply or sewage and solid waste disposal facilities as the department specifies by rule;

(d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided; and

(e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer if:

(i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or

(ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant to local regulations or this chapter.

(3) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from the remainder referenced in subsection (2)(e)(ii), the remainder include acreage or features sufficient to accommodate a replacement drainfield."

**Insert:** "NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

**SB 310**, introduced bill, be amended as follows:

1. Page 2, line 25 through line 27.

**Strike:** "a waiver" on line 25 through "district." on line 27

**Insert:** "that a property owner waive a right to protest the creation of a special improvement district or a rural improvement district for capital improvement projects that does not identify the specific capital improvements

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for which protest is being waived. A waiver of a right to protest may not be valid for a time period longer than 15 years after the date that the final subdivision plat is filed with the county clerk and recorder."

And, as amended, do pass. Report adopted.

**SB 369**, introduced bill, be amended as follows:

1. Page 1, line 24.

**Following:** "days of"

**Insert:** "the"

**Following:** "notification"

**Insert:** "required under this subsection"

And, as amended, do pass. Report adopted.

**SB 448**, introduced bill, be amended as follows:

1. Title, line 5 through line 7.

**Strike:** "ALLOWING IMPOSITION" on line 5 through "SECURITY;" on line 7

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

**Strike:** subsection (5) in its entirety

And, as amended, do pass. Report adopted.

**NATURAL RESOURCES** (Gebhardt, Chairman):

2/19/2009

**SB 94**, do pass. Report adopted.

**SB 396**, introduced bill, be amended as follows:

1. Page 1, line 10 through line 22.

**Strike:** subsection (1) in its entirety

**Insert:** "(1) An appropriator may change the point of diversion or combine points of diversion of surface water appropriation rights without the prior approval of the department for the purpose of replacing a point of diversion if:

(a) there are no other changes to the water right;

(b) the amount of water diverted is not increased;

(c) there are not points of diversion or intervening water rights between the existing point of diversion and the new point of diversion or the appropriator obtains written waivers from all intervening water right holders;

(d) the new point of diversion is on the same source and within the same reach of stream owned by or under the control of the appropriator; and

(e) the appropriator can show that the existing point of diversion has been used in the 10 years prior to the notice for the change in point of diversion."

2. Page 1, line 23.

**Following:** "if"

**Insert:** "the department determines that"

3. Page 1, line 24.

**Following:** "met"

**Strike:** "."

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**Insert:** "and the appropriator has submitted a notice in accordance with 85-2-402(18). The department may inspect the diversion to confirm the criteria under subsection (1) of this section."

4. Page 1, line 25 through line 26.

**Strike:** subsection (3) in its entirety

**Insert:** "(3) (a) An appropriator may file a complaint with the department alleging that the change in point of diversion will adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under Title 85, chapter 2, part 3.

(b) If the department determines after a hearing that the rights of other appropriators have been or will be adversely affected, it may revoke the change or make the change subject to terms, conditions, restrictions, or limitations that it considers necessary to protect the rights of other appropriators.

(c) The burden of proof at the hearing is on the appropriator changing the point of diversion."

5. Page 8.

**Following:** line 4

**Insert:** "(18) (a) For a change in a point of diversion in accordance with [section 1], after the change in the point of diversion for an appropriation right is made, the appropriator shall file a change of appropriation right notice on a form provided by the department.

(b) The department shall review the notice to determine if the notice is correct and complete.

(c) The department may not issue an authorization of a change in appropriation right for the point of diversion until a correct and complete notice has been filed with the department and the department determines that the criteria under [section 1] are met.

(d) The department shall return a defective notice to the appropriator, along with a description of defects in the notice. The appropriator shall refile a corrected and complete notice within 30 days of notification of defects or within a further timeframe determined by the department, not to exceed 6 months."

And, as amended, do pass. Report adopted.

**SB 417**, introduced bill, be amended as follows:

1. Page 2, line 8.

**Following:** "~~decisionmaking~~"

**Insert:** "and in decisionmaking not related to the issuance, denial, modification, or conditioning of a permit or an authority to act"

2. Page 2, line 14.

**Following:** "~~decisionmaking~~"

**Insert:** "in decisionmaking not related to the issuance, denial, modification, or conditioning of a permit or an authority to act"

3. Page 7, line 20.

**Strike:** "If"

**Insert:** "(a) Except as provided in subsection (7)(b), if"

4. Page 7.

**Following:** line 23

**Insert:** "(b) Subsection (7)(a) does not apply to a permit granted under Title 75, chapter 2, or under Title 82, chapter 4, parts 1 and 2."

And, as amended, do pass. Report adopted.



