

**SENATE JOURNAL
62ND LEGISLATURE
EIGHTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
April 26, 2011

Senate Chambers
State Capitol

Senate convened at 9:00 a.m. President Peterson presiding. Invocation by Chaplain Keith Johnson. Pledge of Allegiance to the Flag. Roll Call. All members present. Quorum present.

Senator Williams announced the Democrats would caucus.

Senator Essmann announced the Republicans would caucus.

Senate in recess.

Senate reconvened.

BILLS AND JOURNALS: 4/20/2011

Correctly enrolled: **SB 153, SB 221.**

BILLS AND JOURNALS: 4/26/2011

Correctly printed: **HB 627, HJR 13, HJR 32, HJR 39.**

Correctly engrossed: **HJR 32, HJR 39.**

Correctly enrolled: **SB 11, SB 126, SB 199, SB 292, SB 406, SJR 26.**

Correctly enrolled: **SB 97, SB 338, SB 348, SJR 15, SJR 20.**

Examined by the sponsor and found to be correct: **SB 11, SB 126, SB 153, SB 187, SB 199, SB 221, SB 253, SB 292, SB 294, SB 295, SB 326, SB 351, SB 379, SB 406, SB 409, SB 417, SJR 26.**

Delivered to the Secretary of State at 11:17 a.m., April 26, 2011: **SJR 17, SJR 18, SR 20, SR 23.**

Delivered to the Secretary of State at 1:18 p.m., April 26, 2011: **SR 25, SR 26, SR 29.**

REPORTS OF STANDING COMMITTEES

LOCAL GOVERNMENT (Sonju, Chairman): 4/20/2011
HJR 38, be concurred in. Report adopted.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

MESSAGES FROM THE GOVERNOR

April 22, 2011

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

Dear Senator Peterson:

Please be informed that I have signed **Senate Bill 135** sponsored by Senator Balyeat, **Senate Bill 138** sponsored by Senator Jones, **Senate Bill 149** sponsored by Senator Essmann, **Senate Bill 327** sponsored by Senator Larsen, **Senate Bill 382** sponsored by Senator Gillan, and **Senate Bill 389** sponsored by Senator Van Dyk on April 22, 2011.

Sincerely,

BRIAN SCHWEITZER
Governor

April 21, 2011

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

Dear Senator Peterson:

Please be informed that I have signed **Senate Bill 30** sponsored by Senator Wanzenried, **Senate Bill 124** sponsored by Senator Ripley, **Senate Bill 146** sponsored by Senator Lake, **Senate Bill 218** sponsored by Senator Steinbeisser, **Senate Bill 219** sponsored by Senator Branae, **Senate Bill 242** sponsored by Senator Brenden, **Senate Bill 246** sponsored by Senator Olson, **Senate Bill 285** sponsored by Senator Olson, **Senate Bill 288** sponsored by Senator Gillan, **Senate Bill 357** sponsored by Senator Hamlett, **Senate Bill 367** sponsored by Senator Vincent, **Senate Bill 374** sponsored by Senator Olson, and **Senate Bill 413** sponsored by Senator Balyeat on April 21, 2011.

Sincerely,

BRIAN SCHWEITZER
Governor

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

April 20, 2011

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

Dear Senator Peterson:

Please be informed that I have signed **Senate Bill 28** sponsored by Senator Kaufmann, **Senate Bill 43** sponsored by Senator Keane, **Senate Bill 52** sponsored by Senator Tropila, **Senate Bill 68** sponsored by Senator Jent, **Senate Bill 120** sponsored by Senator Brenden, **Senate Bill 278** sponsored by Senator Mowbray, **Senate Bill 337** sponsored by Senator Blewett, and **Senate Bill 352** sponsored by Senator Steinbeisser on April 20, 2011.

Sincerely,

BRIAN SCHWEITZER
Governor

April 25, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 29 (SB 29), **"AN ACT GENERALLY PROVIDING FOR THE TRAINING OF PERSONS SELLING OR SERVING ALCOHOLIC BEVERAGES; PROVIDING A PENALTY; REQUIRING CONSIDERATION OF MITIGATING CIRCUMSTANCES; PROVIDING FOR RULEMAKING; AND PROVIDING THAT THE DEPARTMENT OF REVENUE HAS SOLE JURISDICTION FOR THE TRAINING PROGRAM."**

The agreement reached on HB 2 between you, me, and Speaker Milburn contains a line-item appropriation for the alcohol server and sales training program (amendment 5). The Department of Revenue (DOR) has developed and provided this program over a number of years and has trained over 400 community volunteers -including highway patrol officers, local law enforcement officers, DUI taskforce members, and others --so that they can offer this program, free of charge, to alcoholic beverage licensees and their employees.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Absent my amendment, the DOR will be prohibited from providing the responsible server and sales training program, which under SB 29 is required of all retail establishments and manufactures licensed to sell or serve alcoholic beverages to the public. If that occurs, the retailers and manufacturers will have to pay for the training that will be offered by private vendors, and it is predicted the added cost to the industry will be in the hundreds of thousands of dollars.

The sponsor of SB 29 supports my proposed amendments, and I respectfully ask for your support as well.

Sincerely,

BRIAN SCHWEITZER
Governor

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 29** (reference copy -- salmon) are as follows:

1. Page 3, line 1.

Strike: "NOT"

2. Page 3, line 3.

Following: "SUBSECTION (1)"

Insert: "consisting of a train-the-trainer program for volunteer trainers who may provide training pursuant to [sections 1 through 9] if the program meets the standards set forth in subsection (1)"

April 21, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 35 (SB 35), **"AN ACT GENERALLOY REVISING AND CLARIFYING LAWS RELATED TO THE TREATMENT OF PROPERTY CONSISTING OF THE BEDS OF NAVIGABLE RIVERS; DEFINING A "NAVIGABLE RIVER"; REQUIRING AUTHORIZATION FROM THE BOARD OF LAND COMMISSIONERS FOR USES ON THE BEDS OF NAVIGABLE RIVERS; REQUIRING THE BOARD OF LAND**

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

COMMISSIONERS TO ADOPT RULES FOR PROVIDING LEASES, LICENSES, OR EASEMENTS FOR USES ON THE BEDS OF NAVIGABLE RIVERS; CLARIFYING THE AUTHORITY OF THE BOARD OF LAND COMMISSIONERS TO GRANT EASEMENTS; AND AMENDING SECTIONS 77-1-121, 77-1-134, AND 77-2-101, MCA."

Senate Bill 35 provides express statutory and rulemaking authority to the State Board of Land Commissioners (Land Board) to issue leases, licenses, and easements for various uses of state-owned navigable riverbeds. The bill also establishes procedures that must be followed, both by users of the riverbeds and by the Department of Natural Resources and Conservation, to obtain the leases or easements.

The enactment of SB 35 was prompted by the Montana Supreme Court's recent ruling in PPL Montana, LLC v. State of Montana, 2010 MT 64 (2010), which held that navigable riverbeds are public trust lands pursuant to Article X, § 11 (1) of the Montana Constitution, and that the State Land Board is required to administer these lands in accordance with its trust obligations imposed by Article X, § 11 of the Montana Constitution. *Id.* at 116, 117. Accordingly, all navigable riverbeds are to be held "in trust for the people" and shall not "ever be disposed of except in pursuance of general laws providing for such disposition, or until the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, has been paid or safely secured to the state." Mont. Const. Art. X, § 11. *Id.*

My amendments eliminate from SB 35 the statement that prior payment of property taxes constitutes payment of "full market value" for the prior use of these public trust lands. Under the Montana Constitution, Art. X., § 4 only the Land Board can choose to dispose of an interest in trust property and determine whether full market value has been obtained for the grant of an interest in the property. *State v. Stewart*, 48 Mont. 347, 137 P. 854 (1913). The Legislature cannot compel the Land Board to exercise its discretion in any particular way or grant a property interest in state trust lands for a specific fixed price. *Id.*; see also *Montanans for Responsible Use of School Trust v. State ex rel. Bd. of Land Com'rs*, 199 MT 263 (1999). My amendments, therefore, are consistent with substantial case law and the well-established constitutional prerogatives of the Land Board and its fiduciary duty to obtain the full market value for these trust lands.

Additionally, my amendments clarify that SB 35 does not diminish the State's ownership of the beds of navigable waters under any other law nor does it restrict the power of the Land Board to adjudicate title to the beds of waters as authorized by existing statute. My amendments to SB 35 are intended to recognize the State Land Board's constitutional authority and its fiduciary duty to administer all of the State's navigable rivers in the best interests of the public trust beneficiaries. My amendments also allow the holder of a lease, license, or easement issued pursuant to SB 35 to unilaterally move the footprint of a structure without further authorization from the Land Board and without any further payment and to increase the size of the footprint so long as fair market value is paid for the increase. This will allow irrigators and other leaseholders the flexibility necessary to move, maintain, and otherwise operate their structures as dictated by changing river conditions without having to wait for Land Board approval of routine activities, especially in time-sensitive water management situations.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

I respectfully ask for your support of my amendments.

Sincerely,

BRIAN SCHWEITZER
Governor

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 35** (reference copy -- salmon) are as follows:

1. Page 1, line 22.

Following: "met;"

Insert: "and"

2. Page 1, line 23 through line 28.

Strike: line 23 through line 28 in their entirety

3. Page 1, line 29.

Strike: "(e)"

Insert: "(c)"

4. Page 1, line 30 through page 2, line 1.

Strike: "; and" on page 1, line 30 through "time" on page 2, line 1

5. Page 2, line 2.

Strike: "the historic and future"

Insert: "process for the"

6. Page 2, line 4.

Following: line 3

Insert: "(3) Nothing in [sections 1 through 9] diminishes the state's ownership of the beds of navigable waters under any other law."

7. Page 2, line 5.

Strike: "For"

Insert: "Solely for"

8. Page 2, line 25.

Strike: "deemed"

Insert: "determined to be"

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

9. Page 3, line 4.

Strike: "deemed"

Insert: "determined to be"

10. Page 3, line 17.

Strike: "must"

Insert: "may"

11. Page 4, line 2.

Strike: "deemed"

Insert: "determined to be"

12. Page 4, line 8.

Following: line 7

Insert: "(11) The provisions of this section do not restrict the power of the board to seek adjudication of title pursuant to 77-1-105."

13. Page 4, line 16.

Strike: "deemed"

Insert: "determined to be"

14. Page 5, line 7.

Following: "relocate"

Insert: "or increase the size of"

15. Page 5, line 10.

Following: "relocated"

Insert: "or increased in size"

16. Page 5, line 11.

Strike: "The"

Insert: "Without prior board approval, the"

17. Page 5, line 12.

Following: "may"

Insert: "relocate or"

Following: "if the"

Insert: "relocation or"

18. Page 5, line 13.

Following: "granted"

Strike: "and if"

Insert: ". If the footprint is increased in size,"

Strike: "pays"

Insert: "must pay"

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

19. Page 5, line 14.

Strike: "has"

Insert: "must obtain"

20. Page 5, line 24 through line 25.

Strike: "for water" on line 24 through "water right" on line 25

21. Page 5, line 25.

Following: "relocate"

Insert: "or increase the size of"

April 22, 2011

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

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

Dear President Peterson and Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 54 (SB 54), **"AN ACT CREATING A HYBRID TIER FOR NEW HIRES IN THE TEACHERS' RETIREMENT SYSTEM; REVISING THE RETIREMENT SYSTEM POLICY; REQUIRING THE TEACHERS' RETIREMENT BOARD TO ESTABLISH ANNUALLY AN INTEREST CREDIT RATE; PROVIDING DEATH AND DISABILITY BENEFITS FOR HYBRID TIER MEMBERS; REQUIRING A MEMBER TO ELECT A CONTRIBUTION RATE AT THE TIME OF HIRE; ESTABLISHING A GRADED VESTING SCHEDULE FOR EMPLOYER MATCH; PROVIDING FOR A POSTRETIREMENT EMPLOYMENT AND PURCHASE OF PREVIOUS SERVICE CREDIT IN THE NEW TIER; ESTABLISHING MINIMUM AND MAXIMUM INTEREST CREDIT RATES; GRANTING THE BOARD THE POWER AND DUTY TO ADMINISTER THE NEW TIER; GRANTING THE TEACHERS' RETIREMENT BOARD RULEMAKING AUTHORITY TO ESTABLISH AND ADMINISTER THE HYBRID TIER; REQUIRING OVERSIGHT BY THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE; REQUIRING THE BOARD TO SEEK A RULING OF THE INTERNAL REVENUE SERVICE; PROVIDING FOR AN ALTERNATE RETIREMENT SYSTEM MATCH FOR VESTING BASED ON A RULING FROM THE INTERNAL REVENUE SERVICE; REQUIRING THE BOARD TO CERTIFY WHEN THE HYBRID TIER IS OPERATIONAL; AMENDING SECTIONS 19-20-101, 19-20-102, 19-20-104, 19-20-201, 19-20-501, 19-20-602, 19-20-605, 19-20-702, 19-20-716, 19-20-731, 19-20-732, 19-20-733, 19-20-801, 19-20-902, 19-20-1001, AND 19-20-1002, MCA; AND PROVIDING EFFECTIVE DATES."**

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Senate Bill 54 creates a new retirement plan, a hybrid plan, for new members of the Teachers' Retirement System. The hybrid plan itself creates internal inequities. A member's retirement will depend almost entirely on market values on the first day of enrollment. Thus, a TRS member of the hybrid plan who enrolls when the market is down will suffer a dramatically smaller retirement benefit years later than a TRS member who first enrolls when the market is up.

Further, by diverting new members into the hybrid plan, SB 54 weakens not strengthens the actuarial soundness of the current benefit system. A far better solution was presented in HB 189, which would have changed the age requirement and the retirement years for a full service retirement for new members from 25 to 30 years. Unfortunately that bill did not survive.

For the reasons stated above, I respectfully ask you to sustain my veto of SB 54.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 22, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 108 (SB 108), **"AN ACT REQUIRING CONSULTATION AND COORDINATION WITH CERTAIN COUNTY AND TRIBAL GOVERNMENTS IN PROPOSED STATE AND FEDERAL POLICY DECISIONS REGARDING LARGE PREDATORS AND LARGE GAME SPECIES; AMENDING SECTION 87-1-217, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

Senate Bill 108 would require the Department of Fish, Wildlife, and Parks (FWP) to consult and coordinate with county commissioners and tribal governments in areas with identifiable populations of large predators prior to policy decisions involving large predators or big game animals. FWP consults with counties and tribes on a regular basis and on a variety of issues. This sort of communication and exchange of ideas with other governmental entities is both valuable and, in my view, necessary.

Introducing the concept of "coordination," however, is misleading, as it suggests there will be joint decision-making on matters that fall under the purview of FWP or the FWP Commission. Decisions involving large predators are often difficult and contentious and already entail significant and

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

established opportunities for public process and citizen input. Additionally, SB 108 would require FWP to ensure that county and tribal governments have the opportunity to coordinate and consult with federal agencies on federal policy decisions. Of course, FWP has no authority to ensure this will occur.

My proposed amendments eliminate both the requirements for FWP to "coordinate" with county and tribal governments and for FWP to ensure that counties and tribes have opportunity to coordinate with federal agencies regarding federal policy decisions. I have further instructed and confirmed with FWP that consultation has been, is now, and will continue to be a critical piece of wildlife management in Montana. Finally, my amendments strike the "large game species" clause from HB 318, since the bill's obvious intent was directed to management of predators.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 108** (reference copy -- salmon) are as follows:

1. Title, line 4.

Strike: "AND COORDINATION"

2. Title, line 5.

Strike: "AND FEDERAL"

3. Title, line 6.

Strike: "AND LARGE GAME SPECIES"

4. Page 2, line 1.

Strike: "and coordination"

Strike: the first "and federal"

Strike: the second "and federal"

5. Page 2, line 2.

Strike: "and large game species"

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

April 22, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 136 (SB 136), **"AN ACT REVISING RESIDENCY REQUIREMENTS FOR HUNTING LICENSES; AMENDING SECTIONS 87-1-290, 87-2-514, AND 87-2-515, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."**

Senate Bill 136 provides a special hunting opportunity to people born in Montana who reside out of state. While I support the bill's intent, my amendments change the fees that would be charged to nonresidents. I believe the pricing subsidy in SB 136 is unreasonable in comparison to other nonresident hunting license fees and, for the sake of fairness, should be set at a rate half the current out-of-state license fees, not double the current resident fees.

My amendments will maintain the intent of the bill to allow significant hunting opportunities for Montana families whose members reside out of state, while also providing fair and responsible financial management of hunting opportunity and license dollars.

I respectfully ask for your support of my proposed amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 136** (reference copy -- salmon) are as follows:

1. Title, line 10 and 11.

Following: "87-1-290" on line 10

Strike: " "

Insert: "AND"

Following: "87-2-514," on line 10

Strike: "AND" on line 10 through "87-2-515," on line 11

Following: "MCA;" on line 11

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Insert: "REPEALING SECTION 87-2-515, MCA;"

2. Page 7, line 13.

Strike: "B"

Insert: "B-10"

Strike: "fishing"

Insert: "big game combination"

Following: "1"

Insert: "or"

3. Page 7, line 14.

Strike: "B-1"

Insert: "B-11"

Strike: "upland game bird"

Insert: "deer combination"

Strike: "1"

Insert: "1"

4. Page 7, line 15 through line 19.

Strike: line 15 through line 19 in their entirety

Insert: "(3) Sale of a license under this section may not affect the license quotas established in 87-2-505 and 87-2-510."

5. Page 7, line 20 through line 23.

Following: "is" on line 20

Strike: remainder of line 20 through "license" on line 23

Insert: "one-half the fee of a Class B-10 or B-11 nonresident combination license plus the nonresident hunting access enhancement fee provided for in 87-2-202(3)(d)"

6. Page 8, line 13 through line 20.

Strike: section 3 in its entirety

Insert: "NEW SECTION. **Section 3. Repealer.** The following section of the Montana Code Annotated is repealed:

87-2-515. Class B-15 nonresident child's elk license."

April 21, 2011

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

Dear President Peterson:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I return with amendments Senate Bill No. 166 (SB 166): **"AN ACT ALLOWING**

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

A TAXPAYER THAT HAS AN INDIVIDUAL INCOME TAX LIABILITY FOR THE CURRENT YEAR OF \$200 OR LESS TO PAY THE ENTIRE AMOUNT OF THE TAX DUE, WITHOUT PENALTY OR INTEREST, WHEN FILING AN EXTENDED RETURN; AMENDING SECTIONS 15-1-216 AND 15-30-2604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

My amendments change the effective date of SB 166 to be the same as the effective date of SB 411--both of which address penalties and interest payments--in order to reduce confusion and inconvenience for taxpayers and tax practitioners. Coordinating these dates also will reduce administrative and computer reprogramming costs that will result in taxpayer savings.

I respectfully request that the Legislature concur with my amendments.

Sincerely,

BRIAN SCHWEITZER
Governor

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 166** (reference copy -- salmon) are as follows:

1. Title, line 9.

Strike: "IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE"

2. Page 3, line 29.

Strike: section 3 in its entirety

3. Page 4, line 1 through line 2.

Strike: section 4 in its entirety

Insert: "NEW SECTION. **Section 3. Applicability.** [This act] applies to the tax reporting periods beginning after December 31, 2011."

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

April 21, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 174 (SB 174), **"AN ACT PROHIBITING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FROM EXPENDING ANY FUNDS ON THE RELOCATION OR TRANSPLANTATION OF WILD BUFFALO OR BISON ON THE SPOTTED DOG WILDLIFE MANAGEMENT AREA; AMENDING SECTION 87-1-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

My proposed amendments to SB 174 prohibit the relocation of bison to the Spotted Dog Wildlife Management Areas unless three conditions first are met: a MEPA analysis is conducted, the Department of Fish, Wildlife, and Parks prepares a management plan for the relocation, and the proposal is presented at a minimum of two public hearings, each of which would have to be held within a 50 mile radius of the management area.

I respectfully ask for your concurrence in my proposed amendments.

Sincerely,

BRIAN SCHWEITZER
Governor

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 174** (reference copy -- salmon) are as follows:

1. Title, line 6.

Following: "AREA"

Insert: "UNLESS CERTAIN CONDITIONS ARE MET"

2. Page 3, line 6.

Following: "area"

Insert: "unless the department first:

(a) conducts an analysis under the Montana Environmental Policy Act provided for in Title 75, chapter 1, parts 1 through 3;

(b) prepares a management plan for the relocation or transplantation; and

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

(c) conducts at least two public hearings on the proposal, each of which must be held in a community that is located within 50 miles of the management area"

April 21, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 201 (SB 201), **"AN ACT REQUIRING THAT A SMALL BUSINESS IMPACT ANALYSIS BE CONDUCTED PRIOR TO THE ADOPTION OF AN ADMINISTRATIVE RULE; DEFINING "SMALL BUSINESS"; AMENDING SECTION 2-4-102, MCA; AND PROVIDING AN EFFECTIVE DATE."**

My amendments speak for themselves. Senate Bill 201 was touted by Republican leadership this session as one of ten bills that will bring jobs to Montana. My amendments are simple. They ask the Department of Labor and Industry to report to the Governor's Office of Economic Development and to the Revenue and Transportation Committee on a quarterly basis the number of jobs that have been created in Montana as a result of the bill's passage.

I trust the Legislature will be as interested as the rest of Montana in knowing the answer to this question. I ask for your support of my amendments.

Sincerely,

BRIAN SCHWEITZER
Governor

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 201** (reference copy -- salmon) are as follows:

1. Title, page 1, line 7.

Following: "SMALL BUSINESS";

Insert: "ESTABLISHING TEMPORARY REPORTING REQUIREMENTS;"

2. Page 7.

Following: line 2

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Insert: "NEW SECTION. Section 3. Reporting requirements. (1) On or before September 1, 2011, January 1, 2012, April 1, 2012, June 1, 2012, September 1, 2012, and January 1, 2013, the department of labor and industry shall report on the number of jobs that have been created in Montana as a result of passage of [this act] to:

- (a) the governor's office of economic development; and
- (b) the revenue and transportation interim committee.

(2) If requested, the governor's office of economic development shall assist the department of labor and industry in preparing the report."

Renumber: subsequent sections

April 21, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 266 (SB 266), **"AN ACT REVISING THE LOCAL ABATEMENT OF THE COAL GROSS PROCEEDS TAX ON COAL PRODUCED BY A NEW OR EXPANDING UNDERGROUND COAL MINE; PROVIDING THAT THE TAX ABATEMENT MAY BE 50% OR LESS; AMENDING SECTIONS 15-23-703 AND 15-23-715, MCA; AND PROVIDING AN APPLICABILITY DATE."**

My proposed amendments to SB 266 modify the underground coal mine local gross proceeds tax abatement provision ("up to 50% optional abatement for the local portion of the tax") by changing the time frame for the abatement from years one through ten of a new or existing underground mine operation to years eleven through twenty. In addition, my proposed amendments set an initial gross proceeds tax rate for years one through ten at 2.5% with the rate at 5% commencing in year eleven.

With these amendments, the initial gross proceeds tax rate for coal from an underground mine will be at a level that will act as an incentive for the development of underground coal mining operations in Montana. Underground coal mining is capital intensive so the lower initial rate will assist in underground coal mines reaching profitability sooner, making such mines more attractive for the high level of capital investment that is needed to start up and maintain such operations. Because of the labor-intensive nature of underground coal mining, these amendments should set the stage for the development of a high number of good-paying jobs in Montana.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

I respectfully ask for your concurrence in my proposed amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 266** (reference copy -- salmon) are as follows:

1. Title, page 1, line 6.

Following: "LESS"

Insert: "FOR AN UNDERGROUND MINE TAXED AT 5% OF THE VALUE OF COAL"

Following: ";

Insert: "PROVIDING AN INITIAL COAL GROSS PROCEEDS TAX OF 2.5% ON COAL PRODUCED FROM A NEW OR EXISTING UNDERGROUND MINE FOR AN INITIAL 10-YEAR PERIOD;"

2. Title, page 1, line 7.

Following: "PROVIDING AN"

Insert: "IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE"

3. Page 1, line 15.

Following: "(1)(b)"

Insert: "and except as provided in subsection (1)(c)"

4. Page 1.

Following: line 22

Insert: "(c)(i) For tax years beginning after December 31, 2011, the initial tax on coal mined from a new underground coal mine is 2.5% against the value of coal as provided in 15-23-701(4) for the first 10 years of coal production. After 10 years, coal production from the mine is taxed as provided in subsection (1)(a).

(ii) For tax years beginning on or after January 1, 2011, and ending December 31, 2020, the initial tax rate under subsection (1)(c)(i) applies to coal mined from an existing underground coal mine producing coal from the mine as of December 31, 2010. For tax years beginning after December 31, 2020, coal production is taxed as provided in subsection (1)(a)."

5. Page 3, line 12.

Following: "mine"

Insert: "that is taxed at the rate provided in 15-23-703(1)(a)"

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

6. Page 4.

Following: line 1

Insert: "NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval."

Renumber: subsequent sections

7. Page 4, line 3.

Strike: "Applicability"

Insert: "Retroactive applicability"

Following: "applies"

Insert: "retroactively, within the meaning of 1-2-109,"

8. Page 4, line 4.

Strike: "2011"

Insert: "2010"

April 22, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 279 (SB 279), **"AN ACT PROVIDING AN EXCEPTION TO THE OFFENSE OF CARRYING A CONCEALED WEAPON FOR LEGISLATIVE SECURITY STAFF IN THE STATE CAPITOL WHO HAVE BEEN ISSUED A CONCEALED WEAPON PERMIT; PROVIDING THAT A LOCAL ORDINANCE MAY NOT PROHIBIT LEGISLATIVE SECURITY STAFF WITH A CONCEALED WEAPON PERMIT FROM CARRYING A CONCEALED WEAPON IN THE STATE CAPITOL; AND AMENDING SECTIONS 45-8-317 AND 45-8-351, MCA."**

Senate Bill 279 authorizes legislative security officers in the state capitol to carry a concealed weapon if they have a concealed weapons permit. However, § 45-8-328, MCA, which was not amended in SB 279, prohibits a person 'from carrying a concealed weapon in state or local government offices. My amendment provides an exception to § 45-8-328, MCA, for legislative security staff in the capitol who have a concealed weapons permit. Without my amendment, security officers will be prohibited from carrying concealed weapons in the capitol under § 45-832, and SB 279 will have no effect.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

I ask for your concurrence in my proposed amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 279** (reference copy -- salmon) are as follows:

1. Title, line 12.

Following: "45-8-317"

Insert: ", 45-8-328,"

2. Page 2, line 4.

Insert: "**Section 2.** Section 45-8-328, MCA, is amended to read:

"45-8-328. Carrying concealed weapon in prohibited place -- penalty. (1) Except for legislative security officers authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k), a person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly carries a concealed weapon in:

(a) portions of a building used for state or local government offices and related areas in the building that have been restricted;

(b) a bank, credit union, savings and loan institution, or similar institution during the institution's normal business hours. It is not an offense under this section to carry a concealed weapon while:

(i) using an institution's drive-up window, automatic teller machine, or unstaffed night depository; or

(ii) at or near a branch office of an institution in a mall, grocery store, or other place unless the person is inside the enclosure used for the institution's financial services or is using the institution's financial services.

(c) a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued under Title 16 for the sale of alcoholic beverages for consumption on the premises.

(2) It is not a defense that the person had a valid permit to carry a concealed weapon. A person convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed \$500, or both."

Renumber: subsequent section

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

April 21, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 286 (SB 286), **"AN ACT REVISING COAL PROSPECTING LAWS; MODIFYING CERTAIN COAL PROSPECTING PROCEDURES; AMENDING SECTION 82-4-226, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."**

My amendments speak for themselves. Senate Bill 286 was touted by Republican leadership this session as one of ten bills that will bring jobs to Montana. My amendments are simple. They ask the Department of Labor and Industry to report to the Governor's Office of Economic Development and to the Legislature's Environmental Quality Council on a quarterly basis the number of jobs that have been created in Montana as a result of the bill's passage.

I trust the Legislature will be as interested as the rest of Montana in knowing the answer to this question. I ask for your support of my amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 286** (reference copy -- salmon) are as follows:

1. Title, page 1, line 5.

Following: "PROCEDURES;"

Insert: "ESTABLISHING TEMPORARY REPORTING REQUIREMENTS;"

2. Page 5, line 22.

Following: "holes"

Insert: ", "

3. Page 6.

Following: line 15

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Insert: "NEW SECTION. Section 2. Reporting requirements. (1) On or before September 1, 2011, January 1, 2012, April 1, 2012, June 1, 2012, September 1, 2012, and January 1, 2013, the department of labor and industry shall report on the number of jobs that have been created in Montana as a result of passage of [this act] to:

- (a) the governor's office of economic development; and
- (b) the environmental quality council.

(2) If requested, the governor's office of economic development shall assist the department of labor and industry in preparing the report."

Renumber: subsequent sections

April 21, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 297 (SB 297), **"AN ACT DEFINING "COAL BENEFICIATION PLANT"; EXCLUDING COAL BENEFICIATION PLANTS FROM PERMITTING AND REGULATION UNDER THE MONTANA STRIP AND UNDERGROUND MINING RECLAMATION ACT; CLARIFYING THAT A COAL PREPARATION FACILITY REGULATED UNDER THAT ACT DOES NOT INCLUDE A FACILITY WHERE COAL IS PREPARED AND THEN CONVERTED INTO ANOTHER ENERGY FORM OR TO A GASEOUS OR LIQUID HYDROCARBON; CLARIFYING THAT A MINING OPERATION DOES NOT INCLUDE A FACILITY OR SURFACE PREMISES WHERE COAL IS CONVERTED INTO ANOTHER ENERGY FORM OR TO A GASEOUS OR LIQUID HYDROCARBON OR A COAL BENEFICIATION PLANT; AMENDING SECTION 82-4-203, MCA; AND PROVIDING AN EFFECTIVE DATE."**

My amendments speak for themselves. Senate Bill 297 was touted by Republican leadership this session as one of ten bills that will bring jobs to Montana. My amendments are simple. They ask the Department of Labor and Industry to report to the Governor's Office of Economic Development and to the Legislature's Environmental Quality Council on a quarterly basis the number of jobs that have been created in Montana as a result of the bill's passage.

I trust the Legislature will be as interested as the rest of Montana in knowing the answer to this question. I ask for your support of my amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 297** (reference copy -- salmon) are as follows:

1. Title, page 1, line 12.

Following: "PLANT;"

Insert: "ESTABLISHING TEMPORARY REPORTING REQUIREMENTS;"

2. Page 9.

Following: line 2

Insert: "NEW SECTION. Section 2. Reporting requirements. (1) On or before September 1, 2011, January 1, 2012, April 1, 2012, June 1, 2012, September 1, 2012, and January 1, 2013, the department of labor and industry shall report on the number of jobs that have been created in Montana as a result of passage of [this act] to:

(a) the governor's office of economic development; and

(b) the environmental quality council.

(2) If requested, the governor's office of economic development shall assist the department of labor and industry in preparing the report."

Renumber: subsequent section

April 21, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 298 (SB 298), **"AN ACT PROVIDING THAT A GOVERNING BODY MAY NOT DENY A PROPOSED SUBDIVISION BASED SOLELY ON A CERTAIN WILDLAND-URBAN INTERFACE DESIGNATION; AND AMENDING SECTION 76-3-608, MCA."**

Senate Bill 298 seeks to prohibit a local governing body from denying subdivision approval on the grounds that the subdivision contains parcels designated as part of the wildland-urban interface. Development within the wildland-urban interface presents serious risks, challenges, and costs to individuals, homeowners, fire protection agencies, and other governmental agencies charged with public and life safety responsibilities in the face of disasters and emergencies caused by wildfires. I am concerned that SB 298, as presented to me, would disregard these concerns.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

My proposed amendment narrows the proscription in the bill so that it applies only if the local governing body has adopted best practices for development within the wildlandurban interface. My amendment safeguards the significant public safety and wildfire protection issues present in SB 298 in its current form.

I respectfully ask for your support of the amendment.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 298** (reference copy -- salmon) are as follows:

1. Title, page 1, line 4.

Following: "BODY"

Insert: "THAT HAS ADOPTED BEST PRACTICES FOR DEVELOPMENT WITHIN THE WILDLAND-URBAN INTERFACE"

2. Page 1, line 11.

Following: "(1)"

Insert: "(a)"

3. Page 1.

Following: line 14

Insert: "(b)"

4. Page 1, line 16 through line 17.

Strike: "or" on line 16 through "76-13-145" on line 17

Following: line 17

Insert: "(c) A governing body that has adopted best practices for development within the wildland-urban interface consistent with 76-13-104(8)(a) may not deny approval of a proposed subdivision based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145."

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

April 21, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 307 (SB 307), **"AN ACT REVISING THE PRIVATIZATION PLAN REVIEW PROCESS; REQUIRING LEGISLATIVE INTERIM COMMITTEES TO SOLICIT PUBLIC INPUT ON TERMINATING OR PRIVATIZING PROGRAMS; REQUIRING THE LEGISLATIVE AUDITOR TO REVIEW THE RECOMMENDATIONS AND REPORT TO THE LEGISLATURE ON THE ADVANTAGES OR DISADVANTAGES OF TERMINATING OR PRIVATIZING A PROGRAM AND TO PROVIDE THE GOVERNOR WITH A COPY OF THE REPORT; AMENDING SECTIONS 2-8-102, 2-8-105, 2-8-301, AND 2-8-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

My amendments accomplish three things. First, in redefining the term "privatize" in current law, SB 307 as presented to me would seek to unconstitutionally transfer the "control or management" of state government to the private sector. Montana's constitution provides that the control and management of government lies with its elected officials who are accountable to the people of Montana, not with the private sector. My amendments strike this unconstitutional provision from the bill.

Second, SB 307 would amend Montana's privatization plan review laws to cut the public out of the process. Currently, members of the public may recommend to the Legislative Audit Committee programs appropriate for privatization. For some unknown reason, SB 307 strikes that provision from current law, and my amendments restore it.

I preface my third amendment by taking note that yesterday, on the floor of the House, the Legislature rejected the negotiated pay plan for state employees. One stated reason was the objection to increasing the salaries of high-paid state workers. What was not stated on the House floor was that while 3-4% of executive branch employees earn in excess of \$80,000 annually, a record 20% of legislative branch employees fall in this category.

Therefore, while in its current form, SB 307 establishes a process to encourage the privatization of executive branch agencies, I suggest that it might be more fruitful for the Legislature to first look within its own branch to cut costs and gain efficiencies. My amendments, thus, direct that the privatization review conducted during the interim be limited to a review of options to privatize the legislative branch.

I ask for your favorable consideration of my proposed amendments.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 307** (reference copy -- salmon) are as follows:

1. Title, line 5.

Following: "REQUIRING"

Insert: "THE"

Strike: "INTERIM COMMITTEES"

Insert: "FINANCE COMMITTEE"

2. Title, line 6.

Following: "PRIVATIZING"

Insert: "LEGISLATIVE"

3. Title, line 9.

Strike: "2-8-102,"

Following: "2-8-105"

Strike: ", 2-8-301,"

4. Page 1, line 14.

Strike: "interim committees"

Insert: "finance committee"

5. Page 1, line 15.

Strike: "each interim"

Insert: "the legislative finance"

6. Page 1, line 16 through line 18.

Strike: "administered" on line 16 through "2" on line 18

Insert: "or portion of a program, as the term is used in 17-7-102, within the legislative branch"

7. Page 1, line 19.

Strike: "interim"

Insert: "legislative finance"

8. Page 1, line 20.

Following: "programs"

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Insert: "or portions of programs"

9. Page 1, line 22.

Strike: "interim"

Insert: "legislative finance"

Following: "privatization of a"

Insert: "legislative"

10. Page 1, line 25 through page 2, line 7.

Strike: section 2 in its entirety

Renumber: subsequent sections

11. Page 2, line 21.

Strike: "a legislative interim"

Insert: "the legislative finance"

12. Page 2, line 27 through page 3, line 9.

Strike: section 4 in its entirety

Renumber: subsequent sections

13. Page 3.

Following: line 19

Insert: "(2) Members of the public, elected bargaining agents or employee representatives, elected officials, legislators, and agency directors may submit to the legislative audit committee a request to review programs being conducted under contract by an agency that may be administered more cost- effectively directly by the agency."

Renumber: subsequent subsections

14. Page 3, line 24.

Strike: "(2)(a)"

Insert: "(3)(a)"

15. Page 3, line 26.

Strike: "subsection"

Insert: "subsections"

Following: "and (2)"

Insert: "and (2) and [section 1]"

16. Page 3, line 27.

Following: "directly by"

Strike: "the agency"

Insert: "an executive branch agency or by the legislative branch"

17. Page 3, line 29.

Strike: "(3)"

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Insert: "(4)"

18. Page 4, line 5 through line 6.

Strike: section 6 in its entirety

Insert: "NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 5, chapter 12, part 2, and the provisions of Title 5, chapter 12, part 2, apply to [section 1]."

April 21 ,2011

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

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

Dear President Peterson and Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 224 (SB 224), **"AN ACT REQUIRING LEGISLATIVE APPROVAL TO APPLY FOR AND SPEND GRANT MONEY RELATED TO PLANNING FOR OR IMPLEMENTING THE PATIENT PROTECTION AND AFFORDABLE CARE ACT; PROHIBITING THE USE OF BUDGET AMENDMENTS TO AUTHORIZE SPENDING OF GRANTS RELATED TO THE ACT; AMENDING SECTION 17-7-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."**

Senate Bill 224 would put Montana's health care system at a competitive disadvantage with other states by prohibiting a state agency from applying for and spending grant money to plan or implement the federal health care reform act without express legislative authorization. These grant moneys are available, and if Montana does not use them, other states will reap the benefits at our expense. The federal act is in effect, it applies in Montana, federal grant money is available to assist in its implementation, the Montana Legislature meets in regular session only once every two years, some of the grants available under the act fund established programs, and publically funded patient populations such as Medicaid and Medicare recipients will be the losers if opportunities available through federal grants are prohibited. In sum, I believe SB 224 is short-sighted and contrary to the interests of Montana health care consumers.

I respectfully ask that you sustain my veto of SB 224 for the stated reasons.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 21, 2011

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

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

Dear President Peterson and Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 237 (SB 237), **"AN ACT PROVIDING AUTHORITY FOR TESTING AND PREVALENCE REDUCTION OF BRUCellosIS IN LIVESTOCK AND WILDLIFE; ESTABLISHING RESPONSIBILITY FOR TESTING COSTS; REQUIRING REPORTING; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."**

The intent of SB 237 to reduce the prevalence of brucellosis is laudable. Unfortunately, the requirements contained in the bill do not meet its intent. Senate Bill 237 has the potential to jeopardize the effectiveness of the designated surveillance area (DSA) put in place by the Department of Livestock and approved by the United States Department of Agriculture's Animal and Plant Health Inspection Service. The DSA protects the state's entire livestock industry and has earned the confidence of state veterinarians across the country, most notably from the states that are Montana's closest trade partners. Additionally, while brucellosis prevalence reduction in wildlife is an objective championed by many, there are currently no practical tools available to accomplish prevalence reduction within a wild elk population, particularly when the disease is being perpetuated in Wyoming elk feeding grounds and remains present in Yellowstone National Park bison and elk.

Further, SB 237 creates an additional and unnecessary burden for orders promulgated that specifically address brucellosis. I have already signed into law a bill passed by the 2011 Legislature, HB 54, addressing Department orders for disease control purposes, allowing orders to remain in effect for five years. The policy established in SB 237 regarding and arising out of the same subject is inconsistent with and far more disruptive than the policy established in HB 54, a bill introduced By Request of the Economic Affairs Interim Committee, which notably passed both houses of the Legislature without a dissenting vote.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Notwithstanding my veto, I intend to continue the efforts already made by my administration, which are consistent with the goals of SB 237. I have directed the Departments of Livestock and Fish, Wildlife, and Parks to continue to work together, along with landowners and livestock producers, to develop brucellosis surveillance and risk management plans. This work with landowners will continue to minimize the risk of comingling between livestock and elk and reduce contact during the times of year when brucellosis transmission is most likely. Funding for these risk management activities was included in the budget I submitted to the Legislature and remains in HB 2 at the present time. Finally, I also have directed the Department of Livestock to continue to communicate regularly with affected livestock producers in the DSA about the status of brucellosis and the importance of the DSA in protecting Montana's livestock industry.

For these reasons, I respectfully ask that you sustain my veto of SB 237.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 21, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 312 (SB 312), **"AN ACT REVISING METAL MINE RECLAMATION LAWS; REQUIRING THAT DRAFT PERMITS BE ISSUED FOR COMPLETE AND COMPLIANT APPLICATIONS; REVISING COORDINATION OF PERMIT REVIEWS WITH THE MONTANA ENVIRONMENTAL POLICY ACT; AND AMENDING SECTIONS 82-4-303, 82-4-305, 82-4-335, 82-4-337, 82-4-342, AND 82-4-353, MCA."**

The primary change to Montana's metal mine reclamation laws under SB 312 is to establish a two-tiered review of an application for an operating permit at the draft and final stages. Under the bill, an environmental analysis of the metal mine reclamation permit will not be conducted until after the draft permit is issued. This provision may be workable.

My first two amendments address provisions in the bill, one which appears to have been an unintentional drafting error and the other which appears to be a problematic and substantive change in the law. First, it appears that the bill mistakenly identifies the trigger for a MEPA (Montana Environmental Policy Act) analysis to be at the time of "issuance of the draft permit as

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

a final permit." This language does not make sense. A draft permit is not a final permit, and I believe it would be inappropriate and nonsensical to require a MEPA analysis only after the final permit has been issued. My second amendment is sUbstantive. Current law exempts from MEPA a proposed amendment to an operating permit that changes the permit boundary by an expansion of less than 10 acres or 5% of the permitted area, whichever is less. Senate Bill 312 expands the exemption to 50 acres or 10% of the permitted area. I do not believe an expansion of that magnitude should be exempt from environmental analysis. and I, therefore, ask that the requirements of current law be restored.

Finally, SB 312 was touted by Republican leadership this session as one of ten bills that will bring jobs to Montana. My third amendment is simple. It asks the Department of Labor and Industry to report to the Governor's Office of Economic Development and to the Environmental Quality Council on a quarterly basis the number of jobs that have been created in Montana as a result of the bill's passage. I trust the Legislature will be as interested as the rest of Montana in knowing the answer to this question.

I respectfully ask for your concurrence in my proposed amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 312** (reference copy -- salmon) are as follows:

1. Title, page 1, line 6.

Following: "ACT;"

Insert: "ESTABLISHING TEMPORARY REPORTING REQUIREMENTS;"

2. Page 14, line 8.

Strike: "as" through "permit"

3. Page 18, line 29.

Strike: "50"

Insert: "10"

Strike: "10%"

Insert: "5%"

4. Page 19.

Following: line 23

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Insert: "NEW SECTION. Section 7. Reporting requirements.(1) On or before September 1, 2011, January 1, 2012, April 1, 2012, June 1, 2012, September 1, 2012, and January 1, 2013, the department of labor and industry shall report on the number of jobs that have been created in Montana as a result of passage of [this act] to:

- (a) the governor's office of economic development; and
- (b) the environmental quality council.

(2) If requested, the governor's office of economic development shall assist the department of labor and industry in preparing the report."

April 21, 2011

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

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

Dear President Peterson and Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 330 (SB 330), **"AN ACT REVISING THE REQUIREMENTS FOR GRANTING A WAIVER FOR NONCOMPLIANCE WITH THE GRADUATED RENEWABLE ENERGY STANDARD; AMENDING SECTIONS 69-3-2004, 69-3-2005, AND 69-3-2006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."**

I issue this veto of SB 330 because the bill confuses and undermines the Montana Renewable Power Production and Rural Economic Development Act of 2005. Senate Bill 330 would allow two new waivers from Montana's Renewable Energy Standard (RES) in addition to the two existing cost cap provisions that already allow utilities to apply for a waiver if they cannot find cost-effective renewable energy projects.

The first new waiver standard contained in the bill is based upon a utility's showing of "adverse customer impacts," with no definition as to what constitutes an adverse impact. This waiver standard is so vague that it could completely undermine the 2005 legislation.

Second, SB 330 extends the availability of a waiver by adding a "reasonable price" criterion, which is not connected to the construction of a facility. This waiver extension is further complicated because "reasonable price" is defined in reference to "retail electricity supply rate," which could refer either to the average cost of the commodity purchased by the utility or to the delivered cost the customer pays. Whatever the case, "retail electricity supply rate" is not the same as the "avoided cost," which is the proper yardstick against which any new resource to meet load should be measured.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Renewable generation is one of the true success stories in Montana in recent years. Since enactment of Montana's Renewable Power Production and Rural Economic Development Act, passed by the 2005 Legislature and signed by me into law, Montana has seen over \$800 million of capital investment in renewable energy development, the creation of nearly 700 high-paying jobs, and over 400 megawatts of new, installed renewable power capacity. The Act demonstrates that Montana welcomes renewable energy development. Passage of SB 330 is a step backwards from this success.

I respectfully ask that you sustain my veto of SB 330.

Sincerely,

BRIAN SCHWEITZER, GOVERNOR

cc: Legislative Services Division

MESSAGES FROM THE OTHER HOUSE

Governor's amendments to House bill not concurred in and transmitted to the Senate: 4/20/2011

HB 59, introduced by Belcourt

Governor's amendments to House bills concurred in and transmitted to the Senate for consideration of the Governor's amendments: 4/20/2011

HB 165, introduced by Hollandsworth

HB 565, introduced by Noonan

Conference Committee Report No.1 adopted: 4/26/2011

SB 97, introduced by Shockley

HB 593 - The House acceded to the request of the Senate, dissolved the Conference Committee on House amendments to **HB 593**, and authorized the Speaker to appoint the following **Free** Conference Committee to confer on **HB 593**: 4/20/2011

Representative Ankney, Vice Chair

Representative McChesney

Representative Stahl

Senate bills concurred in and returned to the Senate: 4/20/2011

SB 199, introduced by Balyeat

SB 292, introduced by Olson

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

SB 406, introduced by Essmann

Senate joint resolution concurred in and returned to the Senate: 4/20/2011

SJR 26, introduced by Lewis

Governor's amendments to Senate bill concurred in and returned to the Senate: 4/20/2011

SB 11, introduced by Erickson

Free Conference Committee Report No.1 adopted: 4/20/2011

SB 348, introduced by Barrett
HB 621, introduced by Ankney

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

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

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

HJR 32 - Senator Facey moved **HJR 32** be concurred in. Motion carried as follows:
Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Shockley, Sonju, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Wittich, Mr. President.
Total 45

Nays: Priest, Ripley, Steinbeisser, Walker, Zinke.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 39 - Senator Tutvedt moved **HJR 39** be concurred in. Motion carried as follows:
Yeas: Arthun, Augare, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Shockley,

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Vincent, Vuckovich, Wanzenried, Williams, Windy Boy, Wittich, Mr. President.
Total 44

Nays: Balyeat, Priest, Ripley, Van Dyk, Walker, Zinke.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 423 - Free Conference Committee Report No. 1 - Senator Essmann moved the Free Conference Committee report to **SB 423** be adopted. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Essmann, Gillan, Hamlett, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Lewis, Moore, Mowbray, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.
Total 34

Nays: Blewett, Caferro, Erickson, Facey, Gallus, Hawks, Kaufmann, Larsen, Moss, Murphy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Essmann moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Essmann moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.
Total 42

Nays: Caferro, Erickson, Kaufmann, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.
Total 8

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Absent or not voting: None.

Total 0

Excused: None.

Total 0

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 627 concurred in as follows:

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

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 13 concurred in as follows:

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

Total 43

Nays: Augare, Blewett, Buttrey, Hawks, Murphy, Tropila, Zinke.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

SB 36, as amended by the Governor, passed as follows:

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

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 97, Conference Committee Report No. 1, adopted as follows:

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

Total 30

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

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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

Yeas: Arthun, Balyeat, Barrett, Blewett, Brenden, Brown, Buttrey, Essmann, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 37

Nays: Augare, Branae, Caferro, Erickson, Facey, Gallus, Jent, Kaufmann, Keane, Larsen, Moore, Stewart-Peregoy, Tropila.

Total 13

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 338, Conference Committee Report No. 1, adopted as follows:

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

Total 34

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

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 348, Free Conference Committee Report No. 1, adopted as follows:

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

Total 44

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

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 15, as amended by the House, adopted as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moss, Mowbray, Murphy, Olson, Priest, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich,

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Wanzenried, Williams, Windy Boy, Wittich, Mr. President.

Total 46

Nays: Moore, Ripley, Walker, Zinke.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 20, as amended by the House, adopted as follows:

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

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Gallus asked whether a decision had been made regarding **HB 627** and the necessity to suspend the Rules. Senator Essmann explained he and the Code Commissioner were in agreement that there is no deadline for amended referendums.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **House Bill 612**

Report No. 1, April 20, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 612** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

And, recommend that **House Bill 612** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 6.

Strike: "PREMIUM" through "AND" on line 6

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

Strike: "LIMITING" on line 8 through "PROGRAM;" on line 9

3. Title, page 1, line 11.

Strike: "53-6-101,"

4. Page 4, line 17 through line 23.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

5. Page 5, line 6.

Strike: "(7)"

Insert: "(6)"

6. Page 8, line 5 through page 11, line 2.

Strike: section 3 in its entirety

Renumber: subsequent sections

For the Senate:

Lewis, Chair
Priest
Hamlett

For the House:

Roberts, Vice Chair
Esp
Sesso

MESSAGES FROM THE OTHER HOUSE

HB 307 - The House, on motion duly carried, overrode the Governor's veto on **HB 307** and returned the bill to the Senate.

4/26/2011

HB 483 - The House, on motion duly carried, overrode the Governor's veto on **HB 483** and returned the bill to the Senate.

4/26/2011

HB 342 - The House, on motion duly carried, overrode the Governor's veto on **HB 342** and returned the bill to the Senate.

4/12/2011

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

ANNOUNCEMENTS

Committee announcements were made by committee chairs.

Senate recessed until 1:00 p.m.

Senate reconvened at 1:03 p.m.

MESSAGES FROM THE GOVERNOR

April 26, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No.100 (SB 100), **"AN ACT PROVIDING FOR DISPOSITION OF COMPENSATORY DAMAGES AND INTEREST FROM ANY LITIGATION RESULTING FROM THE WRONGFUL USE OR OCCUPATION OF STATE LANDS; CLARIFYING LEGISLATIVE APPROPRIATION AUTHORITY; AMENDING SECTION 77-1-117, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."**

My proposed amendments restore SB 100 to its original form, which I informed the sponsor I would support prior to the bill's introduction. To be clear, I have no objection to legislation that would establish a rule for the disposition of compensatory damages in an action for the wrongful use or occupation of state lands in the case of future court proceedings. I object to any suggestion that the bill applies to damage awards in pending cases.

I ask for your support of these amendments, as I oppose the ambiguity created by SB 100 in its present form.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 100** (reference copy -- salmon) are as follows:

1. Title, line 5.

Following: "FUTURE"

Insert: "FUTURE"

2. Page 1, line 26.

Strike: "COMPENSATORY DAMAGES AWARDED ON OR"

Insert: "court proceedings commenced"

April 26, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 212 (SB 212), **"AN ACT CLARIFYING THE AUTHORITY OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO MANAGE WILD BUFFALO OR BISON; REQUIRING A MANAGEMENT PLAN BEFORE WILD BUFFALO OR BISON MAY BE RELEASED OR TRANSPLANTED ONTO PRIVATE OR PUBLIC LAND; AMENDING SECTION 87-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

Senate Bill 212 requires the Department of Fish, Wildlife, and Parks (FWP) to develop a management plan before wild bison may be released or transplanted in Montana and describes multiple required components of such a plan. It also grants rule-making authority to address potential damage to persons or property.

FWP has initiated the development of a broad conservation and management plan that will evaluate potential sites for bison in Montana. The plan will take into consideration historical distribution, land ownership, compatibility with current land uses, forage needs, disease risk, measures to address movements, and fair-chase hunting opportunities for the public. Many of the provisions of SB 212 belong in any sensible plan. However, one mandatory provision of the bill (subsection (5)(c) of § 87-1-216, MCA) would make translocation of bison virtually impossible on any state or federal lands currently managed to allow grazing. This subsection would have the effect of eliminating options before they can even be explored, including those associated with tribal lands. My amendments, therefore, propose to strike this provision from the bill. Likewise, containment measures as described in subsection 5(d)(i) of §

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

87-1-216, MCA, are unrealistic as written, since a guaranteed prevention of estray is impossible for almost any animal, including bison.

Finally, I believe it is important to clarify that FWP has the authority to promulgate rules to authorize the taking of bison when and where necessary to prevent the transmission of a contagious disease by any appropriate means, not just through hunting seasons. Therefore, I am including an amendment to clarify FWP's authority in this regard. The intent is to ensure that all necessary tools are available to FWP to address potential disease conflicts associated with bison, which is important to the long-term sustainability of both livestock and wildlife in Montana. These tools may include "shoot on sight" or similar provisions that may be necessary outside of designated zones.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 212** (reference copy -- salmon) are as follows:

1. Page 2, line 3.

Following: "87-2-730."

Insert: "The department may, following consultation with the department of livestock, adopt rules to authorize the taking of bison where and when necessary to prevent the transmission of a contagious disease."

2. Page 2, line 19.

Strike: "(5)(D)"

Insert: "(5)(c)"

3. Page 2, line 20 through line 21.

Strike: subsection (C) in its entirety

Renumber: subsequent subsections

4. Page 2, line 24 through line 25.

Strike: "to" on line 24 through "OWNER" on line 25

Senator Essmann announced the Republicans would caucus.

Senator Williams announced the Democrats would caucus.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Senate recessed.

Senate reconvened at 1:31p.m.

BILLS AND JOURNALS:

4/26/2011

Signed by the Speaker at 1:20 p.m., April 26, 2011: **SB 207, SB 215, SB 283, SB 299, SB 331, SB 411, SB 429.**

Signed by the President at 4:30 p.m., April 25, 2011: **SB 207, SB 215, SB 283, SB 299, SB 331, SB 411, SB 429.**

Signed by the Secretary of the Senate at 3:35 p.m., April 19, 2011: **SB 207, SB 215, SB 283, SB 299, SB 331, SB 411, SB 429.**

Signed by the Speaker at 8:45 a.m., April 26, 2011: **SB 132, SB 143, SB 198, SB 225, SB 354, SJR 17, SJR 18.**

Signed by the Secretary of the Senate at 2:40 p.m., April 20, 2011: **SB 132, SB 143, SB 198, SB 225, SB 354, SJR 17, SJR 18, SR 20, SR 23.**

Signed by the President at 4:15 p.m., April 25, 2011: **SB 132, SB 143, SB 198, SB 225, SB 354, SJR 17, SJR 18, SR 20, SR 23.**

Delivered to the Governor for approval at 3:57 p.m., April 26, 2011: **SB 132, SB 143, SB 198, SB 207, SB 215, SB 225, SB 283, SB 299, SB 331, SB 354, SB 411, SB 429.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
HJR 33, be concurred in. Report adopted.

4/26/2011

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **Senate Bill 372**

Report No. 1, April 26, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 372** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 372** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 10.

Following: "PROGRAM,"

Insert: "TO COUNTY SCHOOL RETIREMENT AND COUNTY TRANSPORTATION REIMBURSEMENT,"

2. Title, page 1, line 14.

Following: "17-7-502,"

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Insert: "20-9-501,"

Strike: "AND"

Following: "20-9-630,"

Insert: "AND 20-10-146,"

Following: "~~IMMEDIATE~~"

Insert: "AN"

3. Title, page 1, line 15.

Strike: "DATES"

Insert: "DATE,"

Strike: "AND"

Following: "DATE"

Insert: ", AND A TERMINATION DATE"

4. Page 11, line 4.

Following: "section"

Insert: ", the amounts determined under [section 3(2)] for local governments,"

Strike: "and"

5. Page 11, line 5.

Following: "(8)"

Insert: ", and the amounts determined under [section 3(4)] for tax increment financing districts"

6. Page 11, line 8.

Strike: "The"

Insert: "Except for the distribution made under [section 3(2)(b)], the"

7. Page 12, line 18.

Strike: "If"

Insert: "Except for a tax increment financing district entitled to a reimbursement under [section 3(4)], if"

8. Page 12, line 22.

Strike: "One-half"

Insert: "Except for the reimbursement made under [section 3(4)(b)], one-half"

9. Page 16, line 18.

Following: "school district,"

Insert: "the county retirement fund under 20-9-501, the countywide school transportation reimbursement under 20-10-146,"

10. Page 17, line 5 through line 7.

Strike: subsection (c) in its entirety

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

11. Page 17, line 13.

Strike: "AUGUST 1"

Insert: "November 30"

12. Page 18, line 2 through line 4.

Strike: subsection (c) in its entirety

13. Page 18, line 11.

Following: "department"

Insert: "of administration"

Strike: "distribute"

Insert: "transfer"

Following: "(5)(b)"

Insert: "from the general fund to the state special revenue fund"

14. Page 18, line 13.

Strike: "THE"

Insert: "Beginning in fiscal year 2013, the department of administration shall transfer the"

15. Page 18, line 13 through line 14.

Strike: "ARE" on line 13 through "17-7-502," on line 14

Strike: "DEPARTMENT" through "REGENTS" on line 14

Insert: "state special revenue fund"

16. Page 18.

Following: line 15

Insert: "(6) (a) The office of public instruction shall distribute the reimbursement to the countywide retirement fund under 20-9-501 for fiscal year 2012 and all other fiscal years in which rate reductions occur. One-half of the amount must be distributed in November and the remainder in May.

(b) For fiscal year 2012 and all other fiscal years in which rate reductions occur, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property in the county. By November 30 following each of those fiscal years, the office of public instruction shall distribute the amount determined under this subsection (6)(b) to the countywide retirement fund.

(c) The amounts determined under this subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the office of public instruction for distribution to the countywide retirement account.

(7) (a) The office of public instruction shall distribute the reimbursement to the county transportation reimbursement under 20-10-146 for fiscal year 2012 and all other fiscal years in which rate reductions occur. The reimbursement must be made at the same time as countywide school transportation block grants are distributed under 20-9-632.

(b) For fiscal year 2012 and all other fiscal years in which rate reductions occur, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property in the county. By

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

November 30 following each of those fiscal years, the office of public instruction shall distribute the amount determined under this subsection (7)(b) to the county transportation reimbursement.

(c) The amounts determined under this subsection (7) are statutorily appropriated, as provided in 17-7-502, from the general fund to the office of public instruction for distribution to the county transportation reimbursement.

17. Page 23.

Following: line 29

Insert: "Section 8. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement costs and retirement fund. (1) The trustees of a district or the management board of a cooperative employing personnel who are members of the teachers' retirement system or the public employees' retirement system, who are covered by unemployment insurance, or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's or the cooperative's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's or the cooperative's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the retirement fund for the following:

(i) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from state or local funding sources;

(ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is supported solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321, or are paid from the miscellaneous programs fund, provided for in 20-9-507, from money received from the medicaid program, pursuant to 53-6-101;

(iii) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district's school food services fund provided for in 20-10-204;

(iv) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514; and

(v) for the 2011 biennium only, a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are budgeted in the district general fund but are paid from state fiscal stabilization funds received pursuant the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

(b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the funding source that pays the employee's salary.

(3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

(4) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year;

(ii) oil and natural gas production taxes;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

(v) property tax reimbursements made pursuant to [section 3(6)];

~~(v)~~(vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid;

(b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final retirement fund budget.

(5) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the fourth Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds.

(6) The county commissioners shall fix and set the county levy or district levy in accordance with 20-9-142.

(7) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(8) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

(9) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (5)(a) by the sum of:

(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000.

(10) The levy for a community college district may be applied only to property within the district.

(11) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements for county school funds supporting elementary and high school district retirement obligations to the superintendent of public instruction not later than the second Monday in September. The report must be completed on forms supplied by the superintendent of public instruction."''

Renumber: subsequent sections

18. Page 25.

Following: line 15

Insert: "Section 10. Section 20-10-146, MCA, is amended to read:

"20-10-146. County transportation reimbursement. (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment, except that:

(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount;

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of 20-5-321.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory attendance agreement provisions of 20-5-321;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

- (i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal year;
 - (ii) oil and natural gas production taxes;
 - (iii) anticipated local government severance tax payments for calendar year 1995 production;
 - (iv) coal gross proceeds taxes under 15-23-703;
 - (v) countywide school transportation block grants distributed under 20-9-632;
 - (vi) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund;
 - (vii) federal forest reserve funds allocated under the provisions of 17-3-213; ~~and~~
 - (viii) property tax reimbursements made pursuant to [section 3(7)]; and
 - ~~(viii)~~ (ix) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and
 - (c) subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement from the county transportation net levy requirement.
- (3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on the fourth Monday of August by the county superintendent, and a levy must be set by the county commissioners in accordance with 20-9-142.
- (4) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements to the superintendent of public instruction not later than the second Monday in September. The report must be completed on forms supplied by the superintendent of public instruction.
- (5) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments.""

Renumber: subsequent sections

19. Page 25, line 24 through line 26.

Strike: section 11 in its entirety

20. Page 25.

Following: line 26

"COORDINATION SECTION. Section 13. Coordination instruction. If both Senate Bill No. 329 and [this act] are passed and approved and if both contain a section that amends 20-9-630, then the sections amending 20-9-630 are void and 20-9-630 must be amended as follows:

"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:

(i) 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; and

(ii) any reimbursement to be made to a school district pursuant to subsection (2).

(b) Block grants must be calculated using the electronic reporting system that is used

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

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.~~

(2) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the office of public instruction shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to block grant distributions under this section. Except for the reimbursement made under [section 3(3)(b) of Senate Bill No. 372], the total of reimbursement distributions made pursuant to this subsection in a fiscal year must be added to all other distributions to the school district in the fiscal year to determine the distribution for the subsequent fiscal year.

(3) 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) (a) ~~The block grant for the district general fund is equal to the average amount received in fiscal years 2002 and 2003~~ year 2011 by the district general fund from the block grants provided for in subsection (1) and the amount received by the district general fund under subsection (2), except the amount received under [section 3(3)(b) of Senate Bill No. 372]. ~~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) and the amount received by the district transportation fund under subsection (2), except the amount received under [section 3(3)(b) of Senate Bill No. 372]. ~~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 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~~ year 2011 and the amount received under subsection (2), except the amount received under [section 3(3)(b) of Senate Bill No. 372].

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

Insert: "COORDINATION SECTION. Section 14. Coordination instruction. If both House Bill No. 2 and [this act] are passed and approved, then:

(1) the general fund appropriation for BASE aid in House Bill No. 2 of \$526,495,288 is decreased by \$1,803,873 in fiscal year 2013;

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

(2) the general fund appropriation for HB 124 Block Grants in House Bill No. 2 of \$52,150,510 is increased by \$6,444,852 in fiscal year 2013; and

(3) [section 3(3)(c), (6)(c), and (7)(c) and section 7 of this act] are void."

Renumber: subsequent sections

21. Page 26, line 2 through line 3.

Strike: "DATES" on line 2

Insert: "date"

Strike: "(1)" on line 2

Strike: "EXCEPT" on line 2 through "ACT" on line 3

Insert: "[This act]"

22. Page 26, line 4.

Strike: "(2)" through "2011."

23. Page 26.

Following: line 7

Insert: "NEW SECTION. Section 18. Termination. [Section 3(3)(c), (6)(c), and (7)(c) and section 7] terminate June 30, 2013."

For the Senate:

Tutvedt, Chair
Lake

For the House:

Blasdel, Vice Chair
Lavin

FREE CONFERENCE COMMITTEE
on **Senate Bill 426**
Report No. 1, April 26, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 426** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 426** (reference copy -- salmon) be amended as follows:

1. Page 1, line 30.

Strike: "of the excess revenue BALANCE"

Insert: "to be refunded"

2. Page 2, line 1 through line 2.

Following: "to" on line 1

Insert: "total"

Strike: "collections" on line 1

Insert: "that was assessed, other than local option vehicle tax under 61-3-537,"

Following: "and" on line 1

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Insert: "total"

Strike: "FROM MONTANA RESIDENTS" on lines 1 and 2

Insert: "for the same fiscal year as the general fund balance"

3. Page 2, line 4.

Following: "taxes"

Insert: "paid"

4. Page 2, line 5.

Strike: "for the property tax year beginning"

5. Page 2, line 7 through line 8.

Strike: "total" on line 7 through "calendar" on line 8

Insert: "the individual's total property taxes paid on the principal residence in the prior"

6. Page 2, line 10.

Following: "paid"

Insert: "in Montana individual income taxes"

7. Page 2, line 11.

Strike: "on Montana source income"

8. Page 2, lines 13 and 14.

Strike: "total" on line 13 through "previous calendar" on line 14

Insert: "the individual's income taxes paid in the prior"

9. Page 2, line 22.

Following: "section,"

Insert: "the following definitions apply: (a) "Budgeted general fund balance" is a projected general fund balance calculated by the legislative fiscal analyst by August 1 for each fiscal year. In determining the projected general fund balance, the legislative fiscal analyst shall use the appropriate fiscal year amounts as utilized by the legislature in developing the biennial budget. The fiscal year amounts are anticipated revenues and transfers that include the impacts of enacted legislation, established level of appropriations and transfers, anticipated supplemental appropriations, and anticipated reversions. To calculate the projected balance, the legislative fiscal analyst shall add the unassigned fund balance from the most recent completed fiscal year plus the anticipated revenues and transfers less the level of appropriations and transfers, supplemental appropriations, and anticipated reversions for the most recent completed fiscal year.

(b)"

Strike: ""principal"

Insert: ""Principal"

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

10. Page 2, line 24.

Following: line 23

Insert: "located in Montana and"

Following: "and"

Insert: "includes"

11. Page 3, line 10.

Strike: "a refund"

Insert: "refunds"

12. Page 3, line 13.

Strike: "a refund"

Insert: "refunds"

For the Senate:

Balyeat, Chair
Lake
Hamlett

For the House:

Miller, Vice Chair
Randall

FREE CONFERENCE COMMITTEE

on **House Bill 375**

Report No. 1, April 26, 2011

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 375** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 375** (reference copy -- salmon) be amended as follows:

1. Page 1, line 18.

Strike: "1.258%"

Insert: "1.369%"

For the Senate:

Ripley, Chair
Brown
Keane

For the House:

McNutt, Vice Chair
Cook

MOTIONS

Senator Moore moved to override the Governor's veto of **HB 307**. Due to the two-thirds vote requirement, motion **failed** as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hamlett, Hinkle, Hutton,

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tropila, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.
Total 30

Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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

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

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

SB 265 - Free Conference Committee Report No. 1 - Senator Hamlett moved the Free Conference Committee report to **SB 265** be adopted. Motion **failed** as follows:
Yeas: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jackson, Jent, Kaufmann, Keane, Larsen, Moss, Murphy, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.
Total 24

Nays: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jones, Lake, Lewis, Moore, Mowbray, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 23 - House Amendments - Senator Essmann moved House amendments to **SJR 23** be concurred in. Motion carried as follows:
Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Essmann,

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Mr. President.

Total 44

Nays: Caferro, Erickson, Kaufmann, Larsen, Tropila, Zinke.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 59 - Governor's Amendments - Senator Vincent moved Governor's amendments to **HB 59** **not** be concurred in. Motion carried as follows:

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

Total 39

Nays: Branae, Erickson, Facey, Gillan, Hawks, Jent, Kaufmann, Moss, Van Dyk, Wanzenried, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 122 - Free Conference Committee Report No. 1 - Senator Balyeat moved the Free Conference Committee report to **HB 122** be adopted. Motion carried as follows:

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

Total 50

Nays: None.

Total 0

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 165 - Governor's Amendments - Senator J. Peterson moved Governor's amendments to **HB 165** be concurred in. Motion carried as follows:

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

Total 47

Nays: Brenden, Tropila, Wittich.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 565 - Governor's Amendments - Senator Gillan moved Governor's amendments to **HB 565** be concurred in. Motion carried as follows:

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

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 621 - Free Conference Committee Report No. 1 - Senator Jackson moved the Free Conference Committee report to **HB 621** be adopted. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro,

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 35 - Governor's Amendments - Senator Hamlett moved Governor's amendments to **SB 35** be concurred in. Motion **failed** as follows:

Yeas: Blewett, Caferro, Erickson, Facey, Gallus, Gillan, Hamlett, Hawks, Jackson, Jent, Kaufmann, Moss, Shockley, Van Dyk, Wanzenried, Williams.
Total 16

Nays: Arthun, Augare, Balyeat, Barrett, Branae, Brenden, Brown, Buttrey, Essmann, Hinkle, Hutton, Jones, Keane, Lake, Larsen, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Vincent, Vuckovich, Walker, Windy Boy, Wittich, Zinke, Mr. President.
Total 34

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 166 - Governor's Amendments - Senator Balyeat moved Governor's amendments to **SB 166** be concurred in. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 49

Nays: Brenden.
Total 1

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 279 - Governor's Amendments - Senator Jackson moved Governor's amendments to **SB 279** be concurred in. Motion carried as follows:

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

Total 39

Nays: Branae, Caferro, Erickson, Facey, Gallus, Kaufmann, Keane, Larsen, Moss, Tropila, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 312 - Governor's Amendments - Senator Vincent moved Governor's amendments to **SB 312** not be concurred in. Motion carried as follows:

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

Total 36

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

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 108 - Governor's Amendments - Senator Barrett moved Governor's amendments to **SB 108** not be concurred in. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Brenden, Brown, Buttrey, Caferro, Essmann, Hamlett,

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Hinkle, Hutton, Jackson, Jones, Keane, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tutvedt, Vincent, Vuckovich, Walker, Williams, Windy Boy, Wittich, Zinke, Mr. President.

Total 36

Nays: Blewett, Branae, Erickson, Facey, Gallus, Gillan, Hawks, Jent, Kaufmann, Larsen, Moss, Tropila, Van Dyk, Wanzenried.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 136 - Governor's Amendments - Senator Balyeat moved Governor's amendments to **SB 136 not** be concurred in. Motion carried as follows:

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

Total 39

Nays: Blewett, Branae, Erickson, Facey, Gallus, Gillan, Kaufmann, Moss, Tropila, Van Dyk, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Essmann moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Moore moved the Committee of the Whole report be adopted. Report adopted as follows:

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

Total 43

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Nays: Erickson, Hawks, Kaufmann, Larsen, Wanzenried, Williams, Windy Boy.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Barrett moved to override the Governor's veto of **SB 109**. Due to the two-thirds vote requirement, motion **failed** as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Hamlett, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.
Total 29

Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gallus, Gillan, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Hamlett moved to change his vote on **SB 312** from No to Yes. Without objection, so ordered.

SPECIAL ORDERS OF THE DAY

SR 14 – Senator Facey moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with Senate Resolution 14. Motion **failed** as follows:

Yeas: Augare, Blewett, Branae, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Shockley, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.
Total 24

Nays: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Olson, Priest, Ripley, Sonju, Steinbeisser, Tutvedt, Vincent, Walker, Wittich, Zinke, Mr. President.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SR 15 - Senator Wittich moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with Senate Resolution 15. Motion carried as follows:

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

Total 44

Nays: Barrett, Hinkle, Moore, Olson, Ripley, Wittich.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SR 18 - Senator Facey moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with Senate Resolution 18. Motion carried as follows:

Yeas: Augare, Barrett, Blewett, Branae, Brown, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Jent, Jones, Kaufmann, Keane, Larsen, Lewis, Moss, Murphy, Shockley, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 33

Nays: Arthun, Balyeat, Brenden, Buttrey, Hinkle, Hutton, Jackson, Lake, Moore, Mowbray, Olson, Priest, Ripley, Sonju, Steinbeisser, Vincent, Wittich.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Senator Moss and Senator Balyeat gave their farewell comments to the Senate.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Senator Essmann moved the Senate recess until 5:00 p.m. Motion carried.

Senate in recess.

Senate reconvened at 5:11 p.m.

BILLS AND JOURNALS:

4/26/2011

Correctly printed: **HJR 33, HJR 38.**

Signed by the Speaker at 4:30 p.m., April 26, 2011: **SB 379.**

Signed by the President at 4:05 p.m., April 26, 2011: **SB 379.**

Signed by the Secretary of the Senate at 12:00 p.m., April 26, 2011: **SB 379.**

MESSAGES FROM THE GOVERNOR

April 26, 2011

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

Dear President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill No. 358 (SB 358), **"AN ACT GENERALLY REVISING TAX INCREMENT FINANCING DISTRICT LAWS; PROVIDING FOR CREATION OF TARGETED ECONOMIC DEVELOPMENT DISTRICTS; ALLOWING COUNTIES TO CREATE TARGETED ECONOMIC DEVELOPMENT DISTRICTS AND TO USE TAX INCREMENT FINANCING; ADDING COMPONENTS THAT MUST BE INCLUDED IN AN URBAN RENEWAL PLAN; REMOVING PROVISIONS FOR CREATION OF AND BONDING IN TECHNOLOGY DISTRICTS, AEROSPACE TRANSPORTATION AND TECHNOLOGY DISTRICTS, AND INDUSTRIAL DISTRICTS; AMENDING SECTIONS 7-15-4282, 7-15-4283, 7-15-4284, 7-15-4286, 7-15-4288, 7-15-4290, 7-15-4292, 7-15-4293, 7-15-4294, 7-15-4301, 7-15-4302, 7-15-4304, AND 7-15-4324, MCA; REPEALING SECTIONS 7-15-4295, 7-15-4296, 7-15-4297, 7-15-4298, 7-15-4299, AND 17-5-820, MCA; AND PROVIDING AN EFFECTIVE DATE."**

While Senate Bill 358 seeks to make the formation of economic development-related tax increment districts more uniform, the bill, as passed by the Legislature, contains a few problems

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

that my amendments would rectify. First, my amendments reinstate two essential provisions of existing law that establish "sideboards" to tax increment financing districts (discussed further below). Additionally, my amendments address the following issues that arise with the changes to current law in SB 358, as written:

- the bill endangers the adequate funding of schools in Montana in accordance with constitutional equalization standards;
- the bill does not require economic development planning for the new targeted economic districts sufficient to ensure a well-defined relationship between the growth being planned and the infrastructure to be financed to support that growth;
- the bill allows property that has no relationship to the purposes of a targeted economic development district to be included in a district on an unlimited basis; and
- finally, the bill fails to ensure proper collaboration and accountability among governmental units, tax revenues of which are diverted to use by tax increment districts.

Regarding the two sideboards contained in current law, but omitted from SB 358, my amendments restore the use of the term "secondary" to the definitions of "value-added" and "value-adding" contained in the bill. This will ensure that the underpinning of tax increment financing, to assist value-added industries, remains --consistent with the original purpose of tax increment financing at the time of enactment in 1989 and remaining as its purpose to the present day. Additionally, my amendments restore the current statutory requirement that technology companies hosted by tax increment districts be "basic sector" by requiring that 50% or more of their revenues derive from business out of state.

Second, my amendments make it clear that new property values arising from centrally assessed property (e.g., multi-county pipelines, transmission lines, railroads) cannot be included in targeted economic development districts. Increases in the property values of centrally assessed property essentially are a function of national and international economic factors, not local economic development efforts. Hence, it is not appropriate to include them in the financing of the targeted economic development districts. Further, the inclusion of centrally assessed values in targeted economic development districts would endanger major financing of the State's obligation to equalize the funding of schools.

Third, new targeted economic development districts should be established only where adequate planning has occurred, so as to ensure that reasonable prospects for economic development exist, requiring identified infrastructure needs. Further, as a matter of policy, a tax increment district should be available only where the projected economic and tax value growth of the district is anticipated to be sufficient to finance the projected infrastructure needs. Without this prerequisite, other taxpayers will be treated unfairly in order to finance someone else's infrastructure improvements. My amendments ensure that careful planning occurs before districts are approved in order to protect the sound policy underlying the authorization of tax increment financing districts.

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Fourth, properties neither essential to nor deriving benefit from the growth that would occur as a result of the establishment of a tax increment district should not be relied upon to finance the infrastructure. By definition, land taxed on a productivity basis cannot grow in value and be a source of increment for financing new, development related infrastructure. Moreover, residential values do not typically grow because of adjacent industrial growth. Thus, targeted economic development districts should not rely upon either land taxed as residential or land taxed on a productivity basis for more than incidental amounts of value, and my proposed amendments make that clear.

Finally, in the past, as the use of tax increment districts has expanded, controversy as to the uses of those districts also has expanded. As we look to the future, the expansion of tax increment districts can best be accomplished on a stable and wellaccepted basis if major governmental units foregoing revenue to support a district are able to participate in the district's oversight. My proposed amendments provide for that future collaboration, which will ensure the strongest possible base of support for tax increment financing.

While I support the sponsor's intention to make more efficient and consistent the creation of tax increment districts, SB 358 needs strengthening to ensure that its objectives are met in a manner that is well-planned, financially viable, and does not harm other taxing jurisdictions.

I respectfully ask for your support of my proposed amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Report No. 1, April 26, 2011

Governor's recommendations for amendments to **Senate Bill 358** (reference copy -- salmon) are as follows:

1. Title, line 6.

Strike: "COUNTIES"

Insert: "LOCAL GOVERNING BODIES"

2. Title, line 11.

Following: "PLAN;"

Insert: "REQUIRING A MUNICIPALITY TO CONDUCT AN ANALYSIS PRIOR TO ADOPTING A RESOLUTION OF NECESSITY; ESTABLISHING TAXING ENTITY COMMITTEES; REQUIRING ANNUAL BUDGETING AND REPORTING; PROVIDING RULEMAKING AUTHORITY;"

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

3. Page 1, line 25.

Strike: "4"

Insert: "6"

4. Page 2, line 14.

Strike: "projects"

Insert: "industries"

5. Page 2, line 30.

Strike: "this section"

Insert: "[sections 1 through 6]"

6. Page 3, line 2.

Following: "created"

Insert: "through a secondary process"

7. Page 3, line 4.

Following: "produces"

Insert: "secondary"

8. Page 3, line 6.

Following: "adds"

Insert: "secondary"

9. Page 3, line 7.

Following: "wealth"

Insert: "and for which at least 50% of the sales of the business or organization occur outside Montana or the business or organization is a manufacturing company making at least 50% of its sales to other Montana companies that have 50% of their sales occurring outside of Montana"

10. Page 3, line 10.

Following: "district"

Insert: "-- analysis of factors"

Following: "."

Insert: "(1)"

11. Page 3, line 12.

Strike: "(1)"

Insert: "(a)"

12. Page 3, line 13.

Strike: "(2)"

Insert: "(b)"

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

13. Page 3, line 15.

Following: line 14

Insert: "(2) Before a municipality may adopt a resolution of necessity, it shall analyze the need for economic development within the proposed urban renewal area or targeted economic development district by considering the following matters and shall provide reasonable opportunity for public comment on its analysis:

(a) whether specific infrastructure is required to encourage the location and retention of value-adding industries in the municipality;

(b) whether by developing the specific infrastructure, growth sufficient to finance the identified infrastructure will occur;

(c) the specific identity of potential value-adding industries likely to be encouraged to locate or be retained within the proposed area or district;

(d) whether, if not for the creation of the identified infrastructure, the identified value-adding industries would not locate or be retained in the area or district; and

(e) whether the boundaries of the proposed area or district are sufficiently narrow to accomplish the objectives of the area or district and the purposes described in [section 2] while also protecting the tax base of the municipality. "

Insert: "NEW SECTION. Section 5. Taxing entity committee. (1) A municipality that adopts an urban renewal plan or a comprehensive development plan containing a provision for the segregation and application of tax increments pursuant to 7-15-4282 shall create a taxing entity committee to serve in an advisory capacity to the municipality with respect to the district.

(2) A taxing entity committee must consist of not less than five or more than nine members, appointed by the municipality. The committee members shall serve 4-year staggered terms, except that a minority of the initial appointees shall serve 2-year terms. The initial appointments must be made concurrent with the municipality's creation of the urban renewal area or targeted economic development district. At least one committee member must represent each of the following:

- (a) an affected school district;
- (b) an affected local government;
- (c) the local business community; and
- (d) the community at-large.

(3) The director of the office of budget and program planning and the director of the department of revenue, or their designees, shall serve as nonvoting, ex-officio members of the taxing entity committee.

(4) The taxing entity committee shall meet at least annually and shall:

(a) consult with and advise the municipality regarding:

- (i) the issuance of bonds;
- (ii) proposed changes in the infrastructure plans for the district;
- (iii) changes in the boundaries of the district;

(iv) whether the goals set out in the urban renewal plan or comprehensive development plan are being attained; and

(v) other matters referred to it by the municipality;

(b) review the status of the urban renewal or economic development project; and

(c) review the annual budget and report required under [section 6]."

Insert: "NEW SECTION. Section 6. Annual budget and report. A municipality that

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

adopts an urban renewal plan or a comprehensive development plan containing a provision for the segregation and application of tax increments pursuant to 7-15-4282 shall prepare and adopt an annual budget of revenue and expenditures for the urban renewal area or targeted economic development district for each fiscal year. The municipality shall consult with the taxing entity committee before finalizing the annual budget of revenue and expenditures."

Renumber: subsequent sections

14. Page 26, line 12.

Following: "financing"

Insert: "-- rulemaking authority"

Following: "."

Insert: "(1)"

15. Page 26, line 18.

Following: line 17

Insert: "(2) A targeted economic development district may include the tax increment financing provision provided for in this section only if:

(a) not more than 5% of the acreage of the land within the district is taxed based on productive capacity; and

(b) not more than 10% of the acreage of land within the district is taxed as class four residential property.

(3) The department of revenue shall adopt rules relating to tax increment financing under part 43 and this part, including but not limited to rules for defining, implementing, and reporting of the tax increment, determining and reporting acreage limits and the operation of the exclusion of classes of property from the increment, and to ensure conformity with the conditions for the creation of creating a tax increment financing district."

16. Page 26, line 21.

Strike: "4"

Insert: "6"

17. Page 26, line 24.

Following: "record"

Insert: ", except that the term does not include the taxable value of taxable property identified in Title 15, chapter 23, that is located within a targeted economic development district"

18. Page 27, line 3.

Following: "provision"

Insert: ", except that the term does not include the taxable value of taxable property identified in Title 15, chapter 23, that is located within a targeted economic development district"

19. Page 27, line 23.

Strike: "4"

Insert: "6"

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

20. Page 40, line 23.

Strike: "4"

Insert: "6"

21. Page 41, line 4.

Strike: "4"

Insert: "6"

22. Page 41, line 6.

Strike: "4"

Insert: "6"

MOTIONS

Senator Essmann moved to dissolve the Conference Committee on **SB 156** and appoint a **Free** Conference Committee on **SB 156** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:

4/26/2011

Senator Priest, Chair
Senator Ripley
Senator Windy Boy

Senator Essmann moved to appoint a Conference Committee on Governor amendments to **SB 136** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:

4/26/2011

Senator Balyeat, Chair
Senator Hinkle
Senator Vuckovich

Senator Essmann moved to appoint a Conference Committee on **SB 108** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:

4/26/2011

Senator Barrett, Chair
Senator Augare
Senator Tutvedt

Senator Essmann moved to appoint a **Free** Conference Committee on Governor amendments to **SB 312** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:

4/26/2011

Senator Vincent, Chair
Senator Keane
Senator Mowbray

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Senator Essmann moved to appoint a **Free** Conference Committee on **SB 35** and request the House to appoint a like committee. Motion Carried. President Peterson appointed:

4/26/2011

Senator Vincent, Chair
Senator Hamlett
Senator Ripley

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

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

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

SB 212 - Governor's Amendments - Senator Ripley moved Governor's amendments to **SB 212** be concurred in. Motion carried as follows:

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

Total 40

Nays: Barrett, Brenden, Brown, Erickson, Kaufmann, Lewis, Moss, Olson, Tropila, Wanzenried.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 38 - Senator Tutvedt moved **HJR 38** be concurred in. Motion carried as follows:

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

Total 28

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

Total 22

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 26, 2011

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Essmann moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Moore moved the Committee of the Whole report be adopted. Report adopted as follows:

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

Total 42

Nays: Augare, Blewett, Erickson, Keane, Larsen, Wanzenried, Williams, Windy Boy.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senate adjourned at 5:27 p.m.

MARILYN MILLER
Secretary of the Senate

JIM PETERSON
President of the Senate