

2011

Community News Service of the 62nd Montana Legislature

Cody Bloomsburg
The University of Montana

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COMMUNITY NEWS SERVICE COVERAGE OF THE 62ND MONTANA
LEGISLATURE

By

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Professional Paper

presented in partial fulfillment of the requirements
for the degree of

Master of Arts
in Journalism, Print

The University of Montana
Missoula, MT

May 2011

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Community News Service Coverage of the 62nd Montana Legislature

Chairperson: Dennis Swibold

This is my news coverage of one of the strangest and most divisive sessions of the Montana Legislature in the past 30 years. In essence, a Republican-controlled Legislature with a faction of far-right conservatives pitted their agenda of shrinking government and expanding states' rights against the will of Democratic Gov. Brian Schweitzer, the most popular politician in the state at the time. In November, 2010, the GOP harnessed a wave of anti-federal government and anti-Democratic Party sentiment to win a historic, 68-32 majority in the Montana House of Representatives and gain another seat in the Montana Senate to give it a 28-22 lead. But as much as Republican leadership tried to deny it at the outset of the session, their party was divided between more seasoned lawmakers who knew compromise was part of the game and a handful of outspoken first-termers, Tea Party politicians who wanted to nullify federal law and legislate social conservatism. After a lot of bad noise that garnered national T.V. time for a few GOP lawmakers and provided enough fodder for political cartoons to line birdcages until the 2013 session, Schweitzer got most of what he wanted. The state spending plan was a little less than he originally proposed, but none of the social measures to limit abortion went through, very few of the bills to expand gun rights made it, and none of the nullification business lived to be law. These are the stories I wrote about their battle.

ACKNOWLEDGEMENTS

There are many people who made this thing come off far better than it would have without them. I give my thanks to the faculty of School of Journalism, particularly Henriette Löwisch, and past Pollner professors, Eli Saslow and Chris Jones. And to Dr. Jeffery Greene of the Political Science Department for teaching me how state and local governments work. But for the sake of brevity I've boiled down my comments to three people, whom I've taken to calling The Three Wise Men.

I owe Chuck Johnson and Mike Dennison of the Lee State Bureau a debt of gratitude that exceeds the thousands of dollars I now owe in school loans. Johnson knows everything about Montana politics since the new state constitution was draw up in 1972. In fact, he covered the Constitutional Convention for the Missoulian as an intern. He is a walking encyclopedia of why things are the way they are in the state. What's more, he is an infinite source of compassion for young reporters trying to wrap their heads around a scene that, at first blush, is more confusing than reading a bad Chinese translation of Shakespeare. Likewise, Dennison has been covering the state house for decades and as Johnson says, is perhaps one of the three people in Montana who understand how K-12 education is funded. Their patience for my questions was astounding, and their sense of humor disarming and reassuring. There was a deep comfort in returning to the press room in the basement of the Capitol after a public hearing or a floor session that seemed too nonsensical to have actually happened only to find Dennison sitting in front of his laptop, laughing. He would turn to me and ask if I could believe what went down. Of course, I could not.

Dennis Swibold's patience and good nature went beyond that of any editor I have ever written for, as did his knowledge of the subjects I was trying desperately to cover. I

have no doubt I ruined his weekends for the entire four months of the session as he edited my wordy copy, always tightening, always making me seem much smarter than I had any right to sound. I don't know how he did it, all I know is that he did it in such a way that by the end of the session I actually became that smart. Maybe some people are just meant to be teachers, maybe some people are just born with kinder hearts than others. My guess is Swibold has both, whether he's been that way since birth, though, is beyond my ken. Whatever the reason, every thank-you email I received from the editor of a paper that ran my work and every positive phone call I got from a reader, I got in large part because of his support. Also, because of him, I know I have blathered on long enough here.

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Covering the 62nd Legislature for the Community News Service

My time reporting under the Capitol Dome is best summed up by a line I heard while working on a construction site in Idaho during my undergraduate degree. At that time, I had no intention of becoming a reporter or ever writing anything for publication. But as my long days and nights reporting in Helena came to an end, I kept recalling a conversation I overheard between two semi-nefarious characters debating which of the state's jails and prisons was the best to do time in based on quality of chow and leniency of guards.

They agreed that the prison in Orofino earned five stars because the guards let them play cards and they served hot lunches. One of the workers started to reminisce about his time in Orofino like a kid talking about his favorite summer camp. “Yeah man, that was fun!” he said. After a short pause, he clarified, “Well, not *fun*, fun. But you know, prison fun.”

So in short, it wasn't *fun*, fun, but the cafeteria made a pretty good club sandwich and the sergeants at arms didn't hassle me that much.

Not taking myself or my work too seriously was a huge part of what kept me going there. It also let me save my focus for what really mattered, doing my job as best I could so people living in towns I'd never heard of would have some idea how these people in suits were making decisions that would change their lives. It was a learning experience that exceeded my expectations and took my reporting and writing skills to a level I didn't think I could attain.

It all started with a weird election cycle in November, 2010. In talking to political scientists across the state I found that national politics had influenced state-level races

more than before. It was a mix of anti-federal government and anti-incumbent sentiment spurred by resentment of President Barack Obama's health care reform measures and a dismal economy. As it was explained to me, when things are bad, those in charge take the blame. Republicans, in large part, embraced the much more conservative agenda of the Tea Party to capitalize on the sentiment and get more people to the polls. Even if some in the GOP weren't on board with nullifying federal law and pushing through a right-wing social agenda that included dramatically limiting or the outright abolition of abortion, they weren't speaking out against it when a host of first-term conservative lawmakers came to the Capitol in January. That changed at the session's halftime, leaders started to kill the more conservative bills wholesale and in the end the Tea Party walked away with nothing.

But the sentiment and silence in November gave the GOP a historic 68-22 majority in the House and improved their lead in the Senate to 28-22. For the first half of the session, bills to nullify federal laws, expand gun rights and limit abortion and other measures to legislate very conservative positions on social issues seemed to be fast-tracked to Gov. Brian Schweitzer's desk. During this time, I spent long hours in the House Judiciary Committee. I was still trying to get my feet under me and get a grip on how to cover the Legislature. But it seemed clear that the panel was a microcosm of the House as a whole. The Senate, was fairly calm in the first half. Seasoned reporters and legislative staffers told me from start that the Senate is always less volatile than the House. So I figured if sparks were going to fly early, it was going to be in the House, and they would start in the judiciary committee. And they did, the group grabbed more headlines than any other throughout the entire session. It was a great place to go to get a daily story for the website. When in doubt, I would follow Charles Johnson of the Lee

State Bureau to room 137 and wait for the tears to flow.

The website, www.session11.org, was different than sites past students had used while covering the Legislature. Swibold and I wanted to make it look more like a professional news site. This meant we needed to have more than one story up top, and easy to use side navigation to get to other categories of stories, along with decent top-level navigation to get to the “about us” section and all that boilerplate stuff a website needs. He put it on me to design it before the session started and I hated every moment of it. It was the single most frustrating part about the session, besides formatting this paper. I had a little experience with the service I was using to build it, but not enough. I had to learn as I went and I've never had much interest in design. I know it's important, but so are good roads and you won't catch me on a paver in August.

The general plan was to put up at least one shorter story on the site everyday, along with a post first thing in the morning that summed up all the legislative coverage in the papers with links to the stories. We decided to call that the Morning Buzz. It was a great idea for driving traffic to the site, but I got tired of waking up before the rooster to read all the coverage and make the post. Swibold started taking care of it on Fridays for me. There are no words for how much I looked forward to every Friday. Doing the daily stories for the site, though, is where I learned the most. Instead of just getting feedback on the two stories that we sent out to the papers every week, I got daily critiques and pointers from Swibold. I had trouble coming up with crisp hard-news ledes early in the session, but by the end they came without thought. That was one of the biggest rewards of my time spent in Helena.

The website was a big change from years past, but I still had the monkey to feed, or about 40 of them if you count the newspapers individually. My obligation was a

feature and roundup article every week. My first feature was a quick-hit profile on the Senate Majority Leader Jeff Essmann, a Billings Republican. In past coverage, Essmann never shied away from taking blunt shots at Schweitzer. It seemed like a safe bet to me and the head of the Community News Service, Dennis Swibold, that Essmann and Schweitzer would be going rounds throughout the session. Letting readers know a little bit about him early would be a good move, we thought. Essmann, however, never really took that role. He was certainly the best member of GOP Senate leadership to get a quote from, but he never stepped into the ring with Schweitzer the way we had thought.

My second feature came to me as I stood on the third floor of the Capitol overlooking a make-shift stage where girls in tight workout clothes demonstrated some new-age jazzercise during a small health fair put on by an insurance company. Sen. Verdell Jackson, a tall, skinny man who would turn 70 that April, stood next to me. He looked over the railing at the girls as he waited for the elevator. I couldn't help but ask him what he thought of the scene.

He told me he had no idea what it was about, but we struck up a conversation and he perked up when he learned I primarily wrote for the small town papers in the state. He did not trust any of the reporters from Lee or the Great Falls Tribune, but he wanted me to meet with a group of lawmakers he called the "Freedom Caucus." That Friday, I found myself at table in the Senate Republicans' bullpen talking to about nine of the most conservative Tea Party legislators in Helena. Rep. James Knox, a freshman from Billings, immediately set down his smart phone when the interview began to record the meeting. Later, Johnson told me that was just a scare tactic sources use. It worked.

I tried not to show I was nervous, but I knew I was dealing with people who already didn't trust the press and I had the feeling they would stonewall me for the rest of

the session if I said one wrong word.

The meeting, despite their paranoia, gave me no understanding of what the group was actually about. They spent about 10 minutes debating amongst themselves what they were actually called. "Freedom Caucus" was already out, maybe "Constitution Caucus" would work, but they all agreed that Rep. Krayton Kerns was off-base when he asked why they didn't just call it the Tea Party Caucus. They spent the rest of the meeting trying to convince me they weren't just an extension of the Tea Party, that they were lawmakers looking to uphold the U.S. Constitution, particularly the 10th and Second Amendments. They were not fans of the standing interpretation of Supremacy Clause.

Toward the end of 45-minute talk, Kerns stood up, obviously frustrated, shook my hand and told me if I wanted it "right between the eyes" to come see him early the next week. Then he left. I went to see him first thing Monday morning and set up a time to talk.

That's when I got most of what I used in my feature about the Constitution Caucus. They were, basically, the Tea Party. Their main goals were to expand states' rights, cut government spending and nullify federal law to get the feds out of Montana's business. It was a great interview. I was impressed by how articulate he was and how he did not mince words. Whether a person agreed with Rep. Krayton Kerns' politics, they could not disagree that he calls it as he sees it and will not apologize for his stances or beliefs.

After I wrote the story, I thought for sure he and the others in the caucus would never talk to me for the rest of the session. I was worried that because I reported their connection to the Tea Party that they seemed to be trying so hard to dismiss, I would be

branded as part of the “liberal media.” Another untrustworthy slant-monger they saw as being bent on making them look like gun-toting fools. After my story ran, I received several e-mails from people calling them kooks. The following Monday, Kerns and Knox sought me out and shook my hand. They commended me on giving them a fair shake and explaining their stances accurately.

That was one of the biggest lessons I learned during the session. How fine a line you have to walk on some stories to truly be accurate. I talked to every side of the issue before I wrote and just put what they say down and explained the issues as clearly as I could. When a group or issue is such an easy target that bloggers and columnists are tripping over themselves to take shots at it, that's when solid reporting and clear writing shines the brightest, no matter what side of it a reader or source may be. Later in the session, the Constitution Caucus let me report on an informal planning dinner of theirs the night before major nullification bills hit the House floor. The Montana Human Rights Network linked to the story and their lobbyist told me it exposed the Constitution Caucus as bigots. Knox and Rep. Champ Edmunds, who was also at the dinner, found me after the story ran, and once again commended me on my accuracy. Edmunds added, though, that bloggers were having a field day with it.

After that, I took on the beast of medical marijuana reform. At that point, little had been done to start fixing the law most legislators agreed was being abused by a majority of the nearly 30,000 card holders. Looking back, I might as well have been writing about a leaf in the wind. But that's the way so many things go in Helena and people need to be kept abreast of the fluttering twists. The pot situation would not come to a definitive solution until the last hours of the session, but the hearings on all of the medical marijuana bills brought in scores of people. Their stories ranged from the strange to the

heartbreaking. The whole issue made for good stories, but covering it left me with the ultimately depressing truth that lawmaking can utterly fail to get done until those involved are under the weight of a mind-crushing deadline with the threat of major public backlash if they don't at least produce a ham-handed solution.

While Sen. Jeff Essmann never entered into a verbal cage match with the governor, he did become a major player in the session's most controversial problem: What to do with the medical marijuana law?

Even though I was fairly certain Essmann despised my profile of him, the early contact made it easy for me to talk to him after long meetings where he and a handful of lawmakers worked to craft a reform bill in the final hours of the session. By then, all other measures had either failed or been buried so deep in committee that Charles Manson had a better chance of getting out of prison than those bills had of seeing the light of day.

In the end, the sense I got of their final reform plan was that everyone involved was unhappy with it on some level and agreed that it had problems. It will be an issue in the 2013 session, and probably again in 2015.

Other than medical pot, the big issue was the budget. Republicans wanted to cut it down, and Democrats tried to stop them. Swibold had a plan to break it apart by section. I didn't know how smart that idea was until the session was over. That's when I realized there is no other way to cover something like that. It's so fluid and so sprawling that it's like trying to eat a fleeing elephant. You have to hack off a chunk and put it on the spit to sizzle while you try to catch up with the beast again.

That part of the coverage gave me my favorite story of the session, though. I went to prison in Deer Lodge and hung out with the warden who was facing some small, but

painful cuts. I watched as he talked to a convict who had recently stabbed another prisoner in the throat with a pen. It seemed like a perfect scene to show why the warden was convinced he needed \$200,000 more in overtime pay to bring in extra guards when things got out of hand. Writing the story wasn't *fun*, fun, but it was prison fun.

Lawmakers later gave the warden his \$200,000.

When everything wrapped up and the excess suits left Helena, there was still plenty issues left undone. The full-time press was locked in a holding pattern as they waited for Schweitzer to finish searing bills with his veto branding iron. The Democratic governor was fast on his way to the record for confirmed kills under the Dome.

Osama Bin Laden was found and killed the weekend after sine die, and Mike Dennison of the Lee State Bureau put together an amazing story about it that stemmed from an interview with Sen. Ryan Zinke of Whitefish who had commanded the Navy SEAL team that took Bin Laden down. As I read it, I remember thinking that Dennison and Zinke were probably both happy to talk about anything other than medical marijuana, the budget or the Tea Party.

Legislative Features – Week 1

For publication the week of Jan. 2

IDEAS BLOSSOM AS LAWMAKERS GET TO WORK

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – Montana’s 62nd Legislature opened for business this week, with lawmakers offering more than 1,900 ideas for bills so far. Most won’t survive the journey into law, but they do show what’s on legislators’ minds.

High on the list is regulating Montana’s booming medical marijuana industry, cracking down on repeat DUI offenders, cutting business taxes, scaling back environmental regulations and cutting the costs of Montana’s health care and worker’s compensation systems.