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**PUBLIC HEALTH, WELFARE AND SAFETY** (Brown, Chairman):  
**SB 432**, introduced bill, be amended as follows:

2/19/2009

1. Page 1, line 21.

**Strike:** ", by"

**Insert:** "instituted a"

**Strike:** ", ensured"

**Insert:** "requiring"

2. Page 1, line 22.

**Strike:** "that those"

**Following:** "services"

**Insert:** "to"

And, as amended, do pass. Report adopted.

**SJR 26**, do pass. Report adopted.

**STATE ADMINISTRATION** (Shockley, Chairman):  
**SB 199**, introduced bill, be amended as follows:

2/19/2009

1. Title, line 5.

**Strike:** "CREATING" through "COUNCIL;"

2. Page 1.

**Following:** line 19

**Insert:** "WHEREAS, the Try Another Way State Employees Task Force was formally established by Executive Order No. 6-94 on March 30, 1994, with the mission "to inspire state employees to be more efficient in their work day travel by promoting and facilitating walking, biking, carpooling, vanpooling and public transportation" to and from work; and

WHEREAS, the Try Another Way State Employees Task Force is composed of volunteer state employees appointed by their respective employer-agency; and

WHEREAS, the Try Another Way State Employees Task Force has worked toward fulfilling its mission by preparing and distributing to state employees information regarding the benefits of alternatives to single-occupant vehicle travel and available alternative transportation opportunities; distributing surveys; holding promotional events; developing reserved carpool parking spaces in the state capitol complex; developing park and carpool sites on routes into Helena; promoting and assisting with development of a commuter bus route to the capitol complex in Helena; and other similar activities; and

WHEREAS, the Try Another Way State Employees Task Force is available to continue to prepare and distribute to state agencies, for dissemination to each agency's employees, information regarding the benefits of alternatives to single-occupant vehicle travel and available alternative transportation opportunities; and

WHEREAS, the Try Another Way State Employees Task Force is available to provide guidance to state agencies in preparing travel reduction plans and encouraging employees to use alternative transportation to and from work; and"

3. Page 1, line 25 through page 2, line 21.

**Strike:** section 1 in its entirety

**Renumber:** subsequent sections

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4. Page 2, line 25.

**Strike:** "to be" through "[section 1]"

5. Page 3, line 3.

**Strike:** "through 4"

**Insert:** "and 2"

6. Page 3, line 8 through line 12.

**Strike:** section 3 in its entirety

**Renumber:** subsequent sections

7. Page 3, line 15.

**Strike:** "the survey" through "(5)(b)]"

**Insert:** "any surveys regarding state employee commuting distributed by the try another way state employees task force"

8. Page 3, line 17.

**Strike:** "advisory council"

**Insert:** "try another way state employees task force"

9. Page 3, line 19.

**Following:** "measures"

**Insert:** "developed or received by the agency"

10. Page 3, line 24.

**Strike:** "through 4"

**Insert:** "and 2"

11. Page 3, line 25.

**Strike:** "through 4"

**Insert:** "and 2"

And, as amended, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

**House bills** passed and transmitted to the Senate for concurrence:

2/18/2009

**HB 273**, introduced by O'Hara

**HB 308**, introduced by Augare

**HB 321**, introduced by Cohenour

**HB 372**, introduced by Wilmer

**HB 384**, introduced by Villa

**HB 387**, introduced by Reichner

**HB 397**, introduced by Kottel

**HB 403**, introduced by Kottel

**HB 428**, introduced by Pomnichowski

**House joint resolution** passed and transmitted to the Senate for concurrence:

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**HJR 17**, introduced by French

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 495**, introduced by Story, referred to Taxation.

**SB 496**, introduced by J. Peterson, referred to Finance and Claims.

**SB 497**, introduced by Shockley, referred to Judiciary.

**MOTIONS**

Senator Branae moved to re-refer **SB 69** and **SB 70** from Education and Cultural Resources to Finance and Claims.  
Motion carried.

(Senator Juneau present.)

**SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator M. Tropila in the chair.

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

**SJR 22** - Senator Zinke moved **SJR 22** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent, Stewart-Peregoy.  
Total 2

**SB 46** - Senator McGee moved **SB 46** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Mr. President.  
Total 29

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams, Zinke.

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Total 19

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

**SJR 23** - Senator Moss moved **SJR 23** do pass. Motion **failed** as follows:

Yeas: Branae, T. Brown, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 24

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

**SJR 23** - Senator J. Peterson moved **SJR 23** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 21

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

**SB 216** - Senator Laslovich moved **SB 216** do pass.

**SB 216** - Senator Laslovich moved **SB 216**, second reading copy, be amended as follows:

1. Title, page 1, line 10.

**Following:** "BELONGING;"

**Strike:** "AND"

2. Title, page 1, line 11.

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**Following:** "MCA"

**Insert:** "; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE"

3. Page 7, line 15.

**Following:** line 14

**Insert:** "NEW SECTION. **Section 4. Effective date -- applicability.** [This act] is effective July 1, 2009, and applies to school fiscal years beginning on or after July 1, 2010."

Amendment adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Balyeat, Juneau, Shockley.

Total 3

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

**SB 216** - Senator Laslovich moved **SB 216**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Balyeat, Erickson, Hinkle, Juneau, Kaufmann, Shockley.

Total 6

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

**SB 224** - Senator R. Brown moved **SB 224** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 36

Nays: Erickson, Gallus, Gillan, Hawks, Juneau, Kaufmann, Keane, Moss, Schmidt, Squires, M. Tropila, Wanzenried.

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Total 12

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

Senator Peterson moved that **SB 285** be passed for the day. Without objection, so ordered.

**SB 323** - Senator Erickson moved **SB 323** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 45

Nays: Brenden, Esp, Mr. President.

Total 3

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

**SB 330** - Senator Moss moved **SB 330** do pass. Motion carried as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 30

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, McGee, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 18

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

**SB 360** - Senator Keane moved **SB 360** do pass.

**SB 360** - Senator Keane moved **SB 360**, second reading copy, be amended as follows:

1. Title, page 1, line 5 through line 7.

**Strike:** "REQUIRING" on line 5 through "PROVISIONS;" on line 7

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2. Title, page 1, line 7.

**Strike:** "SECTIONS"

**Insert:** "SECTION"

3. Title, page 1, line 8.

**Strike:** "75-20-215, AND 75-20-216,"

4. Page 4, line 2 through page 8, line 1.

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

**Renumber:** subsequent sections

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

**SB 360** - Senator Wanzenried moved **SB 360**, second reading copy, be amended as follows:

1. Page 2, line 28 through line 30.

**Strike:** ", unless" on line 28 through ";" on line 30

**Insert:** ". Except for a newly acquired easement or right-of-way necessary to comply with electromagnetic field standards, a newly acquired easement or right-of-way outside the existing easement or right-of-way as described in this subsection (8)(a)(iv) may not exceed a total of 10 miles in length or be more than 10% of the existing transmission right-of-way, whichever is greater, and the purpose of the easement must be to avoid sensitive areas or inhabited areas."

2. Page 3.

**Following:** line 19

**Insert:** "(10) "Sensitive areas" means government-designated areas that have been recognized for their importance to Montana's wildlife, wilderness, culture, and historic heritage, including but not limited to national wildlife refuges, state wildlife management areas, federal areas of critical environmental concern, state parks and historic sites, designated wilderness areas, wilderness study areas, designated wild and scenic rivers, or national parks, monuments, or historic sites."

**Renumber:** subsequent subsections

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann,

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Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent, Stewart-Peregoy.  
Total 2

**SB 360** - Senator Keane moved **SB 360**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 47

Nays: Hansen.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Jent, Stewart-Peregoy.  
Total 2

**SB 375** - Senator J. Peterson moved **SB 375** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent, Stewart-Peregoy.  
Total 2

**SB 390** - Senator McGee moved **SB 390** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann,



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Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent, Stewart-Peregoy.  
Total 2

**SB 392** - Senator Brueggeman moved **SB 392** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent, Stewart-Peregoy.  
Total 2

**SB 395** - Senator Gebhardt moved **SB 395** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.  
Total 47

Nays: Windy Boy.  
Total 1

Absent or not voting: None.  
Total 0

Excused: Jent, Stewart-Peregoy.  
Total 2

**SB 400** - Senator Laslovich moved **SB 400** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann,

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Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent, Stewart-Peregoy.  
Total 2

**SB 401** - Senator Laslovich moved **SB 401** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent, Stewart-Peregoy.  
Total 2

**SB 405** - Senator Moss moved **SB 405** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Jent, Stewart-Peregoy.  
Total 2

**SB 437** - Senator Perry moved **SB 437** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy,

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Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Balyeat, Barrett, Brenden, R. Brown, Hinkle, Jackson, Laible, Laslovich, Ripley, Tutvedt.

Total 10

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman M. Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

**MOTIONS**

Senator Bales moved to re-refer **SB 216**, just passed as amended on second reading, to Finance and Claims. Motion carried.

**THIRD READING OF BILLS**

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

**SB 368** passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.  
Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

**SB 371** passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.  
Total 27

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Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.  
Total 23

Paired: Barkus, Esp, Aye; Jent, Stewart-Peregoy, No.

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 12:00 p.m., Friday, February 20, 2009. Motion carried.

Senate adjourned at 2:20 p.m.

MARILYN MILLER  
Secretary of the Senate

ROBERT STORY  
President of the Senate