

**SENATE JOURNAL
65TH LEGISLATURE
SIXTY-THIRD LEGISLATIVE DAY**

Helena, Montana
March 27, 2017

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Sales presiding. Invocation by Senator Small. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS (Keenan, Chair): 3/27/2017

Correctly printed: **SB 336, SB 339, SB 343, SB 347, SB 376, SB 377, SR 57, HB 168, HB 298, HB 351, HB 381, HB 521.**

Correctly engrossed: **SB 95, SB 156, SB 317, SB 333, SB 335, SB 345, SB 346, SB 367, HB 123, HB 516.**

Correctly enrolled: **SB 65, SB 113, SB 149, SB 152, SB 155, SB 157, SB 164, SB 169, SB 178, SB 219, SB 222, SR 35, SR 47, SR 49, SR 50, SJ 10.**

Transmitted to the House: **SB 94, SB 138, SB 185, SB 324, SB 329, SB 340, SB 344, HB 22, HB 30, HB 103, HB 198, HB 209, HB 266, HB 285, HB 288, HB 323, HB 328, HB 362, HB 367, HB 388, HB 396, HB 447, HB 496.**

Examined by the sponsor and found to be correct: **SB 151.**

Signed by the Speaker at 7:20 a.m., March 27, 2017: **SB 97, SB 128, SB 264.**

Delivered to the Governor at 10:11 a.m., March 27, 2017: **SB 97, SB 128, SB 264.**

Senator Blasdel introduced the Pages for the coming week:

Tristen Lang from Lakeside, sponsored by Senator Blasdel
Malin Nelson from Helena, sponsored by Senator McClafferty
Ryan Brown from Broadview, sponsored by Senator C. Smith
Sarah Hughes from Miles City, sponsored by Senator Moore
Zoe Reichner from Bigfork, sponsored by Senator Blasdel

REPORTS OF STANDING COMMITTEES

NATURAL RESOURCES (Vincent, Chair): 3/24/2017

SB 337, do pass.

SB 363, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Following: "HYDROELECTRIC FACILITY FEE;"

Insert: "ESTABLISHING A FEE FOR HYDROELECTRIC-DEPENDENT UTILITIES;"

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

2. Title, page 1, line 9.
Following: "23-2-512,"
Insert: "69-3-308,"

3. Page 2, line 11.
Following: "shall pay"
Strike: "an"
Insert: "a quarterly"
Strike: "\$0.0004 per kilowatt hour"
Insert: "\$577.75 per megawatt"

4. Page 2.
Following: line 21
Insert: "(6) For the purposes of this section, 69-3-308 does not apply, and the public service commission shall determine the appropriate recovery of this fee in rates in a proceeding held pursuant to 69-3-302 for any hydroelectric facility approved pursuant to 69-8-421."
Renumber: subsequent subsections

5. Page 2.
Following: line 23
Insert: "NEW SECTION. Section 4. Invasive species fee for hydroelectric-dependent utilities.
(1) A utility receiving more than 50% of its annual electricity supply from hydroelectric generation supplied by a federal power marketing administration shall pay an invasive species fee of \$0.0009972 per kilowatt hour of the utility's total retail sales for that quarter.
(2) A utility subject to the fee in subsection (1) shall file on forms provided by the department and pay within 30 days after the end of each quarterly period. The quarterly periods end March 31, June 30, September 30, and December 31 of each year.
(3) If the fee is not paid on or before the due date, a penalty and interest must be assessed as provided in 15-1-216. The department may waive the penalty pursuant to 15-1-216.
(4) The department may audit the records and other documents of a utility to ensure that the proper fee is paid and collected pursuant to this section.
(5) Money collected pursuant to this section must be deposited in the invasive species account established in 80-7-1004."
Renumber: subsequent sections

6. Page 9.
Following: line 10
Insert: "**Section 10.** Section 69-3-308, MCA, is amended to read:
"**69-3-308. Disclosure of taxes and fees paid by customers of public utility -- automatic rate adjustment and tracking for taxes and fees.** (1) A public utility may separately disclose in a customer's bill the amount of state and local taxes and fees assessed against the public utility that the customer is paying.
(2) (a) (i) ~~The~~ Except as provided in [section 3], the commission shall allow a public utility to file rate schedules containing provisions for the automatic adjustment and tracking of Montana state and local taxes and fees, except state income tax, paid by the public utility. The resulting rate

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

schedule changes must include:

(A) adjustments for the net change in federal and state income tax liability caused by the deductibility of state and local taxes and fees;

(B) retroactive tax adjustments; and

(C) adjustments related to the resolution of property taxes paid under protest.