That list reflects the agenda of many Republican lawmakers, who campaigned last year on promises to boost Montana’s economy. The GOP won a 68-32 majority in the state House and gained a seat to lead the Senate 28-22.

That gives Republicans the clout to pass most bills but not enough to override vetoes of Democratic Gov. Brian Schweitzer, whose own wish list includes spending more on education and on Medicaid, the federal-state program that provides health care for the poor. Clashes over spending are sure to shape the session’s politics to the last day.

Meanwhile, there’s plenty to watch as session gets rolling.

Taxes

Gov. Schweitzer wants further cuts in property taxes for businesses and homeowners, and so do most Republicans. Other ideas in the works range from allowing

the deductions of medical expenses to abolishing the income tax and replacing it with a sales tax.

Health Care

The governor wants to increase Medicaid spending, a response to hard economic times, but expect some Republicans to push back over funding the voter-approved Healthy Kids Montana program, which expanded the state and federal health insurance for children from low- and moderate-income families.

Meanwhile, look for battle over the state's compliance with the new federal health care reform law, or "Obamacare," as critics call it.

Education

The governor wants increases in state spending on public K-12 schools and the university system. But there's serious opposition to his plan to pay for the K-12 portion by siphoning tax money from oil producing counties.

Meanwhile, several bills in the works to reduce the state's high school dropout rate, including one that would the mandatory attendance age to 18. Other ideas would establish charter schools, limit sex education, discourage bullying and provide tax help for parents who home-school their children or want to send them to private schools.

Medical Marijuana / DUI

Voters approved the use of medical marijuana in 2004, but the law's vagueness and the overwhelming demand for prescriptions had caused headaches for police, prosecutors and communities trying to regulate fast-growing industry.

Changes under consideration including limiting how much marijuana patients can get each month, spelling out the requirements physicians must meet in certifying a patient's need, and prohibiting the use of medical pot in public. Other ideas range from

repealing the law to creating a better ways to monitor and tax suppliers.

Lawmakers also expect to consider harsher penalties for repeat DUI offenders and news ways of tracking their compliance with judges' orders that they quit drinking. Other bills would encourage programs and incentives for treatment.

Energy / Environment

A host of bills aim to stimulate Montana's prospects for developing and exporting energy by limiting reviews under the Montana Environmental Policy Act. In the background is the state's decision to lease vast coal reserves in southeast Montana – and the massive private development need to make transmit that energy. The debate, especially between the governor and members of his own party, could get hot.

Workers' Compensation

Montana businesses are looking for relief from some of nation's the highest premiums for covering injured workers. The causes, including high injury rates, are complex but look for bills that would limit payments to medical providers, combat fraud, and encourage on-the-job safety and employment during rehabilitation.

Abortion

Bills in the works would to require an ultrasound before the procedure and alter the state's law requiring parental notification. Another would allow Montana to opt out of federal health insurance coverage that would cover the cost of abortions.

Ballot issues

Lawmakers are considering several of potential referendums on questions ranging from dumping daylight saving time, capping state employees' pay, abolishing term limits, and revising the rules for getting initiatives on the ballot.

Those are just some of the ideas kicking around Helena. To follow them yourself,

check out the Legislature's bill tracking service at
[http://laws.leg.mt.gov/laws11/law0203w\\$.startup](http://laws.leg.mt.gov/laws11/law0203w$.startup).

Legislative Roundup

For publication the week of Jan. 9

BY CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA — With the introductions out of the way, the Montana Legislature is scheduled to get down to bills this week, with hearings slated on issues ranging from energy and election policy to hunting with spears.

Montana Republican leaders had planned to force a quick vote this week on the state's role in the federal health care reform law. The protest had been timed to coincide with a plan by GOP leaders in the U.S. House to repeal the Obama administration's law.

But Montana leaders decided to slow down their consideration of one bill that would prompt Montana to join Florida in a lawsuit against the new federal law. The suit was filed March 23, 2010, and the attorneys general from 22 other states have now joined Florida. That bill and another prohibiting the state from participating in the federal law are to be heard Wednesday.

In the wake of Saturday's shooting of an Arizona congresswoman, the U.S. House postponed its own vote to repeal the health law.

Meanwhile, there's plenty of other legislation up for hearings this week in Helena, including a bill that would allow utilities to count the hydroelectric power they buy from Montana dams toward the portion of renewable energy they must purchase under law. Hearings are also slated for bills to raise the age of compulsory school enrollment, to

allow electronic voter registration, and to legalize hunting with a hand-thrown spear.

Few hearings were held last week on bills but talk of improving the private economy and cutting state government dominated the early politics. While both parties say they want to improve the economy, GOP leaders made it clear that they also want to shrink government. Democrats and Gov. Brian Schweitzer countered that with Montana's economy on the mend, deep cuts are unnecessary.

Schweitzer administration staffers detailed their proposed budget in a two-and-a-half hour hearing, during which Republicans argued that the governor's income projections are too rosy. They also criticized his plan to increase state spending on schools by redistributing money from oil-producing counties to school districts statewide.

Republicans said the governor's budget would have to be cut by upwards of \$360 million to square it with revenue estimates they were comfortable with.

Schweitzer dismissed the Republican criticism as early-session posturing.

"They're just yammering, positioning themselves, you know?" he said. "Trying out their chairs, pushing the green and red button every once in a while to see what it feels like. Getting to know the lobbyists who tie down the best watering holes. Anybody who is speculating what the budget will look like based on what happens this first couple of days (is a) newbie."

The cost of health care

The Department of Health and Human Services uses nearly a quarter of the state's general fund and Republicans are pondering cuts in Medicaid, Healthy Montana Kids and other programs for predominantly low-income Montanans. More than 100,000 Montanans are on Medicaid, and more than half of the department's \$841 million general fund allowance goes to Medicaid.

Required by law to show legislators what a 5 percent budget cut would mean, officials said it could cost the department 37 full-time positions and save about \$4 million. But such cuts, they said, could hurt efforts like the Big Brothers, Big Sisters program.

The program would still receive \$90,000 per year from the Tobacco Use Prevention Fund, but executive director of Billings' Big Brothers, Big Sisters chapter, Becky Webber, said the cuts could destroy smaller chapters in places like Kalispell, which served 99 at-risk kids last year.

Marie Logan, director of Helena's program, said it would continue on, but her staff would have to be reduced. "In the big picture it's not that much money, but it means a lot to the kids," she said.

Changing election laws

Among those proposing laws last week was Secretary of State Linda McCulloch, who outlined a bill to establish mail-in voting statewide.

Under her plan, all local, state and federal elections would be conducted by mail. Schools could still hold traditional elections with polling places but would have to run those elections and pay the costs themselves.

The bill would eliminate traditional polling places in all other elections, but county election offices would be set up like regular polls for those who still prefer to cast a ballot in person.

Legislative Feature No. 2

For publication the week of Jan. 9

INTENSE AND TOUGH-MINDED, ESSMANN

LEADS THE GOP CHARGE IN THE SENATE

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – His expression is stone. His hazel eyes are intent as he leans into his microphone to ask Montana State University President Waded Cruzado another question about students taking remedial courses at her school.

State Sen. Jeff Essmann's clean-shaven face rarely betrays his thoughts – only that he is thinking. His square shoulders stay forward as Cruzado speaks. His mouth is a flat line of earnestness.

Behind his eyes, the Billings Republican weighs each answer, sizing it up and seeing how it fits with the others. When Cruzado finishes, he asks another question, and then another, methodically assembling the facts to form an opinion. Today, the issue is education. Tomorrow it could be energy, tax policy, economic development or how to run a Legislature.

As majority leader of the Montana Senate, Essmann's opinions matter greatly this session. Once he makes a decision, he voices it bluntly. If he disagrees with someone, he tells them flatly.

“What you see of him up there is probably pretty intense,” said his wife, Sherry. The couple met 12 years ago at a planning committee for their 30th high school reunion. She kept hearing people talk about this Jeff guy who had everything lined out. Though they were schoolmates, they never really knew each other. But after they met again, Essmann called Sherry one Monday and asked her to go skiing on Valentine's Day. Two years later they married.

A senator since 2005, Essmann is poised to mobilize the conservative agenda this

session. Senate President Jim Peterson, R-Buffalo, said Essmann's intelligence and drive have earned him the party's respect. His success in overseeing the Republican's big legislative gains in November's elections caught Democrats' attention, too.

"He was very outspoken throughout this whole campaign about Democrats and the governor and some other partisan comments that he made during this campaign," said Sen. Minority Leader Carol Williams, D-Missoula. "He was the person who was out front on the partisan attacks because that's what his job was."

She expects no less from Essmann as majority leader. "Oh, I think Jeff will lead the charge in the Senate for Republicans," she said. "I think that's his job."

Williams and other Democrats expect a hard but fair fight with Essmann on the issues. Democratic Sen. Kim Gillan of Billings has known Essmann for 14 years and has worked closely with him since he came to the Senate.

"He is opinionated, but it's a thoughtful opinion," Gillan said. "It's not just sort of based on some abstract ideology. That's not what Jeff is about. And I know he does disagree with the governor and with some of the overall administration initiatives and policies. And I think he is very professional in the way he expresses his disagreement."

Gillan also said Essmann's apparent sternness should not be mistaken for heartlessness.

During Essmann's first session as a senator, he was assigned to the Taxation Committee with Gillan. Although they knew each other slightly, they weren't more than acquaintances. But when family hardships forced Gillan to frequently rush out of committee meetings with no time to leave a proxy vote, Essmann discretely helped his colleague, even though it meant entering votes for her that often canceled out his.

"People don't often do that," Gillan said, smiling as she remembered the gesture.

The arguments Essmann said he will make this session are for lower and fewer taxes on business, less government spending, a stronger education system and a dampening of environmental regulations to allow faster development of natural resources.

“People need to have opportunity,” he said. “They shouldn't be forced to leave the state because we've choked the life out of our economy and it's not growing at a normal rate that can absorb them.”

Both parties agree that job creation and economic growth are top goals this session, but they disagree over how to achieve those things.

Gillan predicted she and Essmann will differ on the need for cuts in taxes and environmental regulations. They will differ on the need for deep cuts in state spending in the governor's budget, which Republicans believe is based on overly optimistic income projections.

The way Montana builds its biennial budgets is one of Essmann's particular frustrations. He has a bill in the works to allow for annual legislative sessions to give lawmakers more time to analyze state spending. He said he would like to see the state build its budgets from scratch each year to keep better tabs on the money.

Gillan said Essmann's background comes through in the way he carries himself in the Legislature.

After graduating from Billings West High School, Essmann earned a bachelor's degree in engineering from Illinois Institute of Technology. But he saw few opportunities for engineering work in Montana, and he was determined to return home. So he changed course and went to law school at the University of Montana. He practiced general law for about five years and then went into the dry cleaning business. Today he operates a small

water vending company and develops property.

Sherry said that before her husband sold the dry cleaning businesses, the couple never had a lunch date. Today, she added, the balance between their professional and domestic lives is better. They rarely talk business or politics at home.

His diligence attracted Sherry to him, but she said her husband's sense of humor made her love him. "Some of the stuff that comes out of him is just hysterical," she added. "It's really intelligent humor."

Life during the sessions is hectic though. After a day of hearings and floor sessions, Essmann usually heads back to his office, grabs a Diet Dr. Pepper and prepares for the work ahead. There are always more bills to read, more questions to ask.

But behind his desk is a calendar Sherry made for him. On the front cover is a picture of their German wirehaired pointer, Greta, poking a toothy grin through blooming daisies. Essmann's stone visage crumbles when he talks about Greta.

"She's a great dog," he said, bragging about her sharp nose and hunting instincts.

The calendar is a bridge to home, back to Sherry, who knows her husband's new leadership duties will probably mean fewer weekend trips home to Billings this session. She heads the Montana Health Federal Credit Union in Billings and can't follow him to the session full time.

She has planned a few long weekends in Helena, though.

Legislative Roundup

For publication the week of Jan. 16

GOP TAKES AIM AT SPENDING, FEDERAL HEALTH CARE LAW

BY CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – Republicans running the Montana’s Legislature sent early messages last week that they are serious about cutting state spending and fending off federal health care reform. But the odds of achieving either are uncertain.

After campaigning on promises to slash spending, GOP leaders started the week by telling state agencies to brace for more than \$300 million in proposed spending for the next two years. Yet as the effects of cuts on schools, prisons and health care for the poor and disabled began to trickle out, so did talk of restoring at least some of the money.

Sen. Bob Hawks, D-Bozeman, said the cuts would drop schools to a level from which they could not easily recover. In the long run, he said, the cuts could end up hurting students and costing taxpayers more.

Sen. Dave Lewis, R-Helena and chairman of the Senate’s powerful budget committee, promised to continue scrutinizing budgets “line by line,” but he conceded that the early cuts won’t likely stick.

“There’s a list of cuts for each department and we accepted them, but we know some of them aren’t going to work,” Lewis said. “We cut a little deeper than we needed to but we can go back and put some money back in on some of them.”

Lawmakers are expected this week to continue their review of programs, including those that provide an array of health care services for Montana’s poor and disabled. Those include help for Montanans with mental illnesses and for seniors in need of prescription drugs.

Federal health care reform

Republicans began lighting backfires against the new federal health care law that aims to provide health coverage for all Americans by 2014. Look for action early this

week on Senate Bill 106, which would direct Montana's attorney general to join a multi-state lawsuit challenging the federal law.

But Attorney General Steve Bullock, a Democrat, has indicated that he won't take the case because he thinks the suit is sure to fail. The Legislature's own lawyer has said lawmakers may not have the constitutional power to order Bullock to sue.

Another bill under review, House Bill 206, takes another stab at the federal law by proposing a change in the state's constitution and would guarantee a person's right to choose whether to carry health insurance and decide what kind.

The bills are just two of many on both sides of the issue. Several seek to assist Montana's participation in the coming changes while others aim to prevent it.

Hunters and hunting

Fearing harassment, some hunters want to keep their identities a secret. Senate Bill 115, sponsored by Sen. Greg Hinkle, R-Thompson Falls, would prevent the Department of Fish, Wildlife and Parks from releasing names, addresses and other personal information about successful large predator hunters.

Hinkle said the bills stems from an incident of a minor being harassed after he legally killed a wolf in the 2010 season. The bill is being re-worked, however, to square it with the state constitution's Right to Know provision.

Hinkle is also carrying Senate Bill 112, which would legalize hunting with a hand-thrown spear. He said 12 other states allow spear hunting in some form. His research also uncovered the story of an especially prolific spear hunter named Col. Gene Morris, who claims to have used spears to kill 542 animals, including a lion and two different types of buffalo.

Medical marijuana

The long list of bills to control Montana's booming medical marijuana industry grew longer last week, and key hearings are coming up later this week.

A hearing is slated for Friday on House Bill 68, written by a group of legislators who studied the issue since last session. The bill, carried by Rep. Diane Sands, D-Missoula, would establish a sweeping system of regulations and limits for those who sell or distribute the drug, those who prescribe it and those who use it.

Friday's hearing will also cover Sands' House Bill 19, which would ban the smoking of medicinal pot in public buildings.

Meanwhile, Sen. Dave Lewis, R-Helena, has introduced Senate Bill 154, which would regulate and license the industry and establish fees on medical marijuana sales.

