

**SENATE JOURNAL  
62<sup>ND</sup> LEGISLATURE  
SIXTY-FOURTH LEGISLATIVE DAY**

Helena, Montana  
March 22, 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 Jent, excused. Quorum present.

Senator Williams announced the Democrats would caucus.

Senate in recess.

Senate reconvened at 1:17 p.m.

**BILLS AND JOURNALS:**

3/22/2011

Correctly printed: **HB 80, HB 125, HB 178, HB 216, HB 258, HB 333.**

Correctly engrossed: **HB 179, HB 271, HB 319.**

Correctly enrolled: **SB 47, SB 49, SB 92, SB 103, SB 128, SB 189, SB 361.**

Examined by the sponsor and found to be correct: **SB 47, SB 49, SB 103, SB 128, SB 189, SB 361.**

Signed by the Speaker at 3:58 p.m., March 21, 2011: **SB 32, SB 34, SB 38, SB 67, SB 106.**

Delivered to the Governor for approval at 10:00 a.m., March 22, 2011: **SB 32, SB 34, SB 38, SB 67, SB 106.**

**REPORTS OF STANDING COMMITTEES**

**JUDICIARY** (Murphy, Chairman):

3/22/2011

**SB 322**, do pass. Report adopted.

**HB 548**, be amended as follows:

1. Title, line 9.

**Strike:** "AND"

**Following:** "MCA"

**Insert:** "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY PROVISION"

2. Page 1, line 21.

**Following:** "but"

**Insert:** "not"

3. Page 3, line 24 through line 25.

**Strike:** section 2 in its entirety

**Insert:** "NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval."

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

**Insert:** "NEW SECTION. Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to all past revocations, regardless of the date when a deferred or suspended sentence was ordered and regardless of the date of revocation."

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

**NATURAL RESOURCES** (Barrett, Chairman): 3/21/2011  
**SB 348**, introduced bill, be amended as follows:

1. Page 2, line 19.

**Strike:** "\$6,000"

**Insert:** "\$3,000"

2. Page 2, line 30.

**Insert:** "(3) The department may contract with the United States department of agriculture wildlife services for the purposes of this section."

And, as amended, do pass. Report adopted.

**STATE ADMINISTRATION** (Shockley, Chairman): 3/21/2011

**HB 77**, be concurred in. Report adopted.

**HB 116**, be concurred in. Report adopted.

**HB 131**, be concurred in. Report adopted.

**HB 134**, be concurred in. Report adopted.

**HB 135**, be concurred in. Report adopted.

**HB 180**, be concurred in. Report adopted.

**HB 255**, be concurred in. Report adopted.

**HB 256**, be concurred in. Report adopted.

**HB 528**, be concurred in. Report adopted.

**HJR 19**, be concurred in. Report adopted.

**TAXATION** (Tutvedt, Chairman): 3/22/2011

**HB 460**, be amended as follows:

1. Title, page 1, line 6.

**Following:** "TOWNHOUSES;"

**Insert:** "CONFORMING PROVISIONS OF THE UNIT OWNERSHIP ACT WITH THE DEFINITIONS OF "TOWNHOUSE"AND "TOWNHOME";"

2. Title, page 1, line 7.

**Strike:** the first "AND"

**Following:** "70-23-103,"

**Insert:** "70-23-301, AND 76-3-203,"

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

3. Page 5, line 30.

**Insert: "Section 3.** Section 70-23-301, MCA, is amended to read:

**"70-23-301. Contents of declaration.** A declaration must contain:

- (1) a description of the land, whether leased or in fee simple, on which the building is located or is to be located;
- (2) the name by which the property will be known and a general description of the building, including the number of stories and basements, the number of units, and the principal materials of which it is constructed;
- (3) the unit designation, location, approximate area of each unit, and any other data necessary for proper identification;
- (4) a description of the general common elements and the percentage of the interest of each unit owner in the common elements;
- (5) a description of the limited common elements, if any, stating to which units their use is reserved and in what percentage;
- (6) a statement of the use for which the building and each of the units is intended;
- (7) the name of a person to receive service of process in the cases provided in 70-23-901 and the residence or place of business of the person which must be within the county in which the property is located;
- (8) an exhibit containing certification from the applicable local government that the condominiums, townhomes, or townhouses are either exempt from review under 76-3-203 or have been approved following review under Title 76, chapter 3, parts 5 and 6; and
- (9) any other details regarding the property that the person executing the declaration considers desirable."

**Insert: "Section 4.** Section 76-3-203, MCA, is amended to read:

**"76-3-203. Exemption for certain condominiums.** Condominiums, townhomes, or townhouses, as those terms are defined in 70-23-102, constructed on land subdivided in compliance with parts 5 and 6 of this chapter or on lots within incorporated cities and towns are exempt from the provisions of this chapter if:

- (1) the approval of the original subdivision of land expressly contemplated the construction of the condominiums, townhomes, or townhouses and any applicable park dedication requirements in 76-3-621 are complied with; or
- (2) the condominium, townhome, or townhouse proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect."

**Renumber:** subsequent sections

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

### MESSAGES FROM THE OTHER HOUSE

**Senate bills** concurred in and returned to the Senate:

3/21/2011

**SB 7**, introduced by Keane

**SB 12**, introduced by Erickson

**SB 125**, introduced by Wittich

**SB 205**, introduced by Olson

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

**SB 342**, introduced by Buttrey

**Senate bills** concurred in as amended and returned to the Senate for concurrence in House amendments:

3/21/2011

**SB 120**, introduced by Brenden

**SB 138**, introduced by Jones

**SB 146**, introduced by Lake

**SB 279**, introduced by Jackson

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 416**, introduced by C. Williams, referred to Natural Resources.

**SB 417**, introduced by Buttrey, referred to Local Government.

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

**SJR 20**, introduced by Wittich, referred to Public Health, Welfare and Safety.

**SJR 21**, introduced by J. Peterson, referred to Natural 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 Ripley in the chair.

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

**SB 403** - Senator Jones moved **SB 403** do pass.

Senator Gillan made a **substitute motion** that consideration of **SB 403** be passed for the day. Motion **failed** as follows:

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

Total 21

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

Total 28

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

Senator Keane moved to close the debate on **SB 403**.

Chairman Ripley ruled the motion to close the debate on **SB 403** was out of order.

**SB 403** - The motion to pass **SB 403** carried as follows:

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

Total 25

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

Total 24

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

Senator Williams excused.

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

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

Total 29

Nays: Augare, Blewett, Branae, Brenden, Caferro, Erickson, Facey, Gillan, Hamlett, Kaufmann, Keane, Moss, Sonju, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Windy Boy.

Total 19

Absent or not voting: None.

Total 0

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

Excused: Jent, Williams.

Total 2

**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:

**HB 80** concurred in as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Mr. President.

Total 41

Nays: Brenden, Priest, Sonju, Vincent, Walker, Windy Boy, Wittich, Zinke.

Total 8

Paired: Jent, Aye; Wittich, No.

Absent or not voting: None.

Total 0

Excused: Williams.

Total 1

**HB 125** concurred in 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, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Priest, Sonju, Vincent, Walker, Wittich.

Total 5

Paired: Jent, Aye; Wittich, No.

Absent or not voting: None.

Total 0

Excused: Williams.

Total 1

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

**HB 178** concurred in as follows:

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

Total 30

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

Total 19

Paired: Jent, Aye; Gillan, No.

Absent or not voting: None.

Total 0

Excused: Williams.

Total 1

**HB 216** concurred in as follows:

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

Total 43

Nays: Augare, Buttrey, Facey, Stewart-Peregoy, Tropila, Windy Boy.

Total 6

Paired: Jent, Aye; Tropila, No.

Absent or not voting: None.

Total 0

Excused: Williams.

Total 1

**HB 258** concurred in as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, 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, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent, Williams.

Total 2

**HB 319** concurred in as follows:

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

Total 41

Nays: Brenden, Hinkle, Priest, Ripley, Sonju, Vincent, Walker, Wittich.

Total 8

Paired: Jent, Aye; Wittich, No.

Absent or not voting: None.

Total 0

Excused: Williams.

Total 1

**HB 333** concurred in 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, Zinke, Mr. President.

Total 29

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

Total 20

Paired: Wittich, Aye; Jent, No.

Absent or not voting: None.

Total 0



SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

Excused: Williams.

Total 1

**REPORTS OF STANDING COMMITTEES**

**BUSINESS, LABOR, AND ECONOMIC AFFAIRS** (Balyeat, Chairman): 3/22/2011  
**HB 315**, be concurred in. Report adopted.  
**HB 342**, be concurred in. Report adopted.

**FINANCE AND CLAIMS** (Lewis, Chairman): 3/22/2011  
**SB 129**, introduced bill, be amended as follows:

1. Title, page 1, line 4.

**Strike:** "COMPENSATION"

**Insert:** "SALARIES"

2. Title, page 1, line 5.

**Strike:** "AND REDUCING COMPENSATION PAID TO CERTAIN EXISTING STATE  
EMPLOYEES"

3. Title, page 1, lines 6 and 7.

**Following:** "CIRCUMSTANCES;"

**Strike:** "PROVIDING" on line 6 through "MONTANA;" on line 7

**Insert:** "REDUCING THE EMPLOYER CONTRIBUTION FOR GROUP BENEFITS FOR  
EMPLOYEES EARNING MORE THAN A CERTAIN AMOUNT EACH YEAR;"

4. Title, page 1, line 7.

**Strike:** "SECTION"

**Insert:** "SECTIONS"

5. Title, page 1, line 8.

**Following:** "2-18-303"

**Insert:** "AND 2-18-703"

6. Page 1, line 12.

**Strike:** "compensation"

**Insert:** "salaries"

7. Page 1, line 13.

**Strike:** "-- rulemaking"

**Strike:** "[sections 2 and 3]"

**Insert:** "[section 2] and subsection (2) of this section"

8. Page 1, line 14.

**Strike:** "compensation"

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

**Insert:** "a base salary"  
**Strike:** "200%" through "Montana"  
**Insert:** "\$100,000"

9. Page 1, line 15 through line 21.

**Strike:** subsection (2) through subsection (4) in their entirety

**Insert:** "(2) An employee who is subject to this section, who is employed by the state of Montana on [the effective date of this act], and who receives a base salary in excess of the limitation provided in this section is not subject to the limitation in this section."

**Renumber:** subsequent subsections

10. Page 1, line 22.

**Strike:** "through 3"

**Insert:** "and 2"

11. Page 1, line 23.

**Strike:** ""Compensation""

**Insert:** ""Base salary""

12. Page 1, line 24.

**Following:** "(b)"

**Insert:** "(i)"

13. Page 1, line 24 through line 25.

**Following:** "state employee"

**Strike:** remainder of line 24 through line 25

**Insert:** ", officer, or elected official, including those employees and officers listed in 2-18-103 and 2-18-104.

(ii) The term does not include an employee or officer of the Montana university system or a judge or employee of the judicial branch."

14. Page 1, line 26 through line 28.

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

15. Page 1, line 30 through page 2, line 3.

**Strike:** section 2 in its entirety

**Renumber:** subsequent sections

16. Page 2, line 5.

**Strike:** "An"

**Insert:** "Subject to subsection (4), an"

17. Page 2, line 6.

**Strike:** "[sections 1 and 2]"

**Insert:** "[section 1]"

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

18. Page 2, line 7.

**Following:** "(a)"

**Insert:** "except as provided in subsection (1)(b),"

**Strike:** "or"

19. Page 2, line 8.

**Following:** line 7

**Insert:** "(b) an elected official listed in 2-16-405(1)(c), (1)(d), (1)(e), (1)(f), or (1)(h) for an employee of the agency under the direction of that official;"

**Renumber:** subsequent subsections

20. Page 2, line 8.

**Following:** "employee of the legislative"

**Strike:** "branch."

**Insert:** "services division;

(d) the legislative finance committee for an employee of the legislative fiscal division;

(e) the legislative audit committee for an employee of the legislative audit division; and

(f) the legislative consumer committee for an employee of the office of consumer

counsel."

21. Page 2, line 11 and 12.

**Following:** "group of employees,"

**Strike:** "the governor or the legislative council must"

**Insert:** "an entity listed in subsection (1) shall"

22. Page 2, line 13.

**Strike:** "governor and the legislative council"

**Insert:** "entities listed in subsection (1)"

23. Page 2, line 16.

**Following:** line 15

**Insert:** "(4) If an employee's base salary is in excess of \$80,000, the employer contribution for group benefits provided pursuant to 2-18-703 must be reduced by 5% for each \$1,000 of salary that the employee receives in excess of \$80,000."

24. Page 2, line 18 and 19.

**Strike:** "[sections 1 through 3]"

**Insert:** "[section 1]"

25. Page 3, line 21.

**Following:** line 20

**Insert:** "**Section 4.** Section 2-18-703, MCA, is amended to read:

**"2-18-703. Contributions.** (1) ~~Each~~ Except as provided in [section 2(4)], each agency, as defined in 2-18-601, and the state compensation insurance fund shall contribute the amount specified in this section toward the group benefits cost.

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

(2) For employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is \$626 a month from January 2009 through December 2009, \$679 a month from January 2010 through December 2010, and \$733 for January 2011 and for each succeeding month. For employees of the Montana university system, the employer contribution for group benefits is \$626 a month from July 2008 through June 2009, \$679 a month from July 2009 through June 2010, and \$733 for July 2010 and for each succeeding month. If a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution. A portion of the employer contribution for group benefits may be applied to an employee's costs for participation in Part B of medicare under Title XVIII of the Social Security Act, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school districts, the employer's contributions may exceed but may not be less than \$10 a month.

(4) (a) For employees of political subdivisions, as defined in 2-9-101, except school districts, the employer's contributions may exceed but may not be less than \$10 a month.

(b) Subject to the public hearing requirement provided in 2-9-212(2)(b), the amount in excess of the base contribution of a local government's property tax levy for contributions for group benefits as determined in subsection (4)(c) is not subject to the mill levy calculation limitation provided for in 15-10-420.

(c) (i) Subject to subsections (4)(c)(ii) and (4)(c)(iii), the base contribution is determined by multiplying the average annual contribution for each employee on July 1, 1999, times the number of employees for whom the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal year.

(ii) If a political subdivision did not make contributions for group benefits on or before July 1, 1999, and subsequently does so, the base contribution is determined by multiplying the average annual contribution for each employee in the first year the political subdivision provides contributions for group benefits times the number of employees for whom the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal year.

(iii) If a political subdivision has made contributions for group benefits but has not previously levied for contributions in excess of the base contribution, the political subdivision's base is determined by multiplying the average annual contribution for each employee at the beginning of the fiscal year immediately preceding the year in which the levy will first be levied times the number of employees for whom the employer made contributions for group benefits under 2-9-212 in that fiscal year.

(5) Unused employer contributions for any state employee must be transferred to an account established for this purpose by the department of administration and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member.

(6) Unused employer contributions for any government employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

(7) The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

**Renumber:** subsequent sections

26. Page 3, line 22.

**Strike:** "through 3"

**Insert:** "and 2"

27. Page 3, line 23.

**Strike:** "through 3"

**Insert:** "and 2"

28. Page 3, line 29 and line 30.

**Strike:** "If" on line 29 through "2013." on line 30

**Insert:** "[This act] is effective July 1, 2011."

29. Page 4, line 2 through line 6.

**Strike:** section 8 in its entirety

And, as amended, do pass. Report adopted.

**SB 328**, introduced bill, be amended as follows:

1. Title, page 1, line 13.

**Following:** "19-2-715,"

**Insert:** "19-3-108,"

2. Page 11, line 2 through line 3.

**Strike:** subsection (29) in its entirety

**Renumber:** subsequent subsections

3. Page 13, line 12.

**Strike:** "(52)"

**Insert:** "(51)"

4. Page 13, line 21.

**Strike:** "19-21-2117(2)"

**Insert:** "19-3-2117(2)"

5. Page 17, line 1.

**Insert:** "**Section 10.** Section 19-3-108, MCA, is amended to read:

**"19-3-108. Definitions.** Unless the context requires otherwise, as used in this chapter, the following definitions apply:

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

(1) (a) "Compensation" means remuneration paid out of funds controlled by an employer in payment for the member's services, or for time during which the member is excused from work because of a holiday or because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence, before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) the contributions made pursuant to 19-3-403(4)(a) for members of a bargaining unit;

(ii) in-kind goods provided by the employer, such as uniforms, housing, transportation, or meals;

(iii) in-kind services, such as the retraining allowance paid pursuant to 2-18-622, or employment-related services;

(iv) contributions to group insurance, such as that provided under 2-18-701 through 2-18-704; and

(v) lump-sum payments for compensatory leave, sick leave, or annual leave paid without termination of employment.

(2) "Contracting employer" means any political subdivision or governmental entity that has contracted to come into the system under this chapter.

(3) "Defined benefit plan" means the plan within the public employees' retirement system established in 19-3-103 that is not the defined contribution plan.

(4) "Employer" means the state of Montana, its university system or any of the colleges, schools, components, or units of the university system for the purposes of this chapter, or any contracting employer.

(5) "Employer contributions" means payments to a pension trust fund pursuant to 19-3-316 from appropriations of the state of Montana and from contracting employers.

(6) (a) "Highest average compensation" means a member's highest average monthly compensation during any 36 consecutive months of membership service, except as otherwise provided in subsection (6)(b) or (6)(c).

(b) For a member who has attained 65 years of age but has not served at least 36 months, highest average compensation means total compensation earned divided by the number of months the member has served.

(c) For a vested member who does not have 36 consecutive months of membership service, highest average compensation means the highest total compensation earned during any 36 consecutive calendar months divided by 36.

(d) Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

(7) "Initially hired" means the earliest date on which an individual is first hired into or employed in a covered position, which may not necessarily be an employee's current covered position.

~~(7)~~(8) "System" or "retirement system" means the public employees' retirement system established in 19-3-103."

**Renumber:** subsequent sections

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

6. Page 31, line 25.

**Following:** "~~19-3-2116;~~"

**Insert:** "(a) the member must have at least 5 years of membership service under the system;"

**Renumber:** subsequent subsections

7. Page 34, line 1.

**Strike:** "26"

**Insert:** "27"

**Strike:** "27"

**Insert:** "28"

8. Page 34, line 2.

**Strike:** "27"

**Insert:** "28"

And, as amended, do pass. Report adopted.

Senator Gillan rose on a point of personal privilege. Senator Brenden clarified his comments related to the Fish and Game Committee.

#### ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

#### MOTIONS

Senator Sonju moved **SB 516** be moved from the Committee of the Whole to the Local Government committee.

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Jackson, 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, Zinke, Mr. President.

Total 44

Nays: Buttrey, Hutton, Windy Boy, Wittich.

Total 4

Absent or not voting: None.

Total 0

Excused: Jent, Williams.

Total 2

SENATE JOURNAL  
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 22, 2011

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 1:00 p.m., Wednesday, March 23, 2011. Motion carried.

Senate adjourned at 3:39 p.m.

MARILYN MILLER  
Secretary of the Senate

JIM PETERSON  
President of the Senate