SENATE JOURNAL
63RD LEGISLATURE
SIXTY-EIGHTH LEGISLATIVE DAY

Helena, Montana — Senate Chambers
April 2, 2013 — State Capitol

Senate convened at 1:29 p.m. President Essmann presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Senator Wittich announced Republicans would caucus; Senator Sesso announced the Democrats would caucus. Senate recessed at 1:33 p.m..

Senate reconvened at 1:59 p.m. All members present.

BILLS AND JOURNALS (Buttrey, Chair): 4/2/2013

Correctly printed: **SB 355**, **SB 386**, **SB 394**, **SB 396**, **SB 397**, **SB 401**, **SB 407**, **SB 408**, **SR 43**, **SR 44**, **SR 45**, **SR 46**, **SR 47**, **SR 48**, **HB 30**, **HB 46**, **HB 66**, **HB 78**, **HB 84**, **HB 95**, **HB 122**, **HB 124**, **HB 145**, **HB 182**, **HB 313**, **HB 320**, **HB 392**, **HB 410**, **HB 446**, **HB 448**, **HB 461**, **HB 465**, **HB 498**, **HB 533**, **HB 546**, **HB 552**, **HB 564**, **HJR 14**.
Correctly engrossed: **SB 282**, **SB 374**, **SB 387**, **SB 395**, **SB 398**, **SB 400**, **SR 24**, **HB 61**, **HB 100**, **HB 171**, **HB 239**, **HB 240**, **HB 259**, **HB 286**, **HB 287**, **HB 301**, **HB 310**, **HB 547**, **HB 554**, **HB 566**.
Correctly enrolled: **SB 19**, **SB 136**, **SB 239**.
Transmitted to the House: **HB 106**, **HB 127**, **HB 170**, **HB 189**, **HB 217**, **HB 256**, **HB 297**, **HB 359**, **HB 388**, **HB 451**, **HB 502**, **HB 508**, **HB 513**, **HJR 9**.
Signed by the President at 10:00 a.m., April 2, 2013: **SB 176**, **SB 314**, **SB 319**, **SB 327**, **SB 332**.

REPORTS OF STANDING COMMITTEES

ADVERSE COMMITTEE REPORTS:

PUBLIC HEALTH, WELFARE AND SAFETY (Priest, Chair): 3/27/13
SB 393, do **not** pass. Adverse Committee Report adopted as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Fielder, Jackson, Jones, Lewis, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Wittich, Mr. President.
Total 29

Nays: Augare, Barrett Dick, Blewett, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Kaufmann, Keane, Larsen, Malek, Phillips, Sesso, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried,

Windy Boy.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 395, introduced bill, be amended as follows:

1. Title, page 1, line 5 through line 6.
Following: "INDIVIDUALS" on line 5
Strike: "AND" on line 5 through "MONTANA" on line 6

2. Title, page 1, line 7 through line 11.
Strike: "REQUIRING" on line 7 through "ACCOUNT;" on line 11
Strike: "37-8-202, 37-8-204," on line 11

3. Title, page 1, line 12.
Following: "53-6-132,"
Insert: "AND"
Strike: "AND 53-6-155,"
Strike: "EFFECTIVE DATES AND"

4. Page 1, line 16 through page 11, line 27.
Strike: sections 1 through 15 in their entirety
Renumber: subsequent sections

5. Page 15, line 21 through page 18, line 15.
Strike: sections 19 through 23 in their entirety
Renumber: subsequent sections

6. Page 18, line 17.
Strike: "[Sections" through "terminate"
Insert: "[Section 1(1)(h)] terminates"

7. Page 18, line 21 through line 22.
Strike: subsection (2) in its entirety
Renumber: subsequent subsections

8. Page 18, line 26 through line 27.
Strike: "(1)" on line 26
Following: "[section"
Strike: "24"

Insert: "4"
Strike: "[sections 1" on line 26 through "terminate" on line 27
Insert: "[section 1(1)(h)] terminates"

9. Page 18, line 28.
Strike: subsection (2) in its entirety

And, as amended, do **not** pass. Adverse Committee Report **not** adopted as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, Fielder, Jackson, Lewis, Moore, Murphy, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Vincent, Walker, Webb, Wittich, Mr. President.
Total 23

Nays: Augare, Barrett Dick, Blewett, T. Brown, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Malek, Olson, Peterson, Phillips, Sesso, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

STATE ADMINISTRATION (Arthun, Chair): 3/27/2013
SR 24, do **not** pass. Adverse Committee Report adopted.

The Standing Committee Report on **SR 24** was read on the sixty-seventh day but was not segregated as an adverse report. The report is read again this date to comply with Senate rules related to adverse committee reports.

SB 395 - Senator Sesso stated Senate rules provide that **SB 395** be heard on second reading this date following the failure of the adverse committee report to pass. Senator Sesso asked for a recess to allow that process to occur.

President Essmann stated the Senate would stand at ease while the rules committee discussed the question . Senate reconvened at 2:19 p.m..

President Essmann stated that **SB 395** would be placed at the bottom of the second reading board this date.

MESSAGES FROM THE GOVERNOR

March 28, 2013

The Honorable Jeff Essmann
President of the Senate
State Capitol
Helena, MT 59620

Dear President Essmann:

On Thursday, March 28, 2013, I signed and delivered the following Senate bills to the Secretary of State:

Senate Bill 40 -Buttrey
Senate Bill 77 -Brenden
Senate Bill 145 -F. Moore
Senate Bill 146 -Buttrey
Senate Bill 225 -Arntzen
Senate Bill 235 -Buttrey
Senate Bill 266 -Rosendale

I am returning **SB 44** -Keane with amendments.

I have vetoed the following bills:

House Bill 27 -Washburn
House Bill 302 -Kerns
Senate Bill 41 -Buttrey

Sincerely,

STEVE BULLOCK
Governor

March 28, 2013

The Honorable Jeff Essmann
President of the Senate
State Capitol
Helena, MT 59620

Dear President Essmann:

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 44** (SB 44), "AN ACT ELIMINATING THE AIR POLLUTION CONTROL ADVISORY COUNCIL AND ITS FUNCTIONS; ELIMINATING A PROVISION RELATED TO PUBLIC HEARINGS ON RULES; AMENDING SECTIONS 75-2-103 AND 75-2-402, MCA; REPEALING SECTIONS 2-15-2106, 75-2-121, 75-2-122, 75-2-123, AND 75-2-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

SB 44 repeals §75-2-205. In addition, section 2 of SB 44 deletes from §75-2-402 a cross-reference to §75-2-205 and makes grammatical and style changes to §75-2-205. Grammatical and style changes are often made to bills to clean up antiquated language, and are not intended to make substantive changes in the law. However, one of the style changes in SB 44 is substantive and dramatically alters the operation of 75-2-402(1). It replaces the introductory phrase "Any other law to the contrary notwithstanding" with "Except as otherwise provided in statute." Under existing language, the Department of Environmental Quality is required to take immediate abatement action in a general air quality emergency. Under the new language, the Department could be delayed in taking abatement action in order to comply with procedural requirements in other statutes.

In the event of an air quality emergency, human health or safety is at risk and immediate action by the Department of Environmental Quality is required. The unintended consequence of the above amendment is to limit the ability of the Department to take such immediate action. This is unacceptable.

In addition, this error threatens the ability of Montanans to maintain control over the regulation of air quality within the state's borders. Under federal law the state must have an approved Emergency Episode Avoidance Plan (Emergency Plan). The current section 75-2-402(1) is contained in the Emergency Plan, and the amendment of 75-2-402(I), MCA, would require the Department of Environmental Quality to revise its Emergency Plan and seek EPA approval for that revision. Given that this erroneous amendment to 75-2-402(1), MCA, could limit the ability of the Department to take immediate action to protect human health or safety during an air quality emergency, EPA would be unlikely to approve the revised Emergency Plan. This would lead to dual state/EPA regulation that would be administratively burdensome to the regulated community, especially during emergency situations.

