

**SENATE JOURNAL
61ST LEGISLATURE
FORTY-THIRD LEGISLATIVE DAY**

Helena, Montana
February 24, 2009

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS (Curtiss, Chairman): 2/24/2009
Correctly printed: **SB 200, SB 234, SB 257, SB 263, SB 305, SB 337, SB 349, SB 353, SB 361, SB 399, SB 407, SB 424, SB 436, SB 438, SB 449, SB 470, SB 499, SB 500, SJR 25, SJR 29.**
Correctly engrossed: **SB 20, SB 285, SB 292, SB 445, SB 463, SB 497.**
Correctly enrolled: **SR 3.**
Signed by the Secretary of the Senate at 6:10 p.m., February 23, 2009: **SR 4, SR 5, SR 6, SR 7.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 2/23/2009

HB 103, introduced by Wilson
HB 386, introduced by O'Hara

MOTIONS

Senator J. Peterson moved the Senate Democrats and Republicans caucus. Motion carried. Senate recessed until 10:26 a.m.

Roll Call. All members present. Quorum present.

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 257 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Juneau, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 39

Nays: Cooney, Erickson, Hansen, Hawks, Jent, Kaufmann, Larsen, Moss, Squires, Wanzenried, Williams.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 305 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 326 passed as follows:

Yeas: Black, Branae, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 28

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Esp, Essmann, Gebhardt, Hinkle, Jackson, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Zinke, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 337 passed as follows:

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

Total 31

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

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 345 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Lewis.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 349 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, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Juneau, Kaufmann.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 353 passed as follows:

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

Total 45

Nays: Balyeat, R. Brown, Hinkle, Shockley, Steinbeisser.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 361 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 399 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 424 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

SB 436 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, Brueggeman, Esp, Gallus, Gebhardt, Hansen, Hinkle, Jackson, Keane, Laible, Larsen, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, Tutvedt, Williams, Zinke, Mr. President.
Total 28

Nays: Black, Branae, R. Brown, T. Brown, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Laslovich, McGee, Perry, Steinbeisser, J. Tropila, M. Tropila, Wanzenried, Windy Boy.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 438 passed as follows:

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

Nays: Esp, Gebhardt, Mr. President.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 441 passed as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.

Total 0

SB 449 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 457 passed as follows:

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

Total 48

Nays: Bales, Esp.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 470 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 48

Nays: Perry, Mr. President.

Total 2

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 25 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 500, introduced by J. Peterson, referred to Finance and Claims.

MOTIONS

Senator McGee moved that **SB 482** be moved from second reading on the Forty-Fourth Legislative Day and placed on second reading this day. Motion carried.

Senator Bales moved to re-refer **SB 183** from the Committee of the Whole to Finance and Claims. Motion carried.

Senator Brueggeman moved that **SB 469** be taken from State Administration, printed, and placed on second reading this day.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hawks, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 32

Nays: Branae, Brenden, Cooney, Gillan, Hamlett, Hansen, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 18

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

Senator Ripley moved that **SB 407** be taken from Agriculture and Irrigation, printed, and placed on second reading this day. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hawks, Hinkle, Jackson, Jent, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 33

Nays: Branae, Cooney, Gallus, Hamlett, Hansen, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Erickson moved that **SB 200** be taken from Natural Resources, printed, and placed on second reading this day. Motion carried as follows:

Yeas: Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Peterson, Ripley, Steinbeisser, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Hawks moved that **SB 109** be taken from Local Government, printed, and placed on second reading this day. Motion **failed** as follows:

Yeas: 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

Nays: 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

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Gillan moved that **SB 397** be taken from Business and Labor, printed, and placed on second reading. Motion **failed** as follows:

Yeas: Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Zinke, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Hamlett moved that **SB 267** be taken from State Administration, printed, and placed on second reading on the Forty-Fourth Legislative Day. Motion **failed** as follows:

Yeas: Branae, Brueggeman, 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, Zinke.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**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 J. Tropila in the chair.

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

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

recommend as follows:

SB 348 - Senator Essmann moved **SB 348** do pass.

SB 348 - Senator Essmann moved **SB 348**, second reading copy, be amended as follows:

1. Title, line 7.

Strike: "90"

Insert: "75"

2. Page 1, line 16.

Strike: "90"

Insert: "75"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barrett, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, Murphy, Peterson, Ripley, Shockley, Steinbeisser, Mr. President.