(ii) The rate schedules must include provisions for annual rate adjustments, including both tax increases and decreases.

(b) The amended rates must automatically go into effect on January 1 following the date of change in taxes paid on an interim basis, subject to any adjustments determined in subsection (2)(c).

(c) The amended rate schedule must be filed with the commission on or before the effective date of the change in taxes paid, and if the commission determines that the revised rate schedule is in error, the commission may, within 45 days of receipt of the revised rate schedule, ask for comment and order the public utility to address any errors or omissions including, if necessary, any refunds due customers.

(d) Failure of the commission to issue an order pursuant to subsection (2)(c) is considered approval on the part of the commission.

(e) A public utility may challenge an order issued by the commission under subsection (2)(c) in accordance with the provisions of 69-3-401 through 69-3-405."

Renumber: subsequent sections

7. Page 9, line 16.

Strike: "and"

Following: "[section 4],"

Insert: "and [section 5],"

8. Page 11, line 9.

Strike: "[Section 3] is"

Insert: "[Sections 3 and 4] are"

Strike: "chapter 51,"

9. Page 11, line 10.

Strike: "chapter 51,"

Strike: "[section 3]"

Insert: "[sections 3 and 4]"

10. Page 11, line 11.

Strike: "4"

Insert: "5"

11. Page 11, line 12.

Strike: "4"

Insert: "5"

12. Page 11, line 16.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

Strike: "[Section 3] applies"
Insert: "[Sections 3 and 4] apply"

13. Page 11, line 18.
Strike: "[Section 4]"
Insert: "[Section 5]"

14. Page 11, line 20.
Strike: "5 and 9(6)"
Insert: "6 and 11(6)"

And, as amended, do pass.

TAXATION (Blasdel, Chair):
SB 333, introduced bill, be amended as follows:

3/24/2017

1. Title, page 1, line 5.
Following: "DISPENSARIES"
Insert: "AND ENDORSEMENTS FOR CHEMICAL MANUFACTURING"

2. Title, page 1, line 9.
Following: "PROVIDERS;"
Insert: "PROVIDING FOR THE ASSESSMENT AND COLLECTION OF THE TAX;"

3. Title, page 1, line 11.
Following: "50-46-320,"
Insert: "50-46-327,"
Following: "50-46-330,"
Insert: "50-46-343,"

4. Page 3.
Following: line 29
Insert: "(2) "Chemical manufacturing" means the production of marijuana concentrate."
Renumber: subsequent subsections

5. Page 5, line 23.
Following: "cultivated"
Insert: ", chemical manufacturing will occur,"

6. Page 7, line 15.
Strike: "and"

7. Page 7.
Following: line 15
Insert: "(c) the issuance of endorsements for chemical manufacturing to a provider or a marijuana-

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

infused products provider who applies for a chemical manufacturing endorsement and meets requirements established by the department by rule; and"

Renumber: subsequent subsection

8. Page 7, line 28.

Following: "license"

Insert: "or an employee of a licensee"

9. Page 8, line 4.

Following: "(4)"

Insert: "(a)"

10. Page 8, line 5.

Strike: "(a)"

Insert: "(i)"

Renumber: subsequent subsections

11. Page 8.

Following: line 8

Insert: "(iii) indicate whether a provider or marijuana-infused products provider has an endorsement for chemical manufacturing;"

Renumber: subsequent subsections

12. Page 8, line 12.

Following: line 11

Insert: "(b) In addition to complying with subsection (4)(a), registry identification cards issued pursuant to this part must also include a:

(i) picture of the registered cardholder; and

(ii) microprocessor chip, magnetic stripe, bar code, or other electronic information storage device that is capable of being used to track registered cardholder purchases."

13. Page 8, line 15.

Following: "card"

Insert: ", "

Strike: "or"

Following: "license"

Insert: ", or endorsement"

14. Page 8, line 23.

Following: "Licenses"

Insert: "and endorsements"

15. Page 8, line 25.

Following: "(8)"

Insert: "(a)"

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

16. Page 8, line 27.

Following: "change."

Insert: "(b) A registered cardholder who possesses mature plants or seedlings under 50-46-319(1)(b) shall notify the department of the location of the plants and seedlings or any change of location of plants or seedlings. The department shall provide the names and locations of cardholders who possess mature plants or seedlings to the local law enforcement agency having jurisdiction in the area in which the plants or seedlings are located. The law enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.

(c)"

17. Page 8, line 30.

Strike: "or licenses"

Strike: "subsection"

Insert: "subsections (8)(b) and"

18. Page 9, line 5.

Strike: "or license"

19. Page 9, line 6.

Following: "names"

Insert: "and phone numbers"

20. Page 9, line 7 through line 10.

Strike: "locations of dispensaries"

Insert: "city, town, or county where registered premises"

Following: "laboratories"

Insert: "are located"

Strike: "local" on page 9, line 7 through "50-46-332" on line 10

Insert: "public on the department's website. The department may not disclose the physical location or address of a provider, marijuana-infused products provider, dispensary, or testing laboratory"

21. Page 9, line 13.

Following: "providers licensed,"

Insert: "the number of endorsements approved for chemical manufacturing,"

22. Page 16, line 20.

Strike: "5 years"

Insert: "1 year"

23. Page 17, line 13.

Strike: "operate dispensaries"

Strike: ";

Insert: ":

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

- (i) operate dispensaries; and
- (ii) engage in chemical manufacturing in accordance with rules adopted by the department;"

24. Page 17, line 14.

Following: "manufacture"

Insert: "marijuana concentrates and"

25. Page 17, line 28 through page 18, line 2.

Strike: "the following" on page 17, line 28 through "master's" on page 18, line 2

Insert: "at least a bachelor's"

26. Page 18, line 3.

Strike: "and a" through "experience"

27. Page 18, line 9.

Strike: "owns and"

28. Page 18, line 14.

Following: "marijuana"

Insert: ", marijuana concentrate,"

29. Page 18, line 23.

Following: "license"

Insert: "or an endorsement for chemical manufacturing"

30. Page 19, line 11.

Following: "license"

Insert: "or endorsement"

31. Page 20, line 1.

Strike: "products must be tested"

Insert: "department shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing"

32. Page 20, line 2.

Following: "present;"

Insert: "and"

33. Page 20, line 3 through line 5.

Strike: subsection (b) through subsection (c) in their entirety

34. Page 20.

Following: line 5

Insert: "(b) the presence of contaminants."

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

35. Page 20, line 6 through line 9.

Strike: subsection (4) through subsection (5) in their entirety

Renumber: subsequent subsections

36. Page 20, line 14 through line 15.

Strike: "The original testing" on page 20, line 14 through "results." on page 20, line 15

Insert: "The department shall adopt rules that provide for retesting parameters and requirements."

37. Page 22, line 2.

Strike: "4"

Insert: "2"

Strike: "12"

Insert: "4"

38. Page 22, line 3.

Strike: "produced by the mature plants"

Insert: "allowed by the department by rule"

39. Page 22, line 5.

Strike: "8"

Insert: "4"

Strike: "24"

Insert: "8"

40. Page 22, line 6.

Strike: ""produced by the mature plants""

Insert: "allowed by the department by rule"

41. Page 22, line 8.

Following: line 7

Insert: "(iii) A registered cardholder who possesses mature plants or seedlings shall notify the department of the location of the plants and seedlings pursuant to 50-46-303(8)(b)."

42. Page 24, line 28.

Strike: "dispensary or testing laboratory "

Insert: "licensee"

43. Page 24, line 29.

Strike: "dispensary or testing laboratory"

Following: "employee"

Insert: "of a licensee"

44. Page 26, line 3.

Following: "manufacture"

Insert: "marijuana concentrates or"

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

45. Page 26, line 15.

Following: "marijuana"

Insert: ", marijuana concentrates,"

46. Page 26, line 23.

Strike: "dispensary or testing laboratory"

Insert: "licensee"

47. Page 26, line 24.

Strike: "dispensary or testing laboratory"

Following: "employee"

Insert: "of a licensee"

48. Page 27, line 10.

Following: "renewal."

Insert: "(8) A provider or marijuana-infused products provider who violates [section 19] or [section 20] is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department of revenue certifies compliance with [section 19] and [section 20]."

49. Page 27, line 11.

Insert: "**Section 11.** Section 50-46-327, MCA, is amended to read:

"50-46-327. (Temporary) Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions. (1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a ~~location where marijuana to be used for a debilitating medical condition is cultivated or manufactured or where marijuana-infused products are made~~ registered premises or a testing laboratory.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the person the same fee that the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this chapter, or has not met the standard of care required under this chapter, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the use of marijuana for a debilitating medical condition.

50-46-327. (Effective June 30, 2017) Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions. (1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a patient who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where marijuana to be used for a debilitating medical condition is cultivated or where marijuana-infused products are produced registered premises or a testing laboratory.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the individual the same fee that the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this part, or has not met the standard of care required under this part, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the use of marijuana for a debilitating medical condition."

Renumber: subsequent sections

50. Page 27, line 29.

Strike: "may"

Insert: "shall"

51. Page 27, line 30.

Following: "."

Insert: "The department shall report biennially to the children, families, health, and human services interim committee concerning the results of unannounced inspections."

52. Page 29, line 6.

Following: "card"

Insert: ", "

Strike: "or"

Following: "license"

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

Insert: ", or endorsement"

53. Page 29, line 13.

Following: "marijuana"

Insert: ", engaging in chemical manufacturing,"

54. Page 29, line 18.

Insert: "**Section 14.** Section 50-46-343, MCA, is amended to read:

"50-46-343. Legislative monitoring. (1) The children, families, health, and human services interim committee shall provide oversight of the department's activities ~~related to registering individuals~~ pursuant to this part, including but not limited to monitoring of:

(a) the number of registered cardholders and licensees and of;

(b) issues related to the cultivation, manufacture, ~~sale, testing,~~ and use of marijuana pursuant to this part; and

(c) the development, implementation, and use of the seed-to-sale tracking system established in accordance with 50-46-303.

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature."

Renumber: subsequent sections

55. Page 29, line 22 through line 23.

Following: "applications" on line 22

Insert: "for licenses and endorsements and applications"

Strike: "[for" on line 22 through "and]" on line 23

56. Page 29, line 24.

Following: renewal of"

Insert: "licenses, endorsements, and"

57. Page 29.

Following: line 28

Insert: "(e) the security and operating requirements for chemical manufacturing, including but not limited to requirements for:

(i) safety equipment;

(ii) extraction methods, including solvent-based and solvent-free extraction; and

(iii) postprocessing procedures;

(f) the amount of usable marijuana that a registered cardholder who has not named a provider or marijuana-infused products provider may possess;"

Renumber: subsequent subsections

58. Page 30, line 2.

Following: "the testing"

Insert: "and retesting"

59. Page 30, line 12.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

Strike: "\$1,000"

Insert: "\$2,000"

60. Page 30, line 13.

Strike: "\$5,000"

Insert: "\$10,000"

61. Page 30, line 16.

Strike: "fee"

Insert: "fees"

Following: "for"

Insert: "dispensaries, endorsements for chemical manufacturing, and"

62. Page 30, line 27.

Strike: "[section 15]"

Insert: "[sections 17 through 25]"

63. Page 30, line 30.

Following: "Act"

Insert: "and tracking system development"

64. Page 31, line 4.

Following: line 3

Insert: "NEW SECTION. Section 17. Definitions. As used in [sections 17 through 25], the following definitions apply:

(1) "Department" means the department of revenue provided for in 2-15-1301.

(2) "Marijuana product" means marijuana as defined in 50-32-101 and marijuana-infused products as defined in 50-46-302.

(3) "Marijuana product provider" means provider or a marijuana-infused products provider as those terms are defined in 50-46-302.

(4) "Person" means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed.

(5) "Purchaser" means a person to whom a sale of a marijuana product is made.

(6) "Retail price" means the established price for which a marijuana product provider sells a marijuana product to a purchaser before any discount or reduction.

(7) "Sale" or "sell" means any transfer of marijuana products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means."

Renumber: subsequent sections

65. Page 31, line 4.

Strike: "providers and marijuana-infused products"

Insert: "marijuana product"

Following: "(1)"

Insert: "(a)"

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

66. Page 31, line 5.

Strike: "of 2%"

Insert: "equal to the percentage provided in subsection (1)(b)"

Strike: "provider's and marijuana-infused products"

Insert: "marijuana product"

67. Page 31, line 7.

Following: line 6

Insert: "(b) The percentage of tax on gross sales in subsection (1)(a) is as follows:

(i) for gross sales during the calendar quarters beginning July 1, 2017, and ending June 30, 2018, the amount is 4%; and

(ii) for gross sales during the calendar quarters beginning July 1, 2018, and thereafter, the amount is 2%."

68. Page 31, line 7.

Strike: "provider or marijuana-infused products"

Insert: "marijuana product"

69. Page 31, line 9.

Strike: "provider or marijuana-infused products"

Insert: "marijuana product"

70. Page 31, line 12.

Strike: "provider or marijuana-infused products"

Insert: "marijuana product"

71. Page 31, line 13.

Strike: "2%"

Insert: "the percentage provided in subsection (1)(b)"

72. Page 31, line 16 through line 25.

Strike: line 16 through line 25

Insert: "(5) The tax imposed by [sections 17 through 25] and related interest and penalties are a personal debt of the person required to file a return from the time that the liability arises, regardless of when the time for payment of the liability occurs.

(6) For the purpose of determining liability for the filing of statements and the payment of taxes, penalties, and interest owed under [sections 19 through 22]:

(a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state taxes provided for in [sections 19 through 22] and who fails to pay the taxes is liable to the state for the taxes and the penalty and interest due on the amounts;

(b) each officer of the corporation, to the extent that the officer has access to the requisite records, is individually liable along with the corporation for filing statements and for unpaid taxes, penalties, and interest upon a determination that the officer:

(i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

(ii) possessed the responsibility on behalf of the corporation for directing the filing of tax statements or the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to file statements required by [sections 17 through 25] or pay taxes due as required by [sections 17 through 25];

(c) each partner of a partnership is jointly and severally liable, along with the partnership, for any statements, taxes, penalties, and interest due while a partner;

(d) each member of a limited liability company that is treated as a partnership or as a corporation for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member;

(e) the member of a single-member limited liability company that is disregarded for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and

(f) each manager of a manager-managed limited liability company is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

(7) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (6)(a) to establish individual liability and may consider any other available information.

(8) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of penalty and interest against the corporation. The individual remains liable for any statements and the amount of taxes, penalties, and interest unpaid by the entity."

73. Page 31, line 27.

Following: line 26

Insert: "NEW SECTION. Section 19. Returns -- payment -- recordkeeping -- authority of department. (1) Each marijuana product provider shall file a return, on a form provided by the department, and pay the tax due as provided in [section 18].

(2) Each return must be authenticated by the person filing the return or by the person's agent authorized in writing to file the return.

(3) (a) A person required to pay to the department the taxes imposed by [sections 17 through 25] shall keep for 5 years:

(i) all receipts issued; and

(ii) an accurate record of all sales of marijuana products, showing the name and address of each purchaser, the date of sale, and the quantity, kind, and retail price of each product sold.

(b) For the purpose of determining compliance with the provisions of [sections 17 through 25], the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(i) require the attendance of a person having knowledge or information relevant to a return;

(ii) compel the production of books, papers, records, or memoranda by the person required to attend;

(iii) implement the provisions of 15-1-703 if the department determines that the collection

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

of the tax is or may be jeopardized because of delay;

- (iv) take testimony on matters material to the determination; and
- (v) administer oaths or affirmations.

(4) Pursuant to rules established by the department, returns may be computer-generated and electronically filed."

Insert: "NEW SECTION. Section 20. Deficiency assessment -- penalty and interest -- statute of limitations. (1) If the department determines that the amount of the tax due is greater than the amount disclosed by a return, it shall mail to the marijuana product provider a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The marijuana product provider may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(3) The amount of tax due under any return may be determined by the department within 5 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For purposes of this section, a tax return due under [sections 17 through 25] and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing."

Insert: "NEW SECTION. Section 21. Procedure to compute tax in absence of statement -- estimation of tax -- failure to file -- penalty and interest. (1) If the marijuana product provider fails to file any return required by [section 19] within the time required, the department may, at any time, audit the marijuana product provider or estimate the taxes due from any information in its possession and, based on the audit or estimate, assess the marijuana product provider for the taxes, penalties, and interest due the state.

(2) The department shall impose penalty and interest as provided in 15-1-216. The department shall mail to the marijuana product provider a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The marijuana product provider may seek review of the determination pursuant to 15-1-211. The department may waive any penalty pursuant to 15-1-206. "

Insert: "NEW SECTION. Section 22. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under [sections 17 through 25].

(b) If a tax imposed by [sections 17 through 25] or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the marijuana product provider from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the marijuana product provider has the right to a review of the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the marijuana product provider if a claim is required before funds are available for offset."

Insert: "NEW SECTION. Section 23. Refunds -- interest -- limitations. (1) A claim for a refund or credit as a result of overpayment of taxes collected under [sections 17 through 25] must be filed within 5 years of the date that the return was due, without regard to any extension of time for filing.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

(2) (a) Interest paid by the department on an overpayment must be paid or credited at the same rate as the rate charged on delinquent taxes under 15-1-216.

(b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information.

(c) The department is not required to pay interest if:

(i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or

(ii) the amount of overpayment and interest does not exceed \$1."

Insert: "NEW SECTION. Section 24. Information -- confidentiality -- agreements with another state. (1) (a) Except as provided in subsections (2) through (5), in accordance with 15-30-2618 and 15-31-511, it is unlawful for an employee of the department or any other public official or public employee to disclose or otherwise make known information that is disclosed in a return or report required to be filed under [sections 17 through 25] or information that concerns the affairs of the person making the return and that is acquired from the person's records, officers, or employees in an examination or audit.

(b) This section may not be construed to prohibit the department from publishing statistics if they are classified in a way that does not disclose the identity of a person making a return or the content of any particular report or return. A person violating the provisions of this section is subject to the penalty provided in 15-30-2618 or 15-31-511 for violating the confidentiality of individual income tax or corporate income tax information.

(2) (a) This section may not be construed to prohibit the department from providing information obtained under [sections 17 through 25] to:

(i) the department of justice to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under [sections 17 through 25]; or

(ii) the department of public health and human services to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the Montana Medical Marijuana Act.

(b) The department may enter into an agreement with the taxing officials of another state for the interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax in order to promote fair and equitable administration of the laws and to eliminate double taxation.

(c) In order to implement the provisions of [sections 17 through 25], the department may furnish information on a reciprocal basis to the taxing officials of another state if the information remains confidential under statutes within the state receiving the information that are similar to this section.

(3) In order to facilitate processing of returns and payment of taxes required by [sections 17 through 25], the department may contract with vendors and may disclose data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

(4) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of [sections 17 through 25] or any other taxing act; or

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

(ii) on behalf of a party to any action or proceedings under the provisions of [sections 17 through 25] or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(5) This section may not be construed to limit the investigative authority of the legislative branch, as provided in 5-11-106, 5-12-303, or 5-13-309."

Insert: "NEW SECTION. Section 25. Department to make rules. The department of revenue shall prescribe rules necessary to carry out the purposes of imposing and collecting the marijuana tax on gross sales."

Renumber: subsequent sections

74. Page 31, line 29.

Strike: "[Section 15] is"

Insert: "[Sections 17 through 25] are"

75. Page 31, line 30.

Strike: "[section 15]"

Insert: "[sections 17 through 25]"

76. Page 32, line 9.

Strike: "14 and 15"

Insert: "17 through 25"

77. Page 32, line 10.

Following: "sections"

Insert: "3(4)(b),"

Following: "6(6),"

Insert: "9(1)(b)(i), 9(1)(b)(ii),"

Strike: "11(2)(b)"

Insert: "12(2)(b)"

78. Page 32, line 14.

Following: "sections"

Insert: "3(4)(b),"

Following: "8,"

Insert: "9(1)(b)(i), 9(1)(b)(ii),"

Strike: "11(2)(b)"

Insert: "12(2)(b)"

79. Page 32, line 16.

Following: "sections"

Insert: "3(4)(b),"

Following: "8,"

Insert: "9(1)(b)(i), 9(1)(b)(ii),"

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

Strike: "11(2)(b)"

Insert: "12(2)(b)"

And, as amended, do pass.

Without objection, committee reports were adopted.

FIRST READING AND COMMITMENT OF BILLS

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

SB 377, introduced by S. Fitzpatrick, referred to Business, Labor, and Economic Affairs.

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

Majority Leader Thomas 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:

HB 108 - Senator Whitford moved **HB 108** be concurred in.

HB 108 - Senator Vincent moved **HB 108**, second reading copy, be amended as follows:

1. Page 1, line 17.

Strike: "A"

2. Page 1, line 18.

Strike: "MUST BE REMOVED FROM THE SITE OF THE KILL AND"

Amendment adopted as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Buttrey, Cohenour, Connell, Facey, Fitzpatrick, Gauthier, Gross, Hoven, Howard, Jones, Kary, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Tempel, Thomas, Vance, Vincent, Webb, Welborn, Whitford, Wolken, Mr. President.

Total 42

Nays: Brown, Caferro, Fielder, Hinebauch, Hinkle, Keenan, Swandal, Vuckovich.

Total 8

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 108 - Bill, as amended, concurred in as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 236 - Senator Fielder moved **SB 236** do pass. Motion carried as follows:

Yeas: Ankney, Blasdel, Brown, Buttrey, Connell, Fielder, Fitzpatrick, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, Moore, Olszewski, Osmundson, Regier, Richmond, Salomon, Small, Smith C, Swandal, Tempel, Thomas, Vance, Vincent, Webb, Mr.President.
Total 30

Nays: Barrett, Boland, Caferro, Cohenour, Facey, Gauthier, Gross, MacDonald, Malek, McClafferty, McNally, Phillips, Pomnichowski, Sands, Sesso, Smith F, Vuckovich, Welborn, Whitford, Wolken.
Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Majority Leader Thomas moved the committee **rise and report**. Motion carried. Committee arose. Senate resumed. President Sales presiding.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

Chair Moore moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Ankney, Barrett, Blasdel, Brown, Buttrey, Caferro, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, McNally, Moore, Olszewski, Osmundson, Pomnichowski, Regier, Richmond, Salomon, Sesso, Small, Smith C, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.

Total 41

Nays: Boland, Cohenour, Gross, MacDonald, Malek, McClafferty, Phillips, Sands, Smith F.

Total 9

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:

SB 25, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 40, as amended by the House, passed as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips,

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 58, as amended by the House, passed as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 127, as amended by the House, passed as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

Excused: None.
Total 0

SB 336 passed as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 343 failed as follows:

Yeas: Ankney, Barrett, Boland, Buttrey, Cohenour, Connell, Facey, Gauthier, Gross, Jones, MacDonald, Malek, McClafferty, McNally, Phillips, Pomnichowski, Richmond, Sands, Sesso, Small, Thomas, Vuckovich, Welborn, Whitford, Wolken.
Total 25

Nays: Blasdel, Brown, Caferro, Fielder, Fitzpatrick, Hinebauch, Hinkle, Hoven, Howard, Kary, Keenan, Lang, Moore, Olszewski, Osmundson, Regier, Salomon, Smith C, Smith F, Swandal, Tempel, Vance, Vincent, Webb, Mr.President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 168 concurred in as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips,

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 298 concurred in as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Buttrey, Caferro, Cohenour, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Gross, Hinkle, Hoven, Howard, Jones, Kary, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken.
Total 46

Nays: Brown, Hinebauch, Keenan, Mr.President.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 351 concurred in as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

Excused: None.
Total 0

HB 381 concurred in as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken.
Total 48

Nays: Keenan, Mr.President.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 521 concurred in as follows:

Yeas: Ankney, Barrett, Blasdel, Boland, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fielder, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Ankney moved to change his vote on the **amendment to HB 108** from No to Yes.
Without objection, so ordered.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 27, 2017

Majority Leader Thomas moved that **SB 345** and **SB 363** be taken from the second reading board re-referred to the Finance and Claims Committee. Without objection, so ordered.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Thomas moved the Senate adjourn until 1:00 p.m., Tuesday, March 28, 2017, the sixty-fourth legislative day. Motion carried.

Senate adjourned at 2:08 p.m.

MARILYN MILLER
Secretary of the Senate

SCOTT SALES
President of the Senate