My amendment would restore the original language in 75-2-402(1), protect public health and safety, and preserve the state's leadership role in administration of the Clean Air Act of Montana in emergency situations.

I have discussed my proposed amendment with the sponsor of the bill, Senator Keane, who has expressed his support. I urge your concurrence in this amendment.

Sincerely,

STEVE BULLOCK
Governor

Governor's recommendations for amendments to **Senate Bill 44** (reference copy -- salmon) are as follows:

1. Page 5, line 2 through line 3.
Strike: "Except" on line 2 through "statute" on line 3
Insert: "Any other law to the contrary notwithstanding"

March 28, 2013

The Honorable Jeff Essmann
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Mark Blasdel
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Essmann and Speaker Blasdel:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby **veto Senate Bill 41** (SB 41), "AN ACT PROHIBITING A GOVERNING BODY FROM CONSIDERING THE IMPACTS OF POTENTIAL FUTURE SUBDIVISIONS WHEN REVIEWING SUBDIVISION APPLICATIONS; AMENDING SECTION 76-3-608, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

Local officials are best suited to decide if impacts to future developments in their communities should be considered when they evaluate a proposed project. SB 41 takes that ability away from local governments, by prohibiting them from considering the cumulative impacts of expected growth when reviewing a subdivision application.

This bill also prevents a local government from requiring mitigation when acting on a subdivision application, if the mitigation relates to expected future subdivisions. As such, it may actually force

communities to deny subdivisions rather than approve them. This will surely lead to more litigation, not less.

The best decisions are based on complete information, and SB 41 severely limits the information local governments need to make good decisions concerning the communities we live in. Further, the bill is not clear as to what kinds of information can or cannot be considered in determining appropriate mitigation to minimize the impacts of a proposed subdivision. For example, consideration of transportation, infrastructure, capital improvement or other kinds of responsible growth planning could be prohibited, as could planning related to future growth as identified in a growth policy, zoning, or other long-range plan. This lack of clarity will also result in litigation.

I respectfully ask you to sustain my veto.

Sincerely,

STEVE BULLOCK
Governor

March 29, 2013

The Honorable Jeff Essmann
President of the Senate
State Capitol Helena, MT 59620

Dear President Essmann:

On Friday, March 29, 2013, I signed and delivered the following Senate bills to the Secretary of State:

Senate Bill 2 -Facey
Senate Bill 34 -Caferro
Senate Bill 49 -Ripley
Senate Bill 61 -Ripley
Senate Bill 62 -Ripley
Senate Bill 71 -Tropila
Senate Bill 86 -F. Moore
Senate Bill 93 -Vuckovich
Senate Bill 142 -Wanzenried
Senate Bill 291 -Arntzen
Senate Bill 356 -Arntzen

I am returning **SB 23** -Rosendale with amendments.

I have vetoed the following bill:

Senate Bill 12 -Lewis

Sincerely,

STEVE BULLOCK
Governor

March 29, 2012

The Honorable Jeff Essmann
President of the Senate
State Capitol
Helena, MT 59620

Dear President Essmann:

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 23** (SB 23), "AN ACT REVISING COUNTY INTERIM ZONING REQUIREMENTS AND PROCEDURES; REQUIRING A COUNTY TO INITIATE A STUDY OR INVESTIGATION TO VERIFY THE EXISTENCE OF AN EMERGENCY; LIMITING A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION TO 182 DAYS FROM THE DATE IT BECOMES EFFECTIVE; ELIMINATING THE SPECIFICATION OF EXIGENT CIRCUMSTANCES; REQUIRING CERTAIN PROCEDURES FOR THE EXTENSION OF A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION; AND AMENDING SECTION 76-2-206, MCA."

When there is an emergency involving public health, safety or welfare, the public wants their local officials to act decisively to address the problem. Interim zoning is often utilized by locally elected public officials to protect the public, including the protection of private property rights when those rights are threatened by unexpected land use proposals.

At the same time, the public expects that local officials will act in a transparent and thoughtful manner, considering and balancing the legitimate interests of all concerned.

While Senate Bill 23 imposes reasonable limitations on the ability of counties to utilize interim zoning, the bill unnecessarily restricts this authority by reducing the timeframe for an interim zoning district to remain in effect, and by requiring a supermajority vote by the local governing body to extend the duration of an interim zoning ordinance.

I propose amendments to SB 23 to accomplish three things.

First, to give the public assurance that the interim zoning action is the most appropriate temporary measure to address the problem and that county officials are taking permanent steps to address the underlying emergency. SB 23 requires that a county initiate a study or investigation within 30 working days to verify a significant threat exists, but contains very little guidance. My amendments require the county, as part of the study or investigation, to identify the potential options available for alleviating the emergency and identify a proposed course of action to address it.

Second, to provide county officials with adequate time to study the problem, hear from those concerned in a public process, and begin a course of action to permanently correct or alleviate the emergency. SB 23 requires the county government to complete this work in six months (182 days), which is inadequate. My amendments extend this period for action to one (1) year.

Finally, to make sure locally elected officials maintain the power to act in a manner they believe is necessary to serve the best interests of their communities. SB 23 requires that any extension of the interim zoning be approved by a supermajority of the county commission. It is unreasonable to require a supermajority to extend the protections for public health, safety and welfare when the original action was based upon a simple majority. My amendments remove the supermajority requirement.

Senate Bill 23, with my amendments, will provide for the valid and reasonable use of interim zoning by counties, while ensuring accountability, promoting sound decision making, and giving deference to the goals of the community.

I respectfully ask for your support of these amendments.

Sincerely,

STEVE BULLOCK
Governor

Governor's recommendations for amendments to **Senate Bill 23** (reference copy -- salmon) are as follows:

1. Title, page 1, line 6 through line 7.
Strike: "LIMITING" on line 6 through "EFFECTIVE;"

2. Page 1, line 17.
Strike: "poses a threat to"
Insert: "involves"
Strike: "and"
Following: "~~general~~"
Insert: "or general "

3. Page 1, line 21.
Following: "emergency"

Insert: ", the potential options for mitigating the emergency, and the course of action that the governing body intends to take, if any, during the term of the interim zoning district or interim regulation to mitigate the emergency"

4. Page 1, line 28.
Strike: "182 days"
Insert: "1 year"

5. Page 3, line 2.
Strike: "The"
Insert: "After the hearing provided for in subsection (4), the"

6. Page 3, line 3 through line 9.
Strike: "by:" on line 3 through "commissioners" on line 9

March 29, 2013

The Honorable Jeff Essmann
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Mark Blasdel
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Essmann and Speaker Blasdel:

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 12** (SB I2), "AN ACT PROVIDING THAT EXPENDITURES FOR PROVIDING STATE EMPLOYEE GROUP BENEFITS ARE SUBJECT TO BIENNIAL LEGISLATIVE APPROPRIATION; AMENDING SECTION 2-18-812, MCA; AND PROVIDING AN EFFECTIVE DATE."

SB 12 purports to provide the Legislature additional oversight of the State Employee Group Benefit Plan. The Legislature already has oversight of the budget of every state division, including the Health Care and Benefits Division. This bill would not provide greater transparency or efficiency, rather it would simply limit the health care decisions a state employee could make.

The State Employee Group Benefit Plan is already subject to oversight by the Legislative Branch, both through the biennial appropriations process and through an advisory council, established by 2-15-1016, MCA, which includes legislative representation. Moreover, the Plan is subject to

oversight by the Legislative Auditor, and claim audits are presented to the Legislative Audit Committee.

Funding for the State Employee Group Benefit Plan comes from both the state and contributions made by employees, retirees, judges and legislators. Any changes to the state share must be passed by the Legislature. SB 12 would subject the contributions from policy holders to the appropriations process -- a dangerous precedent where the Legislature would manage the funds an employee used to purchase an optional insurance policy.

Through the State Employee Group Benefit Plan public servants, retirees, judges and legislators enjoy quality, affordable health care in Montana. And we manage this plan in an efficient and transparent manner.

For these reasons, I respectfully request that you sustain my veto.

Sincerely,

STEVE BULLOCK
Governor

April 1, 2013

The Honorable Jeff Essmann
President of the Senate
State Capitol
Helena, MT 59620

Dear President Essmann:

On Monday, April 1, 2013, the following bills were returned to the Secretary of State without signature:

SB 3 -Essmann
SB 252 -Rosendale

Sincerely,

STEVE BULLOCK
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate: 3/28/2013

SB 19, introduced by Hamlett
SB 136, introduced by Larsen
SB 239, introduced by Buttrey

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 3/28/2013

SB 346, introduced by Vincent

House bills passed and transmitted to the Senate for concurrence: 3/28/2013

HB 4, introduced by Ankney
HB 5, introduced by Ankney
HB 13, introduced by Swanson
HB 39, introduced by McChesney
HB 86, introduced by O'Hara
HB 354, introduced by Connell
HB 377, introduced by Woods
HB 378, introduced by McClafferty
HB 404, introduced by Flynn
HB 420, introduced by Salomon
HB 454, introduced by McChesney
HB 472, introduced by G. Bennett
HB 509, introduced by Regier
HB 559, introduced by Bangerter
HB 565, introduced by McCarthy
HB 575, introduced by Berry
HB 580, introduced by Connell
HB 582, introduced by Hertz
HB 586, introduced by Cuffe
HB 599, introduced by Blyton
HB 604, introduced by C. Smith
HB 607, introduced by Lavin
HB 617, introduced by Flynn
HB 625, introduced by Ankney
HB 627, introduced by Osmundson
HB 630, introduced by Williams
HB 633, introduced by Ehli

REPORTS OF STANDING COMMITTEES

PUBLIC HEALTH, WELFARE AND SAFETY (Priest, Chair): 4/2/2013
HB 48, be concurred in. Report adopted.
HB 61, be amended as follows:

1. Title, page 1, line 5 through line 6.
Strike: "TO THE DEFINITION OF "ADDICTION""

2. Page 1, line 16.
Strike: "or gambling"

3. Page 1, line 20.
Following: "addiction"
Insert: "and gambling dependence impulse control disorder"

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

HB 281, be concurred in. Report adopted.
HB 310, be amended as follows:

1. Title, page 1, line 7 through line 9.
Strike: "PROVIDING" on line 7 through "LIFE" on line 9
Insert: "PROHIBITING CLAIMS AND DAMAGES BASED ON THE BIRTH OF A CHILD"

2. Page 1, line 13.
Strike: "**Civil**" through "**life**"
Insert: "**Claims and damages based on birth of child**"

3. Page 1, line 13 through line 15.
Strike: "A person" on line 13 through "born." on line 15
Insert: "A cause of action or award of damages is prohibited if the cause of action or award of damages is based on the claim that, but for the conduct of a health care provider, a parent would not have permitted the parent's child to have been born."

4. Page 1, line 16 through line 18.
Strike: "A person" on line 16 through "born." on line 18
Insert: "For the purposes of this section, the term "health care provider" means a health care facility as defined in 50-5-101 or a physician, physician assistant, registered nurse, advanced practice registered nurse, or direct-entry midwife licensed under Title 37."

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

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 409, introduced by Larsen, Blewett, Jent, referred to Public Health, Welfare and Safety.

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

HB 4, introduced by Ankney (by request of the Office of Budget and Program Planning), referred to Finance and Claims.
HB 5, introduced by Ankney (by request of the Office of Budget and Program Planning), referred to Finance and Claims.
HB 13, introduced by Swanson (by request of the Department of Administration and the Office of Budget and Program Planning), referred to Finance and Claims.
HB 39, introduced by McChesney (by request of the Office of Public Instruction), referred to Education and Cultural Resources.
HB 86, introduced by O'Hara (by request of the Office of Public Instruction), referred to Finance and Claims.
HB 354, introduced by Connell, referred to Finance and Claims.
HB 377, introduced by Woods (by request of the Office of Budget and Program Planning), referred to Finance and Claims.
HB 378, introduced by McClafferty, B. Bennett, Calf Boss Ribs, Coffin, Curtis, Facey, Hollenbaugh, Lynch, MacDonald, Noonan, Pierson, Price, Schreiner, Vuckovich, Wilmer (by request of the Governor), referred to Finance and Claims.
HB 404, introduced by Flynn, Harris, Jacobson, Redfield, C. Smith, Peterson, referred to Fish and Game.
HB 420, introduced by Salomon, Ankney, Blyton, Hertz, L. Jones, Keane, McClafferty, Murphy, Windy Boy, Williams, referred to Finance and Claims.
HB 454, introduced by McChesney (by request of the Office of Budget and Program Planning), referred to Finance and Claims.
HB 472, introduced by G. Bennett, Ballance, Blasdel, Brodehl, Clark, Ehli, Fitzpatrick, Flynn, Galt, Greef, Hansen, Harris, L. Jones, Kerns, Knudsen, Laszloffy, Miller, Randall, Regier, Schwaderer, C. Smith, Vance, Wagoner, Washburn, White, referred to Taxation.
HB 509, introduced by Regier, referred to Energy and Telecommunications.
HB 559, introduced by Bangerter (by request of the Department of Justice), referred to Highways and Transportation.
HB 565, introduced by McCarthy, referred to Finance and Claims.
HB 575, introduced by Berry, G. Bennett, referred to Energy and Telecommunications.
HB 580, introduced by Connell, Hamlett, referred to Fish and Game.
HB 582, introduced by Hertz, referred to Business, Labor, and Economic Affairs.
HB 586, introduced by Cuffe (by request of the House Joint Appropriations Subcommittee on Natural Resources and Transportation), referred to Finance and Claims.
HB 599, introduced by Blyton, Ankney, Hagan, Howard, Redfield, Schwaderer, Welborn, referred to Finance and Claims.
HB 604, introduced by C. Smith, referred to Public Health, Welfare and Safety.

HB 607, introduced by Lavin, referred to Highways and Transportation.
HB 617, introduced by Flynn, referred to Natural Resources.
HB 625, introduced by Ankney, referred to Finance and Claims.
HB 627, introduced by Osmundson (by request of the House Joint Appropriations Subcommittee on General Government), referred to Finance and Claims.
HB 630, introduced by Williams, referred to Agriculture, Livestock and Irrigation.
HB 633, introduced by Ehli, Blasdel, Buttrey, Caferro, Hollenbaugh, Keane, Noonan, Olson, referred to Finance and Claims.

SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)

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

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

HB 117 - Senator Facey moved **HB 117** be concurred in. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Webb, Windy Boy, Mr. President.
Total 46

Nays: Boulanger, Sales, Walker, Wittich.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 488 - Senator Jackson moved **HB 488** be concurred in. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 44

Nays: Boulanger, Fielder, Priest, Ripley, Sales, Vincent.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 280 - Senator Thomas moved **SB 280** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich.
Total 49

Nays: Mr. President.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 566 - Senator Keane moved **HB 566** be concurred in. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: D. Brown.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 287 - Senator Brenden moved **HB 287** be concurred in. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 48

Nays: Sales, Vincent.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 384 - Senator Facey moved **SB 384** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Wittich moved the committee **rise, report progress, and beg leave to sit again**. Motion carried. Committee arose. Senate resumed. President Essmann presiding. Chair F. Moore moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila,

Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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 84 concurred in as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 355 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 465 concurred in as follows:

Yeas: Arthun, Augare, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Murphy, Olson, Peterson, Phillips, Rosendale, Sesso, Stewart-Peregoy, Taylor, Thomas, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy.
Total 37

Nays: Arntzen, Barrett Debby, Moore, Priest, Ripley, Sales, Sonju, Tropila, Vincent, Walker, Webb, Wittich, Mr. President.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 386 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Windy Boy, Mr. President.
Total 46

Nays: Ripley, Sales, Webb, Wittich.
Total 4

Absent or not voting: None.
Total 0

Excused: None.

Total 0

HB 124 concurred in as follows:

Yeas: Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Webb, Windy Boy.
Total 41

Nays: Arntzen, Boulanger, Malek, Priest, Sonju, Vincent, Walker, Wittich, Mr. President.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 66 concurred in as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Rosendale, Sesso, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 44

Nays: Boulanger, Hamlett, Ripley, Sales, Sonju, Vincent.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 120, **as amended by the House**, passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Dick, Boulanger, Brenden, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Mr. President.

Total 43

Nays: Barrett Debby, Blewett, D. Brown, Sales, Tropila, Van Dyk, Wittich.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 11, **as amended by the House**, passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: Sales.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 18, **as amended by the House**, passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 122, **as amended by the House**, passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 299 concurred in as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 48

Nays: D. Brown, Sales.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

PUBLIC HEALTH, WELFARE AND SAFETY (Priest, Chair): 4/2/2013
HB 100, be amended as follows:

1. Page 1, line 25 through line 26.
Strike: "an" on line 25 through "enhanced" on line 26
Insert: "a fixed-fee"
Following: "payment" on line 26
Insert: "not to exceed $300 per month"
Strike: "identified" on line 26
Insert: "benchmark"
Following: "outcomes" on line 26
Insert: "identified by the pay-for-performance task force"

2. Page 1, line 28.
Following: "analyze"
Insert: "existing performance data from existing providers and"

3. Page 2, line 4.
Following: "the"
Insert: "fixed-fee"

4. Page 2, line 5.
Strike: "access to care;"
Insert: "cost control; and
(ii) achieving quality benchmarks."

5. Page 2, line 6 through line 13.
Strike: subsections (ii) through (iv) and subsection (4) in their entirety

6. Page 2, line 21.
Following: "rule;"
Strike: "and"

7. Page 2, line 25.
Strike: "."
Insert: "; and
(c) provide the task force with a plan that identifies:
(i) the types of data that may be relevant to the development of the pay-for-performance model;
(ii) the types of data that must be collected to evaluate the effectiveness of the pay-for-performance model; and
(iii) benchmarks by which the pilot project may measure patient outcomes to determine project effectiveness."

8. Page 3, line 5.
Strike: "17"
Insert: "nine"

9. Page 3, line 6.
Strike: "13"
Insert: "three"

10. Page 3, line 7 through line 8.
Strike: "two" on line 7 through "party" on line 8
Insert: "three legislative members appointed by the senate committee on committees, with no more than two members representing the same political party"

11. Page 3, line 9 through line 10.
Strike: "two" on line 9 through "party" on line 10
Insert: "three legislative members appointed by the speaker of the house, with no more than two members representing the same political party"

12. Page 3, line 12.
Strike: "five providers"
Insert: "one provider"
Strike: ", including one representative of each"
Insert: "representing one"

13. Page 3, line 13.
Following: "services;"
Insert: "and"

14. Page 3, line 14 through line 17.
Strike: subsections (b) through (d) in their entirety
Renumber: subsequent subsections

15. Page 3, line 18.
Strike: "four"
Insert: "two representatives of the"
Strike: "employees as follows:"
Insert: "."

16. Page 3, line 19 through line 22.
Strike: subsections (i) through (iv) in their entirety

17. Page 4, line 9.
Following: "system"
Insert: "that allows a fixed-fee payment not to exceed $300 per month to providers who demonstrate that the children they serve attain benchmark outcomes. The system is"

18. Page 5, line 12.
Strike: ";"
Insert: ". The task force shall, as part of the short-term and long-term work plans, submit a

proposed uniform data reporting system that is based on the recommendations and considerations identified in [section 2(2)(c)] and [section 4(3)]."

19. Page 5, line 16.
Following: "project"
Insert: "and recommendations on any modifications needed before the pay-for-performance model is expanded to include additional children, providers, or services "

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

HB 171, be amended as follows:

1. Title, page 1, line 13.
Following: "ABUSE;"
Strike: "AND"

2. Title, page 1, line 14.
Following: "SERVICES"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 4, line 21.
Following: line 20
Insert: "NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 2013."

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

HB 239, be amended as follows:

1. Page 2, line 1.
Strike: "each"
Insert: "that"

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

SPECIAL ORDERS OF THE DAY

Senator Taylor introduced the pages for the coming week:

Jake Diemert, Chinook, sponsored by Senator Jergeson
Jacob MacLean, Chinook, sponsored by Senator Jergeson
Mark Nelson, Hamilton, sponsored by Senator Boulanger
Alice Robertson, from Missoula, sponsored by Senator Facey
Kourtney Schott, from Broadview, sponsored by Senator Tutvedt

Jessica Sheldahl, from Helena, sponsored by Senator Murphy

MOTIONS

Senator Priest moved that **SB 385** be taken from Taxation and brought before the Committee of the Whole tomorrow, April 3, 2013, legislative day sixty-nine. Motion **failed** as follows:

Yeas: Arntzen, Barrett Debby, Boulanger, D. Brown, Fielder, Jackson, Moore, Murphy, Olson, Priest, Rosendale, Sales, Sonju, Taylor, Thomas, Van Dyk, Vincent, Walker, Webb, Wittich, Mr. President.
Total 21

Nays: Arthun, Augare, Barrett Dick, Blewett, Brenden, T. Brown, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Peterson, Phillips, Ripley, Sesso, Stewart-Peregoy, Tropila, Tutvedt, Vuckovich, Wanzenried, Windy Boy.
Total 29

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Jent moved **SB 406** be moved from the Judiciary committee to the State Administration committee. Motion passed as follows:

Yeas: Arthun, Augare, Barrett Dick, Blewett, T. Brown, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Malek, Olson, Peterson, Phillips, Sesso, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy.
Total 28

Nays: Arntzen, Barrett Debby, Boulanger, Brenden, D. Brown, Fielder, Jackson, Lewis, Moore, Murphy, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Vincent, Walker, Webb, Wittich, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

SR 23 - Senator Arthun moved that the nominations transmitted by the Governor be confirmed by the Senate in accordance with **SR 23**. Motion passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 29 - Senator Peterson moved that the nominations transmitted by the Governor be confirmed by the Senate in accordance with **SR 29**. Motion passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 32 - Senator Peterson moved that the nominations transmitted by the Governor be confirmed by the Senate in accordance with **SR 32**. Motion passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 35 - Senator Sonju moved that the nominations transmitted by the Governor be confirmed by the Senate in accordance with **SR 35**. Motion passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich.
Total 48

Nays: Brenden, Mr. President.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 36 - Senator Sonju moved that the nominations transmitted by the Governor be confirmed by the Senate in accordance with **SR 36**. Motion passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 37 - Senator Sonju moved that the nominations transmitted by the Governor be confirmed by the Senate in accordance with **SR 37**. Motion passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 38 - Senator Sonju moved that the nominations transmitted by the Governor be confirmed by the Senate in accordance with **SR 38**. Motion passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 39 - Senator Sonju moved that the nominations transmitted by the Governor be confirmed by the Senate in accordance with **SR 39**. Motion passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senate recessed at 3:06 p.m. awaiting final preparation of **SB 395** and amendments for second reading.

Senate reconvened at 3:25 p.m. All members present.

SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)

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

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

SB 395 - Senator Olson moved consideration of **SB 395** be passed for the day. The motion **failed** as follows:

Yeas: Arthun, T. Brown, Buttrey, Olson, Peterson, Sonju, Tutvedt.
Total 7

Nays: Arntzen, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Stewart-Peregoy, Taylor, Thomas, Tropila, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 43

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 395 - Senator Wanzenried moved **SB 395** do pass.

SB 395 - Senator Wanzenried moved **SB 395**, second reading copy, be amended as follows:

1. Title, page 1, line 6.
Following: "~~MONTANA~~"
Insert: "AND TO IMPROVE THE DELIVERY OF HEALTH CARE SERVICES IN MONTANA"

2. Title, page 1, line 11.
Following: "~~ACCOUNT;~~"
Insert: "REQUIRING A REVIEW OF THE MONTANA MEDICAID PROGRAM AND THE HEALTH CARE DELIVERY SYSTEM; ESTABLISHING A MEDICAID WELLNESS PILOT PROJECT; ESTABLISHING WORKFORCE REPORTING REQUIREMENTS FOR CERTAIN HEALTH CARE PROFESSIONALS; PROVIDING FOR USE OF UNEXPENDED MEDICAID FUNDS; PROVIDING DEFINITIONS; CREATING A SPECIAL REVENUE ACCOUNT;"
Following: "~~37-8-204,~~"
Insert: "37-8-202, 37-8-204,"

3. Title, page 1, line 12.
Following: "53-6-132,"
Strike: "AND"
Following: "~~53-6-155,~~"
Insert: "AND 53-6-155,"
Following: "~~DATES AND~~"
Insert: "EFFECTIVE DATES AND"

4. Page 1, line 17 through page 18, line 30.
Strike: everything after the enacting clause

Insert: "NEW SECTION. **Section 1. Short title.** [Sections 1 through 5] may be cited as the "Montana Health Care Reform and Cost Containment Act"."

Insert: "NEW SECTION. **Section 2. Legislative findings and intent.** (1) The intent of [sections 1 through 5] is to modify and enhance Montana's health care delivery system to provide access to quality and affordable health care for all Montana citizens.

(2) The legislature finds that to achieve the purposes of [sections 1 through 5], it will be necessary for state government, health care providers, patient advocates, and other parties interested in quality and affordable health care to collaborate in order to:

(a) increase the number of Montanans with health insurance coverage;

(b) provide greater value for the tax dollars spent on the medicaid program by exploring options for delivering services in a more efficient and cost-effective manner, including but not limited to:

(i) offering incentives to encourage health care providers to achieve measurable performance outcomes;

(ii) improving the coordination of care among health care providers and health care payers;

(iii) reducing preventable hospital readmissions; and

(iv) exploring medicaid payment methodologies that promote quality of care and efficiencies;

(c) contain growth in health care costs by:

(i) curbing wasteful spending;

(ii) avoiding unnecessary use of health care services;

(iii) reducing the instances in which health care practitioners provide health care services in order to avoid the risk of litigation; and

(iv) reducing fraud;

(d) ensure that there is an adequate number of health care professionals throughout the state;

(e) provide incentives that result in Montanans taking greater responsibility for their personal health;

(f) boost Montana's economy by reducing the costs of uncompensated care; and

(g) reduce or minimize the shifting of payment for unreimbursed health care costs to patients with private insurance.

(3) The legislature further finds that state policymakers have an interest in testing the effectiveness of wellness incentives in order to collect and analyze information about the correlation between wellness incentives and health status. It is the intent of the legislature to establish a pilot project in the medicaid program to evaluate whether incentives to improve a recipient's management of chronic disease improves overall health outcomes and reduces the long-term costs of health care for the recipient."

Insert: "NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 5], the following definitions apply:

(1) "Department" means the department of public health and human services provided for in 2-15-2201.

(2) "Recipient" means a person:

(a) who has been determined by a medicaid agency to be eligible for medicaid benefits, whether or not the person has received any benefits; or

(b) who receives medicaid benefits, whether or not the person is determined to be eligible."

Insert: "NEW SECTION. **Section 4. Review of medicaid and health care delivery systems -- advisory committee -- reports.** (1) The department shall review state activities related to the medicaid program and delivery of health care services in Montana in order to make recommendations to the legislature on ways to make the medicaid program and the health care delivery system more efficient and cost-effective.

(2) The department shall establish an advisory committee made up of health care providers, health care consumers, and other parties interested in the way in which health care services are provided to Montanans. The committee may consist of up to 12 members.

(3) The advisory committee shall:

(a) review the way in which the implementation of the expansion of the medicaid program is being carried out;

(b) evaluate the manner in which health care services are delivered and whether new approaches could improve delivery of care, including but not limited to the use of medical homes and coordinated care organizations;

(c) review ideas for reducing or minimizing the shifting of the payment of unreimbursed health care costs to patients with private insurance;

(d) evaluate whether providing incentives to health care providers for meeting measurable benchmarks may improve the delivery of health care services;

(e) review options for reducing inappropriate use of emergency department services, including ways to monitor for the excessive or inappropriate use of prescription drugs;

(f) examine ways to:

(i) promote the appropriate use of health care services, particularly laboratory and diagnostic imaging services;

(ii) increase the availability of mental health services;

(iii) reduce fraud and waste in the medicaid program; and

(iv) improve the sharing of data among health care providers in order to identify patterns in the usage of health care services across payment sources; and

(g) receive regular reports from the department on the department's efforts to pursue contracting options for administration of services to individuals eligible for medicaid as allowed under Public Law 111-148 and Public Law 111-152.

(4) The department shall:

(a) coordinate its efforts with any legislative committees that are working on matters related to health care and the delivery of health care services; and

(b) summarize and present the findings and recommendations of the advisory committee in a final report to the governor and to the children, families, health, and human services interim committee no later than August 15 of each even-numbered year."

Insert: "NEW SECTION. **Section 5. Medicaid wellness pilot project.** (1) Subject to any necessary approval from the centers for medicare and medicaid, the department shall administer a pilot project designed to assess whether providing incentives for a recipient's participation in disease management and wellness activities improves the recipient's management of chronic disease.

(2) The department shall offer an incentive to adult recipients for meeting established targets for managing chronic disease. Subject to subsection (4), the department shall establish

by rule the individuals to be covered by the pilot project, the chronic diseases to be included in the pilot project, the criteria that must be met to receive the incentive, and the duration and amount of the incentive to be offered.

(3) The department may undertake the pilot project in up to five counties, at least one of which must have a significant Indian population. The pilot project must begin with 60 days of receipt of federal approval, if required.

(4) The department may not require participation by recipients who reside in a long-term care facility as defined in 50-5-101 or a community residential facility as defined in 76-2-411.

(5) The department shall collect and analyze information related to the pilot project to determine if the project resulted in better health outcomes for participants. The analysis may include but is not limited to the incentives provided, the health conditions of the participants, the number of participants who met established goals, and to the extent possible, whether participants who met the goals used fewer medicaid services than:

(a) participants who did not meet the goals; and

(b) recipients with similar medical conditions in counties that were not included in the pilot project."

Insert: "NEW SECTION. **Section 6. Short title.** [Sections 6 through 8] may be cited as the "Montana Health Care Workforce Data Collection Act"."

Insert: "NEW SECTION. **Section 7. Collecting and reporting of data -- requirement for licensure -- confidentiality.** (1) The board shall collect information related to the physician and physician assistant workforce in Montana in order to evaluate whether Montanans have access to health care services based on the location where licensees are practicing, the medical specialties of the licensees, and the amount of time that licensees devote to patient care.

(2) At the time an individual applies to obtain or renew a license under Title 37, chapter 20, or this chapter, the board shall collect through electronic means information that includes at a minimum:

(a) the applicant's gender and date of birth;

(b) the applicant's employment and practice status, including but not limited to:

(i) active practices in Montana and other locations;

(ii) the area of practice, including areas of specialty;

(iii) the office, hospital, or clinical setting in which the applicant practices;

(c) the applicant's education, training, and specialty and subspecialty board certification;

(d) the locations where the applicant practices and the average number of hours the applicant works each week providing patient care at each location;

(e) the average number of weeks the applicant worked during the past full year in the licensed profession;

(f) the percentage of time the applicant spends engaged in direct patient care and in other activities, including but not limited to teaching, research, and administration in the licensed profession; and

(g) other data as proposed to and approved by the board.

(3) The board may not approve an application for a license or a renewal of a license for an applicant who fails to provide information as required under this section.

(4) The board shall report the information collected under this section to:

(a) the department of public health and human services provided for in 2-15-2201; and

(b) Montana professional associations representing physicians and physician assistants.

(5) (a) Except as provided in subsection (5)(b), the board may not release personally identifiable data collected under this section for any person licensed by the board.

(b) The provisions of subsection (5)(a) do not apply to the release of information to a state agency or a Montana medical professional association for state program, workforce, or health planning purposes."

Insert: "NEW SECTION. **Section 8. Health care workforce database -- sharing and use of data.** (1) Subject to available funding, the department of public health and human services may create and maintain a database of health care workforce information collected by the board. The board shall provide the department of public health and human services with information collected pursuant to [sections 6 through 8] for the database.

(2) The department of public health and human services may contract or enter into other agreements with a private or public entity to:

(a) establish and maintain the database;

(b) analyze data contained in the database;

(c) develop reports to be used by the legislature, the governor, and the public related to health care workforce needs; and

(d) perform other activities to carry out the purposes of [sections 6 through 8].

(3) The department of public health and human services may seek federal and private funds to create and maintain the database."

Insert: "NEW SECTION. **Section 9. Benefit plan for medicaid expansion population -- copayments and deductibles -- options for administration.** (1) In providing medical services to individuals eligible for the Montana medicaid program pursuant to 53-6-131(1)(h), the department shall:

(a) use as the benchmark plan allowed for under 42 U.S.C. 1936u-7(b)(1)(D) the essential health benefit that is selected by:

(i) the legislature; or

(ii) the secretary of the U.S. department of health and human services pursuant to 42 U.S.C. 18022 and related federal regulations;

(b) establish cost-sharing requirements for recipients as allowed by federal law and regulations;

(c) pursue options for contracting with a private vendor to provide or pay for medical services, including but not limited to:

(i) use of a third-party administrator to operate the program;

(ii) use of a capitated payment model instead of a fee-for-service payment model for some health care providers or services, including a predetermined bundled payment for specific health conditions or time periods;

(iii) use of medicaid funds to purchase a qualified health plan as defined in 42 U.S.C. 18021(a); and

(iv) offering incentives that would allow individuals to obtain insurance coverage through the health exchange.

(2) The department shall apply to the centers for medicare and medicaid services for any waivers necessary to contract for services or to use medicaid funds as provided in subsection (1)(c).

(3) The department shall report the following information to the children, families, health, and human services interim committee no later than August 15 of each year:

(a) the number of individuals who were determined eligible for medicaid pursuant to 53-6-131(1)(h);

(b) the average cost of medical services provided to those individuals;

(c) the average length of time the individuals remained eligible for medical assistance under this section;

(d) the total cost of providing services under this section, including related administrative costs; and

(e) the status of efforts that the department has undertaken pursuant to subsection (1)(c) to contract for providing or paying for medical services."

Insert: "NEW SECTION. **Section 10. Education and outreach on insurance coverage options.** (1) The department shall undertake activities to increase public awareness of and knowledge about the options for obtaining health insurance coverage, including but not limited to the expansion of the medicaid program, the availability of tax credits for purchasing insurance, and the ways in which the health exchange may be used to review and decide on insurance options.

(2) The department shall report on the activities planned and undertaken as part of the outreach and education effort at:

(a) each meeting of the advisory committee provided for in [section 4]; and

(b) at least twice a year to the children, families, health, and human services interim committee."

Insert: "NEW SECTION. **Section 11. Management of medicaid program.** In order to ensure that medical assistance under this part is provided in an efficient and effective manner, the department shall strengthen existing programs that manage the way in which recipients obtain approval for medical services and shall establish additional programs designed to reduce costs and improve medical outcomes for recipients. The efforts may include but are not limited to:

(1) establishing by rule requirements that are designed to strengthen the relationship between physicians and recipients who are enrolled in existing primary care case management programs;

(2) requiring recipients enrolled in a primary care case management program to see the physician responsible for their care before receiving services other than emergency care;

(3) strengthening data-sharing arrangements with providers in order to reduce inappropriate use of emergency room services and overuse of other services;

(4) creating a patient-centered medical home model for recipients in which providers receive an enhanced reimbursement for closely monitoring and managing a recipient's medical condition;

(5) expanding to additional recipients any existing programs in which case managers and providers work with recipients with high-risk medical conditions to provide preventive care and advice and to make referrals for medical services;

(6) requiring a recipient to enroll in a program offering pain management services if the recipient is identified as using narcotic prescription drugs at a substantially higher level than indicated by medical need;

(7) reviewing current care management programs to evaluate and improve their

effectiveness;

(8) providing incentives as allowed by federal law and regulation to recipients who are identified by their health care providers as complying with established preventive care and wellness standards that may reduce the overall costs of health care provided to recipients; and

(9) submitting to the children, families, health, and human services interim committee any proposals developed under this section for review and recommendation by the committee before implementation of the proposal."

Insert: "NEW SECTION. **Section 12. Deposit of unexpended medicaid funds.** The department shall deposit into the medicaid expansion mitigation account provided for in [section 13] any general fund appropriated for medicaid services that is unexpended 12 months after the close of the fiscal year for which it was appropriated."

Insert: "NEW SECTION. **Section 13. Medicaid expansion mitigation account -- report.** (1) There is an account in the state special revenue fund for the deposit of:

(a) any general fund appropriated for medicaid services that is unexpended 12 months after the close of the fiscal year for which it was appropriated; and

(b) money transferred from the general fund and the state special revenue fund that is the equivalent of the:

(i) reduction in state expenditures for health care services that occurs because the Montana medicaid program is expanded to provide coverage to individuals eligible pursuant to Public Law 111-148 and Public Law 111-152; and

(ii) amount of general fund replaced by receipt of the enhanced federal medical assistance percentage provided pursuant to 42 U.S.C. 1397ee(b) for the children's health insurance program.

(2) The department may accept contributions, gifts, and grants for deposit into the account and for use as provided in subsection (3).

(3) Money in the account must be used to pay the state share of expenditures for medical services for recipients who are eligible for medicaid pursuant to Public Law 111-148 and Public Law 111-152. Money may not be spent from the account before January 1, 2017.

(4) The department shall identify the reductions in expenditures that occurred in the following programs because the medicaid program was expanded to individuals eligible pursuant to Public Law 111-148 and Public Law 111-152:

(a) the Montana comprehensive health association plan provided for in Title 33, chapter 22, part 15;

(b) the small business health insurance purchasing pool provided for in Title 33, chapter 22, part 20;

(c) services offered under the state medicaid program provided for in this part to:

(i) pregnant women;

(ii) individuals with breast or cervical cancer;

(iii) individuals undergoing chemical dependency and substance abuse treatment; and

(iv) any other individual who:

(A) is not enrolled in medicaid because the individual is able to obtain insurance through the health exchange; or

(B) is eligible for medicaid and no longer obtaining services from a program paid for with general fund money;

(d) the mental health services program provided for in 53-21-702;

(e) health care services for individuals who have been ordered by a court of competent jurisdiction into a correctional facility or program as described in 53-1-202 when the health care services are provided outside of a correctional facility and paid for by the medicaid program rather than the general fund; and

(f) other sources as identified by the department.

(5) No later than January 1 of each odd-numbered year, the department shall report to the legislature on:

(a) the reductions identified pursuant to subsection (4); and

(b) the amount of federal funds the state received that are attributable to the enhanced federal medical assistance percentage provided pursuant to 42 U.S.C. 1397ee(b) for the children's health insurance program."

Insert: "Section 14. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers and duties. (1) The board shall:

(a) meet annually and elect from among the members a president and a secretary;

(b) hold other meetings when necessary to transact its business;

(c) prescribe standards for schools preparing persons for registration and licensure under this chapter;

(d) provide for surveys of schools at times the board considers necessary;

(e) approve programs that meet the requirements of this chapter and of the board;

(f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list;

(g) cause the prosecution of persons violating this chapter. The board may incur necessary expenses for prosecutions.

(h) adopt rules regarding authorization for prescriptive authority of advanced practice registered nurses. If considered appropriate for an advanced practice registered nurse who applies to the board for authorization, prescriptive authority must be granted.

(i) adopt rules to define criteria for the recognition of registered nurses who are certified through a nationally recognized professional nursing organization as registered nurse first assistants; ~~and~~

(j) establish a medical assistance program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness. The program must provide for assistance to licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward rehabilitation. The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state. For purposes of funding this medical assistance program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

(k) pursuant to rules adopted by the board, periodically collect workforce data for the purposes of creating a statewide strategy for promoting efforts to develop a nursing workforce that will best meet the health care needs of Montanans. Except as otherwise provided by law, the data collected may not be disclosed in a manner that reveals individually identifiable

information.

(2) The board may:

(a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses;

(b) define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or the equivalent. The applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses. Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

(c) establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the type of drugs that are allowed to be administered and the method of administration.

(d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons;

(e) adopt rules necessary to administer this chapter; and

(f) fund additional staff, hired by the department, to administer the provisions of this chapter."

{Internal References to 37-8-202:

20-5-420x	27-1-1101x	33-22-111x	33-30-1013x
33-31-102x	37-2-101x	37-2-401x	37-8-102x
46-1-202x	49-4-301x	49-4-303x	49-4-305x
50-9-102x	50-10-101x	50-15-101x	50-16-201x
53-21-102x	53-21-102x }"		

Insert: "Section 15. Section 37-8-204, MCA, is amended to read:

"37-8-204. Executive director. (1) The department shall hire an executive director to provide services to the board in connection with the board's duties of:

(a) prescribing curricula and standards for nursing schools and making surveys of and approving schools and courses;

(b) evaluating and approving courses for affiliation of student nurses; ~~and~~

(c) reviewing qualifications of applicants for licensure; and

(d) collecting workforce data.

(2) The department shall hire as the executive director an individual who:

(a) is a graduate of an approved school of nursing and who has at least a master's degree with postgraduate courses in nursing;

(b) is licensed as a registered professional nurse in Montana; and

(c) has experience in teaching or administration in an approved school of nursing and who has completed at least 3 years in the clinical practice of nursing."

{Internal References to 37-8-204: None.}"

Insert: "Section 16. Section 53-6-131, MCA, is amended to read:

"53-6-131. Eligibility requirements. (1) Medical assistance under the Montana

medicaid program may be granted to a person who is determined by the department of public health and human services, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits.

(b) The person would be eligible for assistance under the program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under the program in subsection (1)(a).

(d) The person is under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs.

(e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d) and:

(i) the person's income does not exceed the income level specified for federally aided categories of assistance and the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person's income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) (I) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is aged, blind, or disabled, has resources that do not exceed the resource standards of the federal supplemental security income program; or

(II) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is pregnant, is an infant or child, or is the caretaker of an infant or child, has resources that do not exceed the resource standards adopted by the department.

(f) The person is a qualified pregnant woman or a child as defined in 42 U.S.C. 1396d(n).

(g) The person is under 19 years of age and lives with a family having a combined income that does not exceed 185% of the federal poverty level. The department may establish lower income levels to the extent necessary to maximize federal matching funds provided for in 53-4-1104.

<u>(h) The person meets the eligibility requirements of 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) as enacted by Public Law 111-148, Public Law 111-152, and federal regulations implementing those laws.</u>

(2) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy Montana kids plan provided for in 53-4-1104.

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles,

and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

(6) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed income standards adopted by the department that comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(9) A person described in subsection (7) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7).

(10) Full medical assistance under the Montana medicaid program may be granted to an individual during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a precancerous condition of the breast or cervix, if the individual:

(a) has been screened for breast and cervical cancer under the Montana breast and cervical health program funded by the centers for disease control and prevention program established under Title XV of the Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

(b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or cervix;

(c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

(d) is not eligible for medical assistance under any mandatory categorically needy eligibility group; and

(e) has not attained 65 years of age.

(11) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and (r)(2) and 42 U.S.C. 1396o.

(12) The department shall establish medicaid eligibility consistent with the modified adjusted gross income criteria allowed by federal regulations."

{Internal References to 53-6-131:
53-2-215x 53-2-215x 53-2-215x 53-4-1110x
53-4-1115x 53-6-101x 53-6-113x 72-6-121x }"

Insert: "Section 17. Section 53-6-132, MCA, is amended to read:

"53-6-132. Application for assistance ~~-- exception~~. (1) ~~Subject to subsection (2), application for assistance under this part may be made in any local office of public assistance.~~ The department shall adopt medicaid eligibility procedures and criteria that are consistent with federal requirements.

(2) ~~The~~ An application for medical assistance under this part must be presented in the manner and on the form prescribed by the department.

(3) All individuals wishing to apply must have the opportunity to do so.

~~(2) Notwithstanding the provisions of subsection (1), the department may designate an entity other than the local office of public assistance to determine eligibility for medicaid managed care services.~~

(4) The department may participate with federal and state programs and agencies in the coordination of procedures and criteria for eligibility determination, including use of interactive electronic networks and databases and other appropriate measures."

{Internal References to 53-6-132: None.}"

Insert: "Section 18. Section 53-6-133, MCA, is amended to read:

"53-6-133. Eligibility determination. (1) The ~~local office of public assistance shall promptly determine the~~ eligibility of each applicant under this part must be determined in accordance with the rules of the department. Each applicant must be informed of the right to ~~a fair hearing~~ appeal a determination and of the confidential nature of the information given. ~~The department, through the local office of public assistance, shall, after the hearing, determine whether or not~~ If the applicant is eligible for assistance under this part, ~~and~~ aid must be furnished promptly ~~to eligible persons~~. Each applicant must receive written notice of the decision concerning the applicant's application~~,~~ and the right of appeal ~~is secured to the applicant under the procedures of 53-2-606~~.

(2) The local office of public assistance and the department may accept the federal social security administration's determination of eligibility for supplemental security income, Title XVI of the Social Security Act, as qualifying the eligible individuals to receive medical assistance under this part."

{Internal References to 53-6-133: None.}"

Insert: "Section 19. Section 53-6-155, MCA, is amended to read:

"53-6-155. Definitions. As used in this part, unless expressly provided otherwise, the following definitions apply:

(1) "Abuse" means conduct by an applicant, recipient, provider, or other person

involving disregard of and an unreasonable failure to conform with the statutes, regulations, and rules governing the medical assistance program when the disregard or failure results or may result in an incorrect determination that a person is eligible for medical assistance or payment by a medicaid agency of medical assistance payments to which the provider is not entitled.

(2) "Applicant" means a person:

(a) who has submitted an application for determination of medicaid eligibility to a medicaid agency on the person's own behalf or on behalf of another person; or

(b) on whose behalf an application has been submitted.

(3) "Benefit" means the provision of anything of pecuniary value to or on behalf of a recipient under the medicaid program.

(4) "Claim" means a communication, whether in oral, written, electronic, magnetic, or other form, that is used to claim specific services or items as payable or reimbursable under the medicaid program or that states income, expense, or other information that is or may be used to determine entitlement to or the rate of payment under the medicaid program. The term includes any documents submitted as part of or in support of the claim.

(5) "Department" means the department of public health and human services provided for in 2-15-2201.

(6) "Document" means any application, claim, form, report, record, writing, or correspondence, whether in written, electronic, magnetic, or other form.

(7) "Fraud" means any conduct or activity prohibited by statute, regulation, or rule involving purposeful or knowing conduct or omission to perform a duty that results in or may result in medicaid payments or benefits to which the applicant, recipient, or provider is not entitled. Fraud includes but is not limited to any conduct or omission under the medicaid program that would constitute a criminal offense under Title 45, chapter 6 or 7.

(8) "Health exchange" means the American health benefit exchange provided for in Public Law 111-148 and Public Law 111-152.

~~(8)~~(9) "Medicaid" means the Montana medical assistance program established under Title 53, chapter 6.

~~(9)~~(10) "Medicaid agency" means any agency or entity of state, county, or local government that administers any part of the medicaid program, whether under direct statutory authority or under contract with an authorized agency of the state or federal government. The term includes but is not limited to the department, the department of corrections, local offices of public assistance, and other local and state agencies and their agents, contractors, and employees, when acting with respect to medicaid eligibility, claims processing or payment, utilization review, case management, provider certification, investigation, or other administration of the medicaid program.

~~(10)~~(11) "Misappropriation of patient property" means exploitation, deliberate misplacement, or wrongful use or taking of a patient's property, whether temporary or permanent, without authorization by the patient or the patient's designated representative. Misappropriation of patient property includes but is not limited to any conduct with respect to a patient's property that would constitute a criminal offense under Title 45, chapter 6, part 3.

~~(11)~~(12) "Patient abuse" means the willful infliction of physical or mental injury of a patient or unreasonable confinement, intimidation, or punishment that results in pain, physical or mental harm, or mental anguish of a patient. Patient abuse includes but is not limited to any conduct with respect to a patient that would constitute a criminal offense under Title 45, chapter 5.

~~(12)~~(13) "Patient neglect" means a failure, through inattentiveness, carelessness, or other omission, to provide to a patient goods and services necessary to avoid physical harm, mental anguish, or mental illness when an omission is not caused by factors beyond the person's control or by good faith errors in judgment. Patient neglect includes but is not limited to any conduct with respect to a patient that would constitute a criminal offense under 45-5-208.

~~(13)~~(14) "Provider" means an individual, company, partnership, corporation, institution, facility, or other entity or business association that has enrolled or applied to enroll as a provider of services or items under the medical assistance program established under this part.

~~(14)~~(15) "Recipient" means a person:

(a) who has been determined by a medicaid agency to be eligible for medicaid benefits, whether or not the person actually has received any benefits; or

(b) who actually receives medicaid benefits, whether or not determined eligible.

~~(15)~~(16) (a) "Records" means medical, professional, business, or financial information and documents, whether in written, electronic, magnetic, microfilm, or other form:

(i) pertaining to the provision of treatment, care, services, or items to a recipient;

(ii) pertaining to the income and expenses of the provider; or

(iii) otherwise relating to or pertaining to a determination of eligibility for or entitlement to payment or reimbursement under the medicaid program.

(b) The term includes all records and documents, regardless of whether the records are required by medicaid laws, regulations, rules, or policies to be made and maintained by the provider."

{Internal References to 53-6-155:
45-2-101x 53-6-111x }"

Insert: "NEW SECTION. **Section 20. Codification instruction.** (1) [Sections 1 through 5] are intended to be codified as an integral part of Title 50, chapter 4, and the provisions of Title 50, chapter 4, part 1, apply to [sections 1 through 5].

(2) [Sections 6 through 8] are intended to be codified as an integral part of Title 37, chapter 3, and the provisions of Title 37, chapter 3, apply to [sections 6 through 8].

(3) [Sections 9 through 13] are intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [sections 9 through 13]."

Insert: "COORDINATION SECTION. **Section 21. Coordination instruction.** If both House Bill No. 2 and [this act] are passed and approved and if House Bill No. 2 contains any appropriations designated as medicaid expansion savings, then the appropriations in House Bill No. 2 that are designated as medicaid expansion savings must be transferred to the special revenue account provided for in [section 13 of this act]."

Insert: "NEW SECTION. **Section 22. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Insert: "NEW SECTION. **Section 23. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective October 1, 2013.

(2) [Sections 1 through 13, 20 through 22, 24, and 25] and this section are effective July 1, 2013."

Insert: "NEW SECTION. **Section 24. Contingent termination.** (1) [Sections 9, 12,

and 16(1)(h)] terminate on the date that the federal medical assistance percentage for medical services provided to individuals eligible for medicaid pursuant to 53-6-131(1)(h) is set below the level provided for in 42 U.S.C. 1396d(y) on [the effective date of this act].

(2) [Section 13] terminates 15 months after the contingency provided for in subsection (1) of this section occurs.

(3) The director of the department of public health and human services shall certify to the governor the occurrence of the contingency. The governor shall transmit a copy of the certification to the code commissioner."

Insert: "NEW SECTION. **Section 25. Termination.** (1) Except as provided in [section 24], [sections 1 through 4, 9 through 13, 16(1)(h), and 19] terminate June 30, 2017.

(2) [Section 5] terminates June 30, 2019."

Amendment adopted as follows:

Yeas: Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Malek, Olson, Peterson, Phillips, Ripley, Sesso, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy.
Total 31

Nays: Arntzen, Boulanger, Brenden, Fielder, Jackson, Lewis, Moore, Murphy, Priest, Rosendale, Sales, Sonju, Taylor, Thomas, Vincent, Walker, Webb, Wittich, Mr. President.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 395 - Senator Wanzenried moved **SB 395**, as amended, do pass. Motion carried as follows:

Yeas: Augare, Barrett Dick, Blewett, T. Brown, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Malek, Peterson, Phillips, Sesso, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy.
Total 26

Nays: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, Fielder, Jackson, Lewis, Moore, Murphy, Olson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Vincent, Walker, Webb, Wittich, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Wittich moved the committee **rise and report**. Motion carried. Committee arose. Senate resumed. President Essmann presiding. Chair F. Moore moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Arthun, Augare, Barrett Dick, Blewett, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Sesso, Stewart-Peregoy, Taylor, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy.
Total 34

Nays: Arntzen, Barrett Debby, Boulanger, Brenden, D. Brown, Jackson, Moore, Rosendale, Sales, Sonju, Thomas, Vincent, Walker, Webb, Wittich, Mr. President.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Ripley moved **SB 395** be re-referred to the Finance and Claims committee. Motion **failed** as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, Buttrey, Fielder, Jackson, Lewis, Moore, Murphy, Olson, Priest, Rosendale, Sales, Sonju, Taylor, Thomas, Vincent, Walker, Webb, Wittich, Mr. President.
Total 24

Nays: Augare, Barrett Dick, Blewett, T. Brown, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Malek, Peterson, Phillips, Ripley, Sesso, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Wittich moved that the Senate adjourn until 1:00 p.m., Wednesday, April 3, 2013, the sixty-ninth legislative day. Motion carried.

Senate adjourned at 5:31 p.m.

MARILYN MILLER
Secretary of the Senate

JEFF ESSMANN
President of the Senate