

2011 Legislative Summary – Kalispell Chamber of Commerce Prepared by: Anderson, Baker and Swanson

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The 2011 Montana legislative session was adjourned Sine Die on Thursday, the 88th day of the session. The Budget and associated bills were passed in the last several hours of the session and have been forwarded to the Governor. Some things remain unknown however, such as which bills will be signed by the Governor. The Governor's options are more limited when the Legislature is not in session. He can sign a bill, veto a bill or not act on the bill and it becomes law within 10 days.

This summary provides a look at some of the key issues addressed by the 2011 Legislature.

Workers' Compensation Insurance Reform

HB 334 by Rep. Scott Reichner (R-Bigfork) was one of the signature bills of the Republican leaders in the House and Senate. Given Montana's place as #1 with the highest workers' compensation insurance rates in the nation, it was a commendable objective. HB 334 was signed by Governor Schweitzer on April 12 and will save Montana businesses \$100 million in workers' compensation insurance rates in the upcoming year. It will save another \$60 million over the next three years.

One of the most notable facts of HB 334 was that it was a compromise bill. The original draft of HB 334 had far more cost savings due to reducing the benefits to injured workers, particularly those who had been on the system for a long time. However to get a final bill passed the Governor, Senator Ryan Zinke (R-Whitefish) and Representative Reichner worked very hard to craft a compromise. Kudos to all legislators who worked on HB 334. Some of the highlight provisions of HB 334 include the ability to provide medical settlements, reducing medical provider rates and providing thresholds for workers to access benefits.

Medical Marijuana Reform

SB 423 by Senator Jeff Essmann (R-Billings) was the final solution to the Medical marijuana dilemma facing this year's legislature. Many attempts were made to (1) repeal the entire law passed by initiative in 2004, (2) carve out specific components of the existing law, (3) clarify employer's rights, etc, but in the end SB 423 is the only relevant bill passed on the final day. The Governor is expected to let it become law without his signature. SB 423 repeals existing law and puts into place stricter regulations on medical marijuana businesses and creates substantial barriers for people to get medical marijuana cards. Under the law, large marijuana growing operations and storefront medical pot dispensaries must shut down operations by July 1. The system will transform to one in which people authorized to use medical marijuana can either grow their own or obtain it without

compensation from a provider who can grow it for up to three people. SB 423 is designed to eliminate the profits from the business and cut down on the users.

HB 43 by Rep. Gary MacLaren (R-Hamilton) was a signature bill to address employer concerns from the medical marijuana act. HB 43 was transmitted to the Governor on April 27 after numerous reiterations of the bill to sync with SB 423.

Budget and Funding bills

HB 2, the main budget bill by Rep. Walt McNutt (R-Sidney) did pass the Legislature in the final hours of the 88th day with a myriad amendments agreed to in a budget deal announced with the Governor; however a host of accompanying funding bills are still lingering. HB 316, HB 317 and HB 604 all by Rep. Rob Cook (R-Conrad) are in various stages of approval. The Governor has not acted yet on HB 2, but has suggested he may use his line item veto authority to strike various funding provisions from the bill. The Governor has also announced his plans to veto House Bill 316, a complicated bill reallocating a variety of revenue sources into the state general fund and the guarantee account. . The Kalispell Chamber watched this carefully due to the raid of tourism dollars to support education along with the oil and gas industry. If the Governor follows through on his plans to veto HB 316, it will have a domino effect on the main school funding legislation, SB 329 by Senator Zinke. HB 317 provides for sunset statutory appropriations over certain periods. HB 317 has been transmitted to the Governor. HB 604 provided for fund transfers to various accounts and has also been transmitted to the Governor. On May 4, the Governor announced his line-item veto of HB 604, removing a new 2.75% assessment on workers comp premiums designed to shore up the old fund liabilities (see discussion below). It is anticipated that the Governor will rely on a large ending fund balance to backfill these funding shortfalls, thereby avoiding the need for a special session.

Business Equipment Tax Reform

There were numerous attempts to reduce the business equipment tax including a proposal by the Governor that didn't make it through more than a House hearing. SB 372 by Senator Bruce Tutvedt (R-Kalispell) was the only surviving bill in the last few days and its fate is questionable at best. SB 372 likely represents the largest tax cut for businesses proposed during the session. It lowers the tax rate on business equipment from 3% to 2% on the first \$2million worth of business property. Upon reaching a specific business trigger, the tax rate would drop to 1.5% on the first \$3 million of property. It was transmitted to the Governor on May 3.

Tort and Legal Reform

HB 341 and HB 342 by Representative Cary Smith (R-Billings) were two priority tort /legal reform proposals this Session for the Kalispell Chamber that were both vetoed by Governor Schweitzer. Successful overrides were passed in the House but not the Senate. HB 341 revised the pre- and post- judgment interest rates from a statutory 10% to prime plus two percent. HB 342 revised civil laws to require caps on appeal bonds. A handful of other medical malpractice and legal reform efforts promoted by the legislature were not enacted, primarily due to vetoes by the Governor.

Bonding Authority

HB 439 by Representative Hollenbaugh (D-Helena) was unsuccessful garnering the three-fourths vote needed to pass in the House. In the final hours, HB 439 died in the House 60/39. HB 439 included millions of dollars of bonding authority for projects around Montana such as University system buildings, a Montana Historical Society building, etc. However, legislators felt additional state indebtedness at a time when the economy is fragile would not be prudent.

Eminent Domain

HB 198 by Ken Peterson (R-Billings) miraculously passed the Legislature on April 20. HB 198 provides the owners of a public utility with a mechanism to use the power of eminent domain to seize property in the construction of the utility line. The bill was a direct result of a District Court Judge who ruled that the Montana Alberta Tie Line (MATL) did not have authority to use eminent domain. This decision impacted other public utilities such as Northwestern Energy and MDU. It also put a halt to the construction of the MATL line north of Great Falls. This drama pitted private property advocates against utility companies, unions, and environmentalists who want to develop green (wind) energy. The drama was a partisan battle. In the House, all Democrats locked up and did not support the passage of HB 198. In the end, both Democrats and Republicans in the Senate supported HB 198 on a close vote to send it to the Governor. About an hour after the Senate passed HB 198 on 3rd reading, the Governor held a press conference requesting the bill be sent to him immediately so that he could use his power of amendatory veto to add a sunset provision (expire 2013). The Senate and House Leadership decided to send the Governor the bill after Sine Die to prevent another eminent domain battle in 2013. HB 198 is likely a bill the Governor will allow to go into effect without signing despite the fact it was his "signature" bill in his State of the State address in January.

Montana State Fund – State's Largest Workers' Compensation Insurance Carrier

One of the end game funding solutions was to raid the Montana State Fund for dollars to shore up the Old Fund rather than use general fund dollars (HB 604). The State of Montana has always been liable for both the Old Fund and the New Fund because the Montana State Fund (MSF) is created by the State Legislature. The Old Fund is financially unstable and rather than shore up the stability of the "Old Fund" through the general fund, legislators created a new form of a "premium tax" of 2.75% for the State Fund. The money collected by MSF customers will be used to pay down the Old Fund liability. The premium tax was expected to begin July 1 for all workers' compensation premiums written by MSF. On Wednesday, May 4, the Governor announced his plan to line item veto this bill, striking the new assessment language. The state will still need to transfer as much as \$13 million over the next year to cover the Old Fund costs.

Other Areas of Interest:

HB 100 by Rep. Gordon Vance (R-Bozeman) requires a fiscal note to include business impact. HB 100 was amended by the Governor, those amendments were accepted and the revised bill was transmitted back to the Governor on May 3.

HB 467 by Rep. Randy Brodehl (R-Kalispell) was enacted to allow tax credits to community, tribal, and technical college endowments. The Kalispell Chamber testified in support on HB 467 in both the House and Senate committees.

HB 585 by Rep. Jerry Bennett (R-Libby) requires public disclosure of contracts with outside counsel for state agencies. The bill was passed by the Legislature on April 18 and transmitted to the Governor on May 2. The Governor's staff has indicated a likely veto.

Rep. Mark Blasdel (R-Somers) sponsored **HB 642** on behalf of Senator Jon Sonju (R-Kalispell) to create a select interim committee on efficiency in government. The bill was passed by the Legislature on April 18 and transmitted to the Governor May 2. If signed by the Governor, this select committee is expected to produce promising proposals for consideration by the next Administration and Legislature.

SB 234 by Sen. Sonju generally revised municipal solid waste services. The bill was passed by the Legislature with flying colors and was transmitted and signed by the Governor.

SB 329 is Senator Zinke's bill that revises public school funding by increasing state funds, including oil-and-gas revenue, and restricting school district reserve funds. SB 329 passed in the last hours of the Session.

SJ 23 by Senator Essmann and supported by Rep. Keith Regier (R-Kalispell) contains Sen. Essmann's proposed interim study on the exemption of nonprofits from taxes.

In total, the Legislature passed 16 study resolutions to be considered in the interim. Interim committee assignments are being finalized now along with expected responsibilities.