

**HOUSE JOURNAL
59TH LEGISLATURE**

ADDENDUM

Helena, Montana
2005

House Chambers
State Capitol

REPORTS OF STANDING COMMITTEES

BILLS (Barrett, Chairman): 4/27/2005
Correctly enrolled: **HB 5, HB 9, HB 11, HB 46, HB 60, HB 99, HB 115, HB 172, HB 177, HB 517, HB 529, HB 584, HB 592, HB 667, HB 671, HB 728, HB 757, HB 769, HJR 26, HJR 32, HJR 41, HJR 42, HJR 43, HJR 44, HJR 45.**
Signed by the Chief Clerk of the House at 9:00 a.m., April 27, 2005: **HJR 26, HJR 32, HJR 33, HJR 36, HJR 41, HJR 42, HJR 43, HJR 44, HJR 45.**
Signed by the Speaker at 9:15 a.m., April 27, 2005: **HJR 26, HJR 32, HJR 33, HJR 36, HJR 41, HJR 42, HJR 43, HJR 44, HJR 45.**
Signed by the Speaker at 9:30 a.m., April 27, 2005: **HJR 26, HJR 32, HJR 33, HJR 36, HJR 41, HJR 42, HJR 43, HJR 44, HJR 45.**
Delivered to the Secretary of State at 10:13 a.m., April 27, 2005: **HJR 26, HJR 32, HJR 33, HJR 36, HJR 41, HJR 42, HJR 43, HJR 44, HJR 45.**
Signed by the Chief Clerk of the House at 9:00 a.m., April 22, 2005: **HJR 33, HJR 36.**
Signed by the Speaker at 9:15 a.m., April 22, 2005: **HJR 33, HJR 36.**
Signed by the President at 9:30 a.m., April 22, 2005: **HJR 33, HJR 36.**
Delivered to the Secretary of State at 10:13 a.m., April 27, 2005: **HJR 33, HJR 36.**
Signed by the Chief Clerk of the House at 11:45 a.m., April 20, 2005: **HJR 34.**
Signed by the Speaker at 12:30 a.m., April 21, 2005: **HJR 34.**
Signed by the President at 2:00 p.m., April 21, 2005: **HJR 34.**
Delivered to the Secretary of State at 9:15 a.m., April 27, 2005: **HJR 34.**
Signed by the Chief Clerk of the House at 9:00 a.m., April 22, 2005: **HB 2, HB 28, HB 45, HB 227, HB 249, HB 482, HB 493, HB 535, HB 689, HB 700, HB 713, HB 740, HB 758, HB 761.**
Signed by the Speaker at 9:15 a.m., April 29, 2005: **HB 2, HB 28, HB 45, HB 227, HB 249, HB 482, HB 493, HB 535, HB 689, HB 700, HB 713, HB 740, HB 758, HB 761.**
Signed by the President at 9:30 a.m., April 22, 2005: **HB 2, HB 28, HB 45, HB 227, HB 249, HB 482, HB 493, HB 535, HB 689, HB 700, HB 713, HB 740, HB 758, HB 761.**
Delivered to the Governor for approval at 10:45 a.m., April 27, 2005: **HB 2, HB 28, HB 45, HB 227, HB 249, HB 482, HB 493, HB 535, HB 689, HB 700, HB 713, HB 740, HB 758, HB 761.**
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MESSAGES FROM THE GOVERNOR

April 18, 2005

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Representative Matthews:

Please be informed that I have signed **House Bill 140** sponsored by Representative Parker, **House Bill 297** sponsored by Representative Wiseman, **House Bill 307** sponsored by Representative Parker, and **House Bill 643** sponsored by Representative Dowell et al. on April 18, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

April 19, 2005

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Representative Matthews:

Please be informed that I have signed **House Bill 63** sponsored by Representative Villa, **House Bill 68** sponsored by Representative Andersen, **House Bill 105** sponsored by Representative Parker, **House Bill 156** sponsored by Representative Henry, **House Bill 244** sponsored by Representative Lambert, **House Bill 295** sponsored by Representative Galvin-Halcro, **House Bill 326** sponsored by Representative Peterson et al., **House Bill 363** sponsored by Representative Eaton, **House Bill 379** sponsored by Representative Windy Boy et al., **House Bill 406** sponsored by Representative Bergren et al., **House Bill 425** sponsored by Representative Parker, **House Bill 628** sponsored by Representative Clark et al., **House Bill 668** sponsored by Representative Noonan, and **House Bill 721** sponsored by Representative Parker et al. on April 19, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

April 20, 2005

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The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Representative Matthews:

Please be informed that I have signed **House Bill 22** sponsored by Representative McNutt, **House Bill 67** sponsored by Representative Jent, **House Bill 396** sponsored by Representative Becker, **House Bill 528** sponsored by Representative Koopman et al., and **House Bill 745** sponsored by Representative Matthews et al. on April 20, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

April 21, 2005

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Representative Matthews:

Please be informed that I have signed **House Bill 6** sponsored by Representative Witt, **House Bill 7** sponsored by Representative Callahan, **House Bill 8** sponsored by Representative Witt, **House Bill 12** sponsored by Representative Sesso, **House Bill 30** sponsored by Representative Wanzenried, **House Bill 40** sponsored by Representative Harris, **House Bill 49** sponsored by Representative Wilson, **House Bill 53** sponsored by Representative Jacobson, **House Bill 55** sponsored by Representative Wanzenried, **House Bill 70** sponsored by Representative Stahl, **House Bill 71** sponsored by Representative Lake, **House Bill 73** sponsored by Representative Buzzas, **House Bill 85** sponsored by Representative Kaufmann, **House Bill 89** sponsored by Representative Witt, **House Bill 104** sponsored by Representative Lenhart, **House Bill 109** sponsored by Representative Jent, **House Bill 119** sponsored by Representative Golie, **House Bill 142** sponsored by Representative Ripley, **House Bill 169** sponsored by Representative McAlpin, **House Bill 170** sponsored by Representative Wilson, **House Bill 173** sponsored by Representative Heinert, **House Bill 182** sponsored by Representative Roberts, **House Bill 204** sponsored by Representative Witt, **House Bill 211** sponsored by Representative Parker, **House Bill 213** sponsored by Representative Gallik, **House Bill 299** sponsored by Representative Wells, **House Bill 324** sponsored by Representative Driscoll, **House Bill 346** sponsored by Representative Golie, **House Bill 436** sponsored by Representative Himmelberger, **House Bill 440** sponsored by Representative Wiseman et al., **House Bill 450** sponsored by Representative Jopek, **House Bill 451** sponsored by Representative Sonju, **House Bill 470** sponsored by Representative Clark et al., **House Bill 513** sponsored by Representative Raser, **House Bill 522** sponsored by Representative W. Jones et al., **House Bill 587** sponsored by Representative Bergren, **House Bill 591** sponsored by Representative Jopek et al., **House Bill 666**

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sponsored by Representative Bergren et al., **House Bill 684** sponsored by Representative Maedje, **House Bill 698** sponsored by Representative Lange et al., **House Bill 759** sponsored by Representative Koopman, and **House Bill 772** sponsored by Representative Facey et al. on April 21, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

April 28, 2005

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Representative Matthews:

Please be informed that I have signed **House Bill 4** sponsored by Representative Musgrove, **House Bill 18** sponsored by Representative Juneau, **House Bill 60** sponsored by Representative Harris, **House Bill 63** sponsored by Representative Villa, **House Bill 83** sponsored by Representative Campbell, **House Bill 102** sponsored by Representative Lenhart, **House Bill 146** sponsored by Representative Gallik, **House Bill 159** sponsored by Representative McKenney, **House Bill 182** sponsored by Representative Roberts, **House Bill 186** sponsored by Representative Bergren, **House Bill 188** sponsored by Representative Bergren, **House Bill 214** sponsored by Representative Sales, **House Bill 235** sponsored by Representative Lange et al., **House Bill 266** sponsored by Representative Rice, **House Bill 288** sponsored by Representative Noennig et al., **House Bill 327** sponsored by Representative Groesbeck et al., **House Bill 331** sponsored by Representative Wanzenried, **House Bill 351** sponsored by Representative Butcher, **House Bill 374** sponsored by Representative Harris et al., **House Bill 385** sponsored by Representative Wells, **House Bill 386** sponsored by Representative Sinrud, **House Bill 395** sponsored by Representative Becker et al., **House Bill 411** sponsored by Representative Wells, **House Bill 414** sponsored by Representative D. Brown, **House Bill 418** sponsored by Representative Keane, **House Bill 421** sponsored by Representative Golie et al., **House Bill 423** sponsored by Representative Stahl et al., **House Bill 428** sponsored by Representative Gutsche et al., **House Bill 429** sponsored by Representative Gutsche, **House Bill 431** sponsored by Representative Raser, **House Bill 435** sponsored by Representative Branae et al., **House Bill 438** sponsored by Representative Buzzas et al., **House Bill 457** sponsored by Representative Noennig, **House Bill 473** sponsored by Representative Parker, **House Bill 476** sponsored by Representative McAlpin et al., **House Bill 484** sponsored by Representative L. Jones et al., **House Bill 502** sponsored by Representative Wiseman et al., **House Bill 512** sponsored by Representative Witt et al., **House Bill 530** sponsored by Representative Matthews, **House Bill 537** sponsored by Representative Wanzenried, **House Bill 540** sponsored by Representative Dickenson et al., **House Bill 541** sponsored by Representative Glaser et al., **House Bill 550** sponsored by Representative Windy Boy et al., **House Bill 552** sponsored by Representative Caferro et al., **House Bill 574** sponsored by Representative Branae, **House Bill 577** sponsored by Representative McAlpin, **House Bill 606** sponsored by Representative Gutsche et al., **House Bill 615** sponsored by Representative Harris, **House Bill 645** sponsored by Representative Clark et al., **House Bill 652** sponsored by Representative Cohenour, **House Bill 678** sponsored by Representative Cohenour, **House Bill 681** sponsored by Representative Raser, **House Bill 687** sponsored by Representative Mendenhall, **House Bill 696**

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sponsored by Representative Jayne et al., **House Bill 701** sponsored by Representative Noennig, **House Bill 704** sponsored by Representative Windy Boy et al., **House Bill 707** sponsored by Representative Groesbeck, **House Bill 720** sponsored by Representative Sinrud, **House Bill 726** sponsored by Representative Gutsche, **House Bill 732** sponsored by Representative Roberts, **House Bill 737** sponsored by Representative McNutt, **House Bill 738** sponsored by Representative Kaufmann, **House Bill 747** sponsored by Representative Driscoll, **House Bill 748** sponsored by Representative Wells, **House Bill 749** sponsored by Representative Ripley et al., **House Bill 756** sponsored by Representative Gutsche et al., **House Bill 776** sponsored by Representative Raser et al., **House Bill 782** sponsored by Representative McNutt et al., **House Bill 790** sponsored by Representative et al., and **House Bill 802** sponsored by Representative A. Olson on April 28, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

May 2, 2005

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Representative Matthews:

Please be informed that I have signed **House Bill 5** sponsored by Representative Wells, **House Bill 218** sponsored by Representative B. Olson, **House Bill 272** sponsored by Representative Lambert, **House Bill 367** sponsored by Representative Parker, and **House Bill 529** sponsored by Representative Kaufmann on May 2, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

May 6, 2005

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Representative Matthews:

Please be informed that I have signed **House Bill 2** sponsored by Representative Witt, **House Bill 9** sponsored by Representative Witt, **House Bill 11** sponsored by Representative McNutt, **House Bill 28** sponsored by Representative Wanzanried, **House Bill 45** sponsored by Representative A. Olson, **House Bill 99** sponsored by Representative Lange et al., **House Bill 115** sponsored by Representative McNutt, **House Bill 172** sponsored by Representative Cohenour,

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House Bill 177 sponsored by Representative A. Olson, **House Bill 227** sponsored by Representative Galvin-Halcro, **House Bill 249** sponsored by Representative Lindeen et al., **House Bill 482** sponsored by Representative Lindeen et al., **House Bill 493** sponsored by Representative Noonan, **House Bill 517** sponsored by Representative Wiseman, **House Bill 535** sponsored by Representative L. Jones, **House Bill 584** sponsored by Representative Harris, **House Bill 592** sponsored by Representative Waitschies, **House Bill 667** sponsored by Representative Wanzenried et al., **House Bill 671** sponsored by Representative Musgrove et al., **House Bill 689** sponsored by Representative Arntzen et al., **House Bill 700** sponsored by Representative Mendenhall, **House Bill 713** sponsored by Representative Franklin, **House Bill 728** sponsored by Representative Lange, **House Bill 740** sponsored by Representative Heinert et al., **House Bill 757** sponsored by Representative L. Jones et al., **House Bill 758** sponsored by Representative McNutt et al., **House Bill 761** sponsored by Representative Noonan et al., and **House Bill 769** sponsored by Representative Golie et al. on May 6, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

May 6, 2005

The Honorable Brad Johnson
Secretary of State
State Capitol, Rm. 260
Helena, MT 59620

RE: House Bill 2 - Item Veto

Dear Secretary of State Johnson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, after having carefully reviewed and considered House Bill 2, "AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUM ENDING JUNE 30, 2007; AND PROVIDING AN EFFECTIVE DATE," I hereby veto certain items contained therein. Those items not vetoed, I have signed into law. My explanation for disapproving certain items of the bill, through what is commonly referred to as a "line-item" veto, follows.

The power of the Governor to issue a line-item veto is contained in Article VI, § 10(5) of the Montana Constitution. It provides: "The governor may veto items in appropriation bills, and in such instances the procedure shall be the same as upon veto of an entire bill." By its terms, the "item veto" authorized by Article VI, § 10(5) contains no limitations.

I issue this "line-item" veto of House Bill 2 for reasons of fiscal responsibility and because I believe the bill runs afoul of certain provisions of the Montana Constitution related to the appropriations process and the separation of powers between the legislative and executive branches of government.

Addressing the fiscal issue first, I have vetoed the fiscal year 2006 appropriation of \$642,548 to fund the County-Paid Leave, found at pages A-2 to A-3 of the enrolled bill (Judiciary, ¶4.b.). This budget reduction brings the budget within the "spending cap" statute, § 17-8-106, MCA.

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Turning to the constitutional issues, Article V, § 11(4) of the Montana Constitution specifically limits the matters the legislature may include in a general appropriation bill. “A *general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, . . . and for public schools. Every other appropriation shall be made by a separate bill, containing but one subject.” (Emphasis added.) House Bill 2, the general appropriation bill, violates the constitutional restriction because it contains matters *in addition to* appropriations, including provisions of substantive law.*

Time and again throughout House Bill 2, the Legislature has mandated that the executive branch of government prepare reports, itemize expenditures, report to legislative committees – on quarterly, biannual, annual, or other temporal bases – “outcomes,” “goals,” “successes,” “failures,” “impacts,” “progress,” and “status.” I submit that the thirty instances of reporting requirements contained in House Bill 2, some of which include substantive legislation, are in violation of Article V, § 11(4) of the Montana Constitution, limiting the general appropriations bill to appropriations only.

Parenthetically, I note the practical impossibility of some of the reporting requirements, which fall due on July 1, 2005, the date that House Bill 2 takes effect. I note, too, that many if not most of the reporting requirements are to standing legislative appropriation subcommittees, which are not scheduled to convene during the interim for purposes of receiving such reports or otherwise.

As a matter of policy, as well, I question the wisdom of including these reporting demands in the general appropriations bill. I am concerned with the “slippery slope” that has and will continue to result as year after year, the legislature increasingly encroaches upon the executive branch by including more and more reporting requirements and substantive legislation in the general appropriations act. I am particularly concerned with the legislature’s attempt to invade the province of the executive in administering funds appropriated by the legislature by micro-managing the agencies of government, including not only those within the executive branch but within the judiciary as well. The general appropriations bill should delineate the boundaries for spending. It should not place substantive requirements on the executive branch.

I reiterate messages I have delivered in the past. The doors to the offices within my Administration are open. I welcome your input, advice, and concerns while I lead the Montana’s executive branch of government. My Administration will respond to all proper inquiries from citizens, legislators, and legislative committees. To demonstrate this commitment, and in the spirit of good faith, although I question the constitutionality of the provision, I deliberately have chosen not to item veto the substantive reporting requirements of House Bill 2 directed at the Marketing and Business Recruitment Program, located in the Governor’s Office.

I conclude this message by recognizing and commending the members of the 59th Legislative Assembly in piecing together, after many long hours, a fiscally sound, socially responsible, and forward-looking appropriation bill, which balances the needs of the State of Montana and its citizens thoughtfully, creatively, and judiciously. I recognize that to craft this bill required perseverance, compromise, and an enduring commitment by members of the Legislature who care as deeply about this State and its citizens as do I and for that I thank them.

This letter delivered to your office accompanies House Bill 2, which contains my signature and my “strike outs” of the items to which I object.

Sincerely,

BRIAN SCHWEITZER

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cc: Legislative Services Division
 Senator Tester
 Speaker Matthews