

**SENATE JOURNAL
61ST LEGISLATURE
FORTIETH LEGISLATIVE DAY**

Helena, Montana
February 20, 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 Senator Jent, excused. Quorum present.

BILLS AND JOURNALS:

2/20/2009

Correctly printed: **SB 46, SB 94, SB 224, SB 231, SB 323, SB 330, SB 375, SB 390, SB 392, SB 395, SB 400, SB 401, SB 405, SB 437, SB 495, SB 496, SB 497, SJR 20, SJR 22, SJR 26, SR 4, SR 5, SR 6, HB 13.**

Correctly engrossed: **SB 199, SB 216, SB 221, SB 300, SB 305, SB 310, SB 322, SB 360, SB 369, SB 396, SB 417, SB 432, SB 448, SJR 25, HJR 8.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

2/20/2009

SB 286, introduced bill, be amended as follows:

1. Page 1, line 25.

Strike: "Title"

2. Page 2, line 24.

Following: "products"

Insert: "not provided for under 7 CFR, part 1000.40,"

3. Page 2, line 28.

Following: "~~department~~"

Insert: "department and"

4. Page 2, line 30.

Following: "state."

Insert: "The board shall conduct hearings and make determinations under this chapter and under board rules and orders promulgated pursuant to this chapter."

5. Page 3, line 2.

Following: "health."

Insert: "(2)"

Strike: "board"

Insert: "department"

6. Page 3, line 4.

Strike: "(2)"

Insert: "(3)"

Strike: "board shall investigate"

Insert: "department shall assist the board by investigating"

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7. Page 3, lines 5 and 6.

Following: "state and" on line 5

Strike: "shall conduct" on line 5 through "board" on line 6

Insert: "by bringing proceedings to enforce the orders of the board. The department, in exercising its enforcement duties,"

8. Page 3, line 8.

Strike: "board"

Insert: "department"

9. Page 3, line 9.

Strike: "board" in two places

Insert: "department" in two places

10. Page 3.

Following: line 10

Insert: "(4) The department shall provide staff to the board as provided in 2-15-121 to assist in technical, enforcement, and regulatory activities."

11. Page 5, line 19.

Strike: the first "board"

Insert: "department"

12. Page 6, line 4.

Following: "board."

Insert: "A penalty may not be assessed until after the cause of the penalty has been upheld following the notice and hearing requirements of subsection (1)."

13. Page 9, line 13.

Following: "board."

Insert: "An enforcement action is subject to the provisions of [section 16]."

14. Page 10, line 6.

Strike: "board"

Insert: "department"

15. Page 10, line 7.

Strike: "board"

Insert: "department"

16. Page 10, line 10.

Following: "(1)"

Insert: "(a)"

17. Page 10, line 11.

Strike: "department"

Insert: "board"

18. Page 10.

Following: line 16

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Insert: "(b) The department and the board may request only the records necessary for establishing milk prices pursuant to this chapter. Records requested under this subsection (1) are confidential and may not be disclosed unless the public's right to know outweighs the licensee's privacy interests."

19. Page 12, line 4.

Insert: "NEW SECTION. **Section 16. Appeal of action or decision.** An entity receiving notice of a violation of a provision of this chapter may within 60 days of receiving the notice from the department or board submit a request to the board for a contested case proceeding pursuant to Title 2, chapter 4, part 6. Upon receiving a request, the board shall appoint a hearings examiner to conduct the hearing and issue a proposal for decision. The board shall issue a final decision within 90 days of receiving the proposal for decision."

Renumber: subsequent sections

20. Page 12, line 6.

Insert: "NEW SECTION. **Section 18. Codification instruction.** [Section 16] is intended to be codified as an integral part of Title 81, chapter 23, part 4, and the provisions of Title 81, chapter 23, part 4, apply to [section 16]."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 337, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "STUDY;"

Insert: "PROVIDING AN EXCEPTION;"

2. Page 2, line 10.

Following: "buffalo or bison"

Insert: "within the state"

3. Page 2, line 11.

Following: "study"

Insert: "unless the wild buffalo or bison are relocated to the national bison range at Moiese"

And, as amended, do pass. Report adopted.

SR 7, be adopted. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

2/19/2009

SB 388, introduced bill, be amended as follows:

1. Page 1, line 26.

Strike: "or"

2. Page 1.

Following: line 26

Insert: "(d) an apprenticeship program that is in compliance with Title 39, chapter 6; or"

Renumber: subsequent subsection

3. Page 1, line 27.

Strike: "the BEAR program"

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4. Page 1, line 28.

Following: "representatives"

Insert: "of the BEAR program, the small business development centers, or the Montana manufacturing extension center at Montana state university-Bozeman"

5. Page 2, line 18.

Following: "department"

Insert: ", of a small business development center, or of the Montana manufacturing extension center at Montana state university-Bozeman"

6. Page 3, line 15.

Following: "programs"

Insert: ", small business development centers, or the Montana manufacturing extension center at Montana state university-Bozeman"

7. Page 3, line 18.

Following: the first "program"

Insert: ", a small business development center, or the Montana manufacturing extension center at Montana state university-Bozeman"

8. Page 4, line 12.

Following: "program"

Insert: ", a small business development center, or the Montana manufacturing extension center at Montana state university-Bozeman"

9. Page 4.

Following: line 30

Insert: "NEW SECTION. **Section 8. Contingent voidness.** If House Bill No. 2 or [LC 2314] is passed and approved but does not contain funding for an incumbent worker training program, then [this act] is void."

And, as amended, do pass. Report adopted.

SB 438, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):
SB 290, introduced bill, be amended as follows:

2/20/2009

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

Strike: "ALLOWING" on line 6 through "COUNCIL;" on line 7

2. Page 1, line 15.

Following: "energy"

Insert: "efficiency,"

3. Page 2, line 15.

Strike: "and"

4. Page 2.

Following: line 15

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Insert: "(vii) promoting alternative energy systems; and"

5. Page 2, line 16.

Strike: "(vii)"

Insert: "(viii)"

6. Page 3, line 7 through line 10.

Strike: "may" on line 7 through "necessary" on line 10

Insert: "shall use its interim budget, as allocated by the legislative council, and rely on the input of locally available experts and staff research"

And, as amended, do pass. Report adopted.

