

**HOUSE JOURNAL  
62ND LEGISLATURE  
SEVENTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana  
April 7, 2011

House Chambers  
State Capitol

House convened at 10:30 a.m. Representative Taylor, Speaker Pro Tem, in the Chair. Invocation by Representative O'Neil. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Representative Evans, excused. Mr. Speaker, absent. Quorum present.

**BILLS** (O'Hara, Chairman):

4/7/2011

Correctly printed: **HR 2, SB 319, SJR 33.**

Correctly engrossed: **HB 296, HB 333, HB 376, HB 410, SB 253, SB 326, SB 329, SB 372, SB 423.**

Examined by the sponsor and found to be correct: **HB 12, HB 69, HB 107, HB 125, HB 216, HB 295, HB 310, HB 336, HB 469, HB 522, HB 552, HB 584.**

Delivered to the Governor for approval at 3:50 p.m., April 7, 2011: **HB 187, HB 479.**

**SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)**

Majority Leader McGillvray moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Hollandsworth in the chair.

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

**SB 296** - Representative Fitzpatrick moved **SB 296** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blyton, Boland, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hands, Hansen, Harris, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Klock, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, Mehlhoff, Menahan, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Washburn, Williams, Wilmer, Yates, Mr. Speaker.

Total 81

Nays: Blasdel, Brodehl, Edmunds, Hale, Hendrick, Kennedy, Kerns, Knox, Miller, More, O'Neil, Regier, Skattum, Skees, C. Smith, Wagner, Warburton, Welborn.

Total 18

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Excused: None.

Total 0

Absent or not voting: McNutt.

Total 1

**SB 333** - Representative Fitzpatrick moved **SB 333** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 99

Nays: Stahl.

Total 1

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**SB 376** - Representative Yates moved **SB 376** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Ehli, Esp, Flynn, Furey, Gibson, Greef, Hands, Hansen, Harris, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Kary, Klock, Knudsen, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Reichner, Reinhart, Roberts, Rosendale, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Swanson, Taylor, Vance, Washburn, Williams, Wilmer, Yates, Mr. Speaker.

Total 76

Nays: G. Bennett, Blasdel, Edmunds, Evans, Fitzpatrick, Hale, Hendrick, Kennedy, Kerns, Knox, Lavin, McGillvray, More, O'Neil, Regier, Salomon, Skattum, Skees, C. Smith, Stahl, Wagner, Warburton, Welborn.

Total 23

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Excused: None.

Total 0

Absent or not voting: Ingraham.

Total 1

**SB 382** - Representative Di. Barrett moved **SB 382** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, C. Smith, F. Smith, Squires, Swanson, Taylor, Vance, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 97

Nays: Small, Stahl, Wagner.

Total 3

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**SB 402** - Representative Kennedy moved **SB 402** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Schmidt, Sesso, Skattum, Skees, C. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 94

Nays: Hands, Malek, Pease-Lopez, Sands, Small, F. Smith.

Total 6

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Excused: None.

Total 0

Absent or not voting: None.

Total 0

**SB 410** - Representative McGillvray moved consideration of **SB 410** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

**SB 413** - Representative O'Neil moved **SB 413** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 98

Nays: Read.

Total 1

Excused: None.

Total 0

Absent or not voting: Stahl.

Total 1

**HB 219 - Governor's Amendments** - Representative McGillvray moved Governor's amendments to **HB 219** be **not** concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 67

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Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 32

Excused: None.

Total 0

Absent or not voting: Small.

Total 1

**HB 91 - Senate Amendments** - Representative Ingraham moved Senate amendments to **HB 91** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 100

Nays: None.

Total 0

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 100 - Senate Amendments** - Representative Vance moved Senate amendments to **HB 100** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara,

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O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 98

Nays: Barrett, Hill.

Total 2

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 132 - Senate Amendments** - Representative Hoven moved Senate amendments to **HB 132** be **not** concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 94

Nays: B. Bennett, Boland, Hands, Malek, Pease-Lopez, Sands.

Total 6

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 279 - Senate Amendments** - Representative F. Smith moved Senate amendments to **HB 279** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen,

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Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 98

Nays: McGillvray, Stahl.

Total 2

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 341 - Senate Amendments** - Representative C. Smith moved Senate amendments to **HB 341** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Miller, More, O'Hara, O'Neil, Osmundson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, C. Smith, F. Smith, Stahl, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Yates, Mr. Speaker.

Total 77

Nays: B. Bennett, Boland, Court, Hands, MacDonald, Malek, McClafferty, Menahan, Noonan, Pease-Lopez, Peterson, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, Squires, Swanson, Wilmer.

Total 20

Excused: None.

Total 0

Absent or not voting: B. Beck, Small, Taylor.

Total 3

**SB 410** - Representative Hoven moved **SB 410** be concurred in.

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**SB 410** - Representative Noonan moved **SB 410**, second reading copy, be amended as follows:

1. Page 3, line 18.

**Following:** ";

**Strike:** "and"

2. Page 3, line 19.

**Following:** "73-34-114"

**Insert:** "; and (e) determine the potential for job creation"

Amendment adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Clark, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hands, Hill, Hiner, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Swanson, Taylor, Vance, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.  
Total 80

Nays: B. Beck, Brodehl, Burnett, Connell, Hale, Hansen, Harris, Hendrick, Hollandsworth, MacLaren, Miller, More, O'Neil, Read, Skattum, Skees, C. Smith, Stahl, Wagner, Warburton.  
Total 20

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**SB 410** - Representative Hoven moved **SB 410**, as amended, be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Driscoll, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McGillvray, McNally, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Read, Regier, Reichner, Roberts, Salomon, Skees, Small, C. Smith, F. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Yates, Mr. Speaker.  
Total 69



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Nays: Barrett, B. Bennett, Boland, Court, Furey, Hands, Harris, Hill, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McClafferty, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Randall, Reinhart, Rosendale, Sands, Schmidt, Sesso, Skattum, Squires, Swanson, Wilmer.

Total 30

Excused: None.

Total 0

Absent or not voting: Edmunds.

Total 1

Majority Leader McGillvray moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Hollandsworth moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr.

Speaker.

Total 94

Nays: B. Bennett, Loney, Squires.

Total 3

Excused: Evans.

Total 1

Absent or not voting: Hollandsworth, Phillips.

Total 2

House Recessed.

House Reconvened.

Roll Call. All members present, except Representative Evans, excused. Quorum present.

Representative Hollandsworth introduced Mariah Witt who sang *Amazing Grace*.

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**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:

**SB 267** concurred in as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 99

Nays: None.

Total 0

Excused: Evans.

Total 1

Absent or not voting: None.

Total 0

**SB 268** concurred in as follows:

Yeas: Ankney, Arntzen, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Flynn, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kennedy, Kerns, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 59

Nays: Bangerter, Barrett, Belcourt, B. Bennett, Boland, Clark, Court, Driscoll, Fitzpatrick, Furey, Gibson, Hands, Hill, Hiner, Hollenbaugh, Hunter, Kary, Klock, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Miller, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 40

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Excused: Evans.

Total 1

Absent or not voting: None.

Total 0

**SB 415** concurred in as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Squires, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 68

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hollenbaugh, Hoven, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Swanson, Williams, Wilmer.

Total 31

Excused: Evans.

Total 1

Absent or not voting: None.

