

SENATE JOURNAL
62ND LEGISLATURE
EIGHTY-FIFTH LEGISLATIVE DAY

Helena, Montana
April 20, 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, except Senator Gillan, excused. Quorum present.

Senator Essmann announced the Republicans would caucus.

Senator Williams announced the Democrats would caucus.

Senate in recess.

Senate reconvened.

Senator Gillan present.

BILLS AND JOURNALS:

4/19/2011

Signed by the President at 10:10 a.m., April 19, 2011: **SB 29, SB 42, SB 100, SB 172, SB 385, SB 415, SJR 4.**

Signed by the Secretary of the Senate at 5:00 p.m., April 19, 2011: **SB 29, SB 42, SB 100, SB 172, SB 385, SB 415, SJR 4.**

Signed by the President at 5:35 p.m., April 18, 2011: **SR 4, SR 16, SR 17, SR 24, SR 30.**

Signed by the Secretary of the Senate at 3:25 p.m., April 13, 2011: **SR 4, SR 16, SR 17, SR 24, SR 30.**

Signed by the President at 10:30 a.m., April 19, 2011: **SB 412, SB 420.**

Signed by the Secretary of the Senate at 11:50 a.m., April 18, 2011: **SB 412, SB 420.**

Signed by the President at 5:50 p.m., April 18, 2011: **SB 1, SB 59.**

Signed by the Secretary of the Senate at 5:00 p.m., April 12, 2011: **SB 1, SB 59.**

Signed by the President at 5:45 p.m., April 18, 2011: **SB 16, SB 75, SB 81, SB 195, SB 234, SB 238, SB 319, SB 358, SJR 8, SR 6, SR 13, SR 21, SR 22, SR 27.**

Signed by the Secretary of the Senate at 12:35 p.m., April 13, 2011: **SB 16, SB 75, SB 81, SB 195, SB 234, SB 238, SB 319, SB 358, SJR 8, SR 6, SR 13, SR 21, SR 22, SR 27.**

Delivered to the Governor for approval at 4:25 p.m., April 19, 2011: **SB 1, SB 16, SB 59, SB 75, SB 81, SB 195, SB 234, SB 238, SB 319, SB 358.**

Signed by the Speaker at 1:50 p.m., April 19, 2011: **SB 1, SB 16, SB 59, SB 75, SB 81, SB 195, SB 234, SB 238, SB 319, SB 358, SJR 8.**

Signed by the President at 5:40 p.m., April 18, 2011: **SR 28, SR 31.**

Signed by the Secretary of the Senate at 4:15 p.m., April 13, 2011: **SR 28, SR 31.**

Correctly printed: **HB 198, HB 526, HB 563, HJR 25.**

April 20, 2011

Correctly engrossed: **SR 18, HB 627, HJR 13.**

Correctly enrolled: **SB 132, SB 143, SB 198, SB 225, SB 354, SJR 17, SJR 18, SR 20, SR 23.**

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Delivered to the Secretary of State at 4:19 p.m., April 19, 2011: **SJR 8, SR 4, SR 6, SR 13, SR 16, SR 17, SR 19, SR 21, SR 22, SR 24, SR 27, SR 28, SR 30, SR 31.**

Correctly engrossed: **SR 14, SR 15.**

Correctly enrolled: **SB 187, SB 253, SB 294, SB 295, SB 326, SB 351, SB 379, SB 409, SB 417.**

Signed by the Speaker at 8:34 a.m., April 20, 2011: **SB 29, SB 42, SB 100, SB 172, SB 385, SB 412, SB 415, SB 420, SJR 4.**

Delivered to the Governor for approval at 12:05 p.m., April 20, 2011: **SB 29, SB 42, SB 100, SB 172, SB 385, SB 412, SB 415, SB 420.**

Examined by the sponsor and found to be correct: **SB 132, SB 143, SB 198, SB 225, SB 354, SJR 17, SJR 18, SR 20, SR 23.**

Delivered to the Secretary of State at 12:31 p.m., April 20, 2011: **SJR 4.**

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 198 concurred in as follows:

Yeas: Blewett, Branae, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jackson, Jent, Kaufmann, Keane, Lake, Larsen, Lewis, Mowbray, Murphy, Olson, Shockley, Tutvedt, Van Dyk, Vincent, Vuckovich, Williams, Zinke, Mr. President.

Total 28

Nays: Arthun, Augare, Balyeat, Barrett, Brenden, Brown, Essmann, Hinkle, Hutton, Jones, Moore, Moss, Priest, Ripley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Walker, Wanzenried, Windy Boy, Wittich.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 526 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.

Total 21

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 8 concurred in as follows:

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

Total 37

Nays: Arthun, Balyeat, Barrett, Brenden, Hinkle, Moore, Priest, Ripley, Shockley, Sonju, Steinbeisser, Walker, Wittich.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 11, as amended by the Governor, passed as follows:

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

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 126, Conference Committee Report No. 1, adopted as follows:

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

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Total 38

Nays: Balyeat, Essmann, Hinkle, Jackson, Mowbray, Shockley, Sonju, Tutvedt, Vincent, Walker, Wittich, Zinke.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 305, as amended by the Governor, failed as follows:

Yeas: Arthun, Balyeat, Blewett, Brown, Buttrey, Essmann, Hamlett, Hawks, Hutton, Jackson, Jones, Lake, Lewis, Mowbray, Murphy, Olson, Sonju, Tutvedt, Vuckovich, Wanzenried, Wittich, Zinke, Mr. President.

Total 23

Nays: Augare, Barrett, Branae, Brenden, Caferro, Erickson, Facey, Gallus, Gillan, Hinkle, Jent, Kaufmann, Keane, Larsen, Moore, Moss, Priest, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tropila, Van Dyk, Vincent, Walker, Williams, Windy Boy.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

FISH AND GAME (Brenden, Chairman): 4/20/2011
SR 15, be adopted. Report adopted.
HJR 32, be concurred in. Report adopted.

ADVERSE COMMITTEE REPORT

FISH AND GAME (Brenden, Chairman): 4/19/2011
SR 14, do not adopt. Adverse Committee Report adopted.

LOCAL GOVERNMENT (Sonju, Chairman): 4/20/2011
HJR 39, be concurred in. Report adopted.

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

MOTIONS

Senator Essmann moved to appoint a **Free** Conference Committee on **SB 372** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:

4/20/2011

Senator Tutvedt, Chair
Senator Gillan
Senator Lake

Senator Larsen moved **SB 305** be **indefinitely postponed**.

Senator Jackson made a substitute motion to reconsider the third reading action on **SB 305** and that **SB 305** be placed on third reading the next legislative day. Motion carried as follows:

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

Total 32

Nays: Augare, Barrett, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Jent, Kaufmann, Keane, Larsen, Moss, Tropila, Van Dyk, Vuckovich, Williams.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Facey moved to pass consideration on **SR 18** until a day to be determined by the President. Without objection, so ordered.

Senator Tutvedt moved to pass consideration on **SB 428** until a day uncertain. 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, Stewart-Peregoy, Tutvedt, Vincent, Walker, Windy Boy, Wittich, Mr. President.

Total 29

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

Total 21

Absent or not voting: None.

Total 0

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Excused: None.

Total 0

Senator Erickson rose on a point of personal privilege and apologized for comments he had made to his caucus.

**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 Buttrey in the chair.

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

SB 338 - Conference Committee Report No. 1 - Senator Brown moved the Conference Committee report to **SB 338** be adopted. Motion carried as follows:

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

Total 35

Nays: Augare, Blewett, Branae, Erickson, Gillan, Hawks, Kaufmann, Keane, Larsen, Moss, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 593 - Conference Committee Report No. 1 - Senator Olson moved the Conference Committee report to **HB 593** be adopted. Motion **failed** as follows:

Yeas: Arthun, Barrett, Brenden, Brown, Buttrey, Gallus, Jackson, Jones, Keane, Lake, Lewis, Moore, Murphy, Olson, Ripley, Steinbeisser, Tutvedt, Vincent, Walker, Mr. President.

Total 20

Nays: Augare, Balyeat, Blewett, Branae, Caferro, Erickson, Essmann, Facey, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jent, Kaufmann, Larsen, Moss, Mowbray, Priest, Shockley, Sonju, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy, Wittich, Zinke.

Total 30

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 356 - Governor's Amendments - Senator Hamlett moved Governor's amendments to **SB 356** be concurred in. Motion **failed** as follows:

Yeas: Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams.

Total 19

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

Total 31

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 426 - House Amendments - Senator Balyeat moved House amendments to **SB 426** be **not** 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, Vincent, Walker, Wittich, Zinke, Mr. President.

Total 27

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

Total 23

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 Buttrey moved the Committee of the Whole report be adopted. Report adopted as follows:

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

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

Total 40

Nays: Blewett, Branae, Gillan, Hamlett, Hawks, Moss, Stewart-Peregoy, Vuckovich, Wanzenried, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

Senator Essmann moved to appoint a **Free** Conference Committee on **SB 426** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:

4/20/2011

Senator Balyeat, Chair
Senator Hamlett
Senator Lake

Senator Kaufmann moved to reconsider the action to postpone **SB 428** to a date uncertain. Motion **failed** as follows:

Yeas: Augare, Blewett, Branae, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Priest, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Zinke.

Total 23

Nays: Arthun, Balyeat, Barrett, Brenden, Brown, Essmann, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Vincent, Walker, Windy Boy, Wittich, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

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 at 1:00 p.m.

SPECIAL ORDERS OF THE DAY

Senator Zinke introduced Lieutenant Colonel Radcliff, an original member of the 1st Special Force Service, whose gallantry of service includes six Bronze Stars, three Purple Hearts, and a Silver Star.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **Senate Bill 423**

Report No. 2, April 20, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 423** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 423** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 8.

Following: "INDIVIDUALS;"

Insert: "REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING LEGISLATIVE MONITORING;"

2. Title, page 1, line 12.

Following: "45-9-203,"

Insert: "46-18-202, 50-46-201, 50-46-202,"

3. Page 1, line 16 through line 22.

Strike: "WHEREAS," on line 16 through "ACT." on line 22

4. Page 1, line 28.

Strike: "17"

Insert: "23"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

5. Page 1, line 30.

Strike: "17"

Insert: "23"

6. Page 2, line 4.

Strike: "17"

Insert: "23"

Strike: "and"

7. Page 2.

Following: line 4

Insert: "(c) allow individuals to assist a limited number of registered cardholders with the cultivation and manufacture of marijuana or marijuana-infused products;

(d) establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises; and"

ReNUMBER: subsequent subsection

8. Page 2, line 8.

Strike: "17"

Insert: "23"

9. Page 2.

Following: line 9

Insert: "(1) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which a person may be ordered by any court of competent jurisdiction."

ReNUMBER: subsequent subsections

10. Page 2, line 10 through line 11.

Following: "means" on line 10

Insert: ":

Strike: "a medical " on line 10 through "the condition" on line 11

Insert: "(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician and by:

(i) objective proof of the etiology of the pain, including diagnostic tests that may include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or

(ii) confirmation of that diagnosis from a second physician who is independent of the treating physician and who conducts a physical examination;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

- (g) Crohn's disease;
- (h) painful peripheral neuropathy;
- (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;
- (j) admittance into hospice care in accordance with rules adopted by the department; or
- (k) any other medical condition or treatment for a medical condition approved by the legislature"

Renumber: subsequent subsections

11. Page 2.

Following: line 14

Insert: "(6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(7) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements of [sections 1 through 23] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician."

Renumber: subsequent subsections

12. Page 2, line 17 through line 18.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

13. Page 2, line 20.

Strike: "cultivate," through "use by"

Insert: "assist"

Following: "cardholder"

Insert: "as allowed under [sections 1 through 23]"

14. Page 2, line 21.

Following: "cardholder's"

Insert: "treating physician or referral"

15. Page 2.

Following: line 21

Insert: "(11) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment."

Renumber: subsequent subsections

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

16. Page 2.

Following: line 23

Insert: "(13) "Registered premises" means the location at which a registered cardholder, provider, or marijuana-infused products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder."

Renumber: subsequent subsections

17. Page 2, line 25.

Strike: "or"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

18. Page 2, line 27.

Strike: "17"

Insert: "23"

19. Page 2.

Following: line 29

Insert: "(16) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild."

20. Page 3, line 2.

Following: "means"

Strike: "the standard" through "examiners"

Insert: ", at a minimum, the following activities when undertaken by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

(a) obtaining the patient's medical history;

(b) performing a relevant physical examination;

(c) reviewing prior treatment and treatment response for the debilitating medical condition;

(d) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;

(e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(f) monitoring the response to treatment and possible adverse effects; and

(g) creating and maintaining patient records that remain with the physician"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

21. Page 3.

Following: line 2

Insert: "(19) "Treating physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) has a bona fide professional relationship with the person applying to be a registered cardholder."

Renumber: subsequent subsections

22. Page 3, line 7.

Following: "physician"

Insert: "or referral physician"

23. Page 3, line 8.

Strike: "6"

Insert: "7"

24. Page 3, line 14.

Strike: "17"

Insert: "23"

25. Page 3, line 15.

Following: "providers"

Insert: "or marijuana-infused products providers"

26. Page 3, line 18.

Strike: "17"

Insert: "23"

27. Page 3, line 20.

Following: "provider"

Insert: "or marijuana-infused products provider"

28. Page 3, line 21.

Strike: "17"

Insert: "23"

29. Page 3, line 25.

Following: "provider"

Insert: "or marijuana-infused products provider"

30. Page 3, line 28.

Strike: "or for"

Insert: ", "

Following: "provider"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Insert: ", or a marijuana-infused products provider"

31. Page 4, line 2.

Strike: "17"

Insert: "23"

Strike: "15"

Insert: "30"

32. Page 4, line 4.

Strike: "15"

Insert: "5"

33. Page 4.

Following: line 5

Insert: "(5) Rejection of an application or renewal is considered a final department action, subject to judicial review."

Renumber: subsequent subsections

34. Page 4, line 13.

Strike: "(8)"

Insert: "(9)"

35. Page 4, line 6.

Following: "(5)"

Insert: "(a)"

Following: "unless"

Insert: ": (i) a physician has provided a written certification stating that a card is valid for a shorter period of time; or
(ii)"

36. Page 4, line 7.

Following: "providers"

Insert: "or marijuana-infused products providers"

Following: "providers."

Insert: "(b)"

Following: "provider's"

Insert: "or marijuana-infused products provider's"

37. Page 4, line 8.

Following: "provider"

Insert: "or new marijuana-infused products provider"

38. Page 4, line 10.

Following: "physician"

Strike: "or"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Following: "provider"

Insert: ", or marijuana-infused products provider"

39. Page 4, line 19.

Strike: "and"

Insert: ", "

Following: "providers"

Insert: ", and marijuana-infused products providers"

40. Page 4, line 20.

Following: "cardholders"

Strike: "or"

Insert: ", "

Following: "providers"

Insert: ", or marijuana-infused products providers"

Strike: "live"

Insert: "are located"

41. Page 4, line 21.

Strike: "14"

Insert: "17"

42. Page 4, line 28.

Following: "providers"

Insert: "and marijuana-infused products providers"

43. Page 5, line 1.

Strike: "or"

Insert: ", "

Following: "physicians"

Insert: ", providers, or marijuana-infused products providers"

44. Page 5, line 2.

Insert: "(12) The board of medical examiners shall report annually to the legislature on:

(a) the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203; and

(b) the number of physicians whose names were provided to the board by the department as required under subsection (10). The report must include information on whether a physician whose practices were reviewed by the board pursuant to subsection (10) met the standard of care when providing written certifications."

45. Page 5, line 12.

Following: "provider"

Insert: "or a marijuana-infused products provider"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

46. Page 5.

Following: line 12

Insert: "(f) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical condition;"

Renumber: subsequent subsections

47. Page 5, line 13.

Following: "physician"

Insert: "or referral physician"

48. Page 5, line 17.

Following: "provider"

Insert: "or marijuana-infused products provider"

49. Page 5, line 19.

Strike: "a statement"

Insert: "the written certification and accompanying statements"

Following: "physician"

Insert: "or referral physician"

Strike: "6"

Insert: "7"

50. Page 5, line 21.

Strike: "(2)"

Insert: "(1)"

51. Page 5, line 22.

Following: "decisions"

Insert: ": (a) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and
(b)"

52. Page 5, line 23.

Strike: "(a)"

Insert: "(i)"

Following: "minor's"

Insert: "treating"

Following: "physician"

Insert: "or referral physician"

Renumber: subsequent subsections

53. Page 5, line 26.

Strike: "(i)"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Insert: "(A)"

Renumber: subsequent subsections

54. Page 5, line 27.

Following: "minor's"

Insert: "marijuana-infused products"

55. Page 5, line 29.

Strike: "and"

56. Page 5.

Following: line 29

Insert: "(D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;"

57. Page 5, line 30.

Strike: "(iv)"

Insert: "(c)"

Strike: "undergoes a name-based"

Insert: "submits fingerprints to facilitate a fingerprint and"

Following: "check"

Insert: "by the department of justice and federal bureau of investigation"

58. Page 6, line 1.

Following: "check"

Insert: "and may not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of [section 5].

(d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated or manufactured for the minor's use in a marijuana-infused product"

59. Page 6, line 3 through line 5.

Following: "or" on line 3

Strike: " "

Insert: "or"

Following: "court" on line 3

Strike: ", A DISTRICT COURT" through "PROGRAM" on line 5

60. Page 6, line 6.

Following: "provider"

Insert: "or marijuana-infused products provider"

61. Page 6, line 7.

Following: "use"

Insert: "unless the registered cardholder is the provider or marijuana-infused products provider"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

62. Page 6, line 8.

Strike: "9"

Insert: "10"

63. Page 6, line 12.

Following: "provider"

Strike: "or to"

Insert: ", a marijuana-infused products provider, or"

64. Page 6, line 16.

Strike: "Providers"

Insert: "Provider types"

Following: "limitations"

Insert: "-- activities"

65. Page 6, line 17.

Following: "card to"

Insert: "or renew a card for"

Following: "provider"

Insert: "or marijuana-infused products provider"

66. Page 6, line 23.

Following: "cardholder"

Insert: "that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider"

67. Page 6.

Following: line 23

Insert: "(e) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or manufactures for a registered cardholder;"

Renumber: subsequent subsections

68. Page 6, line 24.

Strike: "indicating whether"

Insert: "acknowledging that"

69. Page 6, line 25.

Following: "at"

Strike: "a property" through "; and"

Insert: "only one location as provided in subsection (7). The location must be identified by street address."

70. Page 6, line 28.

Strike: "as a provider"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Insert: "under this section"

71. Page 6, line 30 through page 7, line 2.

Following: "court" on page 6, line 30

Strike: ", A" through "PROGRAM" on page 7, line 2

72. Page 7.

Following: line 2

Insert: "(c) has been convicted of a violation under [section 16];"

Renumber: subsequent subsection

73. Page 7, line 8.

Following: "agency"

Insert: "; or (e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's application for a card issued under [section 4]"

74. Page 7, line 9 through line 11.

Following: "(3)" on line 9

Insert: "(a)"

Following: the first "provider"

Insert: "or marijuana-infused products provider"

Strike: "only one" on line 9 through "marriage" on line 11

Insert: "a maximum of three registered cardholders"

75. Page 7.

Following: line 11

Insert: "(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.

(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section."

Renumber: subsequent subsections

76. Page 7, line 12.

Strike: "17"

Insert: "23"

77. Page 7, line 14.

Following: "provider"

Insert: "or marijuana-infused products provider"

78. Page 7, line 15.

Strike: "compensation"

Insert: "anything of value, including monetary remuneration,"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

79. Page 7.

Following: line 15

Insert: "(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or"

Renumber: subsequent subsections

80. Page 7, line 16.

Following: "marijuana"

Insert: "unless the person is also a registered cardholder"

81. Page 7, line 17.

Strike: "a"

Following: "registered"

Strike: "cardholder"

Insert: "as both a provider and a marijuana-infused products provider"

82. Page 7, line 18.

Strike: "provider"

Insert: "person registered under this section"

Following: "only at"

Insert: "one of the following locations"

83. Page 7, line 19.

Following: "provider"

Insert: "or marijuana-infused products provider"

84. Page 7, line 20.

Following: "provider"

Insert: "or marijuana-infused products provider"

85. Page 7, line 24.

Following: "provider"

Insert: "or marijuana-infused products provider"

86. Page 7, line 25.

Insert: "NEW SECTION. Section 6. Marijuana-infused products provider -- requirements -- allowable activities. (1) An individual registered as a marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a premises registered with the department that is used for the manufacture and preparation of marijuana-infused products; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

(2) A marijuana-infused products provider:

(a) may cultivate marijuana only for the purpose of making marijuana-infused products;

and

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

(b) may not provide a cardholder with marijuana in a form that may be used for smoking.

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a food service establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31."

Renumber: subsequent sections

87. Page 7, line 26.

Strike: "Physician statement"

Insert: "Written certification -- accompanying statements"

88. Page 7, line 27.

Following: "must"

Insert: "be made on a form prescribed by the department and signed and dated by the physician. The written certification must"

89. Page 7.

Following: line 27

Insert: "(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the person for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must:"

90. Page 7, line 28.

Following: "is"

Insert: ": (i)"

91. Page 7, line 29.

Following: "physician's"

Insert: "ongoing"

Strike: "and supervision"

Insert: "as part of a bona fide professional relationship with the person; or

(ii) the person's referral physician"

92. Page 8.

Following: line 2

Insert: "(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the person's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination that included a personal review of any medical records maintained by other physicians and

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

that may have included the person's reaction and response to conventional medical therapies;"

Renumber: subsequent subsections

93. Page 8.

Following: line 4

Insert: "(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the person and has considered the potential drug interaction with marijuana;"

Renumber: subsequent subsections

94. Page 8.

Following: line 7

Insert: "(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the person;"

Renumber: subsequent subsections

95. Page 8, line 10.

Strike: "and"

96. Page 8, line 12.

Following: "physician"

Insert: "or referral physician"

97. Page 8, line 13.

Strike: "supervise"

Insert: "monitor"

Following: "person's"

Insert: "response to the"

Following: "treatment"

Insert: "; and"

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct"

98. Page 8, line 18.

Strike: the first "or"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

Strike: "cardholder's or provider's"

Insert: "person's"

99. Page 8, line 24.

Strike: "10"

Insert: "11"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

100. Page 8, line 29.

Following: "provider"

Insert: "or marijuana-infused products provider"

101. Page 9, line 1.

Following: "provider"

Insert: "or marijuana-infused products provider"

102. Page 9, line 10

Following: "provider"

Insert: "or marijuana-infused products provider"

Strike: "the amounts allowed under subsection (1)(a)"

Insert: "4 mature plants, 12 seedlings, and 1 ounce of usable marijuana"

103. Page 9, line 12.

Strike: "10"

Insert: "11"

104. Page 9, line 13.

Strike: "17"

Insert: "23"

105. Page 9, line 16.

Strike: "registered cardholder or provider"

Insert: "individual"

106. Page 9, line 26.

Strike: "17"

Insert: "23"

107. Page 9, line 29.

Strike: "17"

Insert: "23"

108. Page 10, line 3.

Strike: "Possession"

Insert: "Except as provided in [section 14], possession"

109. Page 10, line 11.

Insert: "(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by [sections 1 through 23] if the person:

(i) is in possession of a valid registry identification card; and

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 23].

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."

110. Page 10, line 12.

Strike: "17"

Insert: "23"

111. Page 10, line 22.

Strike: "in"

Insert: "when ordered by any court of competent jurisdiction into"

Following: "facility"

Strike: ", INCLUDING ALL FACILITIES DESCRIBED IN 53-1-203"

Insert: "or program"

112. Page 10.

Following: line 22

Insert: "(vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;"

Renumber: subsequent subsections

113. Page 10, line 25.

Following: "or"

Insert: "or"

114. Page 10, line 27 through line 30.

Strike: "; OR" on line 27 through "PROGRAM" on line 30

115. Page 11, line 1.

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

116. Page 11, line 3.

Following: "hospice"

Insert: "or residential care facility"

117. Page 11, line 5.

Strike: "17"

Insert: "23"

118. Page 11, line 8 through line 9.

Strike: "person with" on line 8 through "condition" on line 9

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Insert: "registered cardholder"

119. Page 11, line 13.

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

120. Page 11, line 15.

Strike: "17"

Insert: "23"

121. Page 11, line 20.

Strike: "17"

Insert: "23"

Following: "provider"

Insert: "or marijuana-infused products provider"

122. Page 11, line 21.

Following: "provider"

Insert: "or marijuana-infused products provider"

123. Page 11, line 22 through page 23.

Strike: "registered" on line 22 through "provider" on line 23

Insert: "person with a valid registry identification card"

124. Page 11, line 25.

Strike: "3.5"

Insert: "5"

125. Page 11, line 26.

Following: "cardholder"

Strike: "or"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

126. Page 12, line 6.

Insert: "NEW SECTION. Section 12. Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions. (1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider or marijuana-infused products provider; or

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where medical marijuana is cultivated or manufactured or where marijuana-infused products are made.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the person the same fee that the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this chapter, or has not met the standard of care required under this chapter, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the medical use of marijuana."

Renumber: subsequent sections

127. Page 12, line 7.

Following: "regulate."

Insert: "(1)"

128. Page 12, line 8.

Following: "provider"

Insert: "or marijuana-infused products provider"

129. Page 12, line 12.

Insert: "(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating as storefront businesses."

Insert: "NEW SECTION. Section 14. Inspection procedures. (1) The department and state or local law enforcement agencies may conduct frequent, unannounced inspections of registered premises.

(2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies at any time.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of [sections 1 through 23].

(3) (a) A registered premises, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

upon request of the department or state or local law enforcement officials.

(4) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder."

Renumber: subsequent sections

130. Page 12, line 16.

Strike: "cardholder's"

Insert: "person's"

131. Page 12, line 18.

Following: "(ii)"

Insert: "mature"

Strike: "or"

Insert: ", seedlings,"

Following: "usable marijuana"

Insert: ", or marijuana-infused products"

132. Page 12, line 19.

Following: "cardholder"

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

Strike: "17"

Insert: "23"

133. Page 12, line 21.

Strike: "17"

Insert: "23"

134. Page 12, line 26.

Following: "cardholder"

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

Strike: "felony"

Insert: "misdemeanor"

Strike: "the state prison"

Insert: "a county jail"

Following: "for"

Insert: "a term"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

135. Page 12, line 27.

Strike: "less than"

Insert: "to exceed"

Strike: "or not more than 5 years"

Strike: "\$50,000"

Insert: "\$1,000"

136. Page 12, line 28.

Strike: "6"

Insert: "7"

137. Page 12, line 29 and line 30.

Strike: "felony" on line 29

Insert: "misdemeanor"

Strike: "the state prison"

Insert: "a county jail"

Following: "for"

Strike: "not less than"

Insert: "a term not to exceed"

Strike: "or not more" on line 29 through "years" on line 30

Strike: "\$50,000"

Insert: "\$1,000"

138. Page 12.

Following: line 30

Insert: "(3) A person convicted under this section may not be registered as a provider or marijuana-infused products provider under [section 5]."

139. Page 13, line 2.

Strike: "A"

Insert: "Except as provided in 37-3-203, a"

140. Page 13, line 5.

Strike: "17"

Insert: "23"

141. Page 13, line 10 through line 11.

Strike: "debilitating" on line 11 through "provider" on line 11

Insert: "registry identification card"

142. Page 13, line 14.

Strike: "17"

Insert: "23"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

143. Page 13, line 17.

Strike: "17"

Insert: "23"

144. Page 13, line 18.

Following: "possession of"

Insert: "mature"

Following: "plants"

Insert: "or seedlings"

145. Page 13, line 19.

Following: "plants"

Insert: "or seedlings"

146. Page 13, line 20.

Insert: "NEW SECTION. Section 20. Advertising prohibited. Persons with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media."

Insert: "NEW SECTION. Section 21. Hotline. (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of [sections 1 through 23].

(2) The department may:

(a) investigate reports of suspected abuse of the provisions of [sections 1 through 23];

or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring."

Insert: "NEW SECTION. Section 22. Legislative monitoring.(1) The children, families, health, and human services interim committee shall provide oversight of the department's activities related to registering individuals pursuant to [sections 1 through 23] and of issues related to the cultivation, manufacture, and use of marijuana pursuant to [sections 1 through 23].

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature."

Renumber: subsequent sections

147. Page 13, line 22.

Strike: "17"

Insert: "23"

148. Page 13, lines 25 and 26.

Following: "providers" on line 25

Insert: "and marijuana-infused products providers"

Following: "cards"

Strike: "for" on line 25 through "cardholders" on line 26

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

149. Page 13, line 29.

Strike: "[section 5]"

Insert: "[sections 4 and 5]"

Following: " ;"

Strike: "and"

150. Page 13, line 30.

Strike: "17"

Insert: "23"

151. Page 14, line 2.

Strike: "17"

Insert: "23"

152. Page 15, line 25.

Strike: "that is"

Insert: "and accompanying statements"

153. Page 15, line 26.

Strike: "17"

Insert: "23"

154. Page 16, line 10.

Strike: "that is"

Insert: "and accompanying statements"

155. Page 16, line 11.

Strike: "17"

Insert: "23"

156. Page 16, line 23.

Strike: "that is"

Insert: "and accompanying statements"

Strike: "17"

Insert: "23"

157. Page 19, line 18.

Strike: "12"

Insert: "15"

158. Page 19, line 19.

Insert: "**Section 29.** Section 46-18-202, MCA, is amended to read:

"46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

- (a) prohibition of the offender's holding public office;
- (b) prohibition of the offender's owning or carrying a dangerous weapon;
- (c) restrictions on the offender's freedom of association;
- (d) restrictions on the offender's freedom of movement;
- (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;
- (f) a requirement that the offender surrender any registry identification card issued under [section 3];
- (f)(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) If a sentencing judge requires an offender to surrender a registry identification card issued under [section 3], the court shall return the card to the department of public health and human services and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card."

Insert: "Section 30. Section 50-46-201, MCA, is amended to read:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued pursuant to ~~50-46-103~~ before [the effective date of this section] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

Insert: "Section 31. Section 50-46-202, MCA, is amended to read:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty. (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) state or local law enforcement agencies only as necessary to verify that a person is a lawful possessor of a registry identification card.

~~(1)~~(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Renumber: subsequent sections

159. Page 20, line 29.

Insert: "NEW SECTION. **Section 33. Emergency rulemaking.** The department of

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

public health and human services shall adopt emergency rules as provided in 2-4-303 to allow for issuance of registry identification cards in accordance with the provisions of [sections 1 through 23] beginning June 1, 2011."

Renumber: subsequent sections

160. Page 21, line 13.

Following: "this"

Strike: "act"

Insert: "section"

161. Page 21.

Following: line 14

Insert: "(2) (a) The department of public health and human services may issue registry identification cards to persons with debilitating medical conditions and to the persons named as providers or marijuana-infused products providers beginning June 1, 2011, under emergency rules adopted pursuant to [section 33].

(b) Until October 1, 2011, the department may issue cards to persons applying as providers or marijuana-infused products providers before the department has obtained the results of the fingerprint and background check required under [sections 4 and 5].

(c) A person who obtains a registry identification card as a provider or marijuana-infused products provider before October 1, 2011, shall submit fingerprints as required by [sections 4 and 5] no later than October 1, 2011.

(3) (a) The department shall revoke the registry identification card issued to a provider or marijuana-infused products provider under subsection (2) if:

(i) the person fails to submit fingerprints by October 1, 2011; or

(ii) the results of a fingerprint and background check conducted after issuance of the card shows that the person is ineligible for the card.

(b) The department shall notify the provider or marijuana-infused products provider and the registered cardholder who named the provider or marijuana-infused products provider that the person may no longer assist the registered cardholder with the use of marijuana to alleviate the symptoms of the cardholder's debilitating medical condition."

Renumber: subsequent subsection

162. Page 21, line 15 through line 16.

Strike: "July" on line 15 through "2011," on line 16

Insert: "[the effective date of this section]"

Following: "possession of"

Insert: "mature"

163. Page 21, line 17.

Following: the first "2011"

Insert: ", if the person has not obtained a registry identification card pursuant to the provisions of [sections 1 through 23] as provided for in subsection (2)"

Following: "2011,"

Strike: "the"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Insert: "a"

Following: "caregiver"

Insert: "who has not obtained a registry identification card pursuant to [sections 1 through 23]"

Strike: "the items"

Insert: "any mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products still in the caregiver's possession"

164. Page 21, line 21.

Strike: "17"

Insert: "23"

165. Page 21, line 23.

Strike: "17"

Insert: "23"

166. Page 21, line 25 through line 27.

Strike: "(1) If" on line 25 through "(2)" on line 27

167. Page 22, line 7.

Strike: "7"

Insert: "11"

168. Page 22, line 13.

Strike: "date"

Insert: "dates"

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

169. Page 22, line 14.

Insert: "(2) [Sections 20, 30, 31, 33, the repeal of 50-46-103 provided for in section 34, and sections 35 and 38], and this section are effective on passage and approval."

For the Senate:

Essmann, Chair
Larsen
Vincent

For the House:

C. Smith, Vice Chair
Sands
Berry

FREE CONFERENCE COMMITTEE
on **House Bill 621**
Report No. 1, April 20, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 621** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

And, recommend that **House Bill 621** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 10.

Following: "CONSERVATION;"

Insert: "ELIMINATING THE COORDINATING AUTHORITY; AUTHORIZING THE USE OF QUARANTINE MEASURES IN AN INVASIVE SPECIES MANAGEMENT AREA;"

2. Title, page 1, line 11.

Following: "~~80-7-814,~~"

Insert: "80-7-1002,"

3. Title, page 1, line 12.

Following: "~~80-7-1005,~~"

Insert: "80-7-1005,"

Strike: the first "AND"

Following: "80-7-1007,"

Insert: "80-7-1008, AND 80-7-1011,"

4. Page 3.

Following: line 3

Insert: "**Section 1.** Section 80-7-1002, MCA, is amended to read:

"80-7-1002. Legislative findings and purpose. (1) The legislature finds that:

(a) invasive species can wreak damage on the economy, environment, recreational opportunities, and human health in Montana;

(b) there is reason to be concerned about the further introduction, importation, and infestation of Eurasian watermilfoil (*Myriophyllum spicatum*) and the introduction, importation, and infestation of additional invasive species ~~not yet present~~ in Montana, such as the zebra mussel (*Dreissena polymorpha*) and the quagga mussel (*Dreissena bugensis*), that could cause catastrophic damage to not only our waterways, rivers, and lakes, our water storage, delivery, and irrigation systems, our hydroelectric power structures and systems, and our aquatic ecosystems, but also to the entire state economy;

(c) as infestations of threatening invasive species move ever closer to Montana's borders, protecting Montana against these species is of utmost importance to the state economy, environment, recreational opportunities, and human health for the benefit of all Montanans;

(d) preventing the introduction, importation, and infestation of invasive species is the most effective and least costly strategy for combating invasive species that, once established, are often difficult to control or eradicate;

(e) the use of check stations, at which ~~the exterior of vessels~~ and trailers transporting vessels may be inspected for the presence of invasive species and cleaned if an invasive species is detected, is an effective way to prevent the introduction, importation, and infestation of invasive species that are easily transferred from infested areas to uninfested areas when proper precautions are not taken; and

(f) preventing the introduction, importation, and infestation of invasive species is best accomplished through coordinated educational and management activities.

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

(2) The purpose of this part is to establish a mechanism for Montana to take concerted action to detect, control, and manage invasive species, including preventing further introduction, importation, and infestation, by educating the public about the threat of these species, coordinating public and private efforts and expertise to combat these species, and authorizing the use of check stations to prevent the intrastate movement of invasive species from infested areas to uninfested areas to protect the state's economy, environment, recreational opportunities, and human health for the benefit of all Montanans."

Renumber: subsequent sections

5. Page 3, line 13.

Strike: ", "

Insert: "or"

6. Page 3, line 14.

Strike: ", or for the entire state"

7. Page 3.

Following: line 29

Insert: "**Section 3.** Section 80-7-1005, MCA, is amended to read:

"80-7-1005. Cooperative agreement for invasive species detection and control. (1)

In order to implement, administer, and accomplish the purposes of this part, the departments, collectively or individually, shall enter into a cooperative agreement with each other or may enter into an agreement with any person with the appropriate expertise and administrative capacity to perform the obligations of the agreement.

(2) Prior to entering an agreement with a person other than a department, the departments shall work in collaboration with each other to coordinate their respective responsibilities in order to further the purposes of this part.

(3) A cooperative agreement may include provisions for funding to implement the agreement.

~~(4) The overall coordinating authority is the department of agriculture."~~

Renumber: subsequent sections

8. Page 4, line 1 through line 22.

Strike: section 2 in its entirety

Insert: "**Section 4.** Section 80-7-1006, MCA, is amended to read:

"80-7-1006. Departmental responsibilities. (1) The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each department for the prevention and control of invasive species is according to the department's powers and duties as established by law.

(2) For those invasive species under the jurisdiction of more than one department, the departments with jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

(3) Working in collaboration with each other, the departments, individually or collectively, shall develop and adopt an invasive species strategic plan or plans to accomplish

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

the purposes of this part. The plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

- (a) public awareness and education;
- (b) prevention and detection of invasive species, including the use of invasive species management areas authorized under 80-7-1008;
- (c) management, control, and restoration of infested areas; and
- (d) emergency response.

(4) The departments may enforce quarantine regulations and measures imposed by law or rule in an invasive species management area, including the mandatory inspection of any interior portion of a vessel that may contain water for the presence of an invasive species.

~~(4)~~(5) The departments shall implement education and outreach programs that increase public knowledge and understanding of prevention, early detection, and control of invasive species."

Renumber: subsequent sections

9. Page 5, line 1.

Following: "pertaining to"

Insert: ":

- (a) the use of quarantine regulations and measures;
- (b) "

Following: "area"

Insert: ";

Following: the first "and"

Insert: "(c)"

10. Page 5, line 1 through line 2.

Strike: "the exterior" on line 1 through "of" on line 2

11. Page 5.

Following: line 5

Insert: "**Section 6.** Section 80-7-1008, MCA, is amended to read:

"80-7-1008. Invasive species management area -- authorization. (1) When an invasive species is identified as infesting or threatening an area, the department with jurisdiction over that invasive species may designate and administer an invasive species management area for a specific area of land; or for a body or bodies of water; ~~or for the entire state~~ for a specific or indeterminate amount of time to prevent and control the infestation or spread of that invasive species.

(2) To the extent practicable, prior to the designation of an invasive species management area, the department making the designation shall coordinate with all of the departments in order to further the purposes of this part.

(3) The designation of an invasive species management area must specify:

- (a) the invasive species present or considered threatening; and
- (b) ~~(i) subject to subsection (3)(b)(ii);~~ the method or methods for preventing the introduction of the species or controlling or eradicating the species, including regulations pertaining to;

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

(i) the use of quarantine measures;
(ii) the movement of vessels within, to, and from the area; and
(iii) whether check stations will be used to inspect and clean ~~the exterior of~~ vessels moving within, to, or from the area. A department may conduct mandatory inspections of any interior portion of a vessel that may contain water only if the department has included the use of mandatory inspections as part of quarantine measures established pursuant to subsection (3)(b)(i).

~~(ii) If the invasive species management area encompasses the entire state, departmental authority to prescribe requirements for cleaning and inspecting the exterior of vessels traveling within the state is limited to those vessels required to stop at a check station pursuant to 80-7-1011(3)(b).~~

(4) As far as practical, signs indicating that an invasive species management area is in place must be posted in an effective manner at access points to the designated area and along the boundaries and within the area. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs."

Insert: "Section 7. Section 80-7-1011, MCA, is amended to read:

"80-7-1011. Check stations. (1) The departments shall establish a check station within or adjacent to an invasive species management area to prevent the introduction, importation, infestation, and spread of the invasive species for which the designation was issued.

(2) At a check station, the departments may examine ~~the exterior of vessels and trailers transporting vessels~~ for the presence of an invasive species and compliance with regulations imposed under 80-7-1008(3)(b) and with this section. A department may examine any interior portion of a vessel that may contain water, including bilges, livewells, and bait containers, for compliance only if inspection of interior portions is included as part of quarantine measures established pursuant to 80-7-1008(3)(b)(i).

(3) ~~(a) Except as provided in subsection (3)(b), the~~ The owner, operator, or person in possession of a vessel shall stop at any check station unless a medical emergency makes stopping likely to result in death or serious bodily injury.

~~(b) If a check station is established under regulations pertaining to a statewide invasive species management area, a stop at that check station is required only for a vehicle transporting a vessel, excluding vessels that have never been used.~~

(4) If during an inspection of ~~the exterior of a vessel or a trailer transporting a vessel~~ the presence of an invasive species is detected ~~upon the exterior of the vessel~~, that vessel or trailer may not leave the check station until it is cleaned and decontaminated in a manner established in accordance with 80-7-1008(3)(b)."

Renumber: subsequent sections

12. Page 5, line 17.

Strike: "\$58,000"

Insert: "\$558,000"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

For the Senate:

Jackson, Chair
Zinke
Wanzenried

For the House:

Ankney, Vice Chair
Cuffe
Hollenbaugh

**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:

Senator Gallus excused at this time.

SB 277 - Governor's Amendments - Senator Moore moved Governor's amendments to **SB 277 not** be concurred in. Motion carried as follows:

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

Total 31

Nays: Blewett, Branae, Caferro, Erickson, Facey, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams.

Total 18

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 348 - Free Conference Committee Report No. 1 - Senator Barrett moved the Free Conference Committee report to **SB 348** be adopted. Motion carried as follows:

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

Total 44

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

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

Total 5

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 366 - Governor's Amendments - Senator Vincent moved Governor's amendments to **SB 366** be **not** 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, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.

Total 21

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

Senator Gallus present.

SB 97 - Conference Committee Report No. 1 - Senator Shockley moved the Conference Committee report to **SB 97** be adopted. 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, Stewart-Peregoy, Tutvedt, Vincent, Vuckovich, Walker, Windy Boy, Wittich, Zinke, Mr. President.

Total 31

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

Total 19

Absent or not voting: None.

Total 0

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Excused: None.

Total 0

HB 627 - Senator Shockley moved **HB 627** 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

HJR 13 - Senator Lake moved **HJR 13** be concurred in. Motion carried as follows:

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

Total 44

Nays: Augare, Buttrey, Essmann, Hawks, Murphy, Tropila.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 25 - Senator Jackson moved **HJR 25** be concurred in. Motion **failed** as follows:

Yeas: Augare, Blewett, Brown, Buttrey, Caferro, Erickson, Facey, Hamlett, Hinkle, Jackson, Kaufmann, Larsen, Moss, Mowbray, Stewart-Peregoy, Tropila, Van Dyk, Wanzenried, Williams.

Total 19

Nays: Arthun, Balyeat, Barrett, Branae, Brenden, Essmann, Gallus, Gillan, Hawks, Hutton, Jent, Jones, Keane, Lake, Lewis, Moore, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Vuckovich, Walker, Windy Boy, Wittich, Zinke, Mr. President.

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Total 31

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 36 - Governor's Amendments - Senator Hamlett moved Governor's amendments to **SB 36** 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

HB 416 - Governor's Amendments - Senator Moore moved Governor's amendments to **HB 416 not** 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, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Windy Boy, Wittich, Zinke, Mr. President.

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

HB 563 - Senator Vuckovich moved **HB 563** be concurred in. Motion **failed** as follows:

Yeas: Erickson, Gallus, Hawks, Larsen, Mowbray, Walker, Wanzenried, Williams.

Total 8

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

Total 42

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 15 - House Amendments - Senator Tutvedt moved House amendments to **SJR 15** 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, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Moore, Walker, Wittich.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 25 - Senator Essmann moved **HJR 25** be **indefinitely postponed**. Motion carried as follows:

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

Total 31

Nays: Augare, Blewett, Branae, Buttrey, Caferro, Erickson, Gillan, Hamlett, Hawks, Jackson, Kaufmann, Larsen, Moore, Moss, Mowbray, Stewart-Peregoy, Tropila, Wanzenried, Williams.

Total 19

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 563 - Senator Essmann moved **HB 563** be **indefinitely postponed**. Motion carried as follows:

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

Total 44

Nays: Blewett, Erickson, Hawks, Jackson, Wanzenried, Williams.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Gallus rose on a point of personal privilege regarding a comment made by Senator Wittich.

SJR 20 - House Amendments - Senator Wittich moved House amendments to **SJR 20** 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, Stewart-Peregoy, Tutvedt, Vincent, 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, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

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, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gallus, Gillan, Hamlett, 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, Walker, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 45

Nays: Erickson, Hawks, Van Dyk, Vuckovich, Wanzenried.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

Senator Essmann requested the Senate consent to the House of Representative's request to recess for more than three days. Senator Gillan objected.

Senator Essmann made a substitute motion to request the House of Representatives to consent to the Senate's request to recess for more than three days.

Senator Essmann made a substitute motion to request the House of Representatives to consent to a recess for more than three days without the legislators' per diem.

Senate in recess.

Senate reconvened.

President Peterson ruled Senator Essmann's motions should be separate.

Senator Essmann withdrew his motion.

Senator Essmann moved to request the House to consent to a recess until April 26, 2011.

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

Total 30

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

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

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Priest moved that **SB 427** be taken from Taxation and brought before the Committee of the Whole and placed on second reading on April 26, 2011. Motion **failed** as follows:
Yeas: Balyeat, Barrett, Essmann, Hinkle, Hutton, Jackson, Jones, Moore, Mowbray, Murphy, Priest, Shockley, Sonju, Vincent, Walker, Wittich.
Total 16

Nays: Arthun, Augare, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Lake, Larsen, Lewis, Moss, Olson, Ripley, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 34

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on Senate Bill 265

Report No. 1, April 20, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 265** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 265** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 8.

Following: "CONSTRUCTION;"

Insert: "REQUIRING THE DEPARTMENT OF REVENUE TO REPORT TO THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE ON THE USE OF THE ABATEMENT;"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

2. Page 3.

Following: line 29

Insert: "NEW SECTION. Section 5. Report to interim committee. By September 15, 2014, the department shall provide a report to the revenue and transportation interim committee on the use of property tax abatement under [sections 2 and 3]. The committee shall, based on information contained in the report, make recommendations to the next legislature on the continuation or structure of the abatement."

Renumber: subsequent subsections

3. Page 4, line 1.

Strike: "4"

Insert: "5"

4. Page 4, line 3.

Strike: "4"

Insert: "5"

For the Senate:

Tutvedt, Chair
Hamlett
Lake

For the House:

Blasdel, Vice Chair
Lavin
Williams

FREE CONFERENCE COMMITTEE
on **House Bill 122**
Report No. 1, April 20, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 122** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 122** (reference copy -- salmon) be amended as follows:

1. Page 13, line 18 through line 19.

Strike: "starting" on line 18 through "2.27%" on line 19

Insert: "on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316, 0.27%"

2. Page 15, line 29 through line 30.

Strike: "starting" on line 29 through "2.27%" on line 30

Insert: "on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316, 0.27%"

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

For the House:

Balyeat, Chair
Shockley

For the Senate:

Ingraham, Vice Chair
Malek
Skees

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in: 4/20/2011

HB 159, introduced by C. Smith
HB 186, introduced by Hunter
HB 209, introduced by Washburn
HB 283, introduced by Bangerter
HB 317, introduced by Cook
HB 370, introduced by Squires
HB 372, introduced by Washburn
HB 518, introduced by Hunter
HB 615, introduced by K. Williams
HB 622, introduced by Ankney
HB 638, introduced by Howard

Senate amendments to House bill not concurred in: 4/20/2011

HB 140, introduced by Hiner

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

4/20/2011

SJR 23, introduced by Essmann

HB 612 - The House dissolved the Conference Committee on House amendments to **HB 612**, and authorized the Speaker to appoint the following **Free** Conference Committee to confer on **HB 612**:

4/20/2011

Representative Roberts, Vice Chair
Representative Esp
Representative Sesso

HB 122 - The House dissolved the Conference Committee on House amendments to **HB 122**, and authorized the Speaker to appoint the following **Free** Conference Committee to confer on **HB 122**:

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

4/20/2011

Representative Ingraham, Vice Chair
Representative Skees
Representative Malek

SB 426 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 426**:

4/20/2011

Representative Blasdel, Vice Chair
Representative Lavin
Representative Williams

SB 372 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 372**:

4/20/2011

Representative Blasdel, Vice Chair
Representative Lavin
Representative Williams

Conference Committee Report No.1 adopted:

4/20/2011

SB 126, introduced by Larsen
SB 338, introduced by Arthun
HB 593, introduced by Ankney

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

4/20/2011

HB 565, introduced by Noonan

SPECIAL ORDERS OF THE DAY

Shockley rose on a point of personal privilege and stated **HB 627** does not have a transmittal date. Senator Gallus disagreed and requested President Peterson to look into the subject. President Peterson agreed.

Senator Brown thanked the Senate pages for their work during the week of April 18-20, 2011.

Senator Augare acknowledged Representative Lila Evans for her work and wished her well during her illness.

Senate in recess.

SENATE JOURNAL
EIGHTY-FIFTH LEGISLATIVE DAY - APRIL 20, 2011

Senate reconvened.

Senator Essmann moved the Senate accede to the request of the House and adjourn until April 26, 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, Windy Boy, Wittich, Zinke, Mr. President.

Total 29

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

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 9:00 a.m., Tuesday, April 26, 2011. Motion carried.

Senate adjourned at 3:19 p.m.

MARILYN MILLER
Secretary of the Senate

JIM PETERSON
President of the Senate