Total 21

Nays: Barkus, Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, McGee, Moss, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 348 - Senator Essmann moved **SB 348** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, McGee, Moss, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 37

Nays: R. Brown, Cooney, Hinkle, Jackson, Keane, Laslovich, Lewis, Murphy, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 373 - Senator Perry moved **SB 373** do pass. Motion **failed** as follows:

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

Total 21

Nays: Branae, Brueggeman, Cooney, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 373 - Senator Williams moved **SB 373** be **indefinitely postponed**. Motion carried as follows:

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

Total 26

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

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 373 - Senator J. Peterson moved consideration of **SB 374** be placed after **SB 411** on second reading this day. Motion carried.

SB 381 - Senator Shockley moved **SB 381** do pass. Motion carried as follows:

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

Total 26

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

Total 24

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senate reconvened at 1:00 p.m.

Roll call. Senator Gillan excused. Quorum present.

MOTIONS

Senator Wanzenried moved that **SB 463** be placed on second reading this day. Motion carried.

Senator Williams moved that **SB 321** be taken from Judiciary and placed on second reading. Motion **failed** as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Kaufman moved that **SB 412** be taken from Public Health, Welfare, and Safety and placed on second reading on the Forty-Fourth Legislative Day. Motion **failed** as follows:

Yeas: 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

Nays: 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

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Senator Hamlett moved that **SB 267** be taken from State Administration and placed on second reading on the Forty-Fourth Legislative Day. Motion carried as follows:

Yeas: Branae, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 26

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**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 J. Tropila in the chair.

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

SB 382 - Senator Shockley moved **SB 382** do pass. Motion carried as follows:

Yeas: Bales, 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 26

Nays: Balyeat, 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 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 398 - Senator Zinke moved **SB 398** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen,

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, Tutvedt, Williams, Zinke, Mr. President.

Total 41

Nays: Erickson, Juneau, Kaufmann, Moss, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Windy Boy.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 409 - Senator Brueggeman moved **SB 409** do pass. Motion carried as follows:

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

Total 45

Nays: Barrett, Brenden, Esp, Ripley, Steinbeisser.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 411 - Senator Tutvedt moved **SB 411** do pass. Motion carried as follows:

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

Total 48

Nays: Brenden.

Total 1

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 374 - Senator Perry moved **SB 374** do pass. Motion carried as follows:

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

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Tutvedt, Windy Boy, Zinke, Mr. President.
Total 29

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 413 - Senator Kaufmann moved **SB 413** do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Bales, Barrett, Brenden, Gebhardt, Hinkle, McGee, Perry, Ripley, Steinbeisser.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 426 - Senator Laslovich moved **SB 426** 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 427 - Senator Laslovich moved **SB 427** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Gillan, Jent, Schmidt, Stewart-Peregoy.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 431 - Senator R. Brown moved **SB 431** do pass. 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, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 434 - Senator Gebhardt moved **SB 434** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Cooney, Gallus, Juneau, Kaufmann, Keane, Laslovich, Stewart-Peregoy, Wanzenried.
Total 8

Absent or not voting: None.
Total 0

Excused: R. Brown.
Total 1

SB 440 - Senator Gebhardt moved **SB 440** do pass. Motion carried as follows:

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

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

Total 26

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

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 444 - Senator Laslovich moved **SB 444** do pass. Motion carried 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, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat, Hinkle.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 447 - Senator Moss moved **SB 447** 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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 461 - Senator Brueggeman moved **SB 461** do pass.

SB 461 - Senator Brueggeman moved **SB 461**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

Following: "CIRCUMSTANCES;"

Insert: "ALLOWING AN APPROPRIATOR TO FILE A COMPLAINT OBJECTING TO A CHANGE IN PLACE OF USE;"

2. Page 8.

Following: line 3

Insert: "(19) (a) An appropriator may file a complaint with the department alleging that the change in place of use 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 place of use."

Amendment **not** adopted as follows:

Yeas: Balyeat, Brenden, T. Brown, Brueggeman, Gallus, Gebhardt, Hawks, Jackson, Kaufmann, Laslovich, McGee, Perry, M. Tropila, Zinke.

Total 14

Nays: Bales, Barkus, Barrett, Black, Branae, R. Brown, Cooney, Curtiss, Erickson, Esp, Essmann, Gillan, Hamlett, Hansen, Hinkle, Jent, Juneau, Keane, Laible, Larsen, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 36

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 461 - Senator Brueggeman moved **SB 461** do pass. Motion **failed** as follows:

Yeas: R. Brown, Brueggeman, Esp, Gallus, Jackson, Larsen, Laslovich, McGee, Shockley, M. Tropila, Windy Boy.

Total 11

Nays: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 39

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

SB 461 - Senator Williams moved **SB 461** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Mr. President.
Total 43

Nays: Brueggeman, Gallus, Jackson, Kaufmann, Shockley, Windy Boy, Zinke.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 468 - Senator Barkus moved **SB 468** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hawks, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke, Mr. President.
Total 32

Nays: Branae, Erickson, Gallus, Hamlett, Hansen, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Squires, Stewart-Peregoy, Wanzenried, Williams, Windy Boy.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 471 - Senator Brueggeman moved **SB 471** do pass. Motion carried as follows:

Yeas: Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Tutvedt, Mr. President.
Total 21

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

SB 481 - Senator Barkus moved **SB 481** do pass. Motion carried as follows:

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

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 21 - Senator Curtiss moved **SJR 21** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Zinke, Mr. President.
Total 32

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 446 - Senator Story moved **SB 446** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Balyeat, Barrett, Esp, Essmann, Hinkle, Jackson, Laible.
Total 7

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

SB 439 - Senator Story moved **SB 439** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Balyeat, Barrett, R. Brown, Essmann, Hinkle, Jackson.
Total 6

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

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

Roll call: Senator Keane and Senator Gillan excused. Quorum present.

Senator Gillan present.

Senator Keane present.

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

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

SB 200 - Senator Erickson moved **SB 200** do pass.

SB 200 - Senator Erickson moved **SB 200**, second reading copy, be amended as follows:

1. Page 2, line 3.

Strike: "or commercial"

2. Page 2, line 4.

Strike: "and commercial"

3. Page 2, line 7.

Following: "means"

Strike: "elemental phosphorus"

Insert: "the element phosphorus as indicated in the periodic table of elements"

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

4. Page 2, line 10.

Strike: "elemental"

Insert: "the element"

5. Page 2, line 27.

Following: "by"

Insert: "institutional or"

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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 200 - Senator Erickson moved **SB 200**, as amended, do pass. Motion carried as follows:

Yeas: Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 33

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Lewis, McGee, Peterson, Ripley, Steinbeisser, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 407 - Senator Ripley moved **SB 407** do pass.

SB 407 - Senator Ripley moved **SB 407**, second reading copy, be amended as follows:

1. Title, page 1, line 6.

Following: "PROCEEDINGS;"

Strike: "AND"

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Following: "MCA"

Insert: "; AND PROVIDING AN APPLICABILITY DATE"

2. Page 1, line 13.

Following: "upon"

Insert: "either"

3. Page 2, line 8.

Strike: "87-7-1956"

Insert: "85-7-1956"

4. Page 2, line 15.

Insert: "NEW SECTION. **Section 3. Applicability.** [This act] applies to causes of action brought on or after October 1, 2009."

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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: J. Tropila.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 407 - Senator Ripley moved **SB 407**, 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, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 469 - Senator J. Peterson moved consideration of **SB 469** be passed for the day. Motion carried.

SB 482 - Senator McGee moved **SB 482** do pass.

SB 482 - Senator McGee moved **SB 482**, second reading copy, be amended as follows:

1. Title, line 8.

Following: "~~RECORD;~~"

Insert: "PROVIDING THAT A GOVERNING BODY MAY NOT REQUIRE A PARK DEDICATION FOR A FIRST MINOR SUBDIVISION FROM A TRACT OF RECORD;"

2. Title, line 9.

Following: "76-3-207"

Insert: ", "

Strike: "AND"

Following: "76-3-611,"

Insert: "AND 76-3-621,"

3. Page 7.

Following: line 19

Insert: "**Section 3.** Section 76-3-621, MCA, is amended to read:

"76-3-621. Park dedication requirement. (1) Except as provided in 76-3-509 or subsections (2), (3), and (6) through (9) of this section, a subdivider shall dedicate to the governing body a cash or land donation equal to:

(a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

(b) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;

(c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and

(d) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.

(2) When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a growth policy under chapter 1 or pursuant to zoning regulations under chapter 2, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the growth policy or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection (1) and may not exceed 0.03 acres per dwelling unit.