SB 403, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Strike: "69-3-604,"

2. Page 1, line 28 through page 2, line 17.

Strike: section 2 in its entirety

Renumber: subsequent sections

3. Page 3, line 3.

Following: "facility"

Insert: "as defined in 69-3-601"

Strike: "produces" through "69-3-2003,"

Insert: "is an eligible renewable resource"

4. Page 3, line 16.

Following: "facility"

Insert: "as defined in 69-3-601"

Strike: "produces" through "69-3-2003,"

Insert: "is an eligible renewable resource"

5. Page 4, line 12.

Following: "facility"

Insert: "as defined in 69-3-601"

6. Page 4, line 12 through line 13.

Strike: "produces" on page 12 through "69-3-2003" on line 13

Insert: "is an eligible renewable resource"

7. Page 5, line 22.

Strike: "pursuant to 69-3-604"

Insert: "as defined in 69-3-601"

8. Page 5, line 28.

Strike: "pursuant to 69-3-604"

Insert: "as defined in 69-3-601"

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9. Page 6, line 2 through line 3.

Strike: "Unless" on line 2 through "contracts" on line 3

Insert: "Contracts"

10. Page 6, line 6 through line 7.

Strike: "Unless" on page 6 through "contracts" on line 7

Insert: "Contracts"

11. Page 6, line 9.

Strike: "pursuant to 69-3-604"

Insert: "as defined in 69-3-601"

12. Page 7, line 6.

Strike: "4"

Insert: "3"

And, as amended, do pass. Report adopted.

SB 424, introduced bill, be amended as follows:

1. Page 2, line 20.

Strike: the second "a"

Insert: "the"

Following: "brand"

Insert: "of a"

And, as amended, do pass. Report adopted.

SB 449, do pass. Report adopted.

SB 475, introduced bill, be amended as follows:

1. Page 1, line 12.

Strike: "70"

Insert: "77"

2. Page 1, line 15.

Strike: "a description of each tract"

Insert: "the number of tracts in each county"

3. Page 1, line 17.

Strike: "more"

Insert: "less"

4. Page 1, line 18.

Strike: "not more than"

Insert: "between"

Following: "days"

Insert: "and 35 days"

5. Page 1, line 21.

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Strike: "a description and an area map"

Insert: "the number"

Following: "county"

Insert: "and notice that a description and maps of tracts nominated are available on the department's website"

6. Page 1.

Following: line 21

Insert: "(5) The department shall publish on its website a description and maps of all tracts to be offered for sale."

ReNUMBER: subsequent subsections

7. Page 1, line 22.

Strike: "(5)(b)"

Insert: "(6)(b)"

Strike: "certified"

Insert: "first-class"

8. Page 1, line 25.

Strike: "(5)(a)"

Insert: "(6)(a)"

9. Page 1, line 27.

Strike: "(5)"

Insert: "(6)"

And, as amended, do pass. Report adopted.

SJR 28, introduced joint resolution, be amended as follows:

1. Page 1, line 16.

Strike: "Montana's" through "proposed"

Insert: "Montana Integrated Waste Management Act proposes"

2. Page 1, line 17.

Strike: "17%" through "2020"

Insert: "19% by 2011 and 22% by 2015"

3. Page 1, line 18 through line 21.

Following: "composting" on line 18

Strike: "; and" on line 18 through "directive" on line 21

And, as amended, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):

2/20/2009

SB 183, introduced bill, be amended as follows:

1. Title, page 1, line 13.

Strike: "AND A TERMINATION DATE"

2. Page 4, line 12.

Strike: subsection (e) in its entirety

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Renumber: subsequent subsections

3. Page 6, line 30.

Following: "department"

Insert: "of justice"

4. Page 7, line 21.

Following: "whether"

Insert: "the methodologies and procedures used by state agencies to determine"

5. Page 7, line 22 through line 24.

Strike: "accurate" on line 22 through "auditor" on line 24

Insert: "reasonable"

6. Page 8, line 7.

Following: "department"

Insert: "of justice"

7. Page 15, line 7.

Following: "effective"

Insert: ":

(a)"

Following: "on passage and approval"

Strike: ". "

Insert: "if the gray wolf in Montana is on the federal endangered species list and a decision to delist the gray wolf in Montana has not been published in the federal register so that it will become effective within 30 days; or

(b) upon the issuance of a court order that results in the gray wolf in Montana remaining on or being placed on the federal endangered species list. If this action occurs, the department of fish, wildlife, and parks shall notify the code commissioner on the date that the action occurred."

8. Page 15, line 12.

Strike: "termination -- contingent"

9. Page 15, line 15.

Strike: "terminates"

Insert: "is suspended"

And, as amended, do pass. Report adopted.

SB 425, introduced bill, be amended as follows:

1. Page 1, line 12.

Strike: "primary"

2. Page 1, line 13.

Following: "populations"

Insert: "with minimal impact on cold water fish populations"

3. Page 2, line 2.

Following: "87-3-236"

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Insert: ", revenue in the general license account,"

Strike: "other"

Insert: "federal"

4. Page 2, line 8.

Strike: "primary"

5. Page 2, line 9.

Following: "populations"

Insert: "with minimal impact on cold water fish populations"

6. Page 2, line 28.

Following: "~~87-3-236~~"

Insert: "revenue in the general license account or"

Following: "any"

Insert: "federal"

And, as amended, do pass. Report adopted.

SB 436, do pass. Report adopted.

SB 470, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

2/19/2009

SB 288, introduced bill, be amended as follows:

1. Title, page 1, line 4 through line 8.

Strike: "CLARIFYING" on line 4 through "DATE" on line 8

Insert: "REQUIRING A WRITTEN UNDERTAKING TO BE GIVEN BY A PARTY REQUESTING A HEARING OR A STAY BEFORE A COURT OR THE BOARD OF ENVIRONMENTAL REVIEW; AMENDING SECTIONS 75-2-103, 75-2-211, AND 75-5-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

2. Page 1, line 12 through page 2, line 16.

Strike: section 1 in its entirety

Renumber: subsequent sections

Insert: "NEW SECTION. Section 1. Energy development project -- hearing and procedures. (1) If the person requesting the hearing is not the applicant or permittee of an energy development project, the board or the district court shall require a written undertaking to be given by the party requesting the hearing for the payment of costs and damages incurred by the permit applicant and its employees unless the board or the district court determines that issuance of the permit was prohibited by statute.

(2) When requiring an undertaking, the board or the district court shall use the same procedures and limitations that are provided in 27-19-306(2) through (4) for undertakings on injunctions.

(3) If the person requesting the hearing is not the applicant or permittee and a stay, an injunction, or a restraining order is not requested, the board or the district court shall require a written undertaking pursuant to the provisions of this section."

Insert: "**Section 2.** Section 75-2-103, MCA, is amended to read:

"**75-2-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advisory council" means the air pollution control advisory council provided for in 2-15-2106.

(2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous

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substances, or any combination thereof.

(3) "Air pollutants" means one or more air contaminants that are present in the outdoor atmosphere, including those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42 U.S.C. 7401, et seq.

(4) "Air pollution" means the presence of air pollutants in a quantity and for a duration that are or tend to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere with the enjoyment of life, property, or the conduct of business.

(5) "Associated supporting infrastructure" means:

(a) electric transmission and distribution facilities;

(b) pipeline facilities;

(c) aboveground ponds and reservoirs and underground storage reservoirs;

(d) rail transportation;

(e) aqueducts and diversion dams;

(f) devices or equipment associated with the delivery of an energy form or product produced at an energy development project; or

(g) other supporting infrastructure that is necessary for an energy development project.

~~(5)~~(6) "Board" means the board of environmental review provided for in 2-15-3502.

~~(6)~~(7) (a) "Commercial hazardous waste incinerator" means:

(i) an incinerator that burns hazardous waste; or

(ii) a boiler or industrial furnace subject to the provisions of 75-10-406.

(b) Commercial hazardous waste incinerator does not include a research and development facility that receives federal or state research funds and that burns hazardous waste primarily to test and evaluate waste treatment remediation technologies.

~~(7)~~(8) "Department" means the department of environmental quality provided for in 2-15-3501.

~~(8)~~(9) "Emission" means a release into the outdoor atmosphere of air contaminants.

(10) (a) "Energy development project" means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:

(i) generating electricity;

(ii) producing gas derived from coal;

(iii) producing liquid hydrocarbon products;

(iv) refining crude oil or natural gas;

(v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5;

(vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant to 15-32-701; or

(vii) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.

(b) The term does not include a nuclear facility as defined in 75-20-1202.

~~(9)~~(11) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant to Title 75, chapter 2, 5, 10, or 11.

~~(10)~~(12) "Hazardous waste" means:

(a) a substance defined as hazardous under 75-10-403 or defined as hazardous in department administrative rules adopted pursuant to Title 75, chapter 10, part 4; or

(b) a waste containing 2 parts or more per million of polychlorinated biphenyl (PCB).

~~(11)~~(13) (a) "Incinerator" means any single- or multiple-chambered combustion device that burns combustible material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of removal, destruction, disposal, or volume reduction of any portion of the input material.

(b) Incinerator does not include:

(i) safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;

(ii) space heaters that burn used oil;

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- (iii) wood-fired boilers; or
- (iv) wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.

~~(12)~~(14) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in medical research on humans or animals, or in the production or testing of biologicals. The term includes:

- (a) cultures and stocks of infectious agents;
- (b) human pathological wastes;
- (c) waste human blood or products of human blood;
- (d) sharps;
- (e) contaminated animal carcasses, body parts, and bedding that were known to have been exposed to infectious agents during research;
- (f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents; and
- (g) biological waste and discarded material contaminated with blood, excretion, exudates, or secretions from humans or animals.

~~(13)~~(15) (a) "Oil or gas well facility" means a well that produces oil or natural gas. The term includes:

- (i) equipment associated with the well and used for the purpose of producing, treating, separating, or storing oil, natural gas, or other liquids produced by the well; and
- (ii) a group of wells under common ownership or control that produce oil or natural gas and that share common equipment used for the purpose of producing, treating, separating, or storing oil, natural gas, or other liquids produced by the wells.

(b) The equipment referred to in subsection ~~(13)(a)~~ (15)(a) includes but is not limited to wellhead assemblies, amine units, prime mover engines, phase separators, heater treater units, dehydrator units, tanks, and connecting tubing.

(c) The term does not include equipment such as compressor engines used for transmission of oil or natural gas.

~~(14)~~(16) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or private corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the federal government or an agency of the federal government, or any other legal entity and includes persons resident in Canada.

~~(15)~~(17) "Principal" means a principal of a corporation, including but not limited to a partner, associate, officer, parent corporation, or subsidiary corporation.

~~(16)~~(18) "Small business stationary source" means a stationary source that:

- (a) is owned or operated by a person who employs 100 or fewer individuals;
- (b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;
- (c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C. 7661, et seq.;
- (d) emits less than 50 tons per year of an air pollutant;
- (e) emits less than a total of 75 tons per year of all air pollutants combined; and
- (f) is not excluded from this definition under 75-2-108(3).

~~(17)~~(19) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts thereof; wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials; asphalt shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil or petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

(b) Solid waste does not include municipal sewage, industrial wastewater effluents, mining wastes regulated under the mining and reclamation laws administered by the department of environmental quality, or slash and forest debris regulated under laws administered by the department of natural resources and conservation."

Insert: "Section 3. Section 75-2-211, MCA, is amended to read:

"75-2-211. Permits for construction, installation, alteration, or use. (1) The board shall by rule provide

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for the issuance, modification, suspension, revocation, and renewal of a permit issued under this part.

(2) (a) Except as provided in 75-1-208(4)(b), 75-2-234, and subsections (2)(b) and (2)(c) of this section, not later than 180 days before construction, installation, or alteration begins or as a condition of use of any machine, equipment, device, or facility that the board finds may directly or indirectly cause or contribute to air pollution or that is intended primarily to prevent or control the emission of air pollutants, the owner or operator shall file with the department the appropriate permit application on forms available from the department.

(b) Except as provided in subsection (2)(e), the owner or operator of an oil or gas well facility shall file the permit application with the department no later than January 3, 2006, or 60 days after the initial well completion date, whichever is later. For purposes of this section, the initial well completion date for an oil or gas well facility is:

(i) for an oil or gas well facility producing oil, the date when the first oil is produced through wellhead equipment into lease tanks from the ultimate producing interval after casing has been run; and

(ii) for an oil or gas well facility producing gas, the date when the oil or gas well facility is capable of producing gas through wellhead equipment from the ultimate producing interval after casing has been run.

(c) An owner or operator who complies with subsection (2)(b) may construct, install, or use equipment necessary to complete or operate an oil or gas well facility without a permit until the department's decision on the application is final. If the owner or operator does not comply with subsection (2)(b), the owner or operator may not operate the oil or gas well facility and is liable for a violation of this section for every day of construction, installation, or operation of the facility.

(d) The board shall adopt rules establishing air emission control requirements applicable to an oil or gas well facility during the time from the initial well completion date until the department's decision on the application is final.

(e) The provisions of subsections (2)(b) and (2)(c) do not apply to an oil or gas well facility subject to the federal air permitting provisions of 42 U.S.C. 7475 or 7503.

(3) The permit program administered by the department pursuant to this section must include the following:

(a) requirements and procedures for permit applications, including standard application forms;

(b) requirements and procedures for submittal of information necessary to determine the location, quantity, and type of emissions;

(c) procedures for public notice and opportunity for comment or public hearing, as appropriate;

(d) procedures for providing notice and an opportunity for comment to contiguous states and federal agencies, as appropriate;

(e) requirements for inspection, monitoring, recordkeeping, and reporting;

(f) procedures for the transfer of permits;

(g) requirements and procedures for suspension, modification, and revocation of permits by the department;

(h) requirements and procedures for appropriate emission limitations and other requirements, including enforceable measures necessary to ensure compliance with those limitations and requirements;

(i) requirements and procedures for permit modification and amendment; and

(j) requirements and procedures for issuing a single permit authorizing emissions from similar operations at multiple temporary locations, which permit may include conditions necessary to ensure compliance with the requirements of this chapter at all authorized locations and a requirement that the owner or operator notify the department in advance of each change in location.

(4) This section does not restrict the board's authority to adopt regulations providing for a single air quality permit system.

(5) Department approval of an application to transfer a portable emission source from one location to another is exempt from the provisions of 75-1-201(1).

(6) The department may, for good cause shown, waive or shorten the time required for filing the appropriate applications.

(7) The department shall require that applications for permits be accompanied by any plans, specifications, and other information that it considers necessary.

(8) An application is not considered filed until the applicant has submitted all fees required under 75-2-220 and all information and completed application forms required pursuant to subsections (2), (3), and (7) of this section. If the department fails to notify the applicant in writing within 30 days after the purported filing of an application that the application is incomplete and fails to list the reasons why the application is considered incomplete, the application

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is considered filed as of the date of the purported filing.

(9) (a) Except as provided in 75-1-205(4) and 75-1-208(4)(b), if an application for a permit requires the preparation of an environmental impact statement under the Montana Environmental Policy Act, Title 75, chapter 1, parts 1 through 3, the department shall notify the applicant in writing of the approval or denial of the application:

(i) within 180 days after the department's receipt of a filed application, as provided in subsection (8), if the department prepares the environmental impact statement;

(ii) within 30 days after issuance of the final environmental impact statement by the lead agency if a state agency other than the department has been designated by the governor as lead agency for preparation of the environmental impact statement; or

(iii) if the application is for a machine, equipment, a device, or a facility at an operation that requires a permit under Title 82, chapter 4, part 1, 2, or 3, within 30 days of issuance of the final environmental impact statement in accordance with time requirements of Title 82, chapter 4, part 1, 2, or 3.

(b) If an application does not require the preparation of an environmental impact statement, is not subject to the provisions of 75-2-215, and is not subject to the federal air quality permitting provisions of 42 U.S.C. 7475, 7503, or 7661, the department shall notify the applicant in writing within 60 days after its receipt of a filed application, as provided in subsection (8), of its approval or denial of the application, except as provided in subsection (14).

(c) If an application does not require the preparation of an environmental impact statement and is subject to the federal air permitting provisions of 42 U.S.C. 7475, 7503, or 7661, the department shall notify the applicant, in writing, within 75 days after its receipt of a filed application, as provided in subsection (8), of its approval or denial of the application.

(d) Except as provided in subsection (9)(e), if an application does not require the preparation of an environmental impact statement and is subject to the provisions of 75-2-215, the department shall notify the applicant of its approval or denial of the application, in writing, within 75 days after its receipt of a filed application, as provided in subsection (8).

(e) If an application for a permit is for the construction, installation, alteration, or use of a source that is also required to obtain a license pursuant to 75-10-221 or a permit pursuant to 75-10-406, the department shall prepare a single environmental review document pursuant to Title 75, chapter 1, for the permit required under this section and the license or permit required under 75-10-221 or 75-10-406 and act on the applications within the time period provided for in 75-2-215(3)(e).

(f) The time for notification may be extended for 30 days by written agreement of the department and the applicant. Additional 30-day extensions may be granted by the department upon the request of the applicant. Notification of approval or denial may be served personally or by certified mail on the applicant or the applicant's agent.

(g) Failure by the department to act in a timely manner does not constitute approval or denial of the application. This does not limit or abridge the right of any person to seek available judicial remedies to require the department to act in a timely manner.

(10) When the department approves or denies the application for a permit under this section, a person who is jointly or severally adversely affected by the department's decision may request a hearing before the board. The request for hearing must be filed within 15 days after the department renders its decision. An affidavit setting forth the grounds for the request must be filed within 30 days after the department renders its decision. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing before the board under this subsection.

(11) Except as provided in [section 1]:

(a) ~~The~~ the department's decision on the application is not final until 15 days have elapsed from the date of the decision;

(b) ~~The~~ the filing of a request for hearing does not stay the department's decision. However, the board may order a stay upon receipt of a petition and a finding, after notice and opportunity for hearing, that:

(i) the person requesting the stay is entitled to the relief demanded in the request for a hearing; or

(ii) continuation of the permit during the appeal would produce great or irreparable injury to the person requesting the stay.

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(c) ~~Upon~~ upon granting a stay, the board may require a written undertaking to be given by the party requesting the stay for the payment of costs and damages incurred by the permit applicant and its employees if the board determines that the permit was properly issued. When requiring an undertaking, the board shall use the same procedures and limitations as are provided in 27-19-306(2) through (4) for undertakings on injunctions.

(12) The board shall provide, by rule, a period of 30 days in which the public may submit comments on draft air quality permits for applications that:

- (a) are subject to the federal air quality permitting provisions of 42 U.S.C. 7475, 7503, or 7661;
- (b) are subject to the requirements of 75-2-215; or
- (c) require the preparation of an environmental impact statement.

(13) The board shall provide, by rule, a period of 15 days in which the public may submit comments on draft air quality permits not subject to subsection (12).

(14) The board shall provide, by rule, the basis upon which the department may extend by 15 days:

(a) the period as provided in subsection (13) in which the public may submit comments on draft air quality permits not subject to subsection (12); and

(b) the period for notifying an applicant of its final decision on approval or denial of an application, as provided in subsection (9)(b).

(15) (a) The board may adopt rules for issuance, modification, suspension, revocation, renewal, or creation of:

- (i) general permits covering multiple similar sources; or
- (ii) other permits covering multiple similar sources.

(b) Rules adopted pursuant to subsection (15)(a) may provide for construction and operation under the permit upon authorization by the department or upon notice to the department."

Insert: "Section 4. Section 75-5-103, MCA, is amended to read:

"75-5-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Associated supporting infrastructure" means:

(a) electric transmission and distribution facilities;

(b) pipeline facilities;

(c) aboveground ponds and reservoirs and underground storage reservoirs;

(d) rail transportation;

(e) aqueducts and diversion dams;

(f) devices or equipment associated with the delivery of an energy form or product produced at an energy development project; or

(g) other supporting infrastructure that is necessary for an energy development project.

~~(1)~~(2) "Board" means the board of environmental review provided for in 2-15-3502.

~~(2)~~(3) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.

~~(3)~~(4) "Council" means the water pollution control advisory council provided for in 2-15-2107.

~~(4)~~(5) (a) "Currently available data" means data that is readily available to the department at the time a decision is made, including information supporting its previous lists of water bodies that are threatened or impaired.

(b) The term does not mean new data to be obtained as a result of department efforts.

~~(5)~~(6) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).

~~(6)~~(7) "Department" means the department of environmental quality provided for in 2-15-3501.

~~(7)~~(8) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.

~~(8)~~(9) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged into state waters.

(10) (a) "Energy development project" means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:

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- (i) generating electricity;
 - (ii) producing gas derived from coal;
 - (iii) producing liquid hydrocarbon products;
 - (iv) refining crude oil or natural gas;
 - (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5;
 - (vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant to 15-32-701; or
 - (vii) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.
- (b) The term does not include a nuclear facility as defined in 75-20-1202.
- ~~(9)~~(11) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether or not those uses are included in the water quality standards.
- ~~(10)~~(12) "High-quality waters" means all state waters, except:
- (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by the board's classification rules; and
 - (b) surface waters that:
 - (i) are not capable of supporting any one of the designated uses for their classification; or
 - (ii) have zero flow or surface expression for more than 270 days during most years.
- ~~(11)~~(13) "Impaired water body" means a water body or stream segment for which sufficient credible data shows that the water body or stream segment is failing to achieve compliance with applicable water quality standards.
- ~~(12)~~(14) "Industrial waste" means a waste substance from the process of business or industry or from the development of any natural resource, together with any sewage that may be present.
- ~~(13)~~(15) "Interested person" means a person who has a real property interest, a water right, or an economic interest that is or may be directly and adversely affected by the department's preliminary decision regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization to degrade high-quality waters.
- ~~(14)~~(16) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future nonpoint sources or to natural background sources.
- ~~(15)~~(17) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum change that can occur from the best practicable condition in a surface water without causing a violation of the surface water quality standards.
- ~~(16)~~(18) "Local department of health" means the staff, including health officers, employed by a county, city, city-county, or district board of health.
- ~~(17)~~(19) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium, cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.
- ~~(18)~~(20) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by the department where water quality standards may be exceeded, subject to conditions that are imposed by the department and that are consistent with the rules adopted by the board.
- ~~(19)~~(21) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.
- ~~(20)~~(22) "Outstanding resource waters" means:
- (a) state surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995; or
 - (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and approved by the legislature.
- ~~(21)~~(23) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point source.
- ~~(22)~~(24) "Parameter" means a physical, biological, or chemical property of state water when a value of that

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property affects the quality of the state water.

~~(23)~~(25) "Person" means the state, a political subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes persons resident in Canada.

~~(24)~~(26) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.

~~(25)~~(27) (a) "Pollution" means:

(i) contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor; or

(ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

(b) A discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter. Activities conducted under the conditions imposed by the department in short-term authorizations pursuant to 75-5-308 are not considered pollution under this chapter.

~~(26)~~(28) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals, together with ground water infiltration and surface water present.

~~(27)~~(29) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.

~~(28)~~(30) "Standard of performance" means a standard adopted by the board for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

~~(29)~~(31) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

(b) The term does not apply to:

(i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

(ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

~~(30)~~(32) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in combination with narrative information, that supports a finding as to whether a water body is achieving compliance with applicable water quality standards.

~~(31)~~(33) "Threatened water body" means a water body or stream segment for which sufficient credible data and calculated increases in loads show that the water body or stream segment is fully supporting its designated uses but threatened for a particular designated use because of:

(a) proposed sources that are not subject to pollution prevention or control actions required by a discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

(b) documented adverse pollution trends.

~~(32)~~(34) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for point sources and load allocations for both nonpoint sources and natural background sources established at a level necessary to achieve compliance with applicable surface water quality standards.

~~(33)~~(35) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage, industrial wastes, or other wastes.

~~(34)~~(36) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources.

~~(35)~~(37) "Water quality protection practices" means those activities, prohibitions, maintenance procedures, or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve the quality of state waters. Water quality protection practices include but are not limited to treatment requirements, standards of performance, effluent standards, and operating procedures and practices to control site runoff, spillage

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or leaks, sludge or water disposal, or drainage from material storage.

~~(36)~~(38) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

~~(37)~~(39) "Watershed advisory group" means a group of individuals who wish to participate in an advisory capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in an advisory capacity as provided in 75-5-704."

Insert: "NEW SECTION. Section 5. Written undertaking. If the person requesting a hearing under 75-5-611 is not the applicant or permittee of an energy development project, the district court shall require a written undertaking to be given by the party requesting the hearing for the payment of costs and damages incurred by the applicant or permittee unless the district court determines that issuance of the permit was prohibited by statute. When requiring an undertaking, the district court shall use the same procedures and limitations that are provided in 27-19-306(2) through (4) for undertakings on injunctions."

Insert: "NEW SECTION. Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 75, chapter 2, part 2, and the provisions of Title 75, chapter 2, part 2, apply to [section 1].

(2) [Section 5] is intended to be codified as an integral part of Title 75, chapter 5, part 6, and the provisions of Title 75, chapter 5, part 6, apply to [section 5]."

Renumber: subsequent section

3. Page 2, line 19.

Insert: "NEW SECTION. Section 8. Applicability. [This act] applies to judicial and board of environmental review hearing and appeal proceedings initiated on or after [the effective date of this act]."

And, as amended, do pass. Report adopted.

SB 349, introduced bill, be amended as follows:

1. Page 2, line 22.

Following: the first "that is"

Insert: "identified as"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/19/2009

SB 391, introduced bill, be amended as follows:

1. Page 1, line 11.

Strike: "Secretary of state to certify"

Insert: "Certification of "

2. Page 1, line 11 through line 12.

Following: "(1)" on line 11

Insert: "(a)"

Strike: "Not" on line 11 through ", the" on line 12

Insert: "The"

3. Page 1.

Following: line 15

Insert: "(b) The certification must be completed within 5 calendar days after the last day on which a candidate may withdraw from nomination pursuant to 13-10-325."

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4. Page 1, line 16.

Following: "(2)"

Insert: "(a)"

Strike: "Not" through ", the"

Insert: "The"

5. Page 1.

Following: line 19

Insert: "(b) The certification must be completed by the later of:

(i) 5 calendar days after the secretary of state certifies the names and designations of candidates as provided in subsection (1); or

(ii) 5 calendar days after the last date on which a candidate may withdraw from nomination pursuant to 13-10-325."

6. Page 2, line 1 through line 2.

Strike: "70" on line 1 through "election" on line 2

Insert: "more than 5 calendar days after the date on which the declarations for nomination closed for the office for which the candidate filed"

7. Page 2, line 7.

Strike: "70" through "election"

Insert: "between the date on which the candidate filed a declaration for nomination and 5 calendar days after the date on which declarations for nomination closed for the office for which the candidate filed"

8. Page 2, line 12.

Following: "πσ"

Insert: ": (a)"

9. Page 2, line 13.

Following: "election"

Insert: "; or"

(b) at least one candidate for the party's nomination for the office was nominated at the primary election.

10. Page 2.

Following: line 13

"COORDINATION SECTION. Section 4. Coordination instruction. If [this act] and Senate Bill No. 156 are both passed and approved and both amend 13-10-208, then the section in each bill that amends 13-10-208 is void and 13-10-208 is amended to read:

"13-10-208. Certificate Certification of primary ballot -- preparing ballot. (1) ~~(a) Not more than 75 days and not less than 67 days before the date of the primary election, the~~ The secretary of state shall certify to the election administrators the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official records of the secretary of state's office in the manner provided in 13-10-209 and Title 13, chapter 12, part 2, ~~of this title.~~

(b) The certification must be completed within 5 calendar days after the last day on which a candidate may withdraw from nomination pursuant to 13-10-325.

(2) ~~(a) Not more than 67 days and not less than 62 days before the date of the primary election, the~~ The election administrator shall certify the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official record of the election administrator's office and must have the official ballots prepared in the manner provided in 13-10-209 and Title 13, chapter 12, part 2, ~~of this title.~~

(b) The certification must be completed by the later of:

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(i) 5 calendar days after the secretary of state certifies the names and designations of candidates as provided in subsection (1); or

(ii) 5 calendar days after the last date on which a candidate may withdraw from nomination pursuant to 13-10-325.

(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in 13-10-325."

Insert: "COORDINATION SECTION. Section 5. Coordination instruction. If [this act] and Senate Bill No. 156 are both passed and approved and each amends 13-10-325, then the section in Senate Bill No. 156 that amends 13-10-325 is void."

Insert: "COORDINATION SECTION. Section 6. Coordination instruction. If [this act] and Senate Bill No. 156 are both passed and approved and each amends 13-10-326, then the section in Senate Bill No. 156 that amends 13-10-326 is void.""

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman):

2/19/2009

SB 353, do pass. Report adopted.

SB 361, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/19/2009

HB 179, introduced by Villa

HB 301, introduced by Kottel

HB 338, introduced by Ankney

HB 343, introduced by A. Noonan

HB 380, introduced by Stahl

HB 382, introduced by Hamilton

HB 383, introduced by Arntzen

HB 426, introduced by Milburn

MOTIONS

Senator J. Peterson moved **SB 402** be moved from the Judiciary committee to the Finance and Claims committee. 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 46 passed as follows:

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

Total 28

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Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Zinke.
Total 22

Paired: Essmann, Aye; Jent, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 224 passed as follows:

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

Nays: Branae, Erickson, Gallus, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Windy Boy.
Total 17

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 323 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, 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, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Brenden, McGee, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 330 passed as follows:

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

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Total 29

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

Total 20

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 375 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, 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: Jent.

Total 1

SB 390 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, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 48

Nays: Windy Boy.

Total 1

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 392 passed as follows:

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

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Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, 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 47

Nays: Balyeat, Hinkle.

Total 2

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 394 passed as follows:

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

Total 33

Nays: Cooney, Erickson, Gallus, Hawks, Jent, Juneau, Kaufmann, Keane, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams.

Total 17

Paired: Essmann, Aye; Jent, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 395 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, 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: Jent.

Total 1

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SB 400 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, 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: Jent.

Total 1

SB 401 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, 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: Jent.

Total 1

SB 405 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, 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

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Excused: Jent.
Total 1

SB 437 passed as follows:

Yeas: Bales, Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 38

Nays: Balyeat, Barrett, Brenden, R. Brown, Curtiss, Hinkle, Jackson, Jent, Laible, Ripley, Tutvedt, Zinke.
Total 12

Paired: Laslovich, Aye; Jent, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 22 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, 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: Jent.
Total 1

UNFINISHED BUSINESS

Sen. Larsen moved to add Senators Bales, T. Brown, Hamlett, Ripley, Windy Boy as sponsors to **SB 493**. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Laible moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **SR 4**, and that the yeas and nays be spread upon the journal.

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

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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, 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: Jent.

Total 1

Senator Laible moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **SR 5**, and that the ayes and nays be spread upon the journal.

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, 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: Jent.

Total 1

Senator Laible moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **SR 6**, and that the ayes and nays be spread upon the journal.

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, 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: Jent.

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Total 1

**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 Laslovich in the chair.

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

SB 287 - Senator Balyeat moved **SB 287** do pass.

SB 287 - Senator Balyeat moved **SB 287**, second reading copy, be amended as follows:

1. Page 3, line 5.

Following: "½"

Strike: "OR"

2. Page 3, line 6.

Following: line 5

Insert: "(h) engages in an activity for which the person's license has been suspended or was revoked; or"

Renumber: subsequent subsection

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, 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: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Jent.

Total 2

SB 287 - Senator Balyeat moved **SB 287**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Curtiss, Erickson, Esp, Essmann, Gebhardt, Hinkle, Jackson, Kaufmann, Laible, Laslovich, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 31

Nays: Branae, Brenden, Brueggeman, Cooney, Gillan, Hamlett, Hansen, Hawks, Juneau, Keane, Larsen, Lewis, Moss, Schmidt, J. Tropila, M. Tropila, Wanzenried.

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Total 17

Absent or not voting: None.

Total 0

Excused: Gallus, Jent.

Total 2

SB 8 - Senator Hansen moved **SB 8** do pass.

SB 8 - Senator Hansen moved **SB 8**, second reading copy, be amended as follows:

1. Page 1, line 29.

Following: "~~and~~"

Insert: "and"

2. Page 1, line 30.

Following: "towns"

Insert: "."

3. Page 2, line 1 through line 5.

Strike: "; AND" on line 1 through "RESERVATION;" on line 5

4. Page 2, line 12.

Following: line 11

Insert: "(4) Land, water, projects, as defined in [section 8], or other resources within the exterior boundaries of an Indian reservation may not be included within the boundaries of a regional resource authority without the consent of the governing body of the tribe of the Indian reservation."

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

Total 47

Nays: Keane, Windy Boy.

Total 2

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 8 - Senator Hansen moved **SB 8**, as amended, do pass. Motion carried as follows:

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

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Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: Curtiss, Windy Boy.
Total 2

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 151 - Senator Brueggeman moved **SB 151** 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, 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: Jent.
Total 1

SB 192 - Senator Zinke moved **SB 192** 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, 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: Jent.
Total 1

SB 250 - Senator Wanzenried moved **SB 250** do pass. Motion carried as follows:

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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, 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: Jent.
Total 1

SB 350 - Senator Gillan moved **SB 350** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: R. Brown, Esp, Hinkle, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 363 - Senator Stewart-Peregoy moved **SB 363** do pass. Motion carried as follows:

Yeas: Balyeat, Barrett, Black, Branae, Brenden, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Murphy, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 37

Nays: Bales, Barkus, R. Brown, T. Brown, Hinkle, Laslovich, McGee, Perry, Peterson, Squires, Tutvedt, Mr. President.
Total 12

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

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SB 386 - Senator Story moved consideration of **SB 386** be passed for the day. Motion carried.

SB 387 - Senator Bales moved **SB 387** 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, Tutvedt, Mr. President.

Total 27

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

Total 22

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 430 - Senator Hamlett moved **SB 430** 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, 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: Jent.

Total 1

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

MOTIONS

Senator Bales moved that **SB 350** be re-referred from Public Health, Welfare, and Safety to Finance and Claims. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

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SPECIAL ORDERS OF THE DAY

Senator Peterson moved that the Senate recess and proceed to the House of Representatives to hear the State of Education address by Superintendent of Public Instruction Denise Juneau. Upon adjournment of the joint session, the Senate will be adjourned until the hour of 8:00 a.m., Saturday February 21, 2009. Motion carried. After the Senate was introduced in the House chambers, President Story assumed the chair. Senator Peterson moved that the body resolve itself into a joint session for the purpose of receiving the State of Education address from Denise Juneau, Superintendent of Public Instruction. Motion carried.

Senator Peterson moved that the President be authorized to appoint a committee of four to notify the Superintendent of Public Instruction that the House and Senate are in joint session and ready to receive the State of the Education address. Motion carried.

President Story appointed Senator Kaufmann, Senator Black, Representative Calf Boss Ribs, and Representative Reichner, and the committee escorted Superintendent of Public Instruction Denise Juneau into the House chambers

President Story introduced Superintendent of Public Instruction Denise Juneau to the joint session, and the Superintendent of Public Instruction gave the following speech:

Good afternoon.

Thank you, President Story, Speaker Bergren, Representatives, Senators, and honored guests, for this opportunity to give the State of Education Address while educators from all across Montana could be present. It is their work we honor today. There is no more important attribute of a quality education than good teachers and I am committed to ensure that we work to keep them in Montana's classrooms. I respect the teachers and staff who pour their lifeblood into educating those who will someday lead our state. To support education – is to support quality teachers.

In addition to all of the educators in the balcony, we have several Board of Public Education members joining us today. I would like to thank Patti Myers, Angela McLean, Cal Gilbert, and Storrs Bishop for their dedication and service to Montana's schools.

A number of legislators – 44 of your peers – also serve the education system as teachers, professors, and school board members. Thank you for your service.

My parents instilled in me a belief in the power of education and the promises it holds for each person. They taught me and my brother that once we become educated, doors open, opportunities abound, and dreams become reality. I would like to acknowledge my parents – Stan and Carol Juneau.

I have carried these lessons with me in all my endeavors and they are still with me today – as State Superintendent of Public Instruction. Our mission and our work at the Office of Public Instruction is to create educational opportunity for all of Montana's students. Every staff member at OPI believes in the brilliance, creativity, and talents of each student in Montana's schools. They work diligently to make sure we offer the highest quality services to schools. Their work reflects their belief that education is truly the only way we will accomplish our state's hopes and dreams.

All of us in this room respect the work the Legislature does on our behalf. To manage a state's budget and determine priorities for all of Montana's citizens is a very difficult task, made even more demanding given the current economic straits of our country. I encourage you to make decisions that are forward thinking, because the decisions you make next week and in the following 45 days are vitally important to the next generation – your children, grandchildren, and great-grandchildren.

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Our public education system is also responsible to these future generations. We work to ensure every student receives a quality public education no matter their background, their heritage, their economic status, or geographic location.

The top priority of my administration is to increase the academic achievement of **every** student. Article X of Montana's Constitution opens with: "It is the goal of the people to establish a system of education which will develop the full educational potential of each person." This vision for our education system was created by everyday Montanans nearly four decades ago when they gathered in this chamber to rewrite our state constitution. While our students must still learn to read, write, and do arithmetic, they do so in a world that is very different from when those words were written.

Our students today are members of a global society in a way very few of us ever envisioned. They live in a world of iPods, YouTube videos about every topic imaginable; they are connected globally through social networking sites like MySpace, Facebook, and Twitter; their primary mode of conversation is text messaging - and they hold all of that power in the palm of their hands - literally.

Our schools today are preparing students for jobs that don't yet exist. We need to make sure our schools are equipped to serve students as they move toward a future we can only imagine. Rep. Grinde is carrying HB 459 that would create a virtual high school. This is one step we can take so students in both urban and rural Montana have access to the types of classes that will make them globally competitive.

While our world is changing, some of our expectations have not changed to meet these transformations. Rep. Malek is carrying HB433 that expands the compulsory school attendance ages from 7 and 16 to 6 and 17. HB433 is important because in today's global economy, employers require at least a high school diploma – and often additional education and training. Requiring young people to stay in school only until they're 16 may have made sense 50 years ago when jobs did not require specialized skills for entry level and advanced jobs.

Our policies must reflect our expectation that our students will graduate from high school to be economically successful. To make sure our students succeed in high school – and beyond - we have to engage in unprecedented collaborations. Sen. Hawks and Rep. Lake both recognize the need for partnerships and are promoting resolutions calling for the Legislature, K-12, and post-secondary education to work together, to establish common goals, and to make decisions based on data. I look forward to this partnership and the great things we will do for our education system when we all come together to make the best decisions we can for Montana's students. We are all at our best when we are all accountable for our actions and decisions. Our students deserve no less.

In fact, Commissioner Stearns and I and our top leadership teams have been meeting to discuss dual enrollment, distance education, and to strategize ways to reduce the high remediation rates that students graduating from our high schools are confronting. We will discuss ways to make sure the highway that connects our systems includes frequent on-ramps so students can get re-engaged in the system if they need to pull into a rest stop.

In this spirit, I will appoint a Community Learning and Partnerships Policy Advisor to bring stakeholders to the table to reach consensus about our goals for P-20 education. We will work with school boards, private business, industry, communities, and parents to chart a new course for our public education system to meet the needs of every student in each community across Montana.

Part of this new course includes changes for high school systems. I have appointed a policy advisor to work on a high school initiative to help update our high school model so students graduate with real-life skills necessary for 2-year colleges, 4-year universities, or the work force. Our mission in K-12 is to provide students with as many choices as possible at grade 13.

I recently saw a great example of high school reform. In Billings, they have a technical high school called the Career Center, which draws over 800 students from its three area high schools who can choose classes in different career

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pathways such as hospitality and tourism or education and training. In the architecture and construction pathway, students design and build a house every year, right down to painting and designing the interior. This year, the Career Center's house sold for \$250,000. Those students are staying in school, learning relevant skills from outstanding teachers, while gaining credits toward graduation. The Office of Public Instruction will promote the many incredible programs Montana schools are implementing to provide real-life opportunities for students.

We must also pay attention to the early childhood end of the spectrum. I recently supported Rep. McClafferty's HB369 to provide minimal funding for the 20 Head Start programs that provide education, health, and nutrition services to the nearly 5000 low-income children across MT. I started my education career at a Head Start on the south side of Billings while my parents attended then-Eastern Montana College to become teachers. Head Start gave me a good start to my education career – I went on to graduate from Browning High School, Montana State University, the Harvard Graduate School of Education, and the University of Montana Law School. The Office of Public Instruction supports HB369 because we know when children participate in quality early childhood programs – like Head Start – they are more likely to stay and succeed in school because they are ready for kindergarten and the stages that follow.

Speaking of kindergarten, schools have responded enthusiastically to the Legislature's law to establish Full Time kindergarten. Ninety-three percent of our kindergarten students are now enrolled in FTK programs, with more schools coming on board next year.

We will be able to use the data system the Legislature funded to track these kindergarten students to determine the program's success. We are entering into an important phase of education where we use data to examine how well all of our students are learning. The federal No Child Left Behind Act has spotlighted accountability of schools through the use of data. I call on you to be our partner in these data-driven decisions by supporting our statewide data system, called Achievement in Montana, or AIM. This data system tracks a wide variety of student information including enrollment and demographic information, scores on statewide assessments, student dropout information, eligibility for state and federal education programs, and special education planning and reporting. This system allows stakeholders at all levels of education to make informed decisions based on accurate and timely information.

Our constitution states: "Equality of educational opportunity is guaranteed to each person of the state." When we analyze the data from multiple angles, we know the majority of our students are doing very well academically. However, the guarantee is not being met for every student. Achievement gaps do exist, primarily between our poor and non-poor students. We can do better. The Legislature recognizes these disparities in achievement and makes appropriations to support schools in their efforts to close the American Indian student achievement gap and provide services for at-risk students. These bold steps by the Legislature help all Montanans.

We lost one of our respected tribal leaders this week and my thoughts are with the Crow Nation as they mourn the loss of Chairman Carl Venne. He believed in the power of public education and what it can do for all children. He was a great advocate, in particular, for the education of American Indian students in Montana. He knew that every American Indian child who went on to become a doctor, teacher, attorney, or scientist was one more person who would help their communities become successful and economically viable. We all need to work toward that same vision of opportunity and community improvement.

The 2005 and 2007 Legislature initiated funding that allows OPI to provide necessary support to schools in the areas of curriculum and instruction and Indian Education For All.

The OPI curriculum specialists have traveled to the four corners of Montana to provide professional development around quality classroom teaching. They are a highly regarded addition to the services we provide to schools and teachers. They are helping us conduct on-site accreditation school visits, provide valuable materials and resources to classroom teachers, and make our agency more focused on quality instruction.

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Our constitution also provides that “the state recognizes the distinct and unique cultural heritage of the American Indian and is committed in its educational goals to the preservation of their cultural integrity.” This provision became known as Indian Education For All, and after the Legislature provided funding for its implementation, it has become a widely respected program that is being duplicated in many other states. Many teachers wondered how it was possible to integrate content about American Indians into their classroom lessons. Since 2005, our office, working with teachers and tribal educators, has created over 220 classroom units and lessons spanning nearly every curriculum area. Now, we have physics students measuring the elastic potential energy storage of hunting bows. Math students are learning how to use experimental and theoretical probabilities to make predictions by playing a variety of tribal guessing games.

A final priority for discussion today is, of course, funding to ensure a quality education for each student. Public education is the ONLY system our state constitution has specifically outlined as the Legislative body having a duty to fund. The constitution states "The legislature shall provide a basic system of free quality public elementary and secondary schools. . . . It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system." The 2005 Legislature defined a basic system of quality public schools. Now we need to move toward adequate funding of that system.

In the near future, I will appoint a School Funding Policy Analyst to develop a long-term strategy for school funding so we can work with new and future legislators. This analyst will look at our history of funding schools, our economic structure, our tax structure, and develop a long-term plan so we can do better for our students and our schools. We must develop a solution that will outlast our individual political lives and agendas.

I ask you to please fund public schools this session at a level that will ensure every student is provided a quality education in every one of our schools. There are several good bills proposed this session. Sen. Branae carried SBs 69 and 70 on behalf of the Office of Public Instruction, which increases funding for the quality educator component and increases the per ANB and the entitlement component by 3%. Rep. Villa is carrying HB15 that provides for the Governor’s school funding request, which should be the minimum amount you provide to schools this session. We must also take time to review the components of the new federal Jobs Package President Obama signed this week. Federal guidance will soon emerge and we will all know how it may, or may not, fit into the state’s budget. OPI’s goal is to provide accurate and credible information to the Legislature and local schools. Although this federal money is OTO, we will work with you so the money is used to improve opportunities and outcomes for our students.

At the end of the day, we are all responsible for the education of Montana’s children. And, we all benefit from each child's educational success. Funding public education is a state responsibility. Economic crisis or not – the legislature has a constitutional responsibility to ensure a quality public education for each child.

As you continue your work here in this 61st Legislature, please remember the critical importance of K-12 education to our economic future and the lives of all of Montana's children. Every child deserves a chance to succeed, and a quality education is a part of that foundation for success. We have an obligation to keep the good of our children – all of our children – in our hearts during our deliberations.

Thank you all. I look forward to a great next 4 years.

Senator Peterson moved that the joint session of the 61st Legislature be adjourned. Motion carried.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate