

**SENATE JOURNAL
67TH LEGISLATURE
EIGHTIETH LEGISLATIVE DAY**

Helena, Montana
April 29, 2021

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Blasdel presiding. Invocation by Pastor Steve Bostrom. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS (Keenan, Chair):

4/29/2021

Correctly printed: **SR 46, SR 92, HJ 27, HJ 37.**

Correctly enrolled: **SB 44, SB 76, SB 108, SB 142, SB 149, SB 155, SB 214, SB 232, SB 243, SB 263, SB 284, SB 285, SB 288, SJ 16, SR 76, SR 82, SR 85, SR 86, SR 93, SR 99.**

Examined by the sponsor and found to be correct: **SB 44, SB 76, SB 108, SB 142, SB 149, SB 155, SB 214, SB 232, SB 243, SB 263, SB 284, SB 285, SB 288, SJ 16, SR 76, SR 82, SR 85, SR 86, SR 93, SR 99.**

Transmitted to the House: **HB 435, HB 640, HB 656, HJ 27, HJ 29, HJ 35, HJ 37, HJ 39, HJ 44, HJ 45, HJ 47, HJ 48, HJ 49.**

Signed by the Secretary of the Senate at 4:40 p.m., April 28, 2021: **SB 363, SR 96.**

Signed by the President at 7:00 a.m., April 29, 2021: **SB 363, SR 96.**

Signed by the Secretary of the Senate at 12:50 p.m., April 29, 2021: **SB 214.**

Signed by the President at 1:45 p.m., April 29, 2021: **SB 214.**

REPORTS OF STANDING COMMITTEES

ADVERSE COMMITTEE REPORT

JUDICIARY (Regier, Chair):

4/29/2021

SR 46, be **not** adopted. Adverse Committee Report **not** adopted as follows:

Yeas: Bogner, Brown, Cuffe, Ellsworth, Esp, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Howard, Kary, Keenan, Lang, Manzella, McGillvray, Molnar, Osmundson, Regier K, Sales, Smith C, Tempel, Vance, Mr. President.

Total 25

Nays: Ankney, Bennett, Boland, Boldman, Cohenour, Ellis, Fitzpatrick, Flowers, Fox, Gross, Hoven, Jacobson, Lynch, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Pope, Salomon, Sands, Small, Sweeney, Webber, Welborn.

Total 25

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Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

MESSAGES FROM THE GOVERNOR

April 29, 2021

The Honorable Mark Blasdel
President of the Senate
State Capitol
Helena, MT 59601

Dear President Blasdel:

On Wednesday, April 28th, I signed the following bills:

Senate Bill 157 - Hinebauch

Senate Bill 163 - Glimm

Senate Bill 166 - Gauthier

Senate Bill 201 - Fitzpatrick

Senate Bill 223 - Gauthier

Senate Bill 238 - Gauthier

Senate Bill 283 - Glimm

Senate Bill 286 - Hinebauch

Senate Bill 307 - Lang

Senate Bill 338 - Lang

The bills have been delivered to the Secretary of State.

Sincerely,

GREG GIANFORTE
Governor

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

Majority Leader Smith moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Keenan in the chair.

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

SR 92 - Senator Fitzpatrick moved the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 92**. Motion carried as follows:

Yeas: Bogner, Brown, Cuffe, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Kary, Keenan, Lang, Manzella, McGillvray, Molnar, Osmundson, Regier K, Sales, Salomon, Smith C, Tempel, Vance, Mr. President.

Total 28

Nays: Ankney, Bennett, Boland, Boldman, Cohenour, Ellis, Flowers, Fox, Gross, Jacobson, Lynch, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Pope, Sands, Small, Sweeney, Webber, Welborn.

Total 22

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 689 - Conference Committee Report No. 1 - Senator Fitzpatrick moved the Conference Committee report to **HB 689** be adopted. Motion carried as follows:

Yeas: Ankney, Bennett, Bogner, Boland, Boldman, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Fox, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Kary, Keenan, Lang, Lynch, Manzella, McGillvray, Molnar, Morigeau, O'Brien, Osmundson, Pomnichowski, Pope, Regier K, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Webber, Welborn, Mr. President.

Total 46

Nays: Gross, Jacobson, McClafferty, McNally.

Total 4

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

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SB 342 - Senator O'Brien moved **SB 342** do pass. Motion **failed** as follows:

Yeas: Bennett, Boland, Boldman, Cohenour, Ellis, Flowers, Fox, Gross, Jacobson, Lynch, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Pope, Sands, Sweeney, Webber.
Total 19

Nays: Ankney, Bogner, Brown, Cuffe, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Kary, Keenan, Lang, Manzella, McGillvray, Molnar, Osmundson, Regier K, Sales, Salomon, Small, Smith C, Tempel, Vance, Welborn, Mr. President.
Total 31

Voted absentee: None.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Vote totals include a change of vote from Yes to No, made by Senator Smith under Motions.