(3) A park dedication may not be required for:

(a) land proposed for subdivision into parcels larger than 5 acres;

(b) subdivision into parcels that are all nonresidential;

(c) a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; ~~or~~

(d) a subdivision in which only one additional parcel is created; or

(e) a first minor subdivision from a tract of record as described in 76-3-609(2).

(4) The governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.

(5) (a) In accordance with the provisions of subsections (5)(b) and (5)(c), the governing body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.

(b) The governing body may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas or for the purchase of public open space or conservation easements only if:

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

(i) the park, recreational area, open space, or conservation easement is within a reasonably close proximity to the proposed subdivision; and

(ii) the governing body has formally adopted a park plan that establishes the needs and procedures for use of the money.

(c) The governing body may not use more than 50% of the dedicated money for park maintenance.

(6) The local governing body shall waive the park dedication requirement if:

(a) (i) the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and

(ii) the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection (1);

(b) (i) the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and

(ii) the area of the land proposed to be subdivided, by virtue of providing long-term protection provided for in subsection (6)(b)(i), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1);

(c) the area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (6)(a) and (6)(b), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1); or

(d) (i) the subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and

(ii) the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection (1).

(7) The local governing body may waive the park dedication requirement if:

(a) the subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and

(b) the area of the land to be subject to long-term protection, as provided in subsection (7)(a), equals or exceeds the area of the dedication required under subsection (1).

(8) A local governing body may, at its discretion, require a park dedication for a subsequent minor subdivision as described in 76-3-609(3). A local governing body that chooses to require a park dedication shall specify in regulations the circumstances under which a park dedication will be required.

(9) Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection (1) to a school district, adequate to be used for school facilities or buildings.

(10) For the purposes of this section:

(a) "cash donation" is the fair market value of the unsubdivided, unimproved land; and

(b) "dwelling unit" means a residential structure in which a person or persons reside.

(11) A land donation under this section may be inside or outside of the subdivision."

Amendment adopted as follows:

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

Total 28

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

Total 22

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 482 - Senator McGee moved **SB 482**, second reading copy, be amended as follows:

1. Title, line 5.

Following: "~~ACT~~;"

Insert: "REVISING WHAT CONSTITUTES A TRACT OF RECORD FOR THE PURPOSES OF THE SUBDIVISION AND PLATTING ACT;"

2. Title, line 9.

Following: "~~76-3-621~~;"

Insert: "76-3-103,"

Following: "76-3-207"

Insert: ", "

3. Page 3.

Following: line 12

Insert: "**Section 1.** Section 76-3-103, MCA, is amended to read:

"76-3-103. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

(3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(5) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(6) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(7) "Governing body" means a board of county commissioners or the governing authority of a city or town organized pursuant to law.

(8) "Immediate family" means a spouse, children by blood or adoption, and parents.

(9) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

(10) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

(11) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

(12) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(13) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this chapter, the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter 13, parts 22 and 23.

(14) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of land.

(15) "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes.

(16) (a) "Tract of record" means an individual parcel of land, irrespective of ownership or instrument of conveyance, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection (16)(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."

Renumber: subsequent sections

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hansen, Hinkle, Jackson, Lewis, McGee, Perry, Peterson, Shockley, Tutvedt, Mr. President.

Total 21

Nays: Barrett, Branae, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 482 - Senator McGee moved **SB 482**, as amended, do pass. Motion carried as follows:

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

Total 30

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Nays: Branae, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 463 - Senator Wanzenried moved **SB 463** do pass.

SB 463 - Senator Wanzenried moved **SB 463**, second reading copy, be amended as follows:

1. Page 2, line 3.

Following: "29 U.S.C. 213"

Insert: "."

Strike: "AND WHO"

Insert: "A qualified medicaid provider who passes through payment"

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, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Shockley.
Total 1

SB 463 - Senator Wanzenried moved **SB 463**, 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, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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

MOTIONS

Senator Bales moved to re-refer **SB 446** to Finance and Claims. Motion carried.

Senator Story re-assumed the chair.

Senator Brueggeman moved to change his vote on **SB 446** from no to yes. Without objection, so ordered.

Senator McGee moved that **SB 406** be taken from Judiciary and placed on second reading. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Mr. President.
Total 24

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 26

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 10:00 a.m., Wednesday, February 25, 2009. Motion carried.

Senate adjourned at 6:39 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate