

**SENATE JOURNAL
64TH LEGISLATURE
EIGHTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
April 25, 2015

Senate Chambers
State Capitol

Senate convened at 9:00 a.m. President Barrett presiding. Invocation by Pastor Johnson. Pledge of Allegiance to the Flag.

Roll Call. Forty-nine members present, Senator Buttrey excused. Quorum present.

BILLS AND JOURNALS

4/25/2015

Correctly enrolled: **SB 261, SB 396, SR 30, SR 44, SJ 2.**

Examined by the sponsor and found to be correct: **SB 261, SR 30, SR 44, SJ 2.**

Signed by the Secretary of the Senate at 8:00 a.m., April 25, 2015: **SB 233, SB 252, SB 272, SB 385, SB 411.**

Signed by the President at 8:55 a.m., April 25, 2015: **SB 233, SB 252, SB 272, SB 385, SB 411.**

Signed by the Speaker at 4:25 p.m., April 24, 2015: **SB 100, SB 122, SB 175, SB 245,**

SB 259, SB 284, SB 312, SB 375, SB 387, SB 399, SJ 20, SJ 21.

Signed by the Speaker at 4:10 p.m., April 24, 2015: **SB 157, SB 193, SB 211, SJ 12, SJ 22.**

Signed by the Speaker at 4:55 p.m., April 24, 2015: **SB 20, SB 99, SB 180, SB 212, SB 279, SB 306, SB 309, SB 326, SB 378, SB 380, SB 386, SB 390, SB 393, SB 401, SB 409, SJ 10.**

MESSAGES FROM THE GOVERNOR

April 24, 2015

The Honorable Debby Barrett
President of the Senate
State Capitol
Helena, Montana 59620

Dear President Barrett:

On Friday, April 24, 2015, I signed the following bills:

Senate Bill 68 - M. Caferro
Senate Bill 253 - M. McNally
Senate Bill 262 - C. Vincent
Senate Bill 294 - F. Moore
Senate Bill 355 - D. Ankney
Senate Bill 384 - R. Webb

These bills were delivered to the Secretary of State's Office today.

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I have vetoed **Senate Bill 37** - J. Fielder, **Senate Bill 145** - B. Hamlett, **Senate Bill 235** - K. Hansen, **Senate Bill 281** - F. Moore, and **Senate Bill 372** - M. Blasdel.

Sincerely,

STEVE BULLOCK
Governor

April 24, 2015

The Honorable Debby Barrett
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Austin Knudsen
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Barrett and Speaker Knudsen:

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 37** (SB 37), "AN ACT PROVIDING FOR FILING OF CERTAIN WATER RIGHTS CLAIMS; CREATING A DEADLINE FOR FILING THESE CLAIMS; PROVIDING FOR A SUPPLEMENTAL PRELIMINARY DECREE; ELIMINATING CERTAIN PROCESSING FEES; AMENDING SECTIONS 3-7-212, 85-2-221, 85-2-222, 85-2-231, 85-2-232, 85-2-233, AND 85-2-234, MCA; AND REPEALING SECTION 85-2-225, MCA."

SB 37 requires that the Department of Natural Resources and Conservation (DNRC) publish notice of newly established filing deadlines for exempt water rights, as well as send the notice to certain property owners and post it in county courthouses. The bill further requires that water judges issue supplementary preliminary decrees containing claims for exempt rights.

The fiscal note for SB 37 indicates it will cost \$214,920 in FY 2016, and approximately \$20,000 annually in subsequent years. While I am not opposed to the objectives of this bill, I remain committed to safeguarding Montana's first-rate financial standing, which includes maintaining a rainy day fund for unexpected contingencies. The budget I presented to the 64th session of the Legislature balances our budget without raising taxes. It builds upon the fiscally responsible management that has served our state so well and makes sustainable investments in education, health care and infrastructure that will benefit Montanans for generations to come.

I take my job to be a responsible steward of Montana's taxpayer dollars seriously. SB 37, while

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reasonable in its policy objectives, is too costly to be funded within the constraints of a responsible budget. The state will continue working to see if we can carry out the policy objectives and if possible fund the provisions in the bill in a future legislative session.

For these reasons, I veto SB 37.

Sincerely,

STEVE BULLOCK
Governor

April 24, 2015

The Honorable Debby Barrett
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Austin Knudsen
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Barrett and Speaker Knudsen:

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 145** (SB 145), "AN ACT REVISING THE ALLOCATION OF REVENUE FROM OIL AND NATURAL GAS PRODUCTION TAXES AND USING THE PROCEEDS FOR OIL AND NATURAL GAS IMPACT PROJECTS; DEFINING 'OIL AND GAS IMPACT PROJECTS'; ESTABLISHING PRIORITIES FOR OIL AND GAS IMPACT PROJECT PROPOSALS FROM LOCAL GOVERNMENTS; PROVIDING FOR REVIEW OF OIL AND GAS IMPACT PROJECT PROPOSALS BY THE DEPARTMENT OF COMMERCE; CREATING AN OIL AND NATURAL GAS IMPACT RELIEF ACCOUNT TO PROVIDE FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 15-36-331, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

SB 145 proposes to divert an unknown amount of general fund revenue at an unknown time in the future to fund projects that are impossible to anticipate at this time. While the intent of the measure is no doubt laudable, the placement into law of a complicated formula that binds future legislatures to automatic diversions from the general fund without regard for either the financial standing of the state or the actual need for the programs that diversion proposes to fund is not sound public policy.

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For these reasons, I veto Senate Bill 145.

Sincerely,

STEVE BULLOCK
Governor

April 24, 2015

The Honorable Debby Barrett
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Austin Knudsen
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Barrett and Speaker Knudsen:

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 235** (SB 235), "A BILL FOR AN ACT ENTITLED: 'AN ACT CLARIFYING THAT JUDICIAL BRANCH BUDGET PROPOSALS MUST BE INCLUDED IN THE BUDGET SUBMITTED BY THE GOVERNOR WITHOUT CHANGES; AND AMENDING SECTION 17-7-122, MCA'."

Title 17, Chapter 7 of the Montana Code includes very specific requirements for the development of the executive budget. Currently, the law states that judicial branch proposals for spending above the current base budget need not be included in the executive budget. However, my staff and I have always worked very closely with the judicial branch to include as much of the judiciary's budget request as the state can afford. This cooperative relationship has resulted in fair budget allocations to the judicial branch while allowing the executive to present a balanced financial plan to the Legislature.

If implemented, SB 235 could force the executive branch to forego its budget priorities in order to fully fund a budget request of the judiciary that has no boundaries or limitations. The chief officer of the executive branch is elected by the people of Montana to implement certain policy priorities. SB 235 could severely restrict my ability, and ability of future governors, to present an executive budget to the Legislature that reflects the broad policy priorities of the people of Montana.

Further, the current budgetary process allows the judicial branch to present any funding requests not included in the executive budget to the joint appropriations subcommittee, or during any subsequent step in the budget review process. If the judiciary believes it has funding needs

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beyond the executive budget, it can still make its case directly to the Legislature. This strikes a fair balance between the budgeting obligations and priorities of the executive branch, and the funding needs of the judiciary as a separate and equal branch of government.

I look forward to a continued cooperative relationship with the judicial branch that accommodates its funding needs while balancing the needs of all of state government.

For these reasons, I respectfully request that you sustain my veto of SB 235.

Sincerely,

STEVE BULLOCK
Governor

April 24, 2015

The Honorable Debby Barrett
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Austin Knudsen
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Barrett and Speaker Knudsen:

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 281** (SB 281), "AN ACT GENERALLY REVISING CONSUMER PROTECTION LAWS TO CLARIFY DAMAGES AWARDED; AND AMENDING SECTION 30-14-133, MCA."

SB 281 proposes to limit the damages a consumer, who has been the victim of a false or deceptive act, may recover. The bill would only allow a consumer to recover money damages and would eliminate the right of a court to award punitive damages, making the damages available to a consumer in Montana among the weakest in the country.

The bill is a sweeping revision that impacts every category of consumer fraud - from false advertising by a pharmaceutical company to scams targeted at the elderly - in response to a Montana Supreme Court decision holding Bank of America liable for fraudulent statements made to struggling homeowners.

Montana is lucky in that we were largely insulated from the housing crisis of the mid-2000's. We

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weathered this storm primarily because our local banks did not engage in the deceptive practices perpetrated by some of the nation's biggest banks. As Attorney General, I participated in litigation against five of the biggest banks, including Bank of America, that alleged that these institutions routinely violated state and federal law and engaged in consumer protection violations. In February of 2012, I joined a landmark agreement that held these banks financially liable and imposed national standards to protect consumers from future abuse.

Montana judges have significant discretion under the Consumer Protection Act to decide whether the facts of a case are egregious enough to award punitive damages. The ability of courts to address particularly bad behavior, such as that engaged in by Bank of America, is an important tool that I do not believe is being misused. SB 281 would eliminate this option in every case, regardless of the harm done to a consumer.

For these reasons, I veto SB 281.

Sincerely,

STEVE BULLOCK
Governor

April 20, 2015

The Honorable Debby Barrett
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Austin Knudsen
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Barrett and Speaker Knudsen:

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 372** (SB 372), "AN ACT PROHIBITING A FINDING OF UNCONSCIONABILITY BY THE COURT FOR RENTAL AGREEMENTS BASED ON CERTAIN TENANT AND LANDLORD RESPONSIBILITIES; AND AMENDING SECTIONS 70-24-404 AND 70-33-403, MCA."

SB 372 restricts the ability of a court to find a rental agreement unconscionable if the challenged provision can be linked to state statutes requiring tenants and landlords to maintain a premises. As a general matter, I look with disfavor upon laws which limit the discretion of the courts. In landlord-tenant disputes, it is particularly important for courts to have the leeway needed to assess

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specific facts. A rental agreement that cites to 70-24-321 ("Tenant to maintain dwelling unit.") or 70-24-303 ("Landlord to maintain premises . . .") could, under SB 372, be interpreted as precluding a court from assessing the specific facts involving the formation and implementation of that agreement.

Certain magic words should not immunize a rental agreement from a finding of unconscionability. What matters is whether the terms of the agreement unreasonably favor the drafter and whether there was any meaningful choice on the part of the other party in accepting the provisions. *Summers v. Crestview Apartments*, 2010 MT 164, 22. SB 372 would unnecessarily inject restrictions and confusion into what are otherwise clear judicial standards.

For these reasons, I veto SB 372.

Sincerely,

STEVE BULLOCK
Governor

MESSAGES FROM THE OTHER HOUSE

Conference Committee Report No.1 adopted: 4/24/2015

HB 10, introduced by K. McCarthy
HB 512, introduced by D. Mortensen

Free Conference Committee Report No.1 adopted: 4/24/2015

HB 2, introduced by N. Ballance
HB 6, introduced by M. Cuffe

President Barrett announced the Senate will stand in recess subject to the call of the chair. Senate recessed at 9:05 a.m.

Senate reconvened at 9:30 a.m.

Majority Leader Rosendale moved the Senate adjourn until 11:00 a.m., Monday, April 27, 2015, the eighty-sixth legislative day. Motion carried.

Senate adjourned at 9:35 a.m.

MARILYN MILLER
Secretary of the Senate

DEBBY BARRETT
President of the Senate