HB 92 - Governor's Amendments - Senator Regier moved Governor's amendments to **HB 92** be concurred in. Motion carried as follows:

Yeas: Ankney, Bogner, Brown, Cuffe, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Kary, Keenan, Lang, Manzella, McGillvray, Molnar, Osmundson, Regier K, Sales, Salomon, Small, Smith C, Tempel, Vance, Welborn, Mr. President.
Total 31

Nays: Bennett, Boland, Boldman, Cohenour, Ellis, Flowers, Fox, Gross, Jacobson, Lynch, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Pope, Sands, Sweeney, Webber.
Total 19

Voted absentee: None.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 342 - Majority Leader Smith moved **SB 342** be **indefinitely postponed**. Motion carried as follows:

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Yeas: Ankney, Bogner, Brown, Cuffe, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Kary, Keenan, Lang, Lynch, Manzella, McGillvray, Molnar, Osmundson, Regier K, Sales, Salomon, Small, Smith C, Tempel, Vance, Welborn, Mr. President.

Total 32

Nays: Bennett, Boland, Boldman, Cohenour, Ellis, Flowers, Fox, Gross, Jacobson, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Pope, Sands, Sweeney, Webber.

Total 18

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 459 - Governor's Amendments - Senator Glimm moved Governor's amendments to **HB 459** be concurred in. Motion carried as follows:

Yeas: Ankney, Bennett, Bogner, Boland, Boldman, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Fox, Friedel, Gauthier, Gillespie, Glimm, Gross, Hertz, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, Lynch, Manzella, McClafferty, McGillvray, McNally, Molnar, Morigeau, O'Brien, Osmundson, Pomnichowski, Pope, Regier K, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Webber, Welborn, Mr. President.

Total 50

Nays: None.

Total 0

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 702 - Governor's Amendments - Senator McGillvray moved Governor's amendments to **HB 702** be concurred in. Motion carried as follows:

Yeas: Ankney, Bogner, Brown, Cuffe, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, Manzella, McGillvray, Molnar, Osmundson, Regier K, Sales, Salomon, Small, Smith C, Tempel, Vance,

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Mr. President.

Total 31

Nays: Bennett, Boland, Boldman, Cohenour, Ellis, Flowers, Fox, Gross, Lynch, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Pope, Sands, Sweeney, Webber, Welborn.

Total 19

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 402 - Free Conference Committee Report No. 1 - Majority Leader Smith moved the Free Conference Committee report to **SB 402** be adopted. Motion carried as follows:

Yeas: Ankney, Bogner, Brown, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Kary, Keenan, Lang, Manzella, McGillvray, Molnar, Osmundson, Regier K, Sales, Salomon, Smith C, Vance, Welborn, Mr. President.

Total 28

Nays: Bennett, Boland, Boldman, Cohenour, Cuffe, Ellis, Flowers, Fox, Gross, Jacobson, Lynch, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Pope, Sands, Small, Sweeney, Tempel, Webber.

Total 22

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Senate recessed at 11:13 a.m. and reconvened at 12:07 p.m. Senate remained in the Committee of the Whole, Senator Keenan presiding.

HB 257 - Governor's Amendments - President Blasdel moved Governor's amendments to **HB 257** be concurred in. Motion carried as follows:

Yeas: Ankney, Bennett, Bogner, Boland, Boldman, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Fox, Friedel, Gauthier, Gillespie, Glimm, Gross, Hertz, Hinebauch,

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Hoven, Howard, Jacobson, Kary, Keenan, Lang, Lynch, Manzella, McClafferty, McGillvray, McNally, Molnar, Morigeau, O'Brien, Osmundson, Pomnichowski, Pope, Regier K, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Webber, Welborn, Mr. President.
Total 50

Nays: None.
Total 0

Voted absentee: None.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Majority Leader Smith moved the committee **rise, report progress, and beg leave to sit again**. Motion carried. Committee arose. Senate resumed. President Blasdel presiding.

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

Yeas: Ankney, Bogner, Brown, Cuffe, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, Lynch, Manzella, McGillvray, Molnar, O'Brien, Osmundson, Regier K, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Welborn, Mr. President.
Total 36

Nays: Bennett, Boland, Boldman, Cohenour, Ellis, Flowers, Fox, Gross, McClafferty, McNally, Morigeau, Pomnichowski, Pope, Webber.
Total 14

Voted absentee: None.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

MOTIONS

Senator Osmundson moved the Senate reconsider the previous day's action on **HB 2** and that **HB 2** be placed on second reading this date. Without objection, so ordered.

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Senator Bennett moved that **SR 46** be taken from the Judiciary Committee and placed on second reading this date. Motion carried as follows:

Yeas: Ankney, Bennett, Boland, Boldman, Cohenour, Ellis, Fitzpatrick, Flowers, Fox, Gross, Hoven, Jacobson, Lynch, McClafferty, McNally, Molnar, Morigeau, O'Brien, Pomnichowski, Pope, Sales, Salomon, Sands, Small, Sweeney, Webber, Welborn.
Total 27

Nays: Bogner, Brown, Cuffe, Ellsworth, Esp, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Howard, Kary, Keenan, Lang, Manzella, McGillvray, Osmundson, Regier K, Smith C, Tempel, Vance, Mr. President.
Total 23

Voted absentee: None.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Majority Leader Smith moved the Senate reconsider its action on **HB 435** and that **HB 435** be placed on third reading this date. Motion carried as follows:

Yeas: Ankney, Bennett, Bogner, Boldman, Brown, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Kary, Keenan, Lang, Lynch, Manzella, McGillvray, Molnar, Osmundson, Pope, Regier K, Sales, Salomon, Small, Smith C, Vance, Welborn, Mr. President.
Total 34

Nays: Boland, Cohenour, Flowers, Fox, Friedel, Gross, Jacobson, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Sands, Sweeney, Tempel, Webber.
Total 16

Voted absentee: None.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Senate recessed at 12:16 p.m. and reconvened at 12:53 p.m., President Blasdel presiding

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THIRD READING OF BILLS

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

HB 435 concurred in as follows:

Yeas: Ankney, Bennett, Bogner, Boldman, Brown, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Fox, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, Lynch, Manzella, McGillvray, Molnar, Morigeau, O'Brien, Osmundson, Pope, Regier K, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Welborn, Mr. President.
Total 42

Nays: Boland, Cohenour, Flowers, Gross, McClafferty, McNally, Pomnichowski, Webber.
Total 8

Voted absentee: None.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Vote totals include a change from Absent to Yes, made by Senator Molnar under Motions.

HB 92 concurred in as follows:

Yeas: Ankney, Bogner, Brown, Cuffe, Ellsworth, Esp, Fitzpatrick, Flowers, Fox, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, Manzella, McGillvray, Molnar, O'Brien, Osmundson, Regier K, Sales, Salomon, Sands, Small, Smith C, Tempel, Vance, Welborn, Mr. President.
Total 36

Nays: Bennett, Boland, Boldman, Cohenour, Ellis, Gross, Lynch, McClafferty, McNally, Morigeau, Pomnichowski, Pope, Sweeney, Webber.
Total 14

Voted absentee: None.

Excused: None.
Total 0

Absent or not voting: None.

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Total 0

Vote totals include two changes of vote from No to Yes, made by Senator Flowers and Senator O'Brien under Motions.

HB 257 concurred in as follows:

Yeas: Ankney, Bogner, Brown, Cuffe, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, Manzella, McGillvray, McNally, Molnar, Osmundson, Regier K, Sales, Salomon, Small, Smith C, Tempel, Vance, Welborn, Mr. President.

Total 33

Nays: Bennett, Boland, Boldman, Cohenour, Ellis, Flowers, Fox, Gross, Lynch, McClafferty, Morigeau, O'Brien, Pomnichowski, Pope, Sands, Sweeney, Webber.

Total 17

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Vote totals include a change of vote from Yes to No, made by Senator Pope under Motions.

HB 459 concurred in as follows:

Yeas: Ankney, Bennett, Bogner, Boland, Boldman, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Fox, Friedel, Gauthier, Gillespie, Glimm, Gross, Hertz, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, Lynch, Manzella, McClafferty, McGillvray, McNally, Molnar, Morigeau, O'Brien, Osmundson, Pomnichowski, Pope, Regier K, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Webber, Welborn, Mr. President.

Total 50

Nays: None.

Total 0

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

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Total 0

HB 702 concurred in as follows:

Yeas: Ankney, Bogner, Brown, Cuffe, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, Manzella, McGillvray, Molnar, Osmundson, Regier K, Sales, Salomon, Small, Smith C, Tempel, Vance, Welborn, Mr. President.

Total 32

Nays: Bennett, Boland, Boldman, Cohenour, Ellis, Flowers, Fox, Gross, Lynch, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Pope, Sands, Sweeney, Webber.

Total 18

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Vote totals include a change of vote from No to Yes, made by Senator Jacobson under Motions.

SB 402 passed as follows:

Yeas: Ankney, Bogner, Brown, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Kary, Keenan, Lang, Manzella, McGillvray, Molnar, Osmundson, Regier K, Sales, Salomon, Small, Smith C, Vance, Welborn, Mr. President.

Total 29

Nays: Bennett, Boland, Boldman, Cohenour, Cuffe, Ellis, Flowers, Fox, Gross, Jacobson, Lynch, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Pope, Sands, Sweeney, Tempel, Webber.

Total 21

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

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HB 689 concurred in as follows:

Yeas: Ankney, Bogner, Brown, Cuffe, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Kary, Keenan, Lang, Manzella, McGillvray, Molnar, Osmundson, Regier K, Sales, Small, Smith C, Tempel, Vance, Welborn, Mr. President.
Total 29

Nays: Bennett, Boland, Boldman, Cohenour, Ellis, Flowers, Fox, Gross, Howard, Jacobson, Lynch, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Pope, Salomon, Sands, Sweeney, Webber.
Total 21

Voted absentee: None.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

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

Majority Leader Smith moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Keenan in the chair.

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

HB 2 - Senator Osmundson moved **HB 2** be concurred in. Motion carried as follows:

Yeas: Ankney, Bogner, Boldman, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Fox, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, Lynch, Manzella, McGillvray, McNally, Molnar, O'Brien, Osmundson, Pope, Regier K, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Welborn, Mr. President.
Total 43

Nays: Bennett, Boland, Gross, McClafferty, Morigeau, Pomnichowski, Webber.
Total 7

Voted absentee: None.

Excused: None.
Total 0

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Absent or not voting: None.

Total 0

SR 46 - Senator Bennett moved that the nomination transmitted by the Governor be concurred in and confirmed by the Senate in accordance with **SR 46**. Motion carried as follows:

Yeas: Ankney, Bennett, Boland, Boldman, Cohenour, Ellis, Fitzpatrick, Flowers, Fox, Gross, Hoven, Jacobson, Lynch, McClafferty, McNally, Molnar, Morigeau, O'Brien, Pomnichowski, Pope, Sales, Salomon, Sands, Small, Sweeney, Webber, Welborn.

Total 27

Nays: Bogner, Brown, Cuffe, Ellsworth, Esp, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Howard, Kary, Keenan, Lang, Manzella, McGillvray, Osmundson, Regier K, Smith C, Tempel, Vance, Mr. President.

Total 23

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Majority Leader Smith moved the committee **rise, report progress, and beg leave to sit again**. Motion carried. Committee arose. Senate resumed. President Blasdel presiding.

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

Yeas: Ankney, Bennett, Boldman, Cohenour, Cuffe, Ellis, Ellsworth, Fitzpatrick, Flowers, Fox, Gillespie, Gross, Hertz, Hoven, Jacobson, Kary, Lang, Lynch, Manzella, McNally, Molnar, Morigeau, O'Brien, Osmundson, Pomnichowski, Pope, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Webber, Welborn, Mr. President.

Total 37

Nays: Bogner, Boland, Brown, Esp, Friedel, Gauthier, Glimm, Hinebauch, Howard, Keenan, McClafferty, McGillvray, Regier K.

Total 13

Voted absentee: None.

Excused: None.

Total 0

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Absent or not voting: None.

Total 0

Majority Leader Smith moved that **HB 2** be moved to third reading this date. Without objection, so ordered.

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 2 concurred in as follows:

Yeas: Ankney, Bogner, Boldman, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Fox, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Hoven, Howard, Jacobson, Kary, Keenan, Lang, Lynch, Manzella, McNally, Molnar, Osmundson, Pope, Regier K, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Welborn, Mr. President.

Total 40

Nays: Bennett, Boland, Friedel, Gross, McClafferty, McGillvray, Morigeau, O'Brien, Pomnichowski, Webber.

Total 10

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

MOTIONS

Senator Molnar moved to change his third reading vote from Absent to Yes on **HB 435**. Without objection, so ordered

Senator Jacobson moved to change his third reading vote from No to Yes on **HB 702**. Without objection so ordered.

Senator Flowers moved to change his third reading vote on **HB 92** from No to Yes. Without objection, so ordered.

Senator Pope moved to change his third reading vote on **HB 257** from Yes to No. Without objection, so ordered.

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Senator O'Brien moved to change her third reading vote on **HB 92** from No to Yes. Without objection, so ordered.

Senator Morigeau moved the Senate adjourn sine die. Motion **failed** as follows:

Yeas: Bennett, Boland, Boldman, Cohenour, Ellis, Flowers, Fox, Gross, Hoven, Jacobson, Lynch, McClafferty, McNally, Morigeau, O'Brien, Pomnichowski, Pope, Sands, Sweeney, Webber.
Total 20

Nays: Ankney, Bogner, Brown, Cuffe, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Howard, Kary, Keenan, Lang, Manzella, McGillvray, Molnar, Osmundson, Regier K, Sales, Salomon, Small, Smith C, Tempel, Vance, Welborn, Mr. President.
Total 30

Voted absentee: None.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Majority Leader Smith moved to change his vote on **SB 342** from Yes to No. Without objection, so ordered.

SPECIAL ORDERS OF THE DAY

Senator Vance presented President Blasdel with an antique chair originally from the House of Representatives, spoke of their long friendship, and thanked him for his exemplary service.

President Pro Tempore Ellsworth presented a tribute to Senator Vance.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Smith moved the Senate recess until 2:30 p.m. Senate recessed at 1:21 p.m.

Senate reconvened at 4:21 p.m, President Blasdel presiding.

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SPECIAL ORDERS OF THE DAY

Senator Bogner read into the record the 2019, 2020, and 2021 Honor and Remember Act Medallion Recipients as reported by the Montana Veteran Affairs Division.

The Medallion Recipients are:

2nd Lt. John McInerney, KIA, Asiatic, DOD 1944-10-12
CWO Robert Rosar, KIA, US Army, Vietnam, DOD 1968-05-17
Platoon Sergeant John Sloan, MIA, US Marine Corp, Japan, DOD 1943 -02-19
2nd Lt. John Mulder, MIA, US Army, Germany, DOD 1945-11-25
Sgt. James McHale, KIA, US Army, Iraq, DOD 2008-07-30
PFC Nicholas Cook, KIA, US Army, Afghanistan, DOD 2010-03-07

Senator Kary thanked the Pages for their service this week.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 640**
Report No. 001, April 29, 2021

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 640** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 640** (reference copy -- salmon) be amended as follows:

1. Page 5.

Following: line 4

Insert: "COORDINATION SECTION. Section 3. Coordination instruction. If House Bill No. 701 is passed and approved, then the section amending 16-12-111 in House Bill No. 701 is void and 16-12-111 must be amended as follows:

"16-12-111. (Effective October 1, 2021) Marijuana compensation state special revenue account -- operating reserve -- transfer of excess funds. (1) There is a dedicated marijuana compensation state special revenue account within the state special revenue fund established in 17-2-102, to be administered by the department.

(2) The account consists of:

(a) money deposited into the account pursuant to this chapter;

(b) the taxes collected pursuant to Title 15, chapter 64, part 1;

(c) license and registered cardholder fees deposited into the account pursuant to this chapter;
and

(d) civil penalties collected under this chapter.

(3) Except as provided in subsection (4), money in the account must be used by the department

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- for the purpose of administering the provisions of this chapter.
- (4) At the end of each fiscal year, the department shall transfer funds in excess of a 3-month operating reserve necessary to fund operating costs at the beginning of the next fiscal year in the following order:
- (a) 60% of the revenue calculated pursuant to subsection (5) to the marijuana revenue trust fund provided for in [the new section created by section 4];
 - (b) 40% of the revenue calculated pursuant to subsection (5) to the marijuana local government distribution account provided for in [the new section created by section 5];
 - (c) an amount not to exceed \$6 million must be transferred to the marijuana healing and ending addiction through recovery and treatment (HEART) fund account established in [section 100]; and
 - (d) the net balance remaining after the distributions made under subsections (4)(a) through (4)(c) must be distributed as follows:
 - (i) 20% to the credit of the department of fish, wildlife, and parks to be used solely as funding for wildlife habitat in the same manner as funding generated under 87-1-242(3) and used pursuant to 87-1-209;
 - (ii) 4% to the state park account established in 23-1-105(1);
 - (iii) 4% to the trails and recreational facilities account established in 23-2-108;
 - (iv) 4% to the nongame wildlife account established in 87-5-121;
 - (v) 3% or \$200,000, whichever is less, to the veterans and surviving spouses state special revenue account provided for in [section 93];
 - (vi) for the biennium beginning July 1, 2021, \$300,000 to the department of justice to administer grant funding to local and state law enforcement agencies for the purpose of purchasing and training drug-detection canines and canine handlers, including canines owned by local law enforcement agencies to replace canines who were trained to detect marijuana;
 - (vii) \$150,000 to the board of crime control to fund crisis intervention team training as provided in 44-7-110; and
 - (viii) the remainder to the general fund.
- (5) (a) At the end of fiscal years 2023, 2024, and 2025, the department of revenue shall determine the revenue to be distributed pursuant to subsections (4)(a) and (4)(b) by:
- (i) first subtracting the sales subject to the tax provided for in 15-64-102(1) in the previous 4 quarters from the sales subject to the tax provided for in 15-64-102(1) in fiscal year 2021;
 - (ii) then dividing by the sales subject to the tax provided for in 15-64-102(2) in the 4 most recently completed quarters; and
 - (iii) multiplying that percentage by 80% of the tax revenue collected under 15-64-102(2) in the 4 most recently completed quarters.
- (b) For fiscal years 2026 and thereafter, the revenue to be distributed pursuant to subsections (4)(a) and (4)(b) is the amount determined for fiscal year 2025.
- ~~(2) Marijuana sales taxes collected under the provisions of part 4 of this chapter must, in accordance with the provisions of 17-2-124, be deposited into the account along with any interest and income earned on the account.~~
- ~~(3) Funds deposited into the account must be transferred in the following amounts to provide funding as set out below:~~
- ~~(a) 4.125% of the funds to be deposited into the nongame wildlife account established in 87-5-~~

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121;

- ~~(b) 4.125% of the funds to be deposited into the state park account established in 23-1-105(1);~~
- ~~(c) 4.125% of the funds to be deposited into the trails and recreational facilities account established in 23-2-108;~~
- ~~(d) 37.125% of the funds to be deposited to the credit of the department of fish, wildlife, and parks to be used solely as funding for wildlife habitat in the same manner as funding generated under 87-1-242(3) and used pursuant to 87-1-209;~~
- ~~(e) 10.5% to the state general fund; and~~
- ~~(f) the remainder in the subaccounts provided for in this subsection (3)(f). There are subaccounts in the marijuana compensation special revenue account established by subsection (1). Funding deposited into this account under subsection (2) is further deposited into subaccounts to be used only as follows:~~
 - ~~(i) 10% of the funds to be deposited into a subaccount to be administered by the department of public health and human services to provide grants to existing agencies and not-for-profit organizations, whether government or community-based, to increase access to evidence-based low-barrier drug addiction treatment, prioritizing medically proven treatment and overdose prevention and reversal methods and public or private treatment options with an emphasis on reintegrating recipients into their local communities, to support overdose prevention education, and to support job placement, housing, and counseling for those with substance use disorders;~~
 - ~~(ii) 10% of the funds to be deposited into a subaccount to be administered by the department of commerce for distribution to the local government representing the locality where the retail sales occurred;~~
 - ~~(iii) 10% of the funds to be deposited into a subaccount to be administered by the veterans' affairs division of the department of military affairs to provide services and assistance for all Montana veterans and surviving spouses and dependents; and~~
 - ~~(iv) 10% of the funds to be deposited into a subaccount to be administered by the Montana department of public health and human services to administer medicaid rate increases that provide for a wage increase to health care workers who provide direct medicaid-funded home and community health services for elderly and disabled persons.~~
- ~~(4) (a) Funds transferred from the accounts and subaccounts provided in subsection (3) may be used only to increase revenue for the purposes specified and may not be used to supplant other sources of revenue used for these purposes.~~
- ~~(b) Funds deposited into the account provided in subsection (1) may be used only to increase revenue to each special revenue account or subaccount set forth in subsection (3) and may not be used to supplant other sources of revenue for these purposes."~~

Insert: "COORDINATION SECTION. Section 4. Coordination instruction. If House Bill No. 701 is passed and approved, then House Bill No. 701 must be amended to include the following section:

"NEW SECTION. Marijuana revenue trust fund -- interest retention. (1) There is a marijuana revenue trust fund within the permanent fund type. The trust fund is subject to legislative transfer and appropriation as provided in this section.

(2) Revenue is deposited in the trust fund pursuant to 16-12-111(4)(a).

(3) The money must be used for purposes addressing the economic and social costs of marijuana cultivation, processing, and use as determined by the legislature.

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(4) Interest and income earned on money in the trust fund must be retained within the trust fund except as provided in this section. If assets in the trust fund reach the following amounts, money may be appropriated by the legislature and used in the following amounts for the purposes specified in subsection (3):

(a) When the fund balance reaches \$20 million, 50% of the interest earned may be appropriated.

(b) When the fund balance reaches \$50 million, 60% of the interest earned may be appropriated.

(c) When the fund balance reaches \$100 million, 80% of the interest earned may be appropriated.

(d) When the fund balance reaches \$150 million, 90% of the interest earned may be appropriated.

(5) Appropriation of the principal balance of the fund may be authorized by a two-thirds vote of the members of each house of the legislature.

(6) Appropriations of the interest and principal balance must be for one-time-only expenditures."

Insert: "COORDINATION SECTION. Section 5. Coordination instruction. If House Bill No. 701 is passed and approved, then House Bill No. 701 must be amended to include the following section:

"NEW SECTION. Marijuana local government distribution account. (1) There is a marijuana local government distribution account within the state special revenue fund established in 17-2-102, to be administered by the department.

(2) (a) The revenue distributed to the account pursuant to 16-12-111(4)(b) must be deposited in the account. Subject to subsection (2)(b), the department shall allocate the funds to cities, towns, counties, and consolidated city-county governments in the same proportion and using the same ratios as provided for in 15-70-101(2)(b), (2)(c), and (3).

(b) Cities, towns, counties, and consolidated city-county governments without adult-use dispensaries within their corporate boundaries may not receive distributions under this subsection (2).

(3) Funds not distributed pursuant to this section because of the application of subsection (2)(b) must be transferred to the account provide for in [the new section created by section 4].""

Insert: "COORDINATION SECTION. Section 6. Coordination instruction. If House Bill No. 701 is passed and approved, then [section 108] of House Bill No. 701 is void and must be replaced with the following:

"NEW SECTION. Appropriations. (1) There is appropriated from the marijuana state special revenue account provided for in 16-12-111 to the department of revenue:

(a) \$6,930,492 for fiscal year 2022, which comprises 34 total FTE, of which 22 of the 34 FTE represent positions transferred from the department of public health and human services to the department of revenue.

(b) \$4,136,011 for fiscal year 2022, which comprises 34 total FTE, of which 22 of the 34 FTE represent positions transferred from the department of public health and human services to the department of revenue.

(c) The appropriations described in subsections (1)(a) and (1)(b) must be used by the department of revenue for the operating costs it incurs when administering the provisions of

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[this act].

(d) The appropriation provided for in this subsection (1) must be considered a part of the base budget for the 2025 biennium.

(2) (a) (i) The following amounts are appropriated for each year of the 2023 biennium to the department of public health and human services for eligible services and programs in accordance with the HEART fund that is set forth in [section 100]:

(A) \$6 million in state special revenue funds; and

(B) \$19 million in federal special revenue funds.

(ii) It is the intent of the legislature that these appropriation amounts be included as part of the base budget for the department of public health and human services for the biennium beginning July 1, 2023.

(b) For the 2023 biennium, \$300,000 is appropriated to the department of justice for the purposes described in 16-12-111.

(c) (i) For each year of the 2023 biennium, \$150,000 is appropriated to the board of crime control for the purposes described in 44-7-110.

(ii) It is the intent of the legislature that this appropriation amount be included as part of the base budget for the board of crime control for the biennium beginning July 1, 2023.

(3) (a) The following amounts are appropriated for fiscal year 2022:

(i) the amount distributed pursuant to 16-12-111(4)(d)(ii) but not to exceed \$650,000 to the department of fish, wildlife, and parks from the state park account established in 23-1-105(1);

(ii) the amount distributed pursuant to 16-12-111(4)(d)(iii) but not to exceed \$650,000 to the department of fish, wildlife, and parks from the trails and recreational facilities account established in 23-2-108;

(iii) the amount distributed pursuant to 16-12-111(4)(d)(iv) but not to exceed \$650,000 to the department of fish, wildlife, and parks from the nongame wildlife account established in 87-5-121; and

(iv) \$200,000 to the veterans' affairs division of the department of military affairs from the account provided for in [section 93].

(b) The following amounts are appropriated for the fiscal year 2023:

(i) the amount distributed pursuant to 16-12-111(4)(b) but not to exceed \$3,708,000 to the department of revenue from the marijuana local distribution account provided for in [new section created by section 5];

(ii) \$5,412,000 from the marijuana state special revenue account provided for in 16-12-111 to the department of fish, wildlife, and parks to be used solely as funding for permanent easements and maintenance;

(iii) \$1,082,000 to the department of fish, wildlife, and parks from the state park account established in 23-1-105(1);

(iv) \$1,082,000 to the department of fish, wildlife, and parks from the trails and recreational facilities account established in 23-2-108;

(v) \$1,082,000 to the department of fish, wildlife, and parks from the nongame wildlife account established in 87-5-121; and

(vi) \$200,000 to the veterans' affairs division of the department of military affairs from the account provided for in [section 93]."

Insert: "COORDINATION SECTION. Section 7. Coordination instruction. If House Bill No. 701 is passed and approved, then House Bill No. 701 must be amended to include the following

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section:

"NEW SECTION. Codification instruction. [New sections created by sections 4 and 5] are intended to be codified as an integral part of Title 16, chapter 12, part 1, and the provisions of Title 16, chapter 12, part 1, apply to [new sections created by sections 4 and 5]."

Insert: "COORDINATION SECTION. Section 8. Coordination instruction. If House Bill No. 701 is passed and approved:

(1) [section 94 through 98] of House Bill No. 701, creating a local-option excise tax, are void; and

(2) [section 111(6)] of House Bill No. 701 must be amended to strike the language "implement the local-option excise tax in accordance with [sections 94 through 98], or both."

Insert: "COORDINATION SECTION. Section 9. Coordination instruction. If House Bill No. 701 is passed and approved, then subsections (4)(a), (4)(b), and (5) of 16-12-111 are effective January 1, 2022, and [section 13(2)(d)] of House Bill No. 701, as amended by [section 10 of this act], is effective July 1, 2023."

Insert: "COORDINATION SECTION. Section 10. Coordination instruction. If House Bill No. 701 is passed and approved, [section 13] of House Bill No. 701 is void and must be replaced with the following:

"NEW SECTION. Written certification. (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The written certification must:

(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the patient for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must:

(a) confirm that the physician is:

(i) the patient's treating physician and that the patient has been under the physician's ongoing medical care as part of a bona fide professional relationship with the patient; or

(ii) the patient's referral physician;

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

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

(d) if the debilitating medical condition is severe chronic pain, confirm that the physician is board-certified in pain medicine;

(e) confirm that the physician has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination, whether in person or, in accordance with subsection (4), through the use of telemedicine, that included a personal review of any medical records maintained by other physicians and that may have included the patient's reaction and response to conventional medical therapies;

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

(g) confirm that the physician has reviewed all prescription and nonprescription

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medications and supplements used by the patient and has considered the potential drug interaction with marijuana;

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

(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the patient;

(j) list restrictions on the patient's activities due to the use of marijuana;

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

(l) state that the physician will:

(i) continue to serve as the patient's treating physician or referral physician; and

(ii) monitor the patient's response to the use of marijuana and evaluate the efficacy of the treatment; and

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) A physician who is providing written certification through the use of telemedicine:

(a) shall comply with the administrative rules adopted for telemedicine by the board of medical examiners provided for in 2-15-1731; and

(b) may not use an audio-only visit unless the physician has first established a physician-patient relationship through an in-person encounter.

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

Renumber: subsequent section

For the Senate:

Vance, Chair
Boldman
Brown

For the House:

Hopkins, Vice Chair
Novak
M. Regier

MESSAGES FROM THE OTHER HOUSE

Free Conference Committee Report No.1 adopted:

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SB 191, introduced by R. Osmundson
SB 388, introduced by G. Hertz
SB 402, introduced by C. Smith
HB 2, introduced by L. Jones
HB 5, introduced by L. Jones
HB 632, introduced by F. Garner
HB 663, introduced by B. Ler

Conference Committee Report No.1 adopted:

4/29/2021

HB 689, introduced by J. Dooling

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

Majority Leader Smith moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Keenan in the chair.

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

HB 640 - Free Conference Committee Report No. 1 - Senator Fitzpatrick moved the Free Conference Committee report to **HB 640** be adopted. Motion **failed** as follows:

Yeas: Bogner, Cuffe, Ellsworth, Esp, Fitzpatrick, Friedel, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Howard, Kary, Keenan, Lang, Manzella, McGillvray, Osmundson, Regier K, Smith C, Vance, Mr. President.

Total 22

Nays: Ankney, Bennett, Boland, Boldman, Brown, Cohenour, Ellis, Flowers, Fox, Gross, Hoven, Jacobson, Lynch, McClafferty, McNally, Molnar, Morigeau, O'Brien, Pomnichowski, Pope, Sales, Salomon, Sands, Small, Sweeney, Tempel, Webber, Welborn.

Total 28

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 640 - Majority Leader Smith moved **HB 640** be **indefinitely postponed**. Motion carried as follows:

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Yeas: Ankney, Bennett, Boland, Boldman, Brown, Cohenour, Cuffe, Ellis, Esp, Flowers, Fox, Friedel, Gross, Hoven, Jacobson, Kary, Lynch, McClafferty, McGillvray, McNally, Molnar, Morigeau, O'Brien, Osmundson, Pomnichowski, Pope, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Webber, Mr. President.

Total 36

Nays: Bogner, Ellsworth, Fitzpatrick, Gauthier, Gillespie, Glimm, Hertz, Hinebauch, Howard, Keenan, Lang, Manzella, Regier K, Welborn.

Total 14

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

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

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

Yeas: Ankney, Bennett, Bogner, Boland, Boldman, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Esp, Fitzpatrick, Flowers, Fox, Friedel, Gauthier, Gillespie, Gross, Hinebauch, Hoven, Jacobson, Kary, Keenan, Lang, Manzella, McClafferty, McNally, Molnar, Morigeau, O'Brien, Osmundson, Pomnichowski, Pope, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Webber, Welborn, Mr. President.

Total 44

Nays: Glimm, Hertz, Howard, Lynch, McGillvray, Regier K.

Total 6

Voted absentee: None.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

MOTIONS

Senator Ankney moved the Senate adjourn sine die. Motion carried as follows:

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Yeas: Ankney, Bennett, Bogner, Boland, Boldman, Brown, Cohenour, Cuffe, Ellis, Ellsworth, Fitzpatrick, Flowers, Fox, Friedel, Gauthier, Gillespie, Glimm, Gross, Hertz, Hinebauch, Hoven, Jacobson, Kary, Keenan, Lang, Lynch, Manzella, McClafferty, McGillvray, McNally, Molnar, Morigeau, O'Brien, Osmundson, Pomnichowski, Pope, Regier K, Sales, Salomon, Sands, Small, Smith C, Sweeney, Tempel, Vance, Webber, Welborn, Mr. President.
Total 48

Nays: Esp, Howard.
Total 2

Voted absentee: None.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Minority Leader Cohenour and Majority Leader Smith, both term-limited, reflected on their legislative careers, spoke of progress made or lost during this session, and gave final remarks.

President Blasdel, also term-limited, spoke of his legislative career, thanked his family and the many people who keep the Senate organized and running, and fellow legislators who do their best to represent the people of Montana.

Senate adjourned at 5:21 p.m.

MARILYN MILLER
Secretary of the Senate

MARK BLASDEL
President of the Senate