This week's hearings also include several on bills aimed at reducing DUIs.

Seizing property

A bill to give utility companies the right to take public property through eminent domain drew a crowd early last week.

Ranchers and farmers turned out to oppose the measure, which aims to help the Montana-Alberta Tie Line project acquire land to build a 215-mile high-voltage transmission line between Great Falls and Lethbridge, Alberta.

Rep. Ken Peterson, sponsor of House Bill 198, said the bill clarifies that utilities can use the power of eminent domain to develop power projects that have received state approval. A district court judge in Cut Bank ruled otherwise last month.

The issue is a tough one for Republicans who support property rights but campaigned on expanding the state's energy industry.

"It's kind of one of these no-win situations," said Rep. James Knox of Billings.

Legislative Feature No. 3

For publication the week of Jan. 16

'Constitution Caucus' aims to push GOP to the right

BY CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – They call it the Constitution Caucus, and its message rang clear as veteran Rep. Krayton Kerns rose in the state House Friday to oppose a bill to provide counseling for children from violent homes.

“Don't vote your heart on this one, vote your oath,” Kerns urged his fellow legislators. “The constitutional vote on this is no because it will grow government.”

Rep. James Knox, a freshman Republican from Billings, couldn't have agreed more. Killing the bill wasn't the easy thing to do, he said, but it is why he and others were sent to Helena. Helping the needy is a job for communities, individuals and churches – not the government, he added.

Both men are members of what they call the Constitution Caucus, a loose affiliation of conservative legislators, some with ties to Tea Party groups. Their unifying belief is that more government means less freedom. The “freedom bills” they espouse so far cover causes ranging from beating back federal health care reform to expanding gun rights.

Just how much clout the caucus will have this session is unclear. By a vote of 56-44, it lost Friday's vote on the child domestic violence bill, which was sponsored by a fellow Republican. Convincing more centrist Republicans to follow along may be the group's biggest challenge.

“It is so easy to get soft up here,” Kerns said in an interview early last week. “It is

so easy when you're wasting somebody else's money. You can vote for this little program for these little kids, for those little kids, and it's tough to hold on to constitutional principles.”

Kerns, a 53-year-old Laurel veterinarian serving in his third session, ran unsuccessfully for House speaker in November. He has his own website and is the author of “Ramblings of a Conservative Cow Doctor,” a collection of columns published in the Western Ag Reporter and the Laurel Outlook.

For now, he said, the caucus is informal. It has no official members list, but Kerns estimated that as many as 45 legislators agree with its causes. In the Senate, caucus members include Sen. Verdell Jackson, a Kalispell Republican whose bills include efforts to nullify the federal health care act and to allow legislators to carry concealed weapons in the capitol.

Another supporter, Sen. Greg Hinkle, R-Thompson Falls, has a bill saying that federal authorities can only carry out arrests, searches and seizures with the permission of local sheriffs. The “Sheriff's First” bill is one of the most important pieces of legislation the group is working on this session, Kerns said.

“We're not going to back off,” Kerns said. “We (Republicans) have a 68-vote majority in the House for a reason and we're going to advance the constitutional principles that elected us.”

Kerns' own bills include efforts to legalize the carrying of concealed weapon without permits and to use silencers in the field. Another would to nullify the federal Endangered Species Act so Montana would have full say in managing its wildlife.

He is no stranger to such issues. Two years ago Kerns backed an unsuccessful resolution declaring that Montana has the right under the U.S. Constitution's Tenth

Amendment to ignore any federal law it deemed unconstitutional.

Both Kerns and Knox said they see the caucus' principles matching up with those of Tea Party movement, and both said they work closely with their hometown organizations.

Jackson refers to the Tea Party groups as “freedom groups” because of their focus on Tenth Amendment rights and state sovereignty. He said he wanted to call the caucus the Freedom Caucus or the Freedom Group for that reason.

Kerns said some caucus members worried that linking the group too closely with the Tea Party would lead the news media to portray the caucus as a split from the Republican Party. “And I'm telling you it's not going to happen,” he said.

Rep. Cary Smith, a Republican whip from Billings, said he supports the caucus but worries about tying it too closely to the Tea Party. He doesn't want to discourage Democrats from joining the group, whose focus, he added, is on states' rights, not party lines.

For their part, Democratic leaders in both houses said they aren't ruling out collaborations with Republicans on efforts to boost Montana's economy or create jobs, but don't foresee an alliance on state sovereignty issues.

As for the Republican leadership, House Majority Leader Tom McGillvray, R-Billings, said he hasn't attended Constitution Caucus meetings but then he doesn't have time to attend many meetings. He described the Constitution Caucus no different than any group of legislators with a special interest.

Kerns agreed with McGillvray to some extent.

“We all have the common goal about freedom and advancing constitutional principles,” he said. “There are those of us who feel stronger about it than others, and

we're just going to work to drag them along.”

Craig Wilson, a professor of political science at MSU-Billings, said such divisions are common when parties that have large legislative majorities. He also predicted that more moderate Republicans will occasionally vote with moderate Democrats, especially when it comes to nullifying federal laws.

“If they take off on some grand scheme, I don't think it's going to work,” Wilson said. “Even if they get it through the House and the Senate, you still have the governor there with that big club in terms of a veto.”

Legislative Roundup

For publication the week of Jan. 23

Legislators weigh crackdown on DUI, tighter control of medical marijuana

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – The push for stricter laws on drunken driving and medical marijuana use drew big crowds this week as legislators considered more than 14 bills pertaining to DUI and the session’s first sweeping plan to control Montana’s booming medical marijuana industry.

For two days, members of both the House and Senate Judiciary Committees took testimony on DUI bills, including House Bill 146, which would require a minimum three-day jail sentence for first- through third-time offenders, with a maximum of 12 months. It would also double the minimum fine to \$750.

Montana Attorney General Steve Bullock supported two DUI bills, one requiring that repeat offenders submit to twice daily breath tests and another to create a new crime

of “aggravated DUI,” carrying a one-to-three-year probation period for offenders with blood-alcohol concentrations of more than .20 percent. The threshold for ordinary DUI is .08.

House Bill 106 would establish Bullock’s Statewide 24/7 Sobriety Program, in which repeat offenders awaiting trial would have to report to the local sheriff’s office daily between 7 and 9 a.m. and again between 7 and 9 p.m. for breath tests. Those who fail would be arrested, cited for contempt and jailed. The program would be funded by a \$2 charge that offenders must pay for each test.

Offenders who must travel for work or cannot otherwise make it in for their tests may be equipped with bracelets that monitor their sweat for alcohol.

The idea, Bullock said, is to keep people out of prison and sober. The program gives alcoholic offenders a chance to clean up and consider what they’ve been doing to themselves and society.

The creation of an aggravated DUI charge targets similar goals, Bullock said, by allowing the state to monitor the most dangerous drunken drivers for a longer period.

Other bills were offered to help police enforce existing DUI laws. Several are sponsored by veteran Sen. Jim Shockley, R-Victor, who also made news last week with reports of his ticketing in Missoula for violating the state law banning driving with an open container.

Shockley resigned Thursday as chairman of the Senate Judiciary Committee, but remained on the committee considering his DUI bills, including one that would allow peace officers to request a search warrant to get a breath or blood sample from a suspected drunken driver who has refused testing.

Currently, police can only seize the driver’s license but cannot compel a breath or

blood test. If Senate Bill 42 passes, officers could call one of about 160 qualified judges statewide to make their case for a warrant if a driver refuses to blow or bleed.

Shockley also presented Senate Bill 40, which would add three “standing masters” to the state payroll and make them available to grant warrants by phone at all hours of the day. Some opponents questioned the bill’s \$200,000 per year price tag and said existing judges could issue any necessary warrants.

The committee endorsed two more of Shockley’s bills before the week ended. Senate Bill 39 would give Montana game wardens the power to issue minor in possession tickets, and Senate Bill 24 would give county attorneys the power to commit alcoholics to treatment facilities.

Medical Marijuana

More than a hundred people testified for three and half hours Friday before a House committee studying a major bill to regulate the medical marijuana industry.

House Bill 68, the bipartisan product on an interim study, would create a regulatory and licensing system for producers and dispensaries. It would also change the amount a patient may possess at one time from 1 to 2 ounces, and limit the amount a patient could obtain each month at 2 ounces.

Among other provisions, it would limit small-scale providers to five patients, and require that a patient seeking medical marijuana for the treatment of chronic pain be recommended by two physicians.

Many patients protested the two-physician requirement, with some saying they were on fixed incomes and could not afford another doctor bill. Others worried that the possession limit would take medicine away from people who need it.

Leon Tirums, who described himself as a caregiver and a medical marijuana user

from Cascade, opposed the bill, saying it catered to opponents of medical marijuana and not those who needed it for treatment. “That's what this law is about,” he said. “It's about the patients.”

Several caregivers testified the five-patient limit would run them out of business.

Ultimately, Sands said, House Bill 68 was a framework, a start at addressing concerns most Montanans have with the issue. As for caregivers’ worries about losing business, Sands said that wasn’t the bill’s concern.

“This is not a jobs bill,” she said.

Eminent Domain

NorthWestern Energy leveled a strong protest last week at a bill that would give landowners more clout in negotiations over property seizures under the state’s eminent domain laws.

However, ranchers and farmers turned out to support House Bill 240, which would amend eminent domain law so that a landowner’s counter-offer wouldn’t automatically be considered a rejection of a buyer’s initial offer to purchase the land. It would also require the entity seeking to take land make “every reasonable effort” to negotiate with the owner before action was taken to condemn the land.

John Fitzpatrick of NorthWestern blasted the bill as containing language that would invite endless lawsuits and virtually stop all efforts to develop Montana's natural resources.

Controversy over seizing private property has escalated in past year over efforts by NorthWestern and others to build power transmission lines.

Health Care

A Senate committee has endorsed legislation that would to force Montana’s

attorney general to join a multi-state lawsuit against the new federal health care law. That's despite an opinion from the Legislature's chief lawyer who said bill may be unconstitutional.

Attorney General Steve Bullock has so far refused to join the 20 other states in suing the federal government in an attempt nullify the law. Bullock has said he doesn't believe Montana's participation is necessary; nor does he believe the suit will succeed.

Meanwhile, legislators also debated a measure that would empower the state auditor to review all health care insurance rates. House Bill 105 would allow State Auditor Monica Lindeen to issue an opinion on whether rates were justified but would not empower her to actually approve or deny them.

Supporters said that if Montana doesn't take control of the review, the federal government will.

Abortion

The House last week voted 68-30 for a bill that would make it illegal to kill an unborn child. Supporters of House Bill 167, sponsored by Rep. Keith Regier, R-Kalispell, said the bill isn't an attack on legal abortions, but rather it would allow prosecutors to charge someone who kills an unborn baby as the result of an attack on a pregnant woman.

Opponents argued that existing laws are adequate to cover such cases and described the bill as the session's first assault on a woman's right to choose an abortion.

The bill now goes to the Senate.

Legislative Feature No. 4

For publication the week of Jan. 23

The debate begins over reforming Montana's medical marijuana law

By CODY BLOOMSBURG

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UM School of Journalism

HELENA – Of all the tasks facing state legislators, none may prove harder this session than reforming Montana’s medical marijuana law.

Since 2004, when 62 percent Montana voters approved the medicinal use of cannabis, the controversy has grown with the rising number of certified users and the booming industry that serves them. Lawmakers are facing intense pressures to repeal the law and to preserve it.

Last week, legislators and the public got a detailed look at the session’s first comprehensive reform bill. It was written by a committee that spent the past two years listening to concerned patients and prosecutors, physicians and county commissioners, growers and residents.

Members asked all the questions: Who is using the drug? Who is abusing it? Who is providing it? Why did the number of qualified users jumped from 7,339 on Dec. 1, 2009, to nearly 20,000 in just six months?

Their attempt at bringing order to the confusion is House Bill 68, sponsored by Rep. Diane Sands, D-Missoula, and Rep. Gary MacLaren, R-Victor. But as Sands acknowledged Friday, the bill is a compromise, meaning no one is entirely happy with the outcome.

Under the bill, she said, some patients who truly need the drug won't be able to get it, but that's the only way to keep it away from those who merely want it.

The problem, Sands added, is unsolvable at its core. Because marijuana remains illegal under federal law, pharmacists and physicians cannot prescribe it. Until that fact

changes, she added, medical marijuana will remain a health-care sideshow that nobody can perfectly control.

House Bill 68 proposes major changes in the rules for both caregivers and patients. It would also give cities and counties the power to decide where medical marijuana businesses can be located. It would ban the public smoking of medical marijuana and require criminal background checks for growers and sellers. It bans its use by inmates and probationers in the prison system.

What the bill does not do is scrap the Medical Marijuana Act entirely. Sands said the committee ruled out that option early on.

“It was the belief of our committee that it should not be repealed and that the voters are sovereign and they are sovereign over the Legislature,” Sands said.

Not everyone on the committee felt that way initially. Sen. Jim Shockley, R-Victor, had argued for repeal. But now, he said, he agrees that reform may be best way to go. Although House Bill 68 may not survive intact, it could become part of a larger compromise, he added.

But it’s not perfect, and he’s pushing some ideas of his own, which include banning the smoking of medical marijuana. Shockley said limiting consumption to non-smoking methods might cut down on recreational abuse. For liability reasons, he would also give employers the right to fire, or to refuse to hire, users. He would shorten the list of medical conditions that could be treated with the drug.

Such changes may appease enough lawmakers who favor repeal, he said. “Well, they won’t like it,” he added, “but it goes far enough their way that they’ll support it.”

Perhaps. There’s a long way to go, and for now the focus is on House Bill 68. It’s a start, said Sands, and here’s what it would do.

Changes for caregivers

The bill divides the industry into licensed categories, each with strict limits on what it can and cannot do.

A “provider” could serve five or fewer patients. A “dispensary” could serve more clients and supply both providers and patients, but it must grow at least 70 percent of the marijuana it sells. A “grower” would be licensed to cultivate marijuana or make marijuana-infused products, such as tinctures, pastes, candies and baked goods.

One effect could be to concentrate the business, making it easier to monitor and regulate. But that drew complaints at last week’s crowded hearing from many small-scale caregivers, who said the five-patient limit would force them out of business in favor of the bigger dispensaries.

While Sands recognized their plight, she said the Medical Marijuana Act was never intended to create jobs.

The bill also responds to concerns about medical marijuana shops springing up everywhere. It allows cities and counties to decide where such business can locate – and where they cannot. But it doesn’t grant local officials the power to exclude the shops entirely.

Local officials cannot pretend that the state doesn’t allow medical marijuana, Sands said. “I mean, we’re adults here,” she said. “Grow up and deal with it.”

Changes for patients

Although most users cite chronic pain as the reason for needing medical marijuana, Sands said members of her committee were suspicious of the large number of such users between the ages of 18 and 30. “I don’t legitimately believe that they need it for pain,” she said. “I don’t believe it.”

To weed out those who don't truly need the drug, and in response to reports of less-than-rigorous medical exams, the bill requires that prospective patients claiming chronic pain be examined by two physicians instead of one. It also establishes a one-year expiration date on marijuana cards.

The two-doctor clause drew the most criticism from patients, including Air Force veteran Dennis Gulyas, who testified that patients on fixed incomes cannot afford to visit a second doctor. "I beg you to not forget us vets," he said as his voice wavered and his eyes filled with tears.

Sands said the requirement is probably an overreaction to fears that young people are gaming the system. Personally, she added, she would rather require that physicians to do more thorough examinations.

Tom Daubert, one of the drafters of the Medical Marijuana Act, would rather see that, too. The two-doctor rule punishes patients, he said, adding that many of the current law's problems could have been avoided if physicians certifying the use of medical marijuana had to meet the same standards as doctors who prescribe other medicines.

Sands said most of the 350 doctors certifying medical marijuana patients do it sparingly. But some, roughly 50, account for well over half of the patients receiving the drug. "The unfortunate part is that those few ... lead people to believe that the only physicians out there doing this are the few who really should be shut down," she said.

Another contentious provision would change the amount a patient could possess from 1 ounce to 2. It also limits the amount a patient could obtain each month to 2 ounces.

Daubert and others said some patients simply need more. He said the second-ever federal medical marijuana patient receives 9 ounces per month for a disease that causes

bone tumors.

But Sands said lines have to be drawn somewhere.

“Are there people for whom that is going to be tragic? Absolutely,” Sands said.

“There is no intention in this bill to make it available to everyone who could use it. It is not politically possible in this environment.”

Of the dozens who testified, several reminded lawmakers that it was compassion that moved voters to enact the medical marijuana law in the first place.

Tess Raunig, a young Missoula woman who suffers from spastic cerebral palsy, approached the microphone in her wheelchair. In a clear voice, she told the lawmakers what medical marijuana has done for her.

“It's honestly changed my life,” she said.

Legislative Roundup

For publication the week of Jan. 30.

Republicans press onward with cuts to governor's budget

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – A legislative committee is recommending the state spend about \$27 million less on Montana's university system than Gov. Brian Schweitzer has requested for the next two years.

Wednesday's decision by a Republican-controlled subcommittee is actually less of a cut than it had initially recommended. But Democrats, students and university officials say that decision, if it stands, could mean higher tuition or cuts in programs.

Sen. Tom Facey, D-Missoula, said the shortfall would be passed on to students.

He also said cuts would weaken quality and make the state less attractive to new businesses that need educated workers.

Gov. Schweitzer made the same arguments last week in his fourth and final State of the State speech, in which he told lawmakers that the state has the money to avoid cuts in educational spending. The two-term Democrat also warned that any resulting tuition increases would be the same as raising taxes.

“If the 62nd legislative assembly chooses to decrease our support for public education, you do so as a reflection of your values, not for a lack of available revenue,” he told lawmakers. “We have money in the bank.”

But GOP leaders disagree with Schweitzer’s revenue projections and have promised to limit spending. This week, the budget subcommittees will continue to review the governor’s budget, looking at proposed spending for prisons and health care programs such as Healthy Montana Kids and Medicaid.

Healthy Montana Kids has long been marked by some Republicans as ripe for cutting. The program provides health insurance to children from families of low and moderate income. Support for that program, along with in-home health care and higher education, was the theme of a rally at the capitol Friday.

But in his State of the State address, Gov. Schweitzer urged lawmakers to scrutinize every health care dollar because the new federal health care law promises to greatly increase the state’s cost of caring for the poor.

He also agreed with Republicans on the need to create jobs through the development of Montana’s natural resources and by reducing workers' compensation insurance rates. He also urged them to revamp Montana’s eminent domain laws, which utilities and others say are blocking the construction of power lines.

The Legislature's Republican leaders responded that jobs will come from investing in the private sector. They also advocated streamlining environmental regulations to boost energy development.

Voting by mail

What a difference a day makes. One day after giving preliminary approval to vote-by-mail balloting in all but school elections, the House reversed itself and torpedoed the idea.

House Bill 130 was sponsored by Rep. Pat Ingraham, Thompson Falls, at the request of Secretary of State Linda McCulloch. McCulloch and county election officials statewide endorsed the idea, saying it would improve voter participation and cut the cost of elections. They also pointed to the popularity of absentee balloting.

But critics said mail-in voting could disenfranchise more transient voters. Some also worried about securing the drop boxes the bill would provide for voters who still want to cast ballots in person.

The bill prevailed in Thursday's debate stage by a bipartisan vote of 57-43. But on Friday, 15 Republicans who had originally supported the bill decided to change their votes.

Saving time

Sen. Terry Murphy, R-Cardwell, wants to give voters in 2012 the option to amend the Montana Constitution to follow Mountain Standard Time year round. Among other things, Murphy said, his Senate Bill 178 would help some people better manage prescription medications.

Similar bills have been introduced before, but Murphy said the question of opting out of daylight saving time has never been put to voters.

But there were opponents, including Poplar's Cindy Swank, who testified that she was tired of legislators wasting time on the matter.

Health care reform

The state Senate endorsed two bills protesting federal health care reform. The first, Senate Bill 106, would force Montana Attorney General Steve Bullock to join a multi-state lawsuit to repeal the federal act on the grounds it is unconstitutional. The bill was endorsed along party lines, 28-22.

Democrats and the Legislature's chief lawyer have said the bill may violate the separation of powers clause in the state's constitution. Its sponsor, Sen. Jason Priest, R-Red Lodge, discounted such claims, saying that past Legislatures have done similar things.

Sen. Larry Jent, D-Bozeman, questioned what the bill would actually accomplish. He asked, "What are we going to do if (Bullock) just says no? Sue him?"

Jent lampooned the idea of having the state suing itself. "If that sounds a little ridiculous," he said, "that's because it is."

The other measure, Senate Bill 125, would prohibit the state from administering the federal law's requirement that all citizens must buy health insurance. Sen. Mary Caferro, D-Helena, joined Republicans in passing the bill.

Combating DUI

Republicans and Democrats on the House Judiciary Committee joined forces to block a bill that would have allowed DUI charges against motorists found to have any amount of "dangerous drugs," including marijuana, in their systems. They also backed a bill to require daily alcohol monitoring of repeat DUI offenders in custody.

House Bill 33 would have allowed prosecutors to press DUI charges against

drivers found to have traces of drugs in their system. But support crumbled when lawmakers learned it wasn't easy to link a motorist's behavior to drugs other than alcohol.

The committee then addressed House Bill 106, requested by Attorney General Steve Bullock to create a program requiring twice-daily breath tests for repeat drunken drivers while they remain under the supervision of the state. Offenders would pay for the tests.

Bullock said the bill would reduce the number of people in jail and push alcoholics to get treatment. found an unlikely ally in Rep. Krayton Kerns, R-Laurel.

"I think we need to get this out in front of all the other DUI bills," said Kerns, adding that it was the only piece of DUI legislation so far this session that actually addresses the DUI problem.

Kerns, a conservative, noted the irony of supporting a bill proposed by Bullock, a Democrat. "I believe hell is freezing over," he said.

Bison

Three bills to establish regulations for relocating bison were heard last week, including one that would classify wild and domestic bison as livestock.

The legislation stems from plans by the state Department of Fish, Wildlife and Parks Department to move disease-free bison from Yellowstone to areas inside the state. Senate Bill 207 would classify all bison in the state as livestock and require them to be regulated as such.

Its sponsor, Sen. Eric Moore, R-Butte, said the phrase wild and domestic had to be used to define bison because a bison is only classified as domestic if it is contained. The concern, he said, was that bison owners would turn their animals loose on the range

and call them wild to avoid regulation.

But FWP spokesman Ken McDonald said the language would only confuse bison management and that classifying them as livestock was not the way to go.

Ranchers and several county commissioners supported the bill, saying it would protect ranches from the spread of disease.

Many also supported Senate Bill 212 and House Bill 318. The first would make FWP develop a herd-specific management plan to relocate bison. HB 318 would give county commissioners the power to approve any plans to relocate bison into their counties.

Legislative Feature No. 5

For publication the week of Jan. 30

Abortion Foes See Opportunity in Legislature's GOP Majority

By CODY BLOOMSBURG

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HELENA — In a soft and affable voice, Republican Rep. Pat Ingraham introduced herself and said she represented the people of Sanders County. Those words were the last the entire room would agree on in an emotional two-hour hearing Friday on her bill to require that women have an ultrasound before they get an abortion.

Last week marked 38 years since the U.S. Supreme Court ruled that a woman has a right to an abortion. But as the tears, outrage and gavel-slamming that attended Ingraham's House Bill 280 showed, the issue remains one of the most polarizing that legislators face.

While the raw emotion surrounding abortion has not subsided, Gregg Trude, state

director of Montana Right to Life, sees the overwhelming conservative majority in the Legislature as his best opportunity in a decade to further the group's cause.

Trude is confident that Ingraham's bill and three other abortion-related bills will eventually land on Gov. Brian Schweitzer's desk this session. Senate Bill 97 would require girls under the age of 16 to notify their parents before getting abortions; Senate Bill 176 would forbid insurance companies that cover abortions from writing policies in Montana under new federal health care laws; and House Bill 167 would criminalize involvement in the death of an unborn child.

Of those, Trude predicts Schweitzer will sign the unborn child bill and the insurance bill.

Schweitzer declined to comment on pending legislation, but he did warn lawmakers last week in his State of the State address against sending him divisive bills that do not create jobs. He has also been an outspoken advocate of a woman's right to choose.

House Speaker Mike Milburn, R-Cascade, said that although social issues are not his party's focus this session, he thinks the parental notification measure will get the most support from its members.

"I think there is a strong argument for it," Milburn said. "You have to notify parents if a child gets an aspirin in school."

A similar law, however, was struck down by the Montana Supreme Court in 1999 on the grounds that it did not enhance the health or safety of minors or treat all pregnant minors equally.

The difference between SB 97 and current law is that the age at which parental notification is no longer required would be lowered from 18 to 16. The bill also provides

judges with more stringent criteria to weigh in deciding whether a specific minor can have an abortion without telling her parents.

So far there are nine abortion bills and the unborn child bill. Staunch abortion-rights lawmakers like Rep. Robyn Driscoll, D-Billings, concede that the bills have a golden ticket to Schweitzer's desk.

"Every one of them will go through this session," Driscoll predicted after the hearing on the ultrasound bill. "Hopefully, the governor will get out his veto pen and veto every one of them."

Abortion-rights groups, such as the American Civil Liberties Union and Planned Parenthood of Montana, agree. They hope Schweitzer will honor his past stance on the issue.

"We expect that when he is presented with those decisions that he will stand true to the principles of choice," said the ACLU's Niki Zupanic.

HB 167, the unborn child bill, has already cleared the Senate, though abortion-rights advocates warned that it could undermine the federal rule that abortions are legal in cases where a fetus cannot survive on its own outside the womb.

Trude and Republicans say the unborn child bill is in no way aimed at making abortions illegal. Its sole purpose, they say, is to allow prosecutors to charge people who attack a pregnant woman and thus end the pregnancy.

During the floor debate, Driscoll described the bill as the beginning of the 2011 attack on a woman's right to choose. She added later, however, that she's not sure Schweitzer will see it the same way.

Some anti-abortion lawmakers aren't willing to leave the decisions to Schweitzer. They hope to put the questions directly to voters.

Rep. Wendy Warburton, R-Havre, is sponsoring two referendums to amend the Montana Constitution. One would add a clause stating that Montanans have no specific right to abortion, and the other would say a person's life and rights begin at conception. A draft bill is in place to put the parental notification measure on the ballot, too.

But constitutional referendums require at least 100 votes in the Legislature. Both Trude and Milburn said Warburton's referendums could have a hard time reaching that.

Sen. Ryan Zinke, R-Whitefish, doesn't see the measures succeeding, even if they do make the ballot. He said he believes most Montanans favor abortion rights. And while he said he and his family live their lives conservatively, he is wary of giving government the power to decide if a woman can get an abortion. He said he'd rather see that decision made by a woman in consultation with her family and her church.

He said he doubts the governor would sign any of the strict anti-abortion bills, and without the votes to override a veto, the debate serves only to highlight the issue.

Still, Zinke is a co-sponsor of the unborn child measure, an indication that it may have the broadest support.

Ingraham's ultrasound bill, however, stands at the center of the debate. Zupanic and others see it as an attempt to make a hard decision harder, to place government between a woman and her doctor.

Trude and his group see it as a way to show a woman exactly what is at stake.

And so the debate goes on. No matter what happens in the Legislature, or under the governor's desk lamp, or even at the polls, the ultimate legal decision over abortion is sure to rest where it did 38 years ago – in the courts.

Legislative Roundup

For publication the week of Feb. 6

**The session's pace quickens as lawmakers advance bills
to repeal medical marijuana, require pre-abortion exams**

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – The Legislature is shifting into highway gear as it passes into its sixth week, pumping more bills onto the floor on issues ranging from repealing Montana's medical marijuana law to requiring that women receive pre-abortion ultrasounds.

Among its more sweeping decisions last week, the Republican-controlled House voted to end the practice of allowing voters to register on Election Day. It also approved a voter referendum on adding the words "and economically productive" to Montana's constitutional guarantee of a "clean and healthful environment."

The House Education Committee will decide this week whether it should look into cutting the number of school districts in half to save money. House Joint Resolution 7 would propose such a study that would also include other ways to trim work for the Office of Public Instruction.

The House endorsed a bill allowing students with learner's permits to drive to and from the bus stop without an adult. Its sponsor, Rep. Duane Ankney, R-Colstrip, said it would help rural students catch the bus and spare their parents extra trips.

"Most of them know how to drive when they are 11 or 12 years old anyway," he told the House. "My grandson – I keep an old Datsun pickup on my place – he can drive that truck as good as anybody in this room. I'll guarantee you."

Medical Marijuana

The House is set to vote this week on Speaker Mike Milburn's bill to repeal Montana's voter-initiated law allowing the use of medical marijuana.

Opponents outnumbered supporters 3-to-1 at a packed hearing last week on House Bill 161. They pleaded with legislators to better regulate the booming industry rather than scrap the law.

"If the voters didn't want (medical marijuana), then how come every committee meeting we come in and outnumber them 3-to-1?" asked Ken Lindeman, a medical marijuana patient and caregiver.

But Milburn said the only answer was to shut the system down. The Cascade Republican compared the recent explosion of the medical marijuana industry to the destruction of Hurricane Katrina.

"We're not talking about the dikes holding back the water anymore," he said. "We're talking about how do you rebuild the city?"

He hinted that lawmakers might reconsider the idea of medical marijuana after repeal.

Meanwhile, numerous bills aimed at controlling the medical marijuana industry remain alive, should the repeal bill eventually fail. Senators last week held hearings on an idea to require a three-physician panel pass judgment on requests for marijuana to treat chronic pain.

Sen. Jeff Essmann, R-Billings, said his Senate Bill 170 would limit the number of fraudulent claims and cut down on industry's profitability. Other bills seeking to revise the law, he added, would only set up a licensed, layered and regulated business model.

Abortion

After a brief but emotional debate, the House Judiciary Committee advanced

legislation requiring that a woman have an ultrasound and that results be described to her before she could get an abortion.

House Bill 280, brought by Rep. Pat Ingraham, R-Thompson Falls, was seen by Democrats as the state interfering in a woman's right to control her own body and forcing her to submit to an unnecessary medical procedure.

Rep. Diane Sands, D-Missoula, said that requiring women to undergo intrusive ultrasound exams early in their pregnancies and then forcing them to listen as doctors describe what they see was horrifying. "I can't even envision that," she said.

But supporters, including Rep. Ken Peterson, R-Billings, said such exams could spare the lives of unborn children by showing a woman what was at stake. "It's not some thing," he said. "It's a child."

Elections

A measure to move the voter registration deadline back to the Friday before an election passed the House on Feb. 4 in a mostly party-line vote of 67-33.

Rep. Champ Edmunds, R-Missoula, said the bill would ease the burden on county clerks and recorders but Democrats decried it as a way of disenfranchising voters.

The current law was passed in 2005. Republicans complained bitterly about the long lines and voting delays at the polls in the 2006 election in which Jon Tester defeated former U.S. Sen. Conrad Burns by less than 4,000 votes.

Environment

The House gave its approval Saturday to a referendum asking voters to alter Montana's constitutional guarantee of a "clean and healthful environment."

Saturday's 63-32 party-line vote advances the Republican measure to add the words "and economically productive" to the constitution's environmental rights clause,

which supporters said has been used to block the development of the state's natural resources.

To make the ballot it would eventually need the votes of 100 of the Legislature's 150 members.

In Friday's debate, Democrats warned that the change would spawn legal disputes and pit the interests of natural resources development against ranchers, farmers, real-estate developers and others who depend on a healthy environment for their livelihoods.

But Republicans said the change would bring balance to the legal debate over natural resource development that followed passage of the Montana Constitution in 1972.

Rep. Ken Peterson, R-Billings, said even if the referendum never makes the ballot, it still sends a message to the Montana Supreme Court that it has overemphasized environmental protection in its decisions on resource development.

Gun Bills

House Republicans put forth three bills last week to expand gun rights in Montana, including measures to legalize the use of firearm sound suppressors and to allow employees to come to work with guns in their cars.

House Bill 174 by Rep. Krayton Kerns, R-Laurel, would make it legal for hunters to use sound suppressors in the field. It passed the committee with bipartisan support.

Kerns' other bill, House Bill 271, would allow a person who is eligible to apply for a concealed weapons permit to carry such weapons without having to actually get a permit. That bill, however, was tabled by lawmakers who thought it would cause too many problems for law enforcement.

No action was taken on the third bill, sponsored by Rep. Wendy Warburton, R-Havre, which would allow workers to keep guns in their cars on company property so

long as the vehicle is locked and the weapon is out of sight.

She said House Bill 368 would help women protect themselves from attack as they leave work. It would also prevent employers from firing someone for exercising their Second Amendment rights, she added.

However, representatives from many businesses opposed the bill, saying it would prevent them from ensuring a safe work environment for workers.

Warburton replied that denying employees the right to keep guns in their vehicles is akin to preventing them from having Bibles in their cars.

But John Fitzpatrick, a spokesman for NorthWestern Energy, didn't buy it. "Nobody has ever been killed by a Bible going off accidentally," he said.

Bridge, Water and Sewer Projects

City and county officials from across Montana lined up on Jan. 31 to oppose Gov. Brian Schweitzer's plan to transfer all the revenue from an endowment that helps local governments fund sewer, water and bridge projects.

They said funding they received from the Treasure State Endowment Fund was integral to critical projects in their areas and crucial to retaining jobs.

The money, \$22.5 million, would go to cover spending for public education, public health and corrections, said the sponsor, Rep. Jon Sesso, D-Butte. House Bill 11 is part of Schweitzer's proposed budget, which hinges on transferring about \$100 million from various state funds.

Schweitzer's budget director, David Ewer, said the governor wanted to give legislators the option of spending less on infrastructure and more on education and the other services.

Legislative Feature No. 6

For publication the week Feb. 6

A tale of two freshmen: Divided by experience and party,

Reps. Harris and Hill find a patch of common ground

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – Frustration strains her voice and her eyelids flutter like camera shutters trying to capture a car wreck as Rep. Ellie Hill speaks about a bill requiring ultrasounds before abortions.

“I *do not* appreciate the government of the state of Montana mandating *me* to undergo medically unnecessary procedures when I’m making decisions in my own family,” she says. With no less fervor, the Missoula Democrat and former Boise prosecutor warns that the Montana Supreme Court will surely strike the measure down.

Rep. Bill Harris sits quietly to her right. Almost 30 years her senior, the Republican who ranches and guides hunters near Mosby leans forward, his arms crossed on the table as he listens. The physical contrast could not be more striking: he with his crown of short, dark hair that is fading to match his thick gray mustache, and she with her platinum-blond hair and blue eyes.

Harris speaks next and supports the bill with as much heartfelt concern as Hill had mustered to oppose it. In that moment, the two seem to embody the ideological divide that marks this session. They sit inches apart, but the chasm between them could swallow an oil tanker.

Their newbie status is one thing they share. Both are five weeks into their first session, but they were sent from opposite ends of the state and from different

communities. They aim to accomplish different things.

Hill is in Helena to give a voice to the marginalized and make sure the out-of-sight stay fresh in mind. Harris is there to help his neighbors find work and put more political power in their hands.

Different backgrounds

They differ starkly in experience. Hill, a political activist since her college days, is executive director of Missoula's Poverello Center, one of Montana's largest homeless shelters.

During her work as a prosecutor in Idaho, she was struck by how poverty is passed from parent to child and by the system's fumbling treatment of those who suffer from mental illness and substance abuse. The experience changed her life's course.

She made fast friends with Missoula Democrats when she got there and became a foot soldier in local campaigns. Her decision to run for the Legislature made news. She was named in Time Magazine's "40 under 40 Rising Political Stars," and she serves as vice president of the Young Democrats of America. Fellow Democrats at the session call her "The Wonder Kid from Missoula."

But the spotlight can be harsh, too. Since the session began, a stalker watches the hearing and floor session broadcasts and sends her lascivious messages that are now intercepted by security and police officers.

The ordeal has unsettled her, and she says she doesn't quite know how to handle it.

Harris' path to politics was less likely. He attended college for a while but says it only taught him what he didn't want to do. He volunteered for duty in Vietnam and spent a tour riding shotgun in a single-engine bush plane, resupplying units in areas where

larger aircraft couldn't land.

“We saw a lot of activity, a lot of things going on,” he recalls. “You're in and out of danger in just minutes.”

He made it home but not untouched. He has dealt with Post Traumatic Stress Syndrome for almost 50 years. “But I've dealt with it pretty well, the Army is helping,” he says. “I mean, I'm a pretty healthy old fellow. I don't drink, don't smoke. I don't even run around with the girls who do.”

After Vietnam, he knew he wanted to be a rancher so he taught himself the livestock business from the hoof up, working as a brand inspector and at feedlots before buying a ranch of his own. Today, he runs 500 head of cattle and 60 to 70 horses on roughly 22,000 acres in some of Montana's loneliest country.

In the mid-1980s, when he and the mother of his four children fell on hard times, they turned to outfitting to help save the ranch. He was already the guy everyone wanted to hunt with, so it seemed a natural transition. Now, his clients include the TV show “Buckmasters.”

A couple of years ago, when hard times hit again, he started thinking about service. He jokes that he is too old, too slow and too heavy to join the Army again, so he ran for the Legislature. “But I just thought that if each of us does *something* – some small thing – then this country will survive and it'll do fine,” he says.

He won his race easily. It helped, he says, that he had lived in several parts of his vast district, so the voters knew him. It also helped that he was unopposed.

Life in Helena

The two legislators' time in Helena has been just as different as how they got there.

Hill shares a house with fellow young Missoula Democrat, Rep. Bryce Bennett, and spends her lunches with constituents and evenings at interest-group socials. She is flooded with e-mails and keeps her constituents current with a constant stream of messages from her iPad or Blackberry.

Harris rents a room at the Howard Johnson, and he says he has attended maybe four evening functions. But he would rather go back to his room, spend a few hours getting ready for the next day, and maybe watch a little Fox News before turning in. So far, none of his constituents have paid a visit, and few lobbyists are beating on his door.

While Harris has a son minding the ranch, Hill has an interim director watching over the Poverello Center. But she still works about 12 hours a week to help administrate things from Helena.

Harris says the hardest part of the Legislature is being away from his wife, Vicki, and his ranch. Vicki moved into a small house in Lewistown during the session to shorten her husband's drive to see her on the weekends.

Hill says she thrives on all the work in Helena. Her husband, John, has to travel for his job so the two are used to seeing each other sporadically. But she misses Missoula and tries to get back every other weekend.

Common ground

For all their differences, the two are finding occasional patches of common ground as they watch the bills come and go in the House Judiciary Committee.

Before the committee addressed the ultrasound abortion bill last Friday, it considered another to help officials get help for mentally ill people who pose a threat to themselves or others.

Matt Kuntz, executive director of Montana's chapter of the National Alliance on

Mental Illness, testified about youths who are released too soon from hospitals after attempting suicide. Hill asked Kuntz to share the story of his own brother, a veteran suffering from PTSD, who killed himself after slipping through the system's cracks.

Hill and Harris are at different ends of PTSD. He knows what it's like to have it. She knows what it's like to help those who do.

As Kuntz spoke, saying that he couldn't bear to think whether the bill might have saved his brother, Hill covered her mouth with her hand, her eyes opened wide. Harris raised his chin slightly and swallowed. His brown eyes softened.

When Kuntz stepped away from the microphone Harris and Hill looked at each other for just a second. Then another Republican legislator asked what the bill would cost.

Harris put on his glasses, and Hill rolled her eyes.

Legislative Roundup 2-13

For publication the week of Feb. 13

Death penalty, medical marijuana repeal

top the Legislature's agenda this week

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – With just over a week to go until halftime, many of the session's most controversial issues will hit the floor in one house or the other this week, including the state's biennial debate over capital punishment.

The topic has been a constant at the Legislature for more than a decade. A bill to abolish the death penalty and replace it with life imprisonment made it through the Senate last session but was tabled in the House.

This session's abolition bill, Senate Bill 185, by Sen. David Wanzenried, D-Missoula, passed the Senate Judiciary committee last week on a 7-5 vote that reflected the issue's power to blur the lines between party and ideology.

Sen. Greg Hinkle, R-Thompson Falls, said although he believes heinous criminals need to be severely punished, a tour of Montana's death row made him think life in prison was a harsher penalty than death. "I would never go there alive," he said. "It wouldn't happen. That's a horrible, horrible place."

The bill's supporters argued the death penalty doesn't deter violent crime and that, as an act of retribution, it doesn't bring solace to victims' families. They also said administration is costly and, in rare cases, death sentences may be mistakenly applied.

Opponents contend capital punishment does offer victims a sense of justice and that it prevents hardened killers from killing again.

Also coming to the Senate floor this week will be one of two major bills to reform Montana's workers' compensation system. Senate Bill 243, by Sen. Ryan Zinke, R-Whitefish, is the product of a four-year study by lawmakers, labor and business to reduce work comp premiums, which are among the nation's highest.

Zinke's bill focuses on limiting payouts to physicians. Its counterpart in the House, House Bill 334 by Rep. Scott Reichner, R-Bigfork, would limit workers' benefits. The House endorsed the measure last week.

Medical Marijuana

The House gave its initial approval last Thursday to repealing Montana's voter-approved medical marijuana law. Lawmakers voted 63-37 to endorse House Bill 161, by House Speaker Mike Milburn, R-Cascade.

Six Republicans opposed the measure and one Democrat voted for it. A final vote

is yet to come.

Milburn said the state's medical marijuana use and the industry that supports it have expanded far beyond what most voters had intended. He said it has led to children prostituting themselves to get drugs. The only solution, he argued, was repeal.

"We're talking about a totally uncontrollable epidemic," he said.

But Rep. Pat Noonan, D-Ramsay, said the problems surrounding the act are the direct result of the Legislature's inaction on the issue since its approval. He urged legislators to respect voters' wishes and consider other bills to better regulate the drug and the industry.

"Do the thing you were elected to do and that is to govern," he said. "I would ask that you don't vote against the citizens' vote."

One of the reform bills Noonan alluded to was heard in the Senate Judiciary Committee last Friday. Senate Bill 154 by Sen. Dave Lewis, R-Helena, would regulate the new industry like taverns, but Lewis had scrapped his original bill and presented a different one, authored by the director of the Medical Marijuana Growers' Association, Jim Gingery.

The new bill replaces a proposed tax with a fee and adds some definitions, such as growers and providers, and takes out a special revenue mandate that would channel money into senior care.

Abortion

Twenty-one Republicans joined Democrats Friday in killing a measure requiring that a woman undergo an ultrasound exam and have the results described to her before she could get an abortion. House Bill 280 failed 47-53.

Rep. Walter McNutt, R-Sidney, opposed the bill, saying it gave government a

power it shouldn't have and was shocked the measure came from his party which claims to seek less government intrusion in citizens' lives.

"I cannot believe the bill is even here," McNutt said.

The bill's sponsor, Rep. Pat Ingraham, R-Thompson Falls, and others said such exams would show women considering abortions what was truly at stake – the lives of unborn children.

Early that day, the Senate Judiciary Committee heard a bill to require parental notification in cases of girls under age 16 seeking abortions. . Jim Shockley, R-Victor, said his Senate Bill 97 had no implications on a woman's right to abortion or the federal ruling that upholds it.

Physician-assisted suicide

The Senate Judiciary Committee will be asked to choose between bills affirming the right of terminally ill patients to seek help in ending their lives or banning the practice of doctor-assisted suicide altogether.

The first, Senate Bill 167 by Sen. Anders Blewett, D-Great Falls, would set requirements for assisted suicide, including two doctors' opinions and counseling before a patient could take lethal medication.

Blewett's bill affirms the Montana Supreme Court's 2009 decision that a lymphoma patient named Robert Baxter, of Billings, could end his suffering. The ruling came after Baxter died from his illness, but it set the stage for establishing Montanans' right to die with dignity.

The other bill, Senate Bill 116 by Sen. Greg Hinkle, R-Thompson Falls, would prohibit assisted suicide completely.

Stream Access

The House passed a bill last week that critics say is a direct assault on Montanans' right to whip a fly into most of the state's rivers and streams.

House Bill 309 by Rep. Jeff Welborn, R-Dillon, defines and then exempts irrigation ditches from the state's stream access law and will now head to the Senate.

Welborn said the bill aims to clarify the law that allows anglers, floaters and hikers access to the beds and banks of streams up to the high-water mark. In doing so, the measure would protect the investments of nearly 6,000 family ranchers and farmers, he added.

Sen. Kendal Van Dyk, D-Billings, sees the measure as an attempt to deny recreationists access to many of Montana's rivers and streams that also provide water for irrigation. He predicted a bipartisan fight against the bill in the Senate.

"I really think I've got a coalition of folks in the Senate who are going to kill it," he said, adding, "They kicked a hornets' nest on this one."

The issue stems from a 2008 Montana Supreme Court ruling that allowed access to a slough running along rocker Huey Lewis' property in the Bitterroot Valley.

Bonds for buildings

Lawmakers got their first glimpse last week at the session's bill to finance construction of new state buildings through the sale of long-term bonds. The \$90 million bonding bill would authorize several new higher education buildings, a state history museum and a veterans home in Butte.

House Bill 439, by Rep. Galen Hollenbaugh, D-Helena, would require a two-thirds majority in both houses to pass and would fund the construction of state laboratories, science buildings at both universities along with the museum and the veterans home.

Legislative Feature No. 7

For publication the week of Feb. 13

**Employers and their workers watch and worry
as lawmakers struggle to reform workers' comp**

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – It's not just for bricklayers with blown knees or loggers with severed toes.

Workers' compensation insurance takes care of stock boys with pulled backs and nurses who contract their patients' diseases. Most employers pay for it, and thousands of Montana workers might someday have to rely on it.

But Montana's system is broken, say business owners and many lawmakers. Its rates, among the nation's highest, siphon away precious profits and scare off prospective business ventures.

The high cost is the son of many fathers. If you think of it as car insurance, Montana is an 18-year-old male with a lead foot and a fast car – he's on the high-risk plan.

Studies show that Montanans get hurt more seriously and more often. They also remain off-the-job longer than workers in many other states. Medical costs are high as well, though providers say charges are low compared to surrounding states.

Whatever the problem's causes, Greg Hertz just wants help. The Polson grocer said he has done all he can to bring down premiums through safety incentives and worker training programs. He wants the Legislature to lower his costs.

He's not alone. Reforming work comp is one of business's top priorities this

legislative session. Gov. Brian Schweitzer is pushing it hard. Labor unions concede changes are in order.

Legislators are listening. Two major competing bills are shouldering their way through the 2011 session to answer the concerns of Hertz and hundreds of other employers.

One business's costs

Hertz owns six grocery stores, five in Montana and one in Idaho. A decade ago, he said, work comp was among his top 15 biggest costs; now it's in his top five. He pays more for work comp, he added, than he pays in taxes – and the most dangerous tool his workers carry is a box knife.

But even though grocers don't face the dangers that loggers and miners do, costs still add up. A lower back injury suffered by one of Hertz's workers cost \$172,000, he said.

Overall, Hertz reckons work comp premiums account for more than 6 percent of his total payroll in Montana. Coverage for his Idaho store costs half of that, he added.

The first reform bill, House Bill 334, by Rep. Scott Reichner, R-Bigfork, looks to shrink rates by closing claims after five years, with an extension of two years if the worker needs surgery.

The bill would raise the level of impairment for which workers could collect payments for lost wages, and it would exclude some injuries from qualifying for any benefit at all. It also requires that injured workers get treatment from a list of state-approved physicians.

Reichner said such changes could cut rates immediately by as much as 40 percent, with savings estimates ranging from \$80 million to \$180 million a year.

He said the big losers would be Montana's neighboring states, who stand to lose businesses that previously chose to locate there due to lower work comp costs.

Workers' concerns

But workers, who long ago traded their right to sue for a guarantee of limited compensation for on-the-job injuries, are wary.

Barb Swehla of the Montana Nurses Association sees Reichner's bill as another in a long series of attempts to cut premiums at the expense of employees. "We really believe that House Bill 334 is devastating to the injured worker," she said.

In Montana, nursing accounts for the second highest number of work comp claims. Most nurses are women who are often called to lift or move patients much larger than themselves. Back and shoulder injuries are common, said Swehla, whose own back problems forced her to quit working directly with patients.

Nurses also face the possibility of contracting diseases such as hepatitis, tuberculosis and, in rare cases, HIV. What happens to them, Swehla asked, when Reichner's five-year limit on claims runs out?

Another approach

The session's other major work comp bill, Senate Bill 243, is sponsored by Sen. Ryan Zinke, R-Whitefish. It stems from a four-year study by a committee of lawmakers and representatives from labor and management. Zinke, a former Navy SEAL, served a two-year hitch on the panel. Even he found the subject harrowing.

Like the House bill, SB 243 puts a time limit on benefits, with exceptions for unusual cases. But whereas Reichner's bill focuses on limiting workers' benefits, Zinke's bill keys on restricting payments to health-care providers.

Specifically, Zinke would limit payments to no more than 165 percent of what

Medicare would pay for the same procedure.

Health care providers don't like that, arguing that it would prevent them from recovering the costs they bear in dealing with work comp patients, costs that include additional paperwork, procedures and bureaucracy. If Zinke's bill becomes law, they warn, physicians and other health-care providers may shun work comp patients.

But Zinke said that if the paperwork and procedural requirements are the problem, legislators should cut red tape before they cut benefits.

Both bills offer treatment guidelines for physicians to follow in handling claims, and both offer plans to help workers get back to work quickly.

Because 95 percent of work comp injuries are healed as well as they're going to be at five years, Zinke said he's open to a five-year limit on payments, provided officials can make exceptions in special cases, such as nurses who contract lifelong diseases.

The road ahead

Both bills are advancing. It's likely that whatever emerges this session will be a mix of the two, with other ideas tossed in.

Rep. Chuck Hunter, D-Helena, has been around the work comp issue for more than 20 years, first as an administrator in state government and then as a lawmaker. He served on the group that produced Zinke's bill, SB 243.

He strongly opposes forcing injured workers to choose from a select list of physicians. He also objects to strict time limits on claims without considering special cases. He said he would fight any absolute ban on subsidizing workers' lost wages based on the type of injury. He agrees with Zinke that a toe injury could have vastly different consequences for a logger and a ballerina.

However, he said, between the two bills lies the potential to fix some of the major

causes of Montana's high work comp rates: medical costs, unending duration of some claims, long absences from work and unnecessary payment of lost-wage subsidies to those who are not truly impaired.

His biggest concern is the ongoing need to promote safety on the job. That's why he's pushing legislation to continue funding a program that helps employers make their workplaces safer.

With both measures rushing to the Senate, Zinke said it is his goal to see that a solid compromise eventually lands on Gov. Schweitzer's desk.

"I want to give the governor *one* bill to sign," he said. "I'm working with (Reichner). It's just the Senate is a little different and I have a slightly different approach. My approach is a little more cautious, and I don't want to have an unintended consequence."

Each party will have to give a little, he said, but he hopes that in the end no workers will be prevented from getting care they truly need and that all businesses will get the relief they've asked for.

Legislature Feature No. 8

For publication the week of Feb. 20

The Cybersession: Today's digital debates buzz through the Capitol and echo far from Helena

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – The debate began before Rep. Gordon Vance said a single word.

Thursday was Vance's day to plead his case for a law requiring that every bill be

evaluated for its effect on jobs. But as the Bozeman Republican grasped the microphone and rose to face his fellow legislators, a message from the Montana GOP popped up on cell phones and computers across the world.

“Right now, the #mtleg is considering HB100 by Gordon Vance, defending Montana's job creators ...”

Within seconds of the successful party-line vote, the GOP delivered again: “Democrats in the #mtleg House voted against protecting Montana's job creators from bad legislation.”

Watching the action, Missoula citizen Ryan Wakefield wasn't buying it. Within minutes, he lashed back at the Republicans, writing “don't worry, I am sure that you will get the democrats back by voting against public education for our children again #mtleg.”

It's just another exchange in the silent digital debate swarming over the Capitol these days. The 140-character bulletins of news and opinion, called tweets, are available to anyone who logs on to the social website Twitter and searches for the phrase “#mtleg.”

In growing numbers, constituents, activists, lobbyists, journalists and legislators themselves are tweeting the happenings of Montana's 62nd Legislature, and the messages are echoing far beyond the halls of the Capitol.

It's also becoming part of the process. Occasionally, you can see individual lawmakers commenting about what another is saying during an actual floor debate. But the true power of the tweet is disseminating information, not opinion, say lawmakers and lobbyists.

Freshman Rep. Bryce Bennett, D-Missoula, is among the few legislators who tweet regularly. For him, it's another way to keep the folks back home abreast of what's

going on – a much faster way.

Flooded with hundreds of e-mails during a recent vote to repeal medical marijuana, Bennett found it immeasurably faster to tweet a one-line response saying he understood his constituents' wishes. Likewise, citizens can instantly tell the young freshman what they think of the job he's doing.

So far, Democratic legislators outnumber Republicans as regular tweeters, but Rep. Mike Miller, a Helmville Republican who owns a computer services company, isn't conceding a thing. Although few of his GOP colleagues are tweeting, he knows at least some of them are following the chatter. He's also made it his job to monitor the Twittersphere on behalf of colleagues who barely acknowledge it exists.

Miller recounted many times this session when he's printed off a Democrat's tweet, handed it to the Republican representative it was about, and said, "Here, defend yourself."

But Miller agrees with Bennett that the legislative Twittering is more about light than heat so far. It's most useful in helping legislators monitor what's going on in all corners of the Capitol and the state. From his seat on the floor, he follows the tweets by the media, citizens and lobbyists and keeps tabs on what's going on in the Senate.

House Majority Leader Tom McGillvray sees the benefits of Twitter but also its drawbacks. He was among the first lawmakers to use the site back in the 2009 session, but he never made it a habit. He said he's lucky to get out two or three a week.

Likewise, he doesn't look at it on the floor. He keeps his head in the analog debate before him. And this year, he has warned his caucus to use discretion as to when and where they tweet or use other social media sites such as Facebook.

"I didn't want to have (lawmakers) tweeting and twittering, or whatever, and

Facebooking on the floor or in committee meetings. I think we should be focused on the people testifying for hearings,” McGillvray said.

He also sees that too much tweeting could be a bad thing, like speaking too frequently during floor sessions can induce rolling eyes.

“I think that some legislators who are tweeting too much can lose their effectiveness,” McGillvray said. “I think Miller is probably a good balance, from what I’ve seen.”

For Jamee Greer, a lobbyist for the Montana Human Rights Network, tweets are chiefly a means to rally the troops and let them know when and where to make their voices heard.

Many organizations like Greer’s have turned to Twitter more often in recent weeks as committees scheduled hearings on short notice as they scrambled to meet the session’s halftime deadline for general legislation.

Greer also has his own private Twitter account, one not affiliated with his employer, where he can vent frustrations or share his opinion on bills in which the network has no position. But both feeds have their followers – 472 for the network and 641 for his personal account – which makes Greer popular with others in the Capitol who want to communicate through him to his followers.

His reputation as a Twitter fiend is such that when someone wants to tell him something in confidence, it’s not uncommon for them to say, “Don’t tweet this, but...”

Greer said he’s also had members of the press thank him for tipping them off to hearings or debates they would have otherwise missed.

For Steve Dogiakos, a Republican activist working this session as a nonpartisan House clerk, Twitter is his direct line to citizens. From his desk on the House rostrum,

Dogiakos often tweets the results of key votes faster than journalists on the floor. An astounding 2,103 people follow his posts. That's more than the population of some Montana counties.

Like the others, he said the main function of the Capitol's Twitter community is to share factual information. But he sees the day when the technology's influence over legislators' opinions will be greater.

For instance, it can easily leapfrog some sacred barriers to lawmakers themselves. By tradition and rule, lobbyists are physically barred from House and Senate floors during session. But there is no rule to block their tweets or e-mails or Facebook messages.

Reps. Bennett and Miller said they have yet to be lobbied via Twitter but both see the potential. They also concede that lobbyists and lobbyists who use technology well will have an advantage.

For now, though, the Capitol's Twitter community is still building speed.

During Thursday's floor debate over Vance's bill, as the tweets rolled across Bennett's and Miller's laptop screens, teenage pages sorted through stacks of color-coded paper, each containing phone or e-mail messages. Like worker bees, they weaved through the rows of desks to deliver the notes.

Most lawmakers don't read them after the session ends, which on Thursday was well after 5 p.m. It was an exhausting day, one that began with hearings on dozens of bills in committees. On the floor, legislators churned through dozens more, at a rate of one bill every four or five minutes – or roughly one bill for every five or six tweets.

They broke for more committee meetings, but as they reconvened later to finish voting, Greer was railing on #mtleg against testimony attributing Montana's attraction as

a tourist destination to the “fact” that English is the world’s primary language.

Dogiakos instantly tweeted some background: “47 million Americans 5 and older used a language other than English in 2000.”

In the midst of this, Rep. Bennett's first-ever bill arrived on the floor for debate. After a quick opening and no discussion it came time to vote. The electronic board that tallies House votes turned green, indicating the measure’s passage.

Before his colleagues could applaud Bennett's first legislative success, Democratic House staffer Chavvahn Gade had already tweeted the news: “Bryce Bennett's first bill passes!! #mtleg.”

Legislative Roundup

For publication the Feb. 20

Montana’s 62nd Legislature lurches toward halftime

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – Legislators head home this week for a break, with the session’s biggest decisions – how to pay for education, social services and prisons – still to come.

So are final decisions on an array of controversial topics that include repealing or reforming Montana’s medical marijuana law, rolling back environmental regulations, and the “nullification” of federal laws on subjects ranging from health care to endangered species.

All of that was in play last week as legislators scrambled to jam bills under the falling stone door of Thursday’s transmittal deadline. Any non-financial bill that fails to pass at least one house dies that day. More than 230 bills still awaited action as of late

last week.

Staffers were confident that they could do the job, but last week's crush of legislation resulted in hasty hearings and frustrated Montanans, some of whom had traveled long and far only to be told there wasn't time for them to speak.

Such was the case in Friday's House Judiciary Committee, which drew a crowd for emotional hearings on a pair of bills dealing with Montana's law against discrimination. The first would add protections for citizens regardless of their sexual orientation, gender identity or expression. The second would prevent cities from drafting their own ordinances granting such protections, such as one in Missoula.

Religious and social conservatives and members of the state's lesbian, gay, bisexual and transgendered community packed the room and spilled over into the hall outside the hearing, but Chairman Ken Peterson, R-Billings, limited testimony from each side to 10 minutes.

That drew protests from some lawmakers who said it wasn't fair to those who made the long drive to Helena. Peterson held firm but apologized for the time constraints and encouraged speakers to submit written testimony and sign the hearing list instead.

Human rights advocates held their own "hearing" on the second floor of the Capitol. At least 40 people showed up, including Sen. Minority Leader Carol Williams, D-Missoula, and Sen. Shannon Augare, D-Browning. Both said they felt the way the meeting was handled was an injustice.

Peterson's own effort to ease the crush of legislation was defeated 50-50 in a rushed floor session the day before. His bill would have allowed the Legislature to meet every year, alternating between budget and general bill sessions.

Battle of the budget

Amid the frenzy, Gov. Brian Schweitzer and the Legislature's Republican leaders actually drew closer in their guesses of how much revenue Montana will take in over the next two years, but tempers boiled over the difference.

Brighter revenue forecasts released by the independent Legislative Fiscal Division drew accusations from Gov. Brian Schweitzer that the office has been short-changing projections on orders from Republican leaders, who, he said, are hoping to slash funding for social services and education.

"None of that is true," said Amy Carlson, director of the division.

Republican leaders shot back, saying LFD's higher projections justify their more cautious budgeting. The new forecast anticipates more money from higher-than-expected oil prices and fewer tax breaks, and not a strong economic recovery as the governor purports.

The new numbers are \$97 million higher than the LFD's November estimates but still \$71 million less than Schweitzer's own projection. The number is crucial because it determines how much money the state will have to spend.

Schweitzer's budget would increase spending on public schools, the university system and social services such as Medicaid, but his plan hinges on transferring money from other funds, including about \$76 million in oil and gas revenues from resource-rich counties to schools statewide.

Republicans killed the governor's bill to take that oil and gas money last Wednesday, saying they hope to replace it with a more modest bill that targets only those districts that truly have a windfall of oil and gas revenue.

That bill will be sponsored by Sen. Llew Jones, R-Conrad, who said Schweitzer's plan would have forced many of the oil-country school districts to raise local property

taxes. Jones' bill would shift about \$30 million from oil country to schools statewide.

Energy and environment

Republicans continued their efforts to roll back conservation and environmental laws, including incentives to develop new sources of renewable energy.

Last week they blocked a bill by Sen. Kendall Van Dyk, D-Billings, to raise the amount of renewable energy utilities must buy to 25 percent of the total by 2025. That's 10 percent more that utilities are required to offer their customers under a law passed six years ago.

Senate Republicans argued that such mandates only raise the price of energy. Instead, they are backing Senate Bill 109, which helps utilities meet the current requirement to buy renewable energy by allowing them to count existing purchases of power from hydroelectric dams.

Van Dyk said that virtually guts the 2005 law, which aimed to boost new investments in energy from the wind and other sources.

Republicans argued in last fall's legislative campaigns that environmental laws were being used to block the development of Montana's natural resources, including coal, oil and gas, and they have introduced numerous bills this session to counter that.

Last week's hearings included one on Senate Bill 312, which seeks to change the Montana Environmental Protection Act to reduce delays and the risk of lawsuits for companies looking to begin projects.

Meanwhile, the House last week heard a bill from Rep. Joe Read, R-Ronan, who wants a state law stating that global warming is a naturally occurring process, not one caused by humans.

That runs counter to the findings of most climate scientists, including University

of Montana professor Steve Running, a Nobel laureate who called Read's bill "ridiculous," according to an Associated Press story. He said lawmakers might as well pass a bill repealing the law of gravity.

On Saturday, the House voted 61-39 for a bill sponsored by Rep. Krayton Kerns, R-Laurel, to "nullify" the federal Endangered Species Act.

Bonds for buildings

Contractors, university officials and others last week supported a \$90 million bonding proposal to finance construction of eight new state buildings. They said it would create much-needed jobs.

House Bill 439 would allow the state to take out bonds for new buildings at the University of Montana; Montana State University at Bozeman, Billings and Great Falls; a veterans home in Butte; and a state history museum in Helena.

Most of the projects would involve extensive renovation. Work at the universities would focus on College of Technology facilities and agriculture experiment stations, programs that directly benefit Montana's economy, supporters said.

No money would be spent, or bonds sold, until state revenues exceed estimates for 2011 by \$2 million. Most of the projects would go out for bid in 2012 or early 2013.

Abortion

Rep. Wendy Warburton, R-Havre, has proposed two ballot measures for 2012 asking voters whether abortion should be legal in Montana.

House Bill 490 seeks to amend the Montana Constitution to define a person as any member of the "species *Homo sapiens* at any stage of development, including the stage of fertilization or conception, regardless of age, health, level of functioning, or condition of dependency."

Her other measure would ask voters to amend the Constitution to say Montana women have no specific right to abortion or to receive public funding for them.

Death Penalty

By a one-vote margin, the Senate last week passed a bill to abolish the death penalty. The measure now goes to the House, where it faces a tough battle.

Senate Bill 185, by Sen. David Wanzonried, D-Missoula, would replace capital punishment with life in prison without parole. The Senate passed a similar bill last session but it died in a House committee.

Legislative Roundup 2-27

For publication the week of Feb. 27

Legislature's focus sharpens as session passes its midpoint

COMMUNITY NEWS SERVICE

UM School of Journalism

Battles over taxes and spending for education, social services for the needy, and institutions like the prisons will push their way onto stage in the Legislature's second half, but lots of other dramas remain to be played out, too.

Of the slightly more than 1,000 bills introduced so far, roughly a third of those are probably dead or stuck in limbo. But that still leaves a lot of lawmaking to do before the session's scheduled end on April 21.

Here's a roundup of major legislation still kicking in Helena:

Medical marijuana

The question of how to regulate Montana's medical marijuana industry awaits the Legislature's decision on whether to repeal the voter-initiated law that allows the medicinal use of cannabis.

House Speaker Mike Milburn's bill to repeal the 2004 law passed the House easily and now goes to the Senate, where its fate is less certain. Even if it passes, no one is sure whether Gov. Brian Schweitzer will sign it.

Waiting in the wings are bills to put stricter controls on who can obtain, grow and dispense medical marijuana. A referendum asking voters to repeal the medicinal marijuana law in 2012 also could be in the works.

DUI

The movement to crack down on repeat DUI offenders is advancing. The most successful bills so far include a House measure that would require twice-daily testing of repeat offenders as their cases move through court. House Bill 106 is now in the Senate.

The House will get a look soon at two Senate attempts to limit the problem. Senate Bill 15 would create the crime of aggravated DUI for drunken drivers whose blood-alcohol content is more than twice the legal limit of .08. Senate Bill 42 would empower police to get search warrants requiring that DUI suspects take breath or blood tests.

Other surviving bills include one that aims to ensure that prior DUI convictions are counted when judges sentence repeat offenders. Lawmakers may also decide whether to allow counties to punish adults who knowingly provide alcohol to underage Montanans at social gatherings.

Workers' compensation reform

Reducing the high cost of workers' comp insurance is a high priority for business, and the House has passed a bill that promises to reduce employers' premiums. The bill, sponsored by Rep. Scott Reichner, R-Bigfork, focuses on limiting workers' claims, much to the dismay of Democrats in both houses.

The measure heads to the Senate, which has tabled a competing proposal supported by the Schweitzer administration and written by a committee representing labor and industry. Sponsored by Sen. Ryan Zinke, R-Whitefish, that bill focuses on limiting payments to health care providers.

Abortion

Emotions are running high as social conservatives seek to make the most of their majority. Senators have passed bills requiring parental notification of abortions involving girls under the age of 16 and prohibiting abortions by providers who qualify to offer health services under the new federal health care law.

The House passed a bill aimed at preventing women from being coerced into having abortions. It would require a pre-abortion evaluation to determine if the woman was undergoing the procedure of her own free will. The House killed a bill that would have required pre-abortion ultrasound exams.

The House also advanced two proposed constitutional ballot measures, including one saying that Montanans have no specific right to an abortion and prohibiting public funding of abortions. The other would define a person to include fetuses.

Environment/Energy

Over Democrats' protests, Republicans are pushing hard this session for bills rolling back environmental laws and regulations in the hopes of creating more jobs in natural resource and energy development.

High on the GOP's list is Senate Bill 317, which would revise the Montana Environmental Policy Act, the law that allows for reviews of potential damage caused by development projects. The measure directs the state to consider a project's economic benefits and restricts the grounds on which a project's critics can sue. Senate Bill 233

would allow a project to continue while a court considers challenges to a MEPA review.

Another surviving bill would revise Montana's 1998 voter-approved law banning new gold mines that use the cyanide leaching process. Senate Bill 306 would allow new mines provided that they process their ore in existing leaching facilities.

Other bills advancing include House Bill 550, which seeks to give the state authority over any federal effort to regulate greenhouse gas emissions in Montana.

Meanwhile, Montana's 2005 law to encourage the development of new renewable energy businesses is being challenged by Republicans who say its incentives only increase costs for consumers.

Bills are moving forward that critics say would gut the act's purpose by allowing utilities to count much of the hydropower they already use toward quotas of energy the law says they must buy from renewable sources. Another bill would make it more difficult for small wind power and solar energy developers to sell power to major utilities.

Death penalty

Efforts to abolish Montana's death penalty moved forward when the Senate passed a bill to replace it with life imprisonment. That bill now moves to the House, where it faces tough odds. A similar bill passed the Senate two years ago, but died in a House committee.

Gay Rights

The House passed legislation that would overturn the Missoula's anti-discrimination ordinance that bans discrimination based on sexual orientation or gender expression. That measure moves to the Senate. The House also killed a bill that would have banned discrimination against sexual orientation and gender expression under the

state's Human Rights Act.

Guns

Over a dozen bills dealing with gun rights or hunting are making their way through the session. A bill to eliminate the need for a concealed carry permit in cities for eligible individuals moved to the Senate after a close vote in the House.

Also advancing are bills to permit the use of silencers in the field and strengthen Montana's Firearms Freedoms Act, which passed last session.

Casualties include a measure which sought to imprison federal officials who enforce federal gun laws that conflict with the Firearms Freedom Act and a bill that would have limited weapons seizures by law enforcement.

Stream access

Expect a clash in the Senate over a House bill that seeks to exclude irrigation ditches from the Montana law that gives recreationists access to the beds and banks of streams and rivers.

Anglers, hikers and others fear House Bill 309's definition of irrigation ditches could be used to exclude access to many state waterways. Landowners, however, say the bill would help them protect their property.

The bill stems from a 2008 Montana Supreme Court ruling that allowed recreational access to a slough running along musician Huey Lewis' property in the Bitterroot Valley.

Nullification

Several nullification bills crashed in the session's first half, but others survived. Among the living is Senate Bill 106, which would compel Montana Attorney General Steve Bullock to join other states in a multi-state lawsuit seeking to repeal federal health

care reform.

Another survivor is House Joint Resolution 14, which declares that states retain the right to decide when individual liberties may be abridged and that states “are not united on the principle of unlimited submission to general government.”

A bill to nullify the federal Endangered Species Act, House Bill 321, passed the GOP-controlled House but was referred to the House Appropriations Committee because it has the potential to cost Montana nearly \$500 million dollars in federal support for highways and other state programs.

Eminent domain

The Senate is scheduled take up House Bill 198, an industry-backed attempt to ensure that state-approved development projects have the power to condemn private property under Montana’s eminent domain law.

The bill is in response to a legal dispute in Glacier County over land the Montana-Alberta Tie power line project wants for its proposed line from Great Falls to Lethbridge, Alberta. Ranchers and farmers say the bill threatens their property rights.

Meanwhile, the House is scheduled to consider a Senate bill that would give Montana the power of eminent domain over some federal land within its borders. The measure is a response to the federal Bureau of Land Management’s new “Wild Lands” designation, which allows the BLM to withdraw land from development without the approval of Congress.

Physician-assisted suicide

Efforts to implement the Montana Supreme Court’s 2009 decision allowing physician-assisted suicide in Montana have stalled in the Legislature.

Senators voted down a bill to ban the practice altogether and tabled a measure to

create guidelines and regulations consistent with the Supreme Court decision.

Legislative Feature No. 9

For publication the week of Feb. 27

Outside perspectives: Session watchers

weigh in on the Montana Legislature

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – From his office in Missoula, University of Montana political science professor Jim Lopach has watched legislative politics for decades. This session, he said, is different.

He said he is surprised by the boldness of lawmakers looking to get at the roots of things, to shake up what has long been settled, and by their willingness to challenge the powers that be, from President Barack Obama down to city and county governments.

“I think it’s really radical – a very radical session,” Lopach said.

So far conservatives made aggressive moves to cut spending, roll back long-standing environmental regulations and defy the federal government on issues ranging from health care reform to the execution of federal search warrants.

Republicans this session are challenging Montana voters’ intentions on medical marijuana, local ordinances expanding gay rights, and U.S. Supreme Court rulings on abortion and the limits of state control.

“It’s stunning to what degree the session has made itself the center of political power,” Lopach said.

The confidence and empowerment comes in part, he said, from Montana’s

practice of electing 125 of its 150 legislators every two years. That ensures that most legislators are dramatically imprinted by the politics of the moment, he added.

Montana's relatively sparsely populated legislative districts also magnify the influence of small, parochial groups, he said. If legislators ran in larger districts, they would most likely have to temper their views.

"Maybe then the Legislature would be more representative of the Montana electorate," Lopach said. "I don't know if they are now."

The tea party's take

Tim Ravndal, president of the Lewis and Clark's Conservative Tea Party, said there's no question that the conservative control of the Legislature has helped his group's cause.

He singled out new Republican legislators like Rep. Derek Sees of Whitefish, for his efforts to nullify federal laws and expand state's rights, and veterans like Rep. Krayton Kerns of Laurel for his bills expanding gun rights.

"We feel like we've made some strides forward," Ravndal said.

But he isn't seeing the success he had hoped for after November's election. He said some Republican lawmakers who ran on Tea Party platforms of shrinking government aren't keeping their promises.

"If you're talking about a Republican, the term is RINO, (Republican) In Name Only," he said.

As the session ramped up, some Republicans grew frustrated with nullification debates and helped kill two of Skees' nullification bills. They also watered down a bill that would have given local sheriffs authority over all law enforcement, include federal officers.

House Speaker Mike Milburn, R-Cascade, seemed to make the point in a halftime press conference when he said individual lawmakers were free to advance their own bills, but the GOP's priorities were creating jobs and boosting the economy.

Ravndal blamed some of the Republican reluctance on last week's frantic pace. Common sense, he said, was sacrificed in the interest of moving the process along.

But he's working the long game, he added, focusing already on the next local and state elections.

"The next session, certainly, we're going to be one step ahead on kicking the door open further for the freedoms of people," he said.

Business and environment

Jon Bennion, longtime lobbyist for the Montana Chamber of Commerce, described the session as the most positive climate he's seen for business. He said he is particularly pleased with the bipartisan interest in workers' compensation reform and effort to free business from regulations.

Although both parties trade shots about the other's inaction on jobs, Bennion said he's more optimistic than he's ever been at halftime. But it's a long way to the session's ends, he cautioned.

Workers' comp reform tops his clients' priority list, he said, but rolling back environmental regulations runs a close second.

He said he is especially pleased with revisions to the Montana Environmental Policy Act endorsed by the Senate last week. The changes would allow moderate and reasonable depletion and degradation of the state's natural resources and would include the state's economic well-being among the criteria officials need to consider when reviewing projects.

The changes in environmental laws are some of the most sweeping since they were enacted in the 1970s, and environmentalists who have defended them for nearly 40 years are distraught.

Anne Hedges, a longtime lobbyist for the Montana Environmental Information Center, said this is hands-down the worst session ever for environmental concerns. “The only bill that they can point to that creates more jobs is the gutting of the Montana Environmental Policy Act,” she said.

As she roams the Capitol or speaks at rallies, Hedges carries with her a list of 35 bills environmentalists are opposing, any one of which, she said, might have been her group’s chief concern in sessions past.

“It is like nothing before,” she said. “It is industry flexing its muscle. They are trying to cut out public involvement and public information.”

So far, Hedges can point to one or two “bad” bills she has helped defeat, but said the fate of many of the bills on her list may ultimately rest in Gov. Brian Schweitzer's hands.

Social issues

Sensing opportunity, religious and social conservatives are pressing hard this session to reset the debate on abortion and to block any recognition of gay rights.

Like Hedges, Kelson Young, of the Montana Coalition Against Domestic and Sexual Violence, and Lindsay Love, of Planned Parenthood, share a deep frustration and hope Schweitzer’s vetoes will back them up.

Young said her cause found bipartisan support in previous sessions, but not this time. Instead, she is playing defense against 30 to 40 bills that she said could compromise protection for victims. Love said she is fighting a similarly dismal battle for abortion

rights.