Total 0

**REPORTS OF STANDING COMMITTEES**

**BUSINESS AND LABOR** (Arntzen, Chairman): 4/7/2011

**HJR 33**, do pass. Report adopted.

**EDUCATION** (Reichner, Chairman): 4/6/2011

**SB 329**, be amended as follows:

1. Title, page 1, line 5.

**Following:** "LAWS;"

**Insert:** "CREATING THE PATHWAY TO EXCELLENCE PROGRAM; AMENDING THE STRUCTURE OF ESTIMATING AND ALLOCATING OIL AND NATURAL GAS PRODUCTION TAXES FOR SCHOOLS; LIMITING A SCHOOL DISTRICT'S FUND BALANCE REAPPROPRIATED TO A PERCENTAGE OF THE MAXIMUM GENERAL FUND BUDGET; ALLOWING A SCHOOL DISTRICT A ONE-TIME TRANSFER OF GENERAL FUND MONEY; PROVIDING AN INFLATIONARY INCREASE TO THE

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BASIC ENTITLEMENT AND TOTAL PER-ANB ENTITLEMENT; CREATING A STATE SCHOOL OIL AND NATURAL GAS IMPACT ACCOUNT; CREATING A COUNTY SCHOOL OIL AND NATURAL GAS IMPACT FUND;"

2. Title, page 1, line 6.

**Following:** "AGREEMENTS;"

**Insert:** "DEFINING "MULTIDISTRICT COOPERATIVE";"

3. Title, page 1, line 18.

**Following:** "GRANTS;"

**Insert:** "ELIMINATING THE STATUTORY APPROPRIATION REQUIREMENT FOR THE GUARANTEE ACCOUNT; ELIMINATING THE PERCENTAGE OF GROWTH FOR SCHOOL DISTRICT BLOCK GRANTS; PROVIDING RULEMAKING AUTHORITY;"

4. Title, page 1.

**Following:** line 20

**Insert:** "15-36-332, 17-7-502,"

5. Title, page 1, line 21.

**Following:** "20-3-363,"

**Insert:** "20-9-104,"

**Following:** "20-9-208,"

**Insert:** "20-9-306,"

**Following:** "20-9-630,"

**Insert:** "20-9-622, 20-9-630,"

6. Title, page 1, line 23.

**Following:** "PROVIDING"

**Strike:** "AN"

**Following:** "EFFECTIVE"

**Strike:** "DATE"

**Insert:** "DATES AND AN APPLICABILITY DATE"

7. Page 1, line 26.

**Insert:** "**Section 1.** Section 15-36-332, MCA, is amended to read:

**"15-36-332. Distribution of taxes to taxing units -- appropriation.** (1) (a) By Subject to [section 7], by the dates referred to in subsection (6) of this section, the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

(b) By the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil and gas natural resource distribution account under 15-36-331(2)(b) as provided in subsection (8) of this section.

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide

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transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
Big Horn	14.81%	10.36%		26.99%
Blaine	5.86%	2.31%	2.71%	24.73%
Carbon	3.6%	6.62%	1.31%	49.18%
Chouteau	8.1%	4.32%	3.11%	23.79%
Custer	6.9%	3.4%	1.19%	31.25%
Daniels	0	7.77%	3.92%	48.48%
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	42.58%
Fergus	7.88%	4.84%	2.08%	53.25%
Garfield	4.04%	3.13%	5.29%	26.19%
Glacier	11.2%	4.87%	3.01%	46.11%
Golden Valley	0	11.52%	2.77%	54.65%
Hill	6.7%	4.07%	1.59%	49.87%
Liberty	4.9%	4.56%	1.15%	35.22%
McCone	4.18%	3.19%	2.58%	43.21%
Musselshell	5.98%	4.07%	3.53%	32.17%
Petroleum	0	11.92%	4.59%	55.48%
Phillips	0.43%	6.6%	1.08%	41.29%
Pondera	6.96%	5.06%	1.94%	45.17%
Powder River	3.96%	2.97%	4.57%	22.25%
Prairie	0	8.88%	1.63%	36.9%
Richland	4.1%	3.92%	2.26%	43.77%
Roosevelt	9.93%	7.37%	2.74%	40.94%
Rosebud	3.87%	2.24%	1.05%	72.97%
Sheridan	0	3.39%	2.22%	47.63%
Stillwater	6.87%	4.86%	1.63%	41.16%
Sweet Grass	6.12%	6.5%	2.4%	37.22%
Teton	6.88%	8.19%	3.8%	29.43%
Toole	2.78%	4.78%	1.3%	43.56%
Valley	2.26%	12.61%	4.63%	41.11%
Wibaux	0	4.1%	0.77%	31.46%
Yellowstone	7.98%	4.56%	1.07%	52.77%
All other counties	3.81%	7.84%	1.81%	41.04%

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d) and subject to the provisions of [section 7].

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(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas production taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

(5) ~~(a)~~ Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district in the relative proportion of the mill levy for each fund as provided in [section 7].

~~(b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.~~

(6) ~~The~~ Subject to [section 7], the department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.

(7) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

(8) The department shall distribute the funds received under 15-36-331(2)(b) to

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counties based on county oil and gas production. Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city and town allocation must be distributed to the cities and towns based on their relative populations.

(9) The distributions to taxing units and to counties and incorporated cities and towns under this section are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund."

**Insert: "Section 2.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; ~~20-9-622~~; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-10-103; 82-11-161; 87-1-230; 87-1-603; 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch.

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374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; and pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019.)"

**Renumber:** subsequent sections

8. Page 2, line 1.

**Following:** "agreement"

**Insert:** "to create a multidistrict cooperative"

9. Page 2, line 8.

**Following:** "district"

**Insert:** "of the multidistrict cooperative"

10. Page 2, line 21.

**Insert:** "(5) As used in this title, "multidistrict cooperative" means a public entity created by two or more school districts executing a multidistrict agreement under this section or any school district or other public entity participating in an interlocal cooperative agreement under the provisions of Title 20, chapter 9, part 7, as either a coordinating or a cooperating agency."

**Insert:** "NEW SECTION. Section 4. Montana pathway to excellence program -- purpose. (1) [Sections 4 and 5] may be known as the pathway to excellence program.

(2) The purpose of the pathway to excellence program is to promote educational excellence in Montana's public schools through data-driven decisionmaking.

(3) It is the intent of the program that Montana K-12 public education remain focused on continuous improvement and increased academic achievement for students in public schools.

**Insert:** "NEW SECTION. Section 5. Transparency and public availability of public school performance data. (1) The office of public instruction shall develop a publicly available data system that displays an educational data profile for each school district.

(2) Each school district's educational profile must include, at a minimum, the following elements:

- (a) school district contact information and links to district websites, when available;
- (b) state criterion-referenced testing results;
- (c) program and course offerings;
- (d) student enrollment and demographics by grade level; and
- (e) graduation rates."

**Insert:** "**Section 6.** Section 20-9-104, MCA, is amended to read:

**"20-9-104. General fund operating reserve.** (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections ~~(5) and (6)~~ (7) and (8), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.



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(3) Excess reserves as provided in subsection ~~(5)~~ (7) may be appropriated to reduce the BASE budget levy, the over-BASE budget levy, or the additional levy provided by 20-9-353.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b): up to an amount not exceeding 15% of a school district's maximum general fund budget.

(5) For fiscal year 2012, any unreserved fund balance in excess of 15% of a school district's maximum general fund budget must be remitted to the state to be deposited in the state general fund.

(6) Beginning in fiscal year 2013, any unreserved fund balance in excess of 15% of a school district's maximum general fund budget must be remitted to the state and allocated as follows:

(a) 70% of the excess amount must be remitted to the state to be deposited in the guarantee account provided for in 20-9-622;

(b) 5% of the excess amount must be remitted to the state to be deposited in the state school oil and natural gas impact account provided for in [section 8]; and

(c) 25% of the excess amount must be deposited in the county school oil and natural gas impact fund provided for in [section 9].

~~(5)~~(7) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the unused balance of any amount:

(a) received in settlement of tax payments protested in a prior school fiscal year;

(b) received in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; or

(c) received in delinquent taxes from a prior school fiscal year.

~~(6)~~(8) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is \$10,000 or less.

(9) Prior to June 30, 2011, a school district may transfer any general fund money in excess of 15% of the fiscal year 2011 general fund budget that is not needed to fund the budget to any budgeted fund considered appropriate by the trustees."

**Insert: "NEW SECTION. Section 7. Oil and natural gas production taxes for school districts -- estimation, allocation, and limits.** (1) In accordance with 20-9-141, the trustees of a district receiving oil and natural gas production taxes shall adopt an estimate of those taxes anticipated to be received by the district in any given school fiscal year. The estimated revenue must be allocated to the district general fund budget as provided for in subsection (7).

(2) The district's estimation of anticipated revenue may not be less than 40% of the prior year's actual taxes received in all funds.

(3) The maximum amount of oil and natural gas production taxes that a school district may retain is 150% of the school district's maximum or adopted budget, determined in accordance with 20-9-308.

(4) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(5) The department of revenue shall make the full quarterly distribution of oil and natural

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gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (3) of this section.

(6) For fiscal year 2012, any amount of oil and natural gas production taxes exceeding the limitation in subsection (3) must be deposited in the state general fund.

(7) Subject to the limitation in subsection (3), the trustees shall allocate the oil and natural gas production taxes received by the district as follows:

(a) 75% of the school district's oil and natural gas production tax share must be directed to support the district's general fund budget; and

(b) 25% may be directed to the general fund or any other budgeted fund.

(8) Beginning July 1, 2013, for any amount retained by the department of revenue in compliance with the limitation in subsection (3), the amount retained must be allocated as follows:

(a) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;

(b) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in [section 8]; and

(c) 25% of the retained amount must be distributed to the counties for deposit in the county school oil and natural gas impact fund provided for in [section 9]."

**Insert:**        "NEW SECTION. Section 8. State school oil and natural gas impact account. (1) There is a state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to counties and schools that are not receiving oil and natural gas production taxes under 15-36-331 but are impacted by neighboring counties that are benefiting from receipt of oil and natural gas production taxes.

(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to [section 7(5)] and any amounts pursuant to 20-9-104(6).

(3) A county or school district may apply to the superintendent of public instruction for funds from the account for circumstances that are directly related to impacts resulting from the development or cessation of development of oil and natural gas as follows:

(a) an unusual enrollment increase as determined pursuant to 20-9-314;

(b) a district's need to hire new teachers or staff as a result of increased enrollment;

(c) the opening or reopening of an elementary or high school approved by the superintendent of public instruction pursuant to 20-6-502 or 20-6-503; or

(d) major maintenance for a school or district.

(4) In reviewing an applicant's request for funding, the superintendent of public instruction shall consider the following:

(a) the local district's or school's need;

(b) the severity of the energy development impacts;

(c) availability of funds in the account; and

(d) the applicant district's ability to meet the needs identified in subsection (3).

(5) The superintendent of public instruction shall adopt rules necessary to implement the application and distribution process.

(6) The amount in the account may not exceed \$7.5 million. Any amount over \$7.5 million must be deposited in the state general fund."

**Insert:**        "NEW SECTION. Section 9. County school oil and natural gas impact

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**fund.** (1) The governing body of a county receiving an allocation under 20-9-104(6) and [section 7(5)] shall establish a county school oil and natural gas impact fund.

(2) Money received by a county pursuant to 20-9-104(6) and [section 7(5)] must remain in the fund and may not be appropriated by the governing body until:

(a) the amount of oil and natural gas production taxes received by a school district for the fiscal year is 30% or less of the amount of the average received by the district in the previous 4 fiscal years;

(b) the average price of oil is \$50 a barrel or less for the fiscal year; or

(c) the production of oil in the county drops 50% or more below the average oil production in the county during the immediately preceding 5-year period.

(3) Within 30 days of any of the circumstances described in subsections (2)(a) through (2)(c) occurring, the governing body of the county shall allocate 80% of the money proportionally to affected high school districts and elementary school districts in the county.

(4) The governing body of the county may use 20% of the money in the fund to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the reduction in the price of oil described in subsection (2)(b);

(b) offset property tax levy increases that are directly caused by the cessation or reduction of oil and natural gas activity;

(c) promote diversification and development of the economic base within the jurisdiction;

(d) attract new industry to the area impacted by the changes in oil and natural gas activity described in subsection (2); or

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in oil and natural gas activity described in subsection (2).

(5) Except as provided in subsection (4)(b), money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(6) Money in the fund must be invested as provided by law. Interest and income from the investment of money in the fund must be credited to the fund."

**Renumber:** subsequent sections

11. Page 6, line 20.

**Insert: "Section 13.** Section 20-9-306, MCA, is amended to read:

**"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment; and

(f) the total American Indian achievement gap payment.

(3) "BASE budget" means the minimum general fund budget of a district, which

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includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) for each high school district:

(i) ~~\$246,085~~ \$256,256 for fiscal year ~~2010~~ 2012; and

(ii) ~~\$253,468~~ \$257,870 for each succeeding fiscal year;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) ~~\$22,141~~ \$23,056 for fiscal year ~~2010~~ 2012;

(ii) ~~\$22,805~~ \$23,201 for each succeeding fiscal year; and

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for kindergarten through grade 6 elementary program:

(A) ~~\$22,141~~ \$23,056 for fiscal year ~~2010~~ 2012; and

(B) ~~\$22,805~~ \$23,201 for each succeeding fiscal year; plus

(ii) for an approved and accredited junior high school program, 7th and 8th grade program, or middle school:

(A) ~~\$62,704~~ \$65,295 for fiscal year ~~2010~~ 2012; and

(B) ~~\$64,585~~ \$65,706 for each succeeding fiscal year.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

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(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$6,097~~ \$6,349 for fiscal year ~~2010~~ 2012 and ~~\$6,280~~ \$6,389 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of ~~\$4,763~~ \$4,960 for fiscal year ~~2010~~ 2012 and ~~\$4,906~~ \$4,991 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of ~~\$4,763~~ \$4,960 for fiscal year ~~2010~~ 2012 and ~~\$4,906~~ \$4,991 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$6,097~~ \$6,349 for fiscal year ~~2010~~ 2012 and ~~\$6,280~~ \$6,389 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying \$3,036 for fiscal year 2008 and \$3,042 for each succeeding fiscal year times the number of full-time equivalent educators as provided in 20-9-327.""

**Renumber:** subsequent sections

12. Page 7, line 1.

**Following:** "district"

**Insert:** "or imposed by the district"

13. Page 8, line 7.

**Following:** "district"

**Insert:** "or imposed by the district"

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14. Page 11, line 15.

**Insert: "Section 17.** Section 20-9-622, MCA, is amended to read:

**"20-9-622. Guarantee account.** ~~(1)~~ There is a guarantee account in the state special revenue fund. The guarantee account is intended to:

~~(a)~~(1) stabilize the long-term growth of the permanent fund; and

~~(b)~~(2) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account and may be appropriated only for K-12 public education purposes. Interest and income earnings on the guarantee account must be deposited in the account. ~~Except as provided in subsection (2), the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.~~

~~(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of 2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is currently outstanding. When the loan is fully paid, all mineral royalties deposited in the guarantee account must be transferred to the school facility and technology account pursuant to 17-6-340."~~

**Insert: "Section 18.** Section 20-9-630, MCA, is amended to read:

**"20-9-630. School district block grants.** (1) (a) The office of public instruction shall provide a block grant to each school district based on the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate license taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999.

(b) Block grants must be calculated using the electronic reporting system that is used by the office of public instruction and school districts. The electronic reporting system must be used to allocate the block grant amount into each district's budget as an anticipated revenue source by fund.

(c) With the exception of vehicle taxes and fees, the office of public instruction shall use the amount actually received from the sources listed in subsection (1)(a) in fiscal year 2001 in its calculation of the block grant for fiscal year 2002 budgeting purposes. For vehicle taxes and fees, the office of public instruction shall use 93.4% of the amount actually received in fiscal year 2001 in calculating the block grant for fiscal year 2002.

~~(2) If the fiscal year 2003 appropriation provided in section 248(1), Chapter 574, Laws of 2001, is insufficient to fund the school district block grants in fiscal year 2003 at the fiscal year 2002 level, the office of public instruction shall prorate the block grants to meet the remaining appropriation. School districts shall anticipate the prorated block grant amounts provided by the office of public instruction in their budgets for fiscal year 2003.~~

~~(3)~~(2) Each year, 70% of each district's block grant must be distributed in November and 30% of each district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

~~(4)~~(3) (a) The block grant for the district general fund is equal to the ~~average~~ amount

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received in fiscal ~~years 2002 and 2003~~ year 2011 by the district general fund from the block grants provided for in subsection (1). ~~The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.~~

(b) The block grant for the district transportation fund is equal to one-half of the ~~average~~ amount received in fiscal ~~years 2002 and 2003~~ year 2011 by the district transportation fund from the block grants provided for in subsection (1). ~~The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.~~

(c) (i) The combined fund block grant is equal to the ~~average~~ amount received in fiscal ~~years 2002 and 2003~~ year 2011. ~~by the district tuition, bus depreciation reserve, building reserve, nonoperating, and adult education funds from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.~~

(ii) The school district may deposit the combined fund block grant into any budgeted fund of the district.""

**Renumber:** subsequent sections

15. Page 12, line 26.

**Insert:** "NEW SECTION. Section 20. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe."

**Insert:** "NEW SECTION. Section 21. Codification instruction. [Sections 4, 5, and 7 through 9] are intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [sections 4, 5, and 7 through 9]."

16. Page 12, line 27 through line 28.

**Strike:** "date"

**Insert:** "dates -- applicability"

**Strike:** "[This act]"

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

**Following:** "approval"

**Strike:** "JULY 1, 2011."

**Insert:** "on passage and approval and applies to school fiscal year 2012.

(2) [Sections 8 and 9] are effective July 1, 2012."

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

**HUMAN SERVICES** (Howard, Chairman):

4/6/2011

**SB 423**, be amended as follows:

1. Title, page 1, line 5.

**Strike:** "THERAPEUTIC"

2. Title, page 1, line 6.

**Strike:** "SYSTEM OF LICENSING"

**Insert:** "REGISTRY PROGRAM"

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3. Title, page 1, line 7 through line 9.

**Strike:** "FOR" on line 7 through "USE" on line 8

**Insert:** "BY CERTAIN INDIVIDUALS"

**Strike:** "CREATING" on line 8 through "ACCOUNT;" on line 9

4. Title, page 1, line 10 through line 11.

**Strike:** "37-1-101, 37-1-136,"

**Following:** "41-5-216,"

**Strike:** "45-9-101" on line 10 through "50-46-202," on line 11

**Insert:** "45-9-203,"

5. Page 1, line 14.

**Insert:** "WHEREAS, the state of Montana understands that manufacturing, distributing, or dispensing a controlled substance or possessing a controlled substance with intent to manufacture, distribute, or dispense the substance is a violation of the federal Controlled Substances Act; and

WHEREAS, marijuana is listed as a Schedule I controlled substance under that act; and

WHEREAS, by allowing the limited use of marijuana under the Montana Marijuana Act, the State of Montana does not condone the commission of a criminal violation of the federal Controlled Substances Act."

6. Page 1, line 17.

**Strike:** everything after the enacting clause

**Insert:** "NEW SECTION. Section 1. Short title -- purpose. (1) [Sections 1 through 17] may be cited as the "Montana Marijuana Act".

(2) The purpose of [sections 1 through 17] is to:

(a) provide legal protections to persons with debilitating medical conditions who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

(b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [sections 1 through 17] by persons who obtain registry identification cards; and

(c) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions."

**Insert:** "NEW SECTION. Section 2. Definitions. As used in [sections 1 through 17], the following definitions apply: (1)"Debilitating medical condition" means a medical condition determined by a physician to be debilitating for the person diagnosed with the condition.

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

(3) "Local government" means a county, a consolidated government, or an incorporated city or town.

(4) "Marijuana" has the meaning provided in 50-32-101.

(5) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(6) "Paraphernalia" has the meaning provided in 45-10-101.



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(7) "Physician" means a person who is licensed under Title 37, chapter 3, and has an established office located in Montana.

(8)(a) "Provider" means a Montana resident 18 years of age or older who is authorized by the department to cultivate, manufacture, possess, or transport marijuana for use by a registered cardholder.

(b) The term does not include the cardholder's physician.

(9) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(10) "Registry identification card" means a document issued by the department pursuant to [section 3] that identifies a person as a registered cardholder or provider.

(11) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of [sections 1 through 17] if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(12) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(13) "Standard of care" means the standard established by rule by the board of medical examiners.

(14) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.

(15) "Written certification" means a statement signed by a treating physician that meets the requirements of [section 6] and is provided in a manner that meets the standard of care."

**Insert:        NEW SECTION. Section 3. Department responsibilities -- issuance of cards -- confidentiality -- reports.**(1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who:

(i) have debilitating medical conditions and who submit applications meeting the requirements of [sections 1 through 17]; and

(ii) are named as providers by persons who obtain registry identification cards for their debilitating medical conditions.

(b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by [sections 1 through 17].

(2) The department shall conduct criminal history background checks as required by [sections 4 and 5] before issuing a registry identification card for a person named as a provider.

(3) Registry identification cards issued pursuant to [sections 1 through 17] must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition or for a provider; and

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(f) contain other information that the department may specify by rule.

(4) (a) The department shall verify the information contained in an application or renewal submitted pursuant to [sections 1 through 17] and shall approve or deny an application or renewal within 15 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within 15 days of approving an application or renewal.

(5) Registry identification cards expire 1 year after the date of issuance unless a registered cardholder changes providers. A provider's registry identification card expires at the time the department issues a card to a new provider named by a registered cardholder.

(6) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, or provider or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

(7) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection (8), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

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

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

(8) The department shall provide the names of registered cardholders and providers to the local law enforcement agency having jurisdiction in the area in which the cardholders or providers live. The law enforcement agency and its employees are subject to the confidentiality requirements of [section 14].

(9) (a) The department shall provide the board of medical examiners with the name of any physician who provides written certification for 15 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.

(b) The physician whose practices are under review shall pay the costs of the board's review activities.

(10) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders or physicians."

**Insert:** "NEW SECTION. Section 4. Persons with debilitating medical conditions -- requirements -- minors -- limitations. (1) Except as provided in subsections (2) and (3), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

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- (b) an application fee or a renewal fee;
- (c) the person's name, street address, and date of birth;
- (d) proof of Montana residency;
- (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or will be obtaining marijuana from a provider;
- (f) the name of the person's treating physician and the street address and telephone number of the physician's office;
- (g) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person's own use;
- (h) the name, date of birth, and street address of the individual the person has selected as a provider, if any; and

(i) a statement from the person's treating physician as required pursuant to [section 6].

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (2) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions signs and submits a written statement that:

(a) the minor's physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

(b) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(i) consents to the use of marijuana by the minor;

(ii) agrees to serve as the minor's provider;

(iii) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; and

(iv) undergoes a name-based background check. The parent or legal guardian shall pay the costs of the background check.

(3) A person may not be a registered cardholder if the person is in the custody of or under the supervision of the department of corrections or a youth court.

(4) A registered cardholder who elects to obtain marijuana from a provider may not cultivate or manufacture marijuana for the cardholder's use.

(5) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 9] only:

(a) at a property that is owned by the cardholder; or

(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(6) No portion of the property used for cultivation and manufacture of marijuana for use by the registered cardholder may be shared with or rented or leased to a provider or to a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage."

**Insert:** "NEW SECTION. Section 5. Providers -- requirements -- limitations. (1) The department shall issue a registry identification card to the person who is named as a provider in a registered cardholder's approved application if the person submits to the department:

(a) the person's name, date of birth, and street address on a form prescribed by the department;

(b) proof that the person is a Montana resident;

(c) fingerprints to facilitate a fingerprint and background check by the department of

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justice and the federal bureau of investigation;

(d) a written agreement signed by the registered cardholder;

(e) a statement indicating whether the person will cultivate and manufacture marijuana for the registered cardholder at a property owned, rented, or leased by the cardholder or by the person; and

(f) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person as a provider if the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency.

(3) A provider may assist only one registered cardholder unless the provider is simultaneously caring for up to three cardholders and two of the cardholders are related to the provider by the second degree of kinship by blood or marriage.

(4) Marijuana for use pursuant to [sections 1 through 17] must be cultivated and manufactured in Montana.

(5) A provider may not:

(a) accept compensation for any services or products provided to a registered cardholder;

(b) use marijuana; or

(c) be a registered cardholder.

(6) (a) A provider may cultivate and manufacture marijuana for use by a registered cardholder only at:

(i) a property that is owned by the provider;

(ii) with written permission of the landlord, a property that is rented or leased by the provider; or

(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section 4].

(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider or another registered cardholder."

**Insert:**        "NEW SECTION. Section 6. Physician statement. (1) The written certification provided by a physician must:

(a) confirm that the physician is the person's treating physician and that the person has been under the physician's medical care and supervision;

(b) confirm that the person suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) describe the medications, procedures, and other medical options used to treat the condition;

(e) state that the medications, procedures, or other medical options have not been

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effective;

(f) state that the physician has a reasonable degree of certainty that the person's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(g) list restrictions on the person's activities due to the use of marijuana;

(h) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year; and

(i) state that the physician will:

(i) continue to serve as the person's treating physician; and

(ii) supervise the person's use of marijuana and evaluate the efficacy of the treatment.

(2) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification."

**Insert:** "NEW SECTION. Section 7. Registry card to be carried and exhibited on demand -- photo identification required. A registered cardholder or provider shall keep the cardholder's or provider's registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge."

**Insert:** "NEW SECTION. Section 8. Health care facility procedures for patients with marijuana for use. (1) Except for hospices that allow the use of marijuana as provided in [section 10], a health care facility as defined in 50-5-101 shall take the following measures in the order listed when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(a) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so;

(b) make a reasonable effort to contact the patient's provider, if any; or

(c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises."

**Insert:** "NEW SECTION. Section 9. Legal protections -- allowable amounts. (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider may possess the amounts allowed under subsection (1)(a) for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in [section 10] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through 17] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the registered cardholder or provider cultivates, manufactures, possesses, or

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transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through 17].

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under [sections 1 through 17].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

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

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge."

**Insert:**        "NEW SECTION. Section 10. Limitations of the act. (1) [Sections 1 through 17] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) in a correctional facility;

(vii) at a public park, public beach, public recreation center, or youth center;

(viii) in or on the property of any church, synagogue, or other place of worship;

(ix) in plain view of or in a place open to the general public; or

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(x) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder or a provider may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 17] may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated with the use of marijuana by a person with a debilitating medical condition;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder or a provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

(5) Nothing in [sections 1 through 17] may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in [sections 1 through 17] may be construed to allow a provider to use marijuana or to prevent criminal prosecution of a provider who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a registered cardholder or provider is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a tetrahydrocannabinol (THC) level of 3.5 ng/ml may be charged with a violation of 61-8-401.

(b) A registered cardholder or provider who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal."

**Insert:** "NEW SECTION. **Section 11. Local government authority to regulate.** To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government."

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**Insert:**        "NEW SECTION. Section 12. Unlawful conduct by cardholders -- penalties.

(1) The department shall revoke and may not reissue the registry identification card of a person who:

- (a) is convicted of a drug offense; or
- (b) allows another person to be in possession of the cardholder's:
  - (i) registry identification card; or
  - (ii) marijuana plants or usable marijuana.

(2) A registered cardholder or a provider who violates [sections 1 through 17] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in [sections 1 through 17] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45."

**Insert:**        "NEW SECTION. Section 13. Fraudulent representation -- penalties. (1) In addition to any other penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder or a provider is guilty of a felony punishable by imprisonment in the state prison for not less than 1 year or not more than 5 years or a fine not to exceed \$50,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under [section 6] is guilty of a felony punishable by imprisonment in the state prison for not less than 1 year or not more than 5 years or a fine not to exceed \$50,000, or both."

**Insert:**        "NEW SECTION. Section 14. Confidentiality of registry information -- penalty. (1) A person, including an employee or official of the department of public health and human services, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of [sections 1 through 17].

(2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both."

**Insert:**        "NEW SECTION. Section 15. Law enforcement authority. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a debilitating medical condition or the person's provider."

**Insert:**        "NEW SECTION. Section 16. Forfeiture. (1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of [sections 1 through 17] in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of [sections 1 through 17].

(2) A law enforcement agency in possession of marijuana plants seized as evidence is not responsible for the care and maintenance of the plants."

**Insert:**        "NEW SECTION. Section 17. Rulemaking authority -- fees. (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through 17]. The rules must include but are not limited to:

- (a) the manner in which the department will consider applications for registry identification cards for providers and for persons with debilitating medical conditions and renewal of registry identification cards for providers and registered cardholders;
- (b) the acceptable forms of proof of Montana residency;



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(c) the procedures for obtaining fingerprints for the fingerprint and background check required under [section 5]; and

(d) other rules necessary to implement the purposes of [sections 1 through 17].

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 17]."

**Insert: "Section 18.** Section 37-1-316, MCA, is amended to read:

**"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(14) interference with an investigation or disciplinary proceeding by willful

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misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards;

(19) the sole use of any electronic means, including teleconferencing, to obtain the information required for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through 17]."

**Insert: "Section 19.** Section 37-3-343, MCA, is amended to read:

**"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations -- violations and penalty.** (1) A physician may not practice telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine license pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A telemedicine license does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A telemedicine license may not be used by a physician as a means to obtain the information required for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through 17].

~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

**Insert: "Section 20.** Section 37-3-347, MCA, is amended to read:

**"37-3-347. Reasons for denial of license -- alternative route to licensed practice.** (1) The board may deny an application for a telemedicine license if the applicant:

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(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) plans to use telemedicine as a means to obtain the information required for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through 17];

~~(b)~~(c) fails to pay a required fee;

~~(c)~~(d) does not possess the qualifications or character required by this chapter; or

~~(d)~~(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

**Insert: "Section 21.** Section 41-5-216, MCA, is amended to read:

**"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records.** (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

(a) those persons and agencies listed in 41-5-215(2); and

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

(b) The department of public health and human services and the department shall disassociate the offense and disposition information from the name of the youth in the

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respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the department of public health and human services or by the department and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).

(b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.

(c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:

(i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.

(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services, from confirming whether a person applying for a registry identification card pursuant to [section 4 or 5] is currently under youth court supervision."

**Insert: "Section 22.** Section 45-9-203, MCA, is amended to read:

**"45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver's license

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under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 12]."

**Insert: "Section 23.** Section 61-11-101, MCA, is amended to read:

**"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the conviction becomes final. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) A conviction becomes final for the purposes of this part upon the later of:

(a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

(b) forfeiture of bail that is not vacated; or

(c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended execution of a sentence.

(5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (5), "who is required to hold a commercial driver's

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license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall require the person to surrender the registry identification card.

(b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card and a copy of the conviction to the department of public health and human services."

**Insert:**            "NEW SECTION. Section 24. Repealer. The following sections of the Montana Code Annotated are repealed:

- 50-46-101.    Short title.
- 50-46-102.    Definitions.
- 50-46-103.    Procedures -- minors -- confidentiality -- report to legislature.
- 50-46-201.    Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.
- 50-46-202.    Disclosure of confidential information relating to medical use of marijuana -- penalty.
- 50-46-205.    Limitations of Medical Marijuana Act.
- 50-46-206.    Affirmative defense.
- 50-46-207.    Fraudulent representation of medical use of marijuana -- penalty.
- 50-46-210.    Rulemaking -- fees."

**Insert:**            "NEW SECTION. Section 25. Transition. (1) Registry identification cards issued to persons with debilitating medical conditions prior to [the effective date of this act] are valid until the expiration date listed on the card.

(2) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before July 1, 2011, may not be in possession of marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011. Before July 1, 2011, the caregiver shall take the items to the law enforcement agency having jurisdiction in the caregiver's area. The law enforcement agency shall destroy the items."

**Insert:**            "NEW SECTION. Section 26. Codification instruction. [Sections 1 through 17] are intended to be codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections 1 through 17]."

**Insert:**            "COORDINATION SECTION. Section 27. Coordination instruction. (1) If both House Bill No. 161 and [this act] are passed and approved, then [this act] is void.

(2) If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill No. 175 is void."

**Insert:**            "NEW SECTION. Section 28. Instructions to code commissioner. (1) Wherever a reference to "medical use of marijuana" or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

(2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011

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legislature, the reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

(3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 7 of Senate Bill No. 423]."

**Insert:**            "NEW SECTION. Section 29. 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 30. Effective date. [This act] is effective July 1, 2011."

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

**STATE ADMINISTRATION** (Ingraham, Chairman):

4/7/2011

**HR 2**, do pass. Report adopted.

**SB 326**, be amended as follows:

1. Page 2, line 18.

**Strike:** "and"

**Insert:** "or"

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

**TAXATION** (Blasdel, Chairman):

4/7/2011

**SB 253**, be amended as follows:

1. Title, page 1, line 6.

**Strike:** "THE CREDIT FOR USE OF AN ECONOMIC DEVELOPMENT LOAN,"

2. Title, page 1, line 8 through line 9.

**Strike:** "THE CREDIT" on line 8 through "BUILDINGS," on line 9

3. Title, page 1, line 10 through line 11.

**Strike:** "CREDITS FOR MOVIE" on line 10 through "INCENTIVES," on line 11

4. Title, page 1, line 20.

**Strike:** "15-31-910,"

5. Title, page 1, line 21.

**Strike:** "17-7-502,"

6. Title, page 1, line 23.

**Strike:** "15-30-2342,"

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7. Title, page 1, line 24 through line 25.

**Strike:** "15-31-151," on line 24 through "15-31-911," on line 25

8. Title, page 1, line 28.

**Strike:** "17-6-316,"

9. Page 2, line 15 through line 22.

**Strike:** section 2 in its entirety

**Renumber:** subsequent sections

10. Page 8, line 9 through page 9, line 11.

**Strike:** section 11 in its entirety

**Renumber:** subsequent sections

11. Page 29, line 20.

**Strike:** "15-31-151, 15-31-907,"

12. Page 29, line 21.

**Strike:** "17-6-316,"

13. Page 30, line 10.

**Strike:** "15-30-2342" through "property."

14. Page 30, line 15.

**Strike:** "15-31-151" through "buildings."

15. Page 30, line 21 through line 29.

**Strike:** "15-31-901." on line 21 through "Rules." on line 29

16. Page 31, line 29.

**Strike:** "17-6-316" through "credit."

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

**TRANSPORTATION** (Vance, Chairman):  
**SB 319**, be concurred in. Report adopted.

4/6/2011



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**REPORTS OF SELECT COMMITTEES**

CONFERENCE COMMITTEE  
on Senate Amendments to **House Bill 271**  
Report No. 1, April 7, 2011

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 271** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 271** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 9 and line 10.

**Strike:** "UNDER" on line 9 through "WEAPON" on, line 10

**Insert:** "TO POSSESS A HANDGUN UNDER STATE OR FEDERAL LAW"

2. Page 1, line 22.

**Following:** "person"

**Insert:** "eligible to possess a handgun under state or federal law, a person"

**Following:** " "

**Insert:** "or"

3. Page 1, line 23 through line 25.

**Strike:** ", OR" on page 1, line 23 through "COURSE" on page 1, line 25

For the House:

Kerns, Chair  
Mehlhoff  
Skattum

For the Senate:

Shockley, Vice Chair  
Hinkle

**MESSAGES FROM THE SENATE**

**House amendments to Senate bills** concurred in:

4/6/2011

**SB 54**, introduced by Balyeat

**SB 59**, introduced by Moss

**SB 108**, introduced by De. Barrett

**SB 124**, introduced by Ripley

**SB 135**, introduced by Balyeat

**SB 136**, introduced by Balyeat

**SB 138**, introduced by Jones

**SB 173**, introduced by Tutvedt

**SB 201**, introduced by Walker

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**SB 212**, introduced by Ripley  
**SB 234**, introduced by Sonju  
**SB 238**, introduced by Blewett  
**SB 241**, introduced by Priest  
**SB 255**, introduced by Brenden  
**SB 279**, introduced by Jackson  
**SB 311**, introduced by Gallus  
**SB 327**, introduced by Larsen  
**SB 340**, introduced by Vincent  
**SB 367**, introduced by Vincent

**Senate joint resolutions** concurred in and returned to the House: 4/6/2011

**SJR 22**, introduced by Priest  
**SJR 25**, introduced by Moss. This bill was transmitted after the General Bill Deadline.

**House bills** concurred in and returned to the House: 4/6/2011

**HB 196**, introduced by Connell  
**HB 602**, introduced by McNutt

**HB 43** - The Senate acceded to the request of the House and authorized the President to appoint the following **Free** Conference Committee to meet with a like committee from the House to confer on **HB 43**:

4/6/2011

Senator Moore, Chair  
Senator Facey  
Senator Tutvedt

**HB 525** - The Senate acceded to the request of the House and authorized the President to appoint the following Conference Committee to meet with a like committee from the House to confer on Senate amendments to **HB 525**:

4/6/2011

Senator Facey, Chair  
Senator Jackson  
Senator Steinbeisser

**HB 297** - The Senate acceded to the request of the House and authorized the President to appoint the following Conference Committee to meet with a like committee from the House to confer on Senate amendments to **HB 297**:

4/6/2011

Senator Shockley, Chair  
Senator Augare  
Senator Jones

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**HB 258** - The Senate acceded to the request of the House and authorized the President to appoint the following Conference Committee to meet with a like committee from the House to confer on Senate amendments to **HB 258**:

4/6/2011

Senator Mowbray, Chair  
Senator Jackson  
Senator Tropila

**SB 156** - The Senate failed to concur in House amendments to **SB 156**, authorized the President to appoint the following **Free** Conference Committee, and requested that the House appoint a like committee to confer on **SB 156**:

4/6/2011

Senator Murphy, Chair  
Senator Priest  
Senator Windy Boy

**SB 221** - The Senate failed to concur in House amendments to **SB 221**, authorized the President to appoint the following Conference Committee, and requested that the House appoint a like committee to confer on House amendments to **SB 221**:

4/6/2011

Senator Gillan, Chair  
Senator Murphy  
Senator Priest

**House amendments to Senate bill NOT** concurred in:

4/6/2011

**SB 198**, introduced by Balyeat

**MESSAGES FROM THE GOVERNOR**

April 6, 2011

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

Dear Representative Milburn:

Please be informed that I have signed **House Bill 28** sponsored by Representative McNutt, **House Bill 37** sponsored by Representative McChesney, **House Bill 52** sponsored by Representative Ankney, **House Bill 63** sponsored by Representative Noonan, **House Bill 126** sponsored by Representative Hansen, **House Bill 181** sponsored by Representative Arntzen,

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**House Bill 255** sponsored by Representative Wilmer et al., and **House Bill 426** sponsored by Representative MacLaren et al., on March 30, 2011. I regret the delay in this notice.

Sincerely,

BRIAN SCHWEITZER  
Governor

April 7, 2011

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

Dear Representative Milburn:

Please be informed that I have signed **House Bill 25** sponsored by Representative Roberts, **House Bill 80** sponsored by Representative Arntzen, **House Bill 82** sponsored by Representative Sands, **House Bill 117** sponsored by Representative Hunter, **House Bill 142** sponsored by Representative Sands, **House Bill 171** sponsored by Representative Ingraham et al., **House Bill 212** sponsored by Representative Ingraham, **House Bill 229** sponsored by Representative McNutt, **House Bill 250** sponsored by Representative Menahan et al., **House Bill 298** sponsored by Representative McNutt, **House Bill 319** sponsored by Representative McNutt, **House Bill 324** sponsored by Representative MacLaren, **House Bill 337** sponsored by Representative Menahan, **House Bill 338** sponsored by Representative Esp, **House Bill 401** sponsored by Representative Arntzen, **House Bill 403** sponsored by Representative MacLaren, **House Bill 422** sponsored by Representative Hale et al., **House Bill 432** sponsored by Representative Berry, **House Bill 449** sponsored by Representative Blasdel, **House Bill 467** sponsored by Representative Brodehl et al., **House Bill 481** sponsored by Representative Belcourt et al., **House Bill 517** sponsored by Representative McNutt, **House Bill 523** sponsored by Representative Arntzen, and **House Bill 568** sponsored by Representative Wagner on April 7, 2011.

Sincerely,

BRIAN SCHWEITZER  
Governor

April 7, 2011

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

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

Dear Speaker Milburn and President Peterson:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 90, "**AN ACT GENERALLY REVISING MONTANA MORTGAGE LAWS; CHANGING THE NAME OF THE MONTANA MORTGAGE BROKER, MORTGAGE LENDER, AND MORTGAGE LOAN ORIGINATOR LICENSING ACT TO THE MONTANA MORTGAGE ACT; REVISING DEFINITIONS; DEFINING AND PROVIDING FOR THE LICENSING AND REGULATION OF MORTGAGE SERVICERS; REVISING THE MONTANA MORTGAGE ACT TO CONFORM TO FEDERAL LAW; REVISING APPLICATION AND LICENSING REQUIREMENTS; REDUCING THE REQUIRED HOURS FOR CONTINUING EDUCATION; REVISING RECORDKEEPING AND REPORTING REQUIREMENTS; REVISING BONDING REQUIREMENTS; REVISING DISCLOSURE REQUIREMENTS; PROHIBITING CERTAIN ACTS BY MORTGAGE LENDERS AND MORTGAGE SERVICERS; EXPANDING THE DEPARTMENT OF ADMINISTRATION'S RULEMAKING AUTHORITY; AMENDING SECTIONS 31-1-202, 32-5-102, 32-7-103, 32-9-101, 32-9-102, 32-9-103, 32-9-104, 32-9-105, 32-9-106, 32-9-107, 32-9-112, 32-9-113, 32-9-116, 32-9-117, 32-9-118, 32-9-120, 32-9-121, 32-9-122, 32-9-123, 32-9-124, 32-9-125, 32-9-126, 32-9-128, 32-9-129, 32-9-130, 32-9-133, 32-9-145, 32-9-148, 32-9-150, 32-9-151, AND 32-9-160, MCA; AND REPEALING SECTIONS 32-9-114 AND 32-9-127, MCA**" for the following reasons.

HB 90, by request of the Department of Administration, generally revises Montana's mortgage laws primarily for purposes of conformity with federal law. The Board of Governors of the Federal Reserve System issued final rules, effective April 5, 2011, regarding mortgage loan originator compensation, and my proposed amendments are intended to conform with those rules. Without these amendments, HB 90 in its current form would conflict with the newly adopted federal rules, the goal of which is to make the loan origination process clearer and easier for consumers to understand. The final rules provide that if a loan originator is compensated by a consumer directly, no other person may pay any compensation to the loan originator for that transaction. Additionally, the final rules prohibit any person from compensating a loan originator directly or indirectly based on the terms or conditions of the loan secured by a dwelling. See 12 C.F.R. 226.36.

Finally, my proposed amendments grant the Department of Administration rulemaking authority to prescribe the form of the written disclosure to the borrower. The Board of Governors of the Federal Reserve has indicated it soon will undertake several more rulemakings to implement the Dodd Frank Wall Street Reform and Consumer Protection Act. Some of the proposed rules have been noticed, but others have not. Granting the Department flexibility to adopt rules consistent with the federal rulemaking changes will provide the flexibility necessary to the mortgage broker industry and to consumers.

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Representative McNutt, the sponsor of the bill, has indicated he will support the proposed amendments. I thank you in advance for your support, as well.

Sincerely,

BRIAN SCHWEITZER  
Governor

GOVERNOR'S AMENDMENTS  
TO HOUSE BILL 90  
Report No. 0, April 7, 2011

Governor's recommendations for amendments to **House Bill 90** (reference copy -- salmon) are as follows:

1. Page 28, line 30 through page 29, line 30.

**Strike:** "containing" on page 28, line 30 through "originator" on page 29, line 30

**Insert:** "as prescribed by the department by rule"

April 7, 2011

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

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

Dear Speaker Milburn and President Peterson:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 333, "**AN ACT REQUIRING THE DEPARTMENT OF REVENUE TO INCLUDE SALES OF RESIDENTIAL PROPERTY THAT HAS BEEN SOLD BECAUSE OF NONPAYMENT OF MORTGAGE WHEN USING THE COMPARABLE SALES METHOD OF DETERMINING MARKET VALUE OF RESIDENTIAL PROPERTY; ESTABLISHING REQUIREMENTS FOR INCLUDING THE SALES IN THE COMPARABLE SALES METHOD; AMENDING SECTIONS 15-7-307 AND 15-8-111, MCA; AND PROVIDING AN APPLICABILITY DATE**" for the following reasons.

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HB 333 creates a new definition of the term "market value" by requiring the Department of Revenue to consider foreclosure sales, "short sales," and other distressed real estate transactions in its appraisals of the value of residential property. I agree that distressed sales should be accorded some weight, and, in fact, industry standards require consideration of such sales. However, those industry standards, promulgated by the International Association of Assessing Officers, require consideration of distressed sales in market-wide residential property reappraisal when such sales comprise at least 20% of sales. HB 333, as delivered to me, triggers consideration of distressed sales when such sales constitute 5% of the market. This low threshold for the consideration of distressed sales does not conform with industry standards, which are developed to ensure fairness, equity, and integrity of mass appraisal valuations of property, such as those performed by a state government conducting large-scale property valuations.

I respectfully ask the Legislature to give favorable consideration to my proposed amendments.

Sincerely,

BRIAN SCHWEITZER  
Governor

GOVERNOR'S AMENDMENTS  
TO HOUSE BILL 333  
Report No. 0, April 1, 2011

Governor's recommendations for amendments to **House Bill 333** (reference copy -- salmon) are as follows:

1. Page 2, line 26.

**Strike:** "INCLUDE"

**Insert:** "consider"

2. Page 2, line 27.

**Following:** "SALES IN THE"

**Insert:** "market analysis for the"

3. Page 2, line 28.

**Strike:** "5%"

**Insert:** "20%"

April 7, 2011

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

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

Dear Speaker Milburn and President Peterson:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 559, "**AN ACT PROVIDING THAT SMALL AND SEASONAL ESTABLISHMENTS SUCH AS GUEST RANCHES AND OUTFITTING AND GUIDE FACILITIES ARE SUBJECT TO VOLUNTARY GUIDELINES ADDRESSING BASIC HEALTH STANDARDS RATHER THAN REGULATIONS; CLARIFYING THE METHOD OF ESTABLISHING THE AVERAGE NUMBER OF GUESTS PER DAY FOR SEASONAL AND SMALL ESTABLISHMENTS; AND AMENDING SECTIONS 50-51-101, 50-51-102, 50-51-103, 50-51-201, AND 50-51-401, MCA**" for the following reasons.

HB 559 eliminates the Department of Public Health and Human Services (DPHHS') rulemaking authority with respect to basic health standards applicable to small and seasonal guest ranches and, instead, authorizes DPHHS to adopt voluntary guidelines for these facilities. The bill was a result of the difficulty that has existed in establishing a statewide program providing uniform regulation of small and seasonal guest ranches.

I am concerned, however, that rather than trying to resolve some of the difficulties in establishing rules under current law, the solution found in HB 559 is to direct that the state's basic public health standards applicable to these entities be voluntary "guidelines," only.

My proposed amendment makes it clear that, even if HB 559 becomes law and DPHHS adopts voluntary "guidelines," local governments retain the power to adopt enforceable ordinances, or laws, establishing public health standards applicable to small and seasonal establishments. I understand there has been some confusion among local governments as to their authority, and my amendment is intended to eliminate the confusion. My amendment also makes clear that under current law, where DPHHS adopts administrative rules (not ordinances) governing other public accommodations, such as, for example, hotels, motels, and bed and breakfasts, a local government may adopt an ordinance so long as the ordinance is the same or more stringent than the rule adopted by DPHHS. Again, these amendments affirm what is already the law in Title 7 of the Montana Code Annotated concerning the powers of local governments.

I respectfully ask the Legislature to give favorable consideration to my proposed amendments.

Sincerely,

BRIAN SCHWEITZER  
Governor



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GOVERNOR'S AMENDMENTS  
TO HOUSE BILL 559  
Report No. 0, April 7, 2011

Governor's recommendations for amendments to **House Bill 559** (reference copy -- salmon) are as follows:

1. Title, line 8.

**Following:** "ESTABLISHMENTS;"

**Insert:** "CLARIFYING THAT LOCAL GOVERNMENTS MAY ADOPT ORDINANCES ADDRESSING BASIC HEALTH STANDARDS;"

2. Page 4, line 25.

**Following:** "establishment."

**Insert:** "(6) As provided in 7-1-113, nothing in this section prohibits a local government from adopting an ordinance that:

(a) is the same as or more stringent than rules adopted by the department under this section; or

(b) differs from the voluntary guidelines adopted by the department under this section."

**FIRST READING AND COMMITMENT OF BILLS**

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

**HJR 36**, introduced by Warburton, referred to Judiciary.

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

**SJR 22**, introduced by Priest, referred to Natural Resources.

**SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)**

Majority Leader McGillvray moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Hollandsworth in the chair.

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

**SB 315** - Representative McGillvray moved consideration of **SB 315** be passed for the day. Motion carried.

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**SB 299** - Representative Flynn moved **SB 299** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 98

Nays: Pease-Lopez, F. Smith.

Total 2

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**SB 295** - Representative Taylor moved **SB 295** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 100

Nays: None.

Total 0

Excused: None.

Total 0

Absent or not voting: None.

Total 0

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**SB 409** - Representative G. Bennett moved **SB 409** be concurred in.

**SB 409** - Representative McGillvray moved for cloture. Without objection, so ordered.

**SB 409** - Representative G. Bennett moved **SB 409** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hollandsworth, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Lavin, Loney, MacLaren, Malek, McGillvray, McNiven, McNutt, Menahan, Miller, More, O'Hara, O'Neil, Osmundson, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Mr. Speaker.

Total 75

Nays: Belcourt, Boland, Court, Driscoll, Hiner, Hollenbaugh, Knudsen, MacDonald, McChesney, McClafferty, McNally, Mehlhoff, Noonan, Pease-Lopez, Peterson, Phillips, Price, Sands, Schmidt, Sesso, Stahl, Swanson, Williams, Wilmer, Yates.

Total 25

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**SB 331** - Representative Berry moved **SB 331** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Ehli, Esp, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Klock, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNiven, McNutt, Mehlhoff, Menahan, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 87

Nays: Blyton, Edmunds, Evans, Fitzpatrick, Kennedy, Kerns, Knox, McGillvray, Miller, Randall, Skattum, Skees, Wagner.

Total 13

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Excused: None.

Total 0

Absent or not voting: None.

Total 0

**SB 371** - Representative Knudsen moved **SB 371** be concurred in. Motion carried as follows:

Yeas: Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Greef, Hale, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, MacLaren, McChesney, McNiven, McNutt, Mehlhoff, Miller, More, O'Hara, O'Neil, Osmundson, Randall, Read, Regier, Reichner, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 62

Nays: Ankney, Barrett, Belcourt, B. Bennett, Boland, Burnett, Court, Driscoll, Evans, Furey, Gibson, Hands, Hill, Hollenbaugh, Hunter, Loney, MacDonald, Malek, McClafferty, McGillvray, McNally, Menahan, Noonan, Pease-Lopez, Peterson, Phillips, Price, Reinhart, Roberts, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Wagner, Williams, Wilmer.

Total 38

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**SB 372** - Representative Blasdel moved **SB 372** be concurred in.

**SB 372** - Representative Blasdel moved **SB 372**, second reading copy, be amended as follows:

1. Page 17.

**Following:** line 4

**Insert:** "(c) The amounts determined under this subsection (2) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments under 15-1-121(6)."

2. Page 17, line 20.

**Following:** "15-1-121(8)"

**Insert:** "(b)"

3. Page 17.

**Following:** line 28

**Insert:** "(c) The amounts determined under this subsection (4) are statutorily appropriated, as

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provided in 17-7-502, from the general fund to the department for distribution to tax increment financing districts under 15-1-121(8).

"

Amendment adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Warburton, Washburn, Welborn, Williams, Wilmer, Yates.

Total 96

Nays: McClafferty, Wagner.

Total 2

Excused: None.

Total 0

Absent or not voting: Hollandsworth, Mr. Speaker.

Total 2

Representative Miller rose on a point of personal privilege to correct a monetary figure he had given earlier.

**SB 372** - Representative Blasdel moved **SB 372**, as amended, be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 69

Nays: Barrett, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan,

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Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.  
Total 31

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

**HB 327 - Governor's Amendments** - Representative McClafferty moved Governor's amendments to **HB 327** be **not** concurred in. Motion carried as follows:

Yeas: Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Peterson, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, C. Smith, F. Smith, Squires, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Yates, Mr. Speaker.  
Total 87

Nays: Ankney, Hands, Hollenbaugh, Hunter, MacDonald, Malek, Mehlhoff, Menahan, Pease-Lopez, Phillips, Small, Swanson, Wilmer.  
Total 13

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

**HB 642** - Representative Blasdel moved **HB 642** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Hollenbaugh, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, O'Hara, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Sesso, Skattum, Skees, Small, C. Smith, Swanson, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Yates, Mr. Speaker.  
Total 74

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Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Furey, Hands, Hill, Hoven, Hunter, MacDonald, Malek, McClafferty, Noonan, O'Neil, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, F. Smith, Squires, Stahl, Taylor, Wilmer.

Total 26

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**SJR 11** - Representative Milburn moved **SJR 11** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Mr. Speaker.

Total 63

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Roberts, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer, Yates.

Total 37

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**SB 215** - Representative Sesso moved **SB 215** be concurred in. Motion carried as follows:

Yeas: Arntzen, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Blasdel, Blyton, Boland, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Fitzpatrick, Furey, Gibson, Hansen, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Ingraham, Klock, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, Pease-Lopez, Phillips, Price, Randall, Read, Regier, Reinhart, Roberts, Rosendale, Salomon, Sesso, Skees, Small, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 70

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Nays: Bangerter, G. Bennett, Brodehl, Burnett, Clark, Esp, Evans, Flynn, Greef, Hale, Hands, Harris, Hendrick, Howard, Hunter, Kary, Kennedy, Kerns, Knox, McGillvray, McNiven, O'Neil, Osmundson, Peterson, Reichner, Sands, Schmidt, Skattum, C. Smith.

Total 29

Excused: None.

Total 0

Absent or not voting: Ankney.

Total 1

**HB 483 - Senate Amendments** - Representative Howard moved Senate amendments to **HB 483** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Menahan, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 68

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Miller, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 32

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Majority Leader McGillvray moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Hollandsworth moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Driscoll, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor,



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Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 70

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Furey, Hands, Hill, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 29

Excused: Evans.

Total 1

Absent or not voting: None.

Total 0

**MOTIONS**

Representative McGillvray moved **SB 295** be moved from the Committee of the Whole after Second Reading to the Appropriations committee.

Representative McGillvray moved **SB 409** be moved from the Committee of the Whole after Second Reading to the Appropriations committee.

Representative McGillvray moved **SB 371** be moved from the Committee of the Whole after Second Reading to the Appropriations committee.

Representative McGillvray moved **SB 372** be moved from the Committee of the Whole after Second Reading to the Appropriations committee.

Representative McGillvray moved **SB 187** be moved from the Committee of the Whole to the Appropriations committee.

Representative McGillvray moved **SB 423** be moved from the Committee of the Whole to the Appropriations committee.

Representative McGillvray moved to appoint a Conference Committee on **HB 132** and request the Senate to appoint a like committee. Motion Carried. Speaker Milburn appointed:

4/7/2011

Representative Hoven  
Representative McNally  
Representative Taylor

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**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

**MOTIONS**

Representative McGillvray moved **SB 253** be moved from the Committee of the Whole to the Appropriations committee.

Representative McGillvray moved that the House adjourn until 1:00 p.m., Friday, April 8, 2011.  
Motion carried.

House adjourned at 3:12 p.m.

BETH CARGO  
Chief Clerk of the House

MIKE MILBURN  
Speaker of the House