

**SENATE JOURNAL
62ND LEGISLATURE
TWENTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
February 2, 2011

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Peterson presiding. Invocation by Chaplain Keith Johnson. Pledge of Allegiance to the Flag. Roll Call. All members present, except Senator Zinke, excused. Quorum present.

SPECIAL ORDERS OF THE DAY

**A JOINT PROCLAMATION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
THE STATE OF MONTANA HONORING THE 2010 NAIA NATIONAL FOOTBALL
CHAMPIONS
CARROLL COLLEGE FIGHTING SAINTS**

February 2, 2011

WHEREAS, the Carroll College Fighting Saints have achieved a history-making six NAIA National Football Championships; and

WHEREAS, Head Football Coach Mike Van Diest was recently named the American Football Coaches Association National Coach of the Year, an honor he also received in 2003 and 2007; and

WHEREAS, Fighting Saints football scholar-athletes have won prestigious awards, including senior Andy Fjeseth being recently selected as the 2010 Rimington Award winner, making him the Most Outstanding Center nationwide in the Saints' football sub-division; senior linebacker Thomas Dolan being named to the 2010 American Football Coaches Association NAIA All-America team; and quarterback Gary Wagner listed as one of two co-offensive Frontier Conference offensive players of the year; and

WHEREAS, Carroll's athletic teams in football, volleyball, soccer, golf, men's and women's basketball, cross country and track and field consistently post record numbers of regionally and nationally recognized scholar athletes for their outstanding academic achievements and high grade point averages; and

WHEREAS, Carroll College is in year one of its second century, having concluded its centennial celebration last spring in honor of its 1909 founding and 100 years of learning, serving, and leading.

NOW THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND SENATE OF THE STATE OF MONTANA that the congratulations of all Montanans go out to the players and

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coaches of the 2010 NAIA National Football Champion, Carroll College Fighting Saints; and that February 2, 2011, be declared Fighting Saints Day in Montana.

President of the Senate, Jim Peterson

Speaker of the House, Mike Milburn

Minority Leader, Carol Williams

Minority Leader, Jon Sesso

BILLS AND JOURNALS:

2/2/2011

Correctly printed: **SB 146, SB 149, SB 151, SB 153, SB 156, SB 159, SB 189, SB 201, SB 221.**
Correctly engrossed: **SB 117, SB 132, SB 133, SB 172, SB 180, SJR 8.**

REPORTS OF STANDING COMMITTEES

HIGHWAYS AND TRANSPORTATION (Jones, Chairman):
SB 179, do pass. Report adopted.

2/1/2011

JUDICIARY (Murphy, Chairman):
SB 58, do pass. Report adopted.

2/2/2011

MESSAGES FROM THE GOVERNOR

Board of Chiropractors
Scott Hansing, Helena

Board of Crime Control
Brenda Desmond, Missoula
Angela Russell, Lodge Grass
Lois Menzies, Helena
Godfrey Saunders, Bozeman
Richard Kirn, Poplar
Randi Hood, Butte
Mike Ferriter, Helena
Sherry Matteucci, Billings

Board of Horseracing
Susan Egbert, Helena

Board of Housing
Jeanette McKee, Hamilton
Bob Gauthier, Ronan
Sheila Rice, Great Falls

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Livestock Loss Reduction and Mitigation Board

Elaine Allestad, Big Timber
Larry Trexler, Hamilton
John Herman, Hot Springs

Milk Control Board

Jerrold Weissman, Great Falls
W. Scott Mitchell, Billings

Public Safety Officer Standards and Training Council

John Schaffer, Great Falls
Lewis Matthews, Wolf Point
Georgette Hogan Boggio, Hardin
Winnie Ore, Helena
Mike Anderson, Helena
James Smith, Libby

Board of Public Education

Doug Cordier, Columbia Falls
Lila Taylor, Busby

Public Employees Retirement Board

Timm Twardoski, Helena

Board of Respiratory Care Practitioners

Thomas Fallang, Butte

State Tax Appeals Board

Samantha Sanchez, Helena

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/1/2011

HB 20, introduced by Hendrick
HB 64, introduced by Stahl
HB 80, introduced by Arntzen
HB 110, introduced by Welborn
HB 118, introduced by Hunter
HB 125, introduced by Klock
HB 131, introduced by Menahan
HB 156, introduced by F. Smith
HB 249, introduced by Fitzpatrick

MOTIONS

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Senator Barrett moved **SB 109** be passed for the day and placed on Second Reading on February 3, 2011. Without objection, so ordered.

Senator Wanzenried moved **SB 122** be taken from the Taxation committee and placed on Second Reading on February 7, 2011. Motion **failed** as follows:

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

Total 23

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

Total 26

Absent or not voting: None.

Total 0

Excused: Zinke.

Total 1

Senator Walker moved to suspend the rules and allow **SB 201** to be moved from Third Reading to Second Reading for the purposes of amendment. Motion carried as follows:

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

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Zinke.

Total 1

Senator Olson moved **SJ 6** be passed for the day. Without objection so ordered.

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FIRST READING AND COMMITMENT OF BILLS

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

SB 261, introduced by Essmann, C. Williams, McGillvray, Sesso, Tutvedt, referred to Taxation.
SB 262, introduced by Blewett, referred to Judiciary.

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

HB 18, introduced by Taylor, referred to Judiciary.
HB 44, introduced by Hoven (by request of the Revenue and Transportation Interim Committee), referred to Business, Labor, and Economic Affairs.
HB 58, introduced by Belcourt (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.
HB 71, introduced by Vance, referred to Judiciary.
HB 77, introduced by Pease-Lopez (by request of the Department of Administration), referred to State Administration.
HB 127, introduced by Noonan (by request of the Department of Justice), referred to Business, Labor, and Economic Affairs.
HB 141, introduced by K. Peterson (by request of the Department of Corrections), referred to Judiciary.
HB 204, introduced by Salomon, Regier, O'Hara, Brown, Furey, Ripley, referred to Education and Cultural Resources.

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

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

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

SR 2 - Senator Shockley moved **SR 2** be adopted. Motion carried as follows:

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

Total 48

Nays: Barrett.

Total 1

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Absent or not voting: None.

Total 0

Excused: Zinke.

Total 1

SB 35 - Senator Hamlett moved **SB 35** do pass.

SB 35 - Senator Kaufmann moved **SB 35**, second reading copy, be amended as follows:

1. Page 5, line 6.

Following: "Pursuant to"

Insert: "this section and"

2. Page 5, line 15.

Following: line 14

Insert: "(iii) The relocation of a structure under this section must comply with the provisions of 85-2-402."

Amendment **not** adopted as follows:

Yeas: Blewett, Caferro, Erickson, Facey, Gillan, Hawks, Kaufmann, Keane, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Walker, Williams.

Total 15

Nays: Arthun, Augare, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Essmann, Gallus, Hamlett, Hinkle, Hutton, Jackson, Jent, Jones, Lake, Larsen, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Wanzenried, Windy Boy, Wittich, Mr. President.

Total 34

Absent or not voting: None.

Total 0

Excused: Zinke.

Total 1

SB 35 - Thereupon, the Senate reverted to the original motion of Senator Hamlett which passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Erickson, Essmann, Facey, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Lake, Larsen, Lewis, Moore, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Windy Boy, Wittich, Mr. President.

Total 40

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Nays: Caferro, Gallus, Kaufmann, Keane, Moss, Olson, Stewart-Peregoy, Tropila, Williams.
Total 9

Absent or not voting: None.
Total 0

Excused: Zinke.
Total 1

SB 173 - Senator Tutvedt moved **SB 173** do pass. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Mr. President.
Total 47

Nays: Erickson, Jackson.
Total 2

Absent or not voting: None.
Total 0

Excused: Zinke.
Total 1

SB 201 - Senator Walker moved **SB 201** do pass.

SB 201 - Senator Walker moved **SB 201**, second reading copy, be amended as follows:

1. Page 1, line 20.

Following: "identify"

Insert: "by class or group the"

Amendment adopted as follows:

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

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: Zinke.

Total 1

SB 201 - Senator Walker moved **SB 201**, as amended, do pass. Motion carried as follows:

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

Total 41

Nays: Blewett, Caferro, Erickson, Kaufmann, Keane, Moss, Stewart-Peregoy, Tropila.

Total 8

Absent or not voting: None.

Total 0

Excused: Zinke.

Total 1

Senator Essmann moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Olson moved the Committee of the Whole report be adopted. Report adopted as follows:

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

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Zinke.

Total 1

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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 143 passed as follows:

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

Total 45

Nays: Caferro, Erickson, Kaufmann, Williams.

Total 4

Absent or not voting: None.

Total 0

Excused: Zinke.

Total 1

SB 146 passed as follows:

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

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Zinke.

Total 1

SB 156 passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent,

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Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Zinke.

Total 1

SB 159 passed as follows:

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

Total 28

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

Total 21

Absent or not voting: None.

Total 0

Excused: Zinke.

Total 1

SB 221 passed as follows:

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

Total 49

Nays: None.

Total 0

Absent or not voting: None.

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Total 0

Excused: Zinke.

Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 1:00 p.m., Thursday, February 3, 2011. Motion carried.

Senate adjourned at 2:07 p.m.

MARILYN MILLER
Secretary of the Senate

JIM PETERSON
President of the Senate