

**SENATE JOURNAL
62ND LEGISLATURE
EIGHTY-SECOND LEGISLATIVE DAY**

Helena, Montana
April 13, 2011

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Peterson presiding. Invocation by Chaplain Keith Johnson. Pledge of Allegiance to the Flag. Roll Call. All members present. Quorum present.

THIRD READING OF BILLS

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

HB 2, Free Conference Committee Report No. 1, adopted as follows:

Yeas: 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

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 296 concurred in as follows:

Yeas: Augare, Barrett, Blewett, Branae, Brenden, Brown, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Jones, Kaufmann, Keane, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Ripley, Shockley, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Arthun, Balyeat, Buttrey, Hinkle, Hutton, Jackson, Lake, Priest, Sonju, Steinbeisser, Tutvedt, Vincent, Wittich.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 306 concurred in as follows:

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

Total 30

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

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 358 concurred in as follows:

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

Total 34

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

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 370 concurred in as follows:

Yeas: Arthun, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Hamlett, Hawks, Hinkle, Hutton, Jent, Jones, Kaufmann, Keane, Larsen, Lewis, Moss, Murphy, Shockley, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy, Wittich, Zinke.

Total 29

Nays: Augare, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Gillan, Jackson, Lake, Moore, Mowbray, Olson, Priest, Ripley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Mr. President.

Total 21

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 375 concurred in as follows:

Yeas: 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

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 377 concurred in as follows:

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

Total 43

Nays: Arthun, Facey, Hawks, Larsen, Moss, Shockley, Walker.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 444 concurred in as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Caferro, 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 30

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Nays: Augare, Blewett, Branae, Erickson, Facey, Gallus, Gillan, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 445 failed as follows:

Yeas: Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Mr. President.
Total 25

Nays: Arthun, Augare, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Olson, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 458 concurred in as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Brenden, Brown, Buttrey, Caferro, Essmann, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jent, Jones, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Windy Boy, Wittich, Zinke, Mr. President.
Total 42

Nays: Blewett, Branae, Erickson, Facey, Jackson, Kaufmann, Van Dyk, Williams.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 475 failed as follows:

Yeas: Augare, Barrett, Blewett, Branae, Brown, Caferro, Facey, Gillan, Hamlett, Hawks, Jent,

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Kaufmann, Keane, Larsen, Lewis, Moss, Murphy, Stewart-Peregoy, Tropila, Vuckovich, Wanzenried, Williams, Windy Boy, Mr. President.

Total 24

Nays: Arthun, Balyeat, Brenden, Buttrey, Erickson, Essmann, Gallus, Hinkle, Hutton, Jackson, Jones, Lake, Moore, Mowbray, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Van Dyk, Vincent, Walker, Wittich, Zinke.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 477 concurred in as follows:

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

Total 42

Nays: Arthun, Brenden, Caferro, Essmann, Olson, Walker, Windy Boy, Wittich.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 495 concurred in as follows:

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

Total 28

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

Total 22

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

HB 518 concurred in as follows:

Yeas: 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, Zinke, Mr. President.

Total 49

Nays: Arthun.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 574 failed (due to 2/3 vote requirement) as follows:

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

Total 30

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

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 585 concurred in as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Caferro, Essmann, 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, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.

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Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 604 concurred in as follows:

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

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 609 concurred in as follows:

Yeas: 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

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 612 concurred in as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser,

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Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 616 concurred in as follows:

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

Total 39

Nays: Blewett, Erickson, Facey, Hawks, Jent, Kaufmann, Moss, Stewart-Peregoy, Vuckovich, Williams, Windy Boy.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 618 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, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

HB 622 concurred in as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Caferro, 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, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Wittich, Zinke, Mr. President.

Total 45

Nays: Blewett, Erickson, Kaufmann, Tropila, Windy Boy.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 633 failed as follows:

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

Total 24

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

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 638 concurred in as follows:

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

Total 26

Nays: Augare, Balyeat, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Priest, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich,

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Wanzenried, Williams, Windy Boy.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 642 concurred in as follows:

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

Total 44

Nays: Erickson, Facey, Kaufmann, Keane, Vuckovich, Windy Boy.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

BILLS AND JOURNALS:

4/13/2011

Examined by the sponsor and found to be correct: **SB 16, SR 4, SR 16, SR 17, SR 24, SR 28, SR 30, SR 31.**

Signed by the Speaker at 4:40 p.m., April 13, 2011: **SB 268, SJR 11.**

Signed by the President at 2:45 p.m., April 13, 2011: **SB 268, SJR 11.**

Signed by the Secretary of the Senate at 5:40 p.m., April 12, 2011: **SB 268, SJR 11.**

Signed by the President at 2:45 p.m., April 13, 2011: **SR 7, SR 8, SR 9, SR 10, SR 11, SR 12.**

Signed by the Secretary of the Senate at 5:40 p.m., April 12, 2011: **SR 7, SR 8, SR 9, SR 10, SR 11.**

Delivered to the Secretary of State at 3:33 p.m., April 13, 2011: **SR 7, SR 8, SR 9, SR 10, SR 11, SR 12.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):
SR 31, be adopted. Report adopted.

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BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman): 4/13/2011
SR 26, be adopted. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Priest, Chairman): 4/13/2011
SR 29, be adopted. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 153**

Report No. 1, April 12, 2011

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 153** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 153** (reference copy -- salmon) be amended as follows:

1. Page 1, line 26.

Following: "~~or (3)~~"

Insert: "or (3)"

For the Senate:

Hutton, Chair
Shockley
Jent

For the House:

Kerns, Vice Chair
O'Hara
Menahan

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 198**
Report No. 1, April 12, 2011

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 198** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that House amendments to **Senate Bill 198** (reference copy -- salmon) be accepted by the Senate.

For the Senate:

Ripley, Chair
Balyeat
Facey

For the House:

Hendrick, Vice Chair
Bennett
Kary

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MESSAGES FROM THE GOVERNOR

April 12, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Peterson:

Please be informed that I have signed **Senate Bill 222** sponsored by Senator Augare on April 12, 2011.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

House joint resolution passed and transmitted to the Senate for concurrence: 4/12/2011

HJR 13, introduced by Hansen

Conference Committee Report No.1 adopted: 4/12/2011

HB 271, introduced by Kerns

Senate bill concurred in and returned to the Senate: 4/12/2011

SB 358, introduced by Buttrey

Free Conference Committee Report No.1 adopted: 4/12/2011

HB 2, introduced by McNutt

Governor's amendments to **House bills** concurred in and transmitted to the Senate for consideration of the Governor's amendments:

4/12/2011

HB 90, introduced by McNutt

HB 559, introduced by Esp

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MOTIONS

Senator Williams moved to change her vote on **HB 306** from Yes to No. Without objection, so ordered.

Senator Wittich moved to reconsider the third reading action on HB 445 and place HB 445 on third reading on Monday, April 18, 2011. Motion carried as follows:

Yeas: 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, Mr. President.

Total 27

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

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Essmann moved to reconsider the third reading action on **HB 633** and place **HB 633** on third reading on Monday, April 18, 2011. Motion carried as follows:

Yeas: 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

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Walker moved to change his vote on **HB 477** from Yes to No. Without objection, so ordered.

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**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:

SB 329 - House Amendments - Senator Zinke moved House amendments to **SB 329 not** be concurred in. Motion carried as follows:

Yeas: Arthun, Augare, 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, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 48

Nays: Balyeat, Sonju.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 348 - House Amendments - Senator Barrett moved House amendments to **SB 348 not** be concurred in. Motion carried as follows:

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

Total 42

Nays: Branae, Erickson, Facey, Hawks, Kaufmann, Tropila, Williams, Windy Boy.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 423 - House Amendments - Senator Essmann moved House amendments to **SB 423** not be concurred in. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, 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, Zinke, Mr. President.

Total 49

Nays: Gillan.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 29 - Senator Hinkle moved **SJR 29** do pass. 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, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 409 - Senator Priest moved **HB 409** be concurred in. Motion carried as follows:

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

Total 42

Nays: Augare, Facey, Hawks, Larsen, Stewart-Peregoy, Wanzenried, Williams, Windy Boy.

Total 8

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 207 - House Amendments - Senator Moore moved House amendments to **SB 207** be concurred in. Motion carried as follows:

Yeas: Arthun, Balyeat, Barrett, Blewett, Brenden, Brown, Buttrey, Erickson, Essmann, Facey, Gallus, Hamlett, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Larsen, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Williams, Wittich, Zinke, Mr. President.

Total 39

Nays: Augare, Branae, Caferro, Gillan, Hawks, Kaufmann, Moss, Stewart-Peregoy, Tropila, Van Dyk, Windy Boy.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 215 - House Amendments - Senator Gallus moved House amendments to **SB 215** be concurred in. 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, Zinke, Mr. President.

Total 48

Nays: Windy Boy, Wittich.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 233 - House Amendments - Senator Keane moved House amendments to **SB 233** be concurred in. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Gallus, Hamlett,

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Hinkle, Hutton, Jackson, Jones, Keane, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Vuckovich, Walker, Mr. President.
Total 31

Nays: Blewett, Branae, Caferro, Erickson, Facey, Gillan, Hawks, Jent, Kaufmann, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Wanzenried, Williams, Windy Boy, Wittich, Zinke.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 283 - House Amendments - Senator Essmann moved House amendments to **SB 283** be concurred in. 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, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 299 - House Amendments - Senator Hamlett moved House amendments to **SB 299** be concurred in. 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, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 331 - House Amendments - Senator Jent moved House amendments to **SB 331** be concurred in. Motion carried as follows:

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

Total 48

Nays: Hinkle, Wittich.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 410 - House Amendments - Senator Brenden moved House amendments to **SB 410** be concurred in. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tropila, Tutvedt, Vincent, Vuckovich, Walker, Wittich, Zinke, Mr. President.

Total 41

Nays: Blewett, Hawks, Kaufmann, Larsen, Stewart-Peregoy, Van Dyk, Wanzenried, Williams, Windy Boy.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 29 - Conference Committee Report No. 1 - Senator Balyeat moved the Conference Committee report to **HB 29** be adopted. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro,

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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, Wittich, Zinke, Mr. President.

Total 49

Nays: Windy Boy.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 47 - Conference Committee Report No. 1 - Senator Balyeat moved the Conference Committee report to **HB 47** be adopted. Motion carried as follows:

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

Total 45

Nays: Erickson, Gillan, Kaufmann, Lake, Tutvedt.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 132 - Conference Committee Report No. 1 - Senator Tutvedt moved the Conference Committee report to **HB 132** be adopted. 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, Moss, Mowbray, Murphy, Olson, Priest, Shockley, Sonju, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 47

Nays: Moore, Ripley, Steinbeisser.

Total 3

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 258 - Conference Committee Report No. 1 - Senator Mowbray moved the Conference Committee report to **HB 258** be adopted. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, 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, Zinke, Mr. President.

Total 49

Nays: Caferro.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 297 - Conference Committee Report No. 1 - Senator Shockley moved the Conference Committee report to **HB 297** be adopted. 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, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 525 - Conference Committee Report No. 1 - Senator Facey moved the Conference Committee report to **HB 525** be adopted. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro,

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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, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 333 - Governor's Amendments - Senator Lake moved Governor's amendments to **HB 333** be concurred in. Motion carried as follows:

Yeas: Augare, Blewett, Branae, Brown, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jackson, Jent, Kaufmann, Keane, Lake, Larsen, Moss, Mowbray, Murphy, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 30

Nays: Arthun, Balyeat, Barrett, Brenden, Buttrey, Essmann, Hinkle, Hutton, Jones, Lewis, Moore, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Vincent, Walker, Wittich.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 379 - Senator Essmann moved consideration of **SB 379** be placed at the bottom of the second reading board. Motion carried.

SB 379 - House Amendments - Senator Olson moved House amendments to **SB 379** be concurred in. Motion **failed** as follows:

Yeas: Arthun, Barrett, Brenden, Brown, Buttrey, Essmann, Gallus, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Mowbray, Olson, Priest, Ripley, Sonju, Steinbeisser, Tutvedt, Vincent, Vuckovich, Walker.
Total 23

Nays: Augare, Balyeat, Blewett, Branae, Caferro, Erickson, Facey, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moore, Moss, Murphy, Shockley, Stewart-Peregoy, Tropila,

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Van Dyk, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Essmann moved the committee rise, report progress, and beg leave to sit again. 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, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gallus, Hamlett, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Williams, Wittich, Zinke, Mr. President.

Total 40

Nays: Blewett, Branae, Erickson, Gillan, Hawks, Kaufmann, Larsen, Moss, Wanzenried, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

FIRST READING AND COMMITMENT OF BILLS

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 13, introduced by Hansen, Knox, Hale, Howard, Wagner, Harris, Blyton, Read, Hinkle, Rosendale, Skattum, Vance, Cook, O'Hara, Kerns, Warburton, K. Peterson, Lewis, McNiven, Miller, More, Jackson, Balyeat, Cuffe, Stahl, Salomon, Kennedy, O'Neil, referred to Taxation.

MOTIONS

Senator Larsen moved to change his vote on **SB 233** from Yes to No. Without objection, so ordered.

Senator Hutton moved to override the Governor's veto of **HB 30**. Motion **failed** (due to the 2/3 vote requirement) as follows:

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Yeas: 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

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Olson moved to reconsider action on **SB 379**, House amendments, and that **SB 379**, House amendments, be placed on second reading the next legislative day. Motion carried as follows:

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

Total 29

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

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Essmann moved the Senate recess until 9:45 a.m. Motion carried.

Senate in recess.

Senate reconvened.

SPECIAL ORDERS OF THE DAY

Senator Steinbeisser moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 4**. Motion carried as follows:

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Yeas: 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, Moss, Mowbray, Murphy, Olson, Priest, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Mr. President.
Total 44

Nays: Arthun, Barrett, Moore, Ripley, Vincent, Zinke.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Facey moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 17**. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Blewett, Branae, Brenden, Brown, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Larsen, Lewis, Moore, Moss, Murphy, Olson, Priest, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 44

Nays: Barrett, Buttrey, Lake, Mowbray, Sonju, Vincent.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Essmann moved to appoint a **Free** Conference Committee on **SB 329** and request the House to appoint a like committee. Motion Carried. President Peterson appointed: 4/13/2011

Senator Zinke, Chair
Senator Jones
Senator Stewart-Peregoy

Senator Essmann moved to appoint a **Free** Conference Committee on **SB 348** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:

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Senator Barrett, Chair
Senator Hamlett
Senator Vincent

Senator Essmann moved to appoint a **Free** Conference Committee on **SB 423** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:

4/13/2011

Senator Essmann, Chair
Senator Larsen
Senator Vincent

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Senator Essmann moved the Senate recess until 1:00 p.m. Motion carried.

Senate in recess.

Senate reconvened.

Senate reconvened at 1:00 p.m.

BILLS AND JOURNALS:

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Correctly printed: **SJR 28, HB 296, HB 306, HB 358, HB 377, HB 444, HB 445, HB 458, HB 477, HB 495, HB 574, HB 585, HB 604, HB 612, HB 616, HB 618, HB 622, HB 633, HB 642.**

Correctly engrossed: **SJR 25, SR 26, SR 29, SR 31, HB 609, HB 631.**

Correctly enrolled: **SR 4, SR 16, SR 17, SR 24, SR 28, SR 30, SR 31.**

Examined by the sponsor and found to be correct: **SB 81, SB 319, SB 358, SR 6, SR 21, SR 22, SR 27, SR 28, SR 31.**

**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 Facey in the chair.

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

SJR 28 - Senator Lake moved **SJR 28** do pass. Motion carried as follows:

Yeas: Arthun, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Essmann, Facey, Hinkle,

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Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.
Total 30

Nays: Augare, Blewett, Caferro, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Murphy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 31 - Senator J. Peterson moved **SR 31** be adopted. Motion carried as follows:
Yeas: Arthun, Augare, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 45

Nays: Blewett, Erickson, Moss, Tropila, Van Dyk.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 153 - Conference Committee Report No. 1 - Senator Hutton moved the Conference Committee report to **SR 153** be adopted. 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, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: None.

Total 0

SB 198 - Conference Committee Report No. 1 - Senator Ripley moved the Conference Committee report to **SB 198** be adopted. Motion carried as follows:

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

Total 37

Nays: Augare, Blewett, Caferro, Erickson, Hawks, Kaufmann, Larsen, Moss, Stewart-Peregoy, Tropila, Wanzenried, Williams, Windy Boy.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 221 - Conference Committee Report No. 1 - Senator Gillan moved the Conference Committee report to **SB 221** be adopted. 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, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 371 - House Amendments - Senator Lewis moved House amendments to **SB 371** be concurred in. Motion **failed** as follows:

Yeas: Balyeat, Barrett, Brenden, Brown, Essmann, Gillan, Hamlett, Hinkle, Hutton, Jackson, Jones, Lewis, Moore, Murphy, Priest, Ripley, Shockley, Walker, Wanzenried, Wittich.

Total 20

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Nays: Arthun, Augare, Blewett, Branae, Buttrey, Caferro, Erickson, Facey, Gallus, Hawks, Jent, Kaufmann, Keane, Lake, Larsen, Moss, Mowbray, Olson, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Williams, Windy Boy, Zinke, Mr. President.

Total 30

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 43 - Free Conference Committee Report No. 1 - Senator Moore moved the Free Conference Committee report to **HB 43** be adopted. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, 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, Tutvedt, Van Dyk, Vincent, Walker, Wanzenried, Williams, Wittich, Zinke, Mr. President.

Total 45

Nays: Caferro, Stewart-Peregoy, Tropila, Vuckovich, Windy Boy.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Essmann moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Facey moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, 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, Vincent, Vuckovich, Walker, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 47

Nays: Blewett, Van Dyk, Wanzenried.

Total 3

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

JUDICIARY (Murphy, Chairman):

4/13/2011

HB 631, be amended as follows:

1. Title, line 17.

Strike: "61-5-208,"

2. Page 12, line 21.

Following: "alcohol"

Strike: "breath"

3. Page 12, line 22.

Following: "submit to"

Strike: "daily alcohol breath tests"

Insert: "breath testing, drug patch testing, urinalysis, continuous or transdermal alcohol monitoring, or any combination of breath testing, drug patch testing, urinalysis, or continuous or transdermal alcohol monitoring"

Following: "pretrial release,"

Insert: "sentence,"

4. Page 21, line 16 through page 22, line 25.

Strike: section 6 in its entirety

Renumber: subsequent sections

5. Page 36, line 4.

Following: line 3

Insert: "COORDINATION SECTION. Section 18. Coordination instruction. If both House Bill No. 102 and [this act] are passed and approved, then [section 2 of House Bill No. 102], amending 61-2-302, is void."

Renumber: subsequent section

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

LOCAL GOVERNMENT (Sonju, Chairman):

4/13/2011

SJR 30, do pass. Report adopted.

HB 211, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

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CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 156**
Report No. 1, April 13, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 156** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 156** (reference copy -- salmon) be amended as follows:

1. Page 1, line 23.

Following: "up to 15% of"

Insert: "up to 15% of"

Following: "for"

Strike: "."

2. Page 1, line 25.

Following: "benefits"

Insert: "costs related to the administration of the tribal family assistance plan. The remainder of the state share must be used for cash benefits."

3. Page 1, line 26 through line 28.

Strike: "(I) MONTHLY" on line 26 through "PROGRAM." on line 28

For the Senate:

Murphy, Chair
Windy Boy

For the House:

Bangerter, Vice Chair
Pease-Lopez

MESSAGES FROM THE OTHER HOUSE

Governor's amendments to House bills not concurred in and transmitted to the Senate for consideration of Governor's amendments:

4/13/2011

HB 219, introduced by McGillvray

HB 327, introduced by McClafferty

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Senator Essmann moved the Senate recess until 2:30 p.m. Motion carried.

Senate in recess.

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Senate reconvened at 2:30 p.m.

Senator Essmann moved the Senate take a 15-minute recess. Motion carried.

Senate in recess.

Senate reconvened at 2:44 p.m.

MESSAGES FROM THE GOVERNOR

April 13, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Mike Milburn
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Peterson and Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 254 (SB 254), **"AN ACT AUTHORIZING THE STATE OF MONTANA TO EXERCISE EMINENT DOMAIN AUTHORITY ON CERTAIN PROPERTY POSSESSED BY THE FEDERAL GOVERNMENT; AMENDING SECTIONS 2-1-102, 70-30-101, AND 70-30-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

I have been advised that SB 254 does not pass constitutional muster, and I understand that the Legislature's own lawyers are in accord. Like all elected officials, I have sworn to uphold not only the Montana Constitution, but the Constitution of the United States of America.

Senate Bill 254 purports to establish a power of eminent domain in the State over any "property possessed by the federal government," with limited exceptions. This bill stands in direct conflict with Article IV, section 3, clause 2 of the U.S. Constitution, known as the Property Clause, which reserves to Congress the "Power to dispose of and make all needful Rules and Regulations respecting the ... Property belonging to the United States" The United States Supreme Court has held that when Congress passes legislation respecting federal lands, the legislation "necessarily overrides conflicting state laws under the Supremacy Clause." Kleppe v. New Mexico, 426 U.S. 529, 543 (1976).

Legislation that is patently unconstitutional is frivolous. I ask your support in sustaining my veto

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of this unconstitutional, frivolous bill.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 13, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Mike Milburn
Speaker of the House
State Capitol Helena, MT 59620

Dear President Peterson and Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 324 (SB 324), **"AN ACT REVISING THE LAWS GOVERNING THE DISPOSITION OF CIVIL FINES, SETTLEMENT PROCEEDS, COSTS, AND FEES RECOVERED IN CONSUMER PROTECTION ACTIONS; DIRECTING THE ADOPTION OF PROCEDURES FOR DISTRIBUTION OF SETTLEMENT PROCEEDS RECEIVED ON BEHALF OF CONSUMERS TO THE CONSUMERS ON WHOSE BEHALF THE SETTLEMENT IS MADE; AMENDING SECTIONS 30-14-143 AND 30-14.226, MCA; AND PROVIDING AN EFFECTIVE DATE."**

The consumer protection powers vested in the Attorney General exist to protect Montana citizens from unfair and deceptive business practices. The settlements targeted by SB 324 are often the result of litigation against multi-national corporations that have engaged in business practices that harm consumers across the state, and the terms of these settlements in these cases routinely restrict the recovered funds so as to benefit the consumers who were harmed. Senate Bill 324 would divert these restricted settlement funds to the general fund, calling into question the state's ability to continue to participate effectively in settlements that dictate that money recovered must be used on behalf of vulnerable consumers.

The Office of Consumer Protection receives no general fund money and operates entirely on the basis of funds it is able to recover through litigation on behalf of Montana consumers. The money at issue in SB 324 is not taxpayer dollars, it is money recovered from businesses that violate Montana's consumer protection laws. Pursuant to § 17-8-101, MCA, under current law, money recovered in these cases that is expressly restricted by the terms of a settlement

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agreement is not subject to legislative appropriation.

A single, small state like Montana may not be able to influence or alter the terms of multi-state settlements. Often, the best use of this money is to educate consumers, help the class of consumers harmed, and continue the state's consumer protection efforts. I disagree with the policy expressed in SB 324 that establishes a "one size all" approach for the direction of money recovered by the State of Montana in all consumer protection cases.

For these reasons, I respectfully ask that you sustain my veto of SB 324.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 13, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Mike Milburn
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Peterson and Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 370 (SB 370), **"AN ACT REQUIRING A COST-BENEFIT ANALYSIS BEFORE ENACTMENT OF HEALTH INSURANCE MANDATES; LIMITING INITIAL MANDATES TO STATE EMPLOYEE HEALTH BENEFIT PLANS; REQUIRING TERMINATION DATES AND CONDITIONS FOR CONTINUATION; REQUIRING THE DEPARTMENT OF ADMINISTRATION AND THE COMMISSIONER OF INSURANCE TO PROVIDE SEPARATE COST-BENEFIT ANALYSES."**

Senate Bill 370 establishes a complex cost-benefit analysis and process that must be followed with respect to legislation containing specific health insurance mandates. Additionally, SB 370 requires that legislation containing insurance mandates contain a specified termination date and a requirement that the initial application of the mandate apply to the state employee group health benefit plan. The cost-benefit analysis of the legislation must be conducted by the Commissioner of Insurance through existing funds, and, if the legislation becomes law, the

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Department of Administration must conduct its own cost-benefit analysis of the impact of the mandate on the state employee group health plan.

The process established in this bill limiting future legislatures as to the information they must obtain from the Commissioner of Insurance prior to acting on legislation in this specific content area is precedent-setting. It is clear that the proponents of SB 370 oppose mandated health insurance coverage, examples of which are found currently throughout the Montana code. As a general policy matter, mandated coverages help spread specific health care costs among large pools of insureds, in some instances to make insurance affordable to individuals who through no fault of their own, would otherwise be hard to insure (e.g., people with birth defects). and in other instances for more general policy reasons (e.g., mammography or preventative health care coverage).

Additionally, the provisions in SB 370 requiring the Department of Administration to conduct a cost-benefit analysis on the impact of a health insurance mandate on the state employee group health plan also presents concerns, as this analysis may not be statistically meaningful to the private insurance market. For example, because the state's labor force, located primarily in Helena, is on average 47 years old, state employees may not be representative, demographically, of Montanans across the state who carry private insurance.

Finally, I note that it is unclear whether the requirements contained in SB 370 would apply to programs such as Medicaid and the Children's Health Insurance Program. If so, the bill presents another host of problems.

These are but some of my objections to SB 370. I respectfully ask that you sustain my veto of the bill.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 13, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol Helena, MT 59620

The Honorable Mike Milburn
Speaker of the House
State Capitol Helena, MT 59620

Dear President Peterson and Speaker Milburn:

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In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 111 (SB 111), **"AN ACT LIMITING LIABILITY FOR NONECONOMIC LOSS ARISING OUT OF OPERATION OF A MOTOR VEHICLE; AND REQUIRING CERTAIN INSURERS TO REPORT TO THE ECONOMIC AFFAIRS INTERIM COMMITTEE."**

Senate Bill 111, with certain exceptions, would absolve a party responsible for injury to another from noneconomic damages arising out of a motor vehicle accident if the injured person had failed to carry motor vehicle insurance as required by state law, was driving under the influence, or was driving with an alcohol concentration in excess of the statutory limit. The bill thus would limit the legal remedies to which an individual is entitled based on the individual's status (e.g., as uninsured or driving under the influence). I object to SB 111 because I do not believe there is a rational relationship between the "punishment" under the bill and the status of the individuals upon whom the punishment would be imposed.

I also note that during the hearing on the bill in the House Transportation Committee, both the sponsor and insurers asked that the Committee strike a Senate amendment, requiring insurers to report the effect of passage of the bill on premium rates in Montana to the Legislature's economic affairs interim committee. Insurance representatives described the reporting requirement as problematic, in that insurers would be hardpressed to identify what effect passage of this piece of legislation would have on insurance premiums in the state. Thus, the purported purpose for the bill, to drive down insurance rates, was disclaimed by the insurance industry, itself.

I respectfully ask for your support to sustain my veto of SB 111.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 13, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol Helena, MT 59620

The Honorable Mike Milburn
Speaker of the House
State Capitol Helena, MT 59620

Dear President Peterson and Speaker Milburn:

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In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 228 (SB 228), **"AN ACT PROHIBITING THE CREATION OF A STATE-BASED HEALTH INSURANCE EXCHANGE UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

The federal health care reform act requires that, commencing in 2014, health insurance exchanges be made available in each state to serve as an online marketplace for individuals and small businesses to compare rates and coverage as they shop for health insurance. Senate Bill 228 would prohibit Montana from developing its own exchange, the effect of which necessarily would be the creation of an exchange in Montana by the federal government. Under SB 228, Montana will lose the ability and flexibility to structure an exchange that will optimally serve the needs of our citizens, particularly those individuals covered by our state's Medicaid program. Like the federal health care reform act or not, SB 228 does not appear to be in the best interests of our state or its citizens.

I respectfully ask that you sustain my veto of SB 228 for the same reasons.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 13, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, MT 59620
The Honorable Mike Milburn
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Peterson and Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 183 (SB 183), **"AN ACT PROHIBITING ESTABLISHMENT OF AN INTERIM ZONING DISTRICT OR INTERIM REGULATION TO PREVENT A PROPOSED USE UNDER CERTAIN CIRCUMSTANCES; PROHIBITING ESTABLISHMENT OF AN INTERIM ZONING DISTRICT OR INTERIM REGULATION TO PREVENT AGRICULTURAL ACTIVITIES; AND AMENDING SECTION 76M 2-206, MCA."**

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Senate Bill 183 prohibits the establishment of interim zoning districts or regulations for proposed uses that are subject to regulation and approval by agencies of the State of Montana under Title 75, Title 76, chapter 4, or Title 82 of the Montana Code Annotated. This bill was specifically intended to help "move development forward" by limiting the use of interim zoning by Montana counties.

Interim zoning is a tool that counties can use to protect the public health, safety, morals, and general welfare in an emergency. Mont. Code Ann. § 76-2-206. Under S8 183, if a proposed use is both consistent with existing zoning regulations and subject in whole or in part to regulation and approval by a state agency, then interim zoning cannot be used to temporarily prevent the proposed use while the county studies the issue or considers the adoption of regulations for the proposed use. Uses could include obvious incompatible uses such as feedlots or used tire dumps, but under the language of SB 183, also would include any use requiring sanitation approval, an air quality permit, a permit to discharge hazardous waste or storm water, a public water supply permit, a landfill permit, a streambed alteration permit, or an open cut mining permit from a state agency. Senate Bill 183 also prohibits a county from adopting interim zoning to prevent agricultural activities, "as provided in Title 76, chapter 2, part 9," however the referenced statute already prevents a county from adopting zoning to prevent agricultural activities and is merely duplicative of existing state law.

The prohibitions on interim zoning districts contained in SB 183 would elevate the rights of gravel pit and feedlot operators over the rights of the community and surrounding landowners. While a proposed use may be regulated in part by a state agency, many aspects of the use are not, such as the potential impacts of the use on local traffic, schools, wildlife, and compatibility with surrounding land uses. These impacts, in many cases, can be prevented only with interim zoning while the county studies these issues and considers regulations on the use to minimize or avoid such impacts to the community. This is a valid and reasonable use of an already limited local authority, allowing a county to temporarily delay development that might otherwise occur contrary to the long-term goals of the community.

I respectfully ask for your support in sustaining my veto of SB 183.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 13, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, MT 59620

SENATE JOURNAL
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The Honorable Mike Milburn
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Peterson and Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No.109 (SB 109), **"AN ACT REVISING THE DEFINITION OF "ELIGIBLE RENEWABLE RESOURCE" UNDER THE MONTANA RENEWABLE POWER PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT; AMENDING SECTION 69-3-2003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."** I issue this veto because SB 109 allows for hydropower of any size to be incorporated into Montana's Renewable Portfolio Standard (RPS), which has the effect of subverting the RPS and discouraging the development of new energy projects and the creation of new jobs.

The primary purpose of Montana's Renewable Power Production and Rural Economic Development Act, passed by the 2005 Legislature and signed by me into law, was to create incentives for diverse rural economic development through the production of renewable power commencing operation after January 1, 2005. Since the law's passage, Montana has seen over \$800 million of capital investment in renewable energy development, the creation of nearly 700 high-paying jobs, and over 400 megawatts of new, installed renewable power capacity.

The purpose of the Renewable Power Production and Rural Economic Development Act holds as true today as it did in 2005, however SB 109 completely defeats that purpose by expanding the definition of resources eligible to meet renewable energy standards to include all hydroelectric generation, regardless of size. Under the definition found in SB 109, projects already completed (e.g., the Noxon and Kerr Dam expansions) or already underway (e.g., the Rainbow Dam rebuild) would be eligible resources. Worse yet, Montana's 15% standard could be met immediately upon passage of SB 109, undercutting all incentive for various hydro and wind projects currently in planning stages or under examination for potential power production.

In this way, SB 109 discourages development of bona fide new renewable energy projects, which means fewer jobs for Montanans and less revenue for local governments. From "day one of this session, I have defined my top priority as the creation of jobs, and many legislators have voiced similar sentiments. Senate Bill 109 not only runs counter to the development of new renewable energy sources, it runs counter to this top priority of job creation. For these reasons, I respectfully ask for your support in sustaining my veto.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

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cc: Legislative Services Division

April 13, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol Helena, MT 59620

The Honorable Mike Milburn
Speaker of the House
State Capitol Helena, MT 59620

Dear President Peterson and Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 114 (SB 114), **"AN ACT STATING THAT FEDERAL LAW ENFORCEMENT OFFICERS SHOULD COMMUNICATE WITH LOCAL SHERIFFS BEFORE TAKING OFFICIAL ACTION IN A COUNTY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

I issue this veto of SB 114 because the bill, by its terms, is unenforceable and therefore unnecessary. Communication between federal and state law enforcement officials is established when those law enforcement officials talk to each other. Communication is not established through passage of frivolous legislation. I respectfully ask that you sustain my veto of SB 114.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 13, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Mike Milburn
Speaker of the House
State Capitol
Helena, MT 59620

SENATE JOURNAL
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Dear President Peterson and Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 159 (SB 159), **"AN ACT REVISING THE STATE BUILDING CODE TO REQUIRE THE ADOPTION OF ENERGY-EFFICIENT CONSTRUCTION STANDARDS THAT THE DEPARTMENT OF LABOR AND INDUSTRY CAN DEMONSTRATE WILL RESULT IN ENOUGH ENERGY SAVINGS TO PAY FOR THE PURCHASE AND INSTALLATION OF ANY EQUIPMENT OR MATERIALS INSTALLED WITHIN THE FIRST 5 YEARS OF OCCUPANCY; REQUIRING THE DEPARTMENT TO USE THE 2009 BUILDING CODES AS THE BASELINE FROM WHICH TO EVALUATE FUTURE PROPOSED CHANGES TO THE BUILDING CODES AND TO DEVELOP COST ESTIMATES FOR ANY PROPOSED CHANGES TO THE BUILDING CODES; AND AMENDING SECTIONS 50-60-201 AND 50-60-203, MCA."**

My objections to SB 159 lie primarily in its amendments to Montana's building code that significantly alter the way that codes addresses energy efficiency. Specifically, SB 159 prohibits any future amendment to the 2009 edition of the building code absent a demonstration by the Department of Labor and Industry that the changes would result in energy savings that would pay for the purchase and installation of any equipment or materials within five years of building occupancy. I believe these amendments are, at best, penny wise, but certainly pound foolish. The five-year payback standard established in SB 159 is arbitrary, and over time, will be increasingly difficult to satisfy. Even the National Association of Homebuilders finds a five-year payback to be too short. This payback period in no way reflects the average useful life of a residential or commercial building or even the average length of home ownership. The result will be that commercial, public, and residential buildings will be built without the energy conserving systems and methods to make those buildings less expensive to heat, cool, and maintain. Looking at life-cycle costs makes far more sense than a simple payback approach.

Further, I note that energy conservation measures, if installed at the time of construction, can be rolled into the mortgage, which can result in annual energy savings from the time of occupancy in excess of the increased annual mortgage costs resulting from the inclusion of the conservation measures in the construction. I believe SB 159 is short-sighted.

Additionally, I oppose the amendments to the purpose section of Montana's building code, Mont. Code Ann. § 50-60-201, that eliminate as a purpose the encouragement of energy efficiencies, including reduction of energy consumption particularly in the winter months. The current language is important in Montana, where winters are long and cold. Finally, I note that the five-year payback requirements --requiring comparison of construction costs to energy costs --are rigidly established but completely undefined. The costs to purchase and install energy efficient equipment or materials will vary across the state and frequently will change, as will the rates energy providers charge and therefore the value of energy savings. This standard is unworkable. I anticipate that if SB 159 were to become law, future administrations would be hesitant to amend the 2009 energy conservation requirements lest they subject themselves to litigation under the ill-defined requirements of the bill. I respectfully ask that you sustain my veto of SB 159 for the reasons expressed above.

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Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

**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 Facey in the chair.

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

Senator Hutton excused.

SJR 30 - Senator Windy Boy moved **SJR 30** be adopted. Motion carried as follows:

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

Total 44

Nays: Barrett, Ripley, Steinbeisser, Wittich, Zinke.

Total 5

Absent or not voting: None.

Total 0

Excused: Hutton.

Total 1

Senator Hutton present.

SB 156 - Free Conference Committee Report No. 1 - Senator Murphy moved the Free Conference Committee report to **SB 156** be adopted. 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, Zinke, Mr. President.

Total 50

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Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Essmann moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Facey 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, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 49

Nays: Wanzenried.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

PUBLIC HEALTH, WELFARE AND SAFETY (Priest, Chairman): 4/13/2011
HJR 8, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman): 4/13/2011
SR 25, do pass. Report adopted.

Senator Essmann moved the Senate recess until 4:00 p.m. Motion carried.

Senate in recess.

Senate reconvened at 4:00 p.m.

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MESSAGES FROM THE GOVERNOR

April 13, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol Helena, MT 59620

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 356 (SB 356), **"AN ACT CLARIFYING THE DEFINITION OF "GOOD CAUSE SHOWN" FOR A HEARING ON A TEMPORARY PRELIMINARY DECREE OR PRELIMINARY DECREE; AND AMENDING SECTION 85-2-233, MCA."**

Senate Bill 356 amends the statute defining who has standing to object to a water right claim in the Montana Water Court and who is entitled to a hearing. The bill, as written, would grant standing only to a person with an ownership interest in an existing water right, permit, certificate, or state reservation. I believe the standing threshold in the bill, based on ownership status, alone, is insufficient and would likely not survive a constitutional challenge.

My proposed amendment would define those with standing to object as persons not only with an "ownership interest" but those with a "leasehold, economic, or other substantial interest." The difference between the bill with and without my amendments is subtle, but important. Under my amendment, in order to have standing, an individual would be required to demonstrate a real interest in the water right, not simply a general interest as a member of the public. I have discussed my proposed amendment with the sponsor of the bill, Senator Hamlett, who indicates his support. I ask for your favorable consideration of the proposed amendment.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 18, 2011

Governor's recommendations for amendments to **Senate Bill 356** (reference copy -- salmon) are as follows:

1. Page 1, line 21.

Following: "ownership"

Insert: ", leasehold, economic, or other substantial"

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MESSAGES FROM THE OTHER HOUSE

House joint resolutions passed and transmitted to the Senate for concurrence: 4/13/2011

HJR 24, introduced by Blyton
HJR 25, introduced by Malek
HJR 31, introduced by Hendrick
HJR 32, introduced by Connell
HJR 38, introduced by Hansen
HJR 39, introduced by MacLaren

Senate bills concurred in and returned to the Senate: 4/13/2011

SB 412, introduced by Augare
SB 420, introduced by Gallus

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

4/13/2011

SB 253, introduced by Lake
SB 265, introduced by Hamlett
SB 295, introduced by Lake
SB 372, introduced by Tutvedt
SB 409, introduced by Tutvedt
SB 411, introduced by Erickson
SB 418, introduced by Wittich
SB 424, introduced by Williams
SB 426, introduced by Balyeat
SB 429, introduced by Wittich

Senate bill not concurred in and returned to the Senate: 4/13/2011

SB 214, introduced by Gillan

Governor's amendments to House bill not concurred in and transmitted to the Senate for consideration of the Governor's amendments.:

4/13/2011

HB 327, introduced by McClafferty

FIRST READING AND COMMITMENT OF BILLS

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

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HJR 24, introduced by Blyton, Hale, Beck, Arntzen, Hollandsworth, Taylor, C. Smith, Read, Ingraham, Miller, Harris, Buttrey, Flynn, Rosendale, Washburn, Howard, Kennedy, Skees, Kary, Ehli, referred to Taxation.

HJR 25, introduced by Malek, referred to Business, Labor, and Economic Affairs.

HJR 31, introduced by Hendrick, referred to Taxation.

HJR 32, introduced by Connell, referred to Fish and Game.

HJR 38, introduced by Hansen, referred to Local Government.

HJR 39, introduced by MacLaren, referred to Local Government.

**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 Facey in the chair.

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

SB 411 - House Amendments - Senator Erickson moved House amendments to **SB 411** be concurred in. Motion carried as follows:

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

Total 42

Nays: Balyeat, Brenden, Hinkle, Mowbray, Ripley, Shockley, Vincent, Walker.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 418 - House Amendments - Senator Wittich moved House amendments to **SB 418** be concurred in. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Brown, Buttrey, Erickson, Essmann, Gillan, Hawks, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Mowbray, Murphy, Olson, Priest, Shockley, Sonju, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 33

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Nays: Branae, Brenden, Caferro, Facey, Gallus, Hamlett, Jent, Kaufmann, Keane, Larsen, Moore, Moss, Ripley, Steinbeisser, Stewart-Peregoy, Tropila, Van Dyk.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 424 - House Amendments - Senator C. Williams moved House amendments to **SB 424** be concurred in. Motion **failed** as follows:

Yeas: Augare, Blewett, Branae, Buttrey, 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, Brown, Essmann, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 426 - House Amendments - Senator Balyeat moved House amendments to **SB 426** be concurred in. Motion carried as follows:

Yeas: 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

Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 429 - House Amendments - Senator Wittich moved House amendments to **SB 429** be concurred in. Motion carried as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Hamlett, Hinkle, Hutton, Jackson, Jones, Keane, Lake, Larsen, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Vincent, Vuckovich, Walker, Windy Boy, Wittich, Zinke, Mr. President.

Total 38

Nays: Augare, Blewett, Branae, Gillan, Hawks, Jent, Kaufmann, Moss, Tropila, Van Dyk, Wanzenried, Williams.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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

Yeas: Arthun, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Gallus, Gillan, Hamlett, Hinkle, Hutton, Jackson, Jones, Lake, Larsen, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 36

Nays: Augare, Blewett, Erickson, Facey, Hawks, Jent, Kaufmann, Keane, Moss, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MESSAGES FROM THE OTHER HOUSE

HB 122 - The House failed to concur in Senate amendments to **HB 122**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 122**:

4/13/2011

Representative Inhraham, Vice Chair

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Representative Skees
Representative Malekl

HB 375 - The House failed to concur in Senate amendments to **HB 375**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 375**:

4/13/2011

Representative McNutt, Vice Chair
Representative Cook
Representative Sesso

HB 604 - The House failed to concur in Senate amendments to **HB 604**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 604**:

4/13/2011

Representative McNutt, Vice Chair
Representative Esp
Representative McChesney

HB 611 - The House failed to concur in Senate amendments to **HB 611**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 611**:

4/13/2011

Representative McGillvray, Vice Chair
Representative Esp
Representative Melhoff

HB 612 - The House failed to concur in Senate amendments to **HB 612**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 612**:

4/13/2011

Representative McNutt, Vice Chair
Representative Esp
Representative Sesso

HB 316 - The House failed to concur in Senate amendments to **HB 316**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 316**:

4/13/2011

Representative Cook, Vice Chair
Representative Esp
Representative Sesso

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HB 621 - The House failed to concur in Senate amendments to **HB 621**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 621**:

4/13/2011

Representative Ankney, Vice Chair
Representative Cuffe
Representative Hollenbaugh

Senator Essmann moved the Senate stand at ease.

Senate at ease.

SPECIAL ORDERS OF THE DAY

Senator Brown thanked the Senate pages for their work during the week of April 11-13, 2011.

Committee meetings were announced by the committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 9:00 a.m., Monday, April 18, 2011. Motion carried.

Senate adjourned at 4:44 p.m.

MARILYN MILLER
Secretary of the Senate

JIM PETERSON
President of the Senate