Some committee hearings have been insulting and abusive, they said, but their biggest frustration is with conservatives who take strong stands for individual liberties while remaining hard set against abortion and gay rights.

“Apparently they don't believe in those things for women, children, gays, immigrants – anyone else,” Young said.

Priorities for spending

The session's final reputation may rest on the decisions it makes on spending for the state's biggest ongoing obligations: education, social services for the needy and institutions like prisons.

To date, Republican-controlled subcommittees have recommended removing about \$240 million in spending from Gov. Schweitzer's proposed budget and they have reduced its revenues by about \$30 million. If such cuts hold, Democrats predict they will place heavy pressure on schools and local governments to raise local taxes and tuition or make deep cuts – or both.

Despite protests from Schweitzer and Democrats, Republicans leaders, backed by the Legislature's nonpartisan revenue forecasters, insist the ongoing money isn't there. Along with spending cuts, they hope to slash business property taxes to spur Montana's recovery from recession.

Eric Feaver, president of MEA-MFT, the state's teachers union, doesn't understand the GOP cuts from Schweitzer's proposal, which amount to \$73 million from K-12 schools and higher education alone.

Such cuts would cost Montanans jobs, which is supposedly the Republicans' top priority, he said. That focus seems muddled by social issues, he added. “Is their agenda

guns, gays and immigrants or is their agenda jobs?” Feaver asked.

He is also troubled by the scrutiny over state workers’ pay, which has been frozen for the past two years. “This general anti-government, anti-public employee rhetoric has got to stop,” he said. “And I don’t know if it will in this Legislature.”

Proposed cuts in the governor’s budget for social services are drawing fire too. So far, legislators have recommended taking nearly \$54 million from the Department of Health and Human Services.

Dan Carlson, a tall rancher from the Northern Cheyenne reservation, drove to Helena for a protest sponsored by the Montana Organizing Project. As he watched a young woman in a wheelchair pose for a picture on the Capitol steps, he said worried about the cuts.

“I’m hoping that they come to their senses and restore some of the ones that are for the real needy,” he said.

Legislative Roundup 3-6

For publication the week of March 6

**Amid the uproar over cuts, GOP offers
its own plan for boosting K-12 schools**

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA — Republican leaders rejected attempts last week to increase spending for higher education and human services, but they also rolled out their own plan to boost the state’s financial support for K-12 schools.

The debate over spending – and the effects of proposed cuts – will ramp up this

week as the main budget bill moves to the House floor.

The uproar over early efforts by Republicans to hold down increases for public schools drew fire from Democrats and school officials who warned they would force local school districts to slash programs or raise local property taxes.

But now Republicans are touting a plan to tap into oil and gas money to increase the state's share of the K-12 spending and reward schools for improvements. The complex, five-bill package they presented late last week could conceivably boost funding to levels higher than what Gov. Brian Schweitzer has proposed, GOP leaders said.

Schweitzer's plan to pay for K-12 increases relied heavily on taking surplus oil and gas revenues from oil- and gas-rich school districts and spreading the money to schools statewide. But Republicans killed that idea, saying that it indiscriminately took funding from districts regardless of how much oil and gas money they brought in.

Sen. Llew Jones, R-Conrad, who will carry the major bill in the GOP package, said Schweitzer's plan took too much money from oil country districts and would have led to excessive property-tax hikes for residents there. He also said it would have used the one-time transfers as a quick fix for rising costs without providing an ongoing source of funding.

The GOP plan would use surplus oil and gas revenues too, but less of them. Jones said it would also consolidate other state funds and transfer the money to pay off debts, like \$50 million to the old workers' compensation insurance fund, and pay for one-time expenditures like technology. That would free up future revenue to go toward schools.

He also said his oil-revenue estimates weren't based on the most current prices, so they could be larger.

But Democrats aren't buying the GOP's thinking.

“Instead of modifying a good idea, they started over,” said House Minority Leader Jon Sesso, D-Butte. “Now they have, from what I can see so far, is a much more complicated concept that essentially does the same thing.”

Sesso also criticized Republicans for not involving Democrats in the new plan. Many of the bills had not yet been introduced when the House Appropriations Committee examined the budget for K-12 schools.

“What can I say?” Sesso asked. “I mean, they're in the majority. They're going to do what they want. They're deciding and telling us to trust them.”

Superintendent of the Office of Public Instruction Denise Juneau also objected to how the plan came together.

“It boils down to bills that have not even been vetted by the public, have not had public hearings,” she said. “Some of them don't even have bill numbers yet so to base K-12 funding on contingency plans does not seem like a good idea to me.”

But Jones said the plan's concepts have been discussed from the session's beginning with input from school district officials and efforts were made to involve Democrats.

Other cuts move ahead

Meanwhile, serious cuts in the governor's proposed budget for human services and the university system are advancing.

GOP leaders told the governor last week that they intend to shrink on-going spending to a level that can be supported by ongoing income, not raids on savings as outlined in Schweitzer's budget plan.

“Basically, what you're saying is 'Let's spend that blue sky.' That's what I'm hearing you say,” House Speaker Mike Milburn told Schweitzer. “We can't do that.

Milburn also said his party isn't looking to spend all the revenue the state collects. "What's been wrong with our budgets in the past is that (they) have always been developed on what we get," he said. "We can't do that."

The debate over spending, or even tax cuts, hinges on how much money the state thinks it will collect over the next two years. Schweitzer and Democrats are more optimistic than Republicans.

They warn that Republicans will make it harder for students hoping to attend college, harder for parents looking to buy health insurance for their children, and harder for senior citizens looking for affordable prescription drugs.

"They're in denial," said Senate Minority Leader Carol Williams, D-Missoula. "They're in complete denial of what our revenue projections are."

"Once again they're proving themselves to be ideologues and not at all looking at the best interest of the people of Montana, and it's very disappointing watching that for the last couple of days. It's been just sickening."

However, Williams said, once the budget gets over to the Senate she hopes to work with Republicans to restore some of the cuts.

Federal health care

Sen. Jason Priest's Senate Bill 228 would prohibit the creation of a health insurance exchange, a key component to the federal health care reform. Basically, an exchange is a marketplace where people without job-related health care benefits can buy insurance.

The Senate passed the bill on party lines and will now be heard in the House Business and Labor Committee Thursday.

Meanwhile, a House committee is scheduled this week to consider another of

Priest's bills targeting federal health care reform. Senate Bill 106 would compel Montana Attorney General Steve Bullock to join other states in a lawsuit seeking to declare the reform unconstitutional.

Medical marijuana

A bill to repeal the 2006 voter initiative that legalized the medicinal use of marijuana made it out of the House in a 62-37 vote and will be heard Friday in a Senate committee.

House Bill 161, by Speaker Mike Milburn, R-Cascade, met heavy opposition during House committee hearings and backers expect it will draw similar fire in Senate hearings. Sen. Terry Murphy, R-Cardwell and chairman of the Senate Judiciary Committee, has said he doesn't believe the measure can pass the Senate.

That increases the pressure on Republicans to come up with a plan for regulating users, growers and dispensers of the drug.

Law enforcement

Sen. Lynda Moss, D-Billings, will present a measure to extend the time DNA evidence must be stored to the House Judiciary Committee this week. Senate Bill 58 would allow people convicted of certain crimes, including murder and rape, to request that evidence be stored up to 30 years.

SB 58 passed the Senate with a 27-23 vote.

Two bills dealing with violence toward pregnant women moved over from the House and will be heard this week.

House Bill 167, by Rep. Keith Regier, R-Kalispell, would criminalize an offense resulting in the death of an unborn child. The measure drew criticism from abortion rights advocates as a back-door attempt to punish physicians who provide abortions.

House Bill 457, by Rep. Pat Noonan, D-Ramsay, would increase the penalty for assailants who harm pregnant women. The bill became a part of the abortion debate when Republicans amended it to include the words “or her unborn child.”

The bill passed 78-21, with Noonan voting for it after a failed attempt at changing it back to the way he wrote it. He said he still thought it was a good bill and hoped to change it in the Senate.

Legislative Feature No. 10

For publication the week of March 6

Whitefish Republican Ryan Zinke bucks

GOP line on environment, social issues

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA — It is late afternoon and only a handful of lawmakers are at their desks in the Senate when Sen. Minority Leader Carol Williams walks in holding a blue trophy topped with a golden pig.

As she heads to her desk, the Missoula Democrat stops to show Sen. Ryan Zinke the traveling award that Democrats give to their party’s Senator of the Week.

She tells the Whitefish Republican that it could be his if only he would switch teams.

Zinke has no qualms about voting against his party. He’s done it several times this session, and he’s likely to do it again. But the idea of jumping ship only draws a deep laugh. He’s a proud, lifelong Republican. He remembers standing out front of his high school with a bullhorn during the Iranian crisis of 1980, campaigning for Ronald Reagan.

From his desk on the aisle, the 6-foot-3-inch former Pac 10 offensive lineman shows Williams how far he'd be willing to go. He extends a massive right hand toward the empty Democratic seats. His long arm nearly bridges the wide walkway, and he jokes about dragging Democrats over.

As the session's second half gets underway, many longtime session watchers expect that some of the more radically conservative bills passed by the House will fizzle in the Senate. If they do, odds are that more moderate Republicans like Zinke will get the credit or the blame.

"I'm exactly where I want to be," Zinke says after Williams leaves. "I vote on merit and not on party."

It's not easy going against the party's flow, but the two-time Bronze Star recipient couldn't be less concerned about the blowback.

"What are they going to do to me?" the retired Navy SEALs commander asks with a grin. "I'm battle proven. I've been to the front. Compared to battle, the Legislature is pretty calm waters."

So far, Zinke has bucked the party line on measures ranging from rolling back environmental laws to forbidding the federal government to declare a national monument without state consent. But he's no pariah in the Senate, where Republicans hold a 28-22 margin.

There is even talk of the 48-year-old running for governor, but he says he will make that decision after the session.

He says he simply doesn't look at life through a red lens. As he puts it:

If being a tea partier means small government, more personal accountability, more personal responsibility, then he's a tea partier.

If being a Democrat means supporting education, making sure corporate America

is playing by the rules and giving the disadvantaged a hand up and not a hand out, then he's a Democrat.

At his Republican core, he says, he's a Montanan who believes in fiscal conservatism, a strong military, strong industry, and personal responsibility.

Social issues

A King James Bible sits on the left hand edge of his desk, on the opposite side from the electronic buttons that record his votes. Raised in a Lutheran family, the Bible was passed down to him, and he carried it overseas each time he took up arms for his country.

Its well-worn embroidered leather cover was added during his service with stabilization forces in Bosnia. “To me, religion is more of a personal experience,” he says.

Zinke has seen the bloodshed that comes when governments dictate religion, and he has risked his life to stop it. He served in every conflict from 1985 to 2008. As a commander of Special Forces on the Arabian Peninsula and as a soldier in Bosnia, he has seen horrific acts committed in the names of both Allah and Jesus Christ.

He says his time overseas helped him draw a hard and fast line on liberty: If no one is being hurt, government stops at the mailbox.

He also says government should play no role in personal decisions like abortion. He and his wife, Lola, and their three children live their lives pretty conservatively, he adds, but that doesn't mean he wants someone at a desk telling him what to believe.

In the case of medical marijuana, he says things have gone too far and that he will support repeal – but not an indefinite one. He wants Montanans who need the drug to have it, but he says law enforcement needs time to clean out the criminal element before

new regulations take effect to control the drug's use and distribution.

“My mom died of cancer, and it was a terrible death,” Zinke says. “And if I had marijuana available to me, I know I would have given it to her. ... But those people who are abusing the system, I would look for property elsewhere.”

He's pro-gun but he doesn't believe in the public ownership of military-level weapons. And he says there are some places where guns just don't belong, like schools.

Beyond that, his social philosophy is hardly rigid. “I try to keep an open mind and kind heart,” he says.

Education

Last Thursday found Zinke attending an event at the University of Montana's College of Technology in Helena, where he also talked to three Montana State University students.

They asked for his take on the Republican's \$32 million dollar cut to the governor's budget for higher education. He told them the problem was that federal stimulus money had been factored into the budget last time, which left an even-deeper gap to fill this session.

But Zinke said he believes jobs and education are linked, and he told the students he would do his best to get most of the money restored. He also said that universities need to take a hard look at how they're handling the money and tow a responsible line.

As he left, he put his hand on the back of a student lobbyist and said, “Keep the faith.”

After they spoke, Kayla Miller, MSU's student body president, said she felt reassured but didn't know how much one senator could do.

Tom Boyle, Zinke's partner in consulting firm that helps small businesses work with the U.S.

Department of Defense, was also at the event. They were there to view a new unmanned aircraft designed and built in Kalispell and similar to military drones. The two have been working to develop the business in Montana.

Boyle met Zinke in the early 1990s when Zinke was commander of SEAL Team Six. Boyle was an Army officer, helping to plan missions at the Joint Special Operations Command.

When the two travel together, Boyle said, every SEAL they meet gravitates to Zinke as if they were meeting a childhood hero. That respect comes from the way Zinke took care of his men and carried through on his word, he adds.

“If he told those kids that,” Boyle said of Zinke's promise to restore funding, “I'm sure he's going to be up there fighting for education dollars.”

Legislative Roundup

For publication the week of March 13

House Republicans press on with cuts in social services

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA — Help for Montana's poor, disabled and elderly took hits last week as the Republican-controlled House began putting its mark on the plan to guide state spending for the next two years.

Money for schools and universities comes under scrutiny this week as the House moves on from its look at funding for social services. By the weekend, Republicans had cut state spending by more than \$200 million.

The budget battle is far from over; the Senate and the governor still have roles to

play. But as this week began, House Republicans were standing firm on campaign pledges to cut budgets.

Last week they rejected nearly two-dozen attempts by House Democrats to restore money for programs for the aged and disabled. They also voted to cut \$2.3 million cut in spending for family-planning clinics.

For the most part, Republicans stood by recommendations by the House Appropriations Committee. However, several joined Democrats in a successful move to restore \$3 million to fully fund the Montana Veterans Home in Columbia Falls, which some Republicans had hoped to privatize.

Forecasting income

As the budget heads over to the Senate, revenue estimates are sure to play a larger role in the budget debate.

Those forecasts have been the rope in a political tug-of-war since the first day of the session, with Republicans leaning back on conservative predictions made in November by the Legislative Fiscal Division and Democrats pulling for more optimistic numbers from Gov. Brian Schweitzer's budget office.

A new estimate is expected to come from the Legislative Fiscal Division on Tuesday. Higher numbers are sure to raise arguments from Democrats that the money is there to avoid cuts and even increase spending in some areas.

A hearing on the all-crucial revenue estimate is scheduled for Thursday in the House Taxation Committee. As of last month, the difference between the LFD and the governor's estimate had shrunk to about \$60 million, not much in the scheme of a roughly \$3.5 billion general fund budget.

House Speaker Mike Milburn said early last week that the debate isn't so much

about the numbers as it is what to do with any increases.

If March revenue estimates are higher, as they were in February, Milburn said Republicans would consider whether to spend the money or hold it as a cushion against unforeseen demands over the next few years. He has repeatedly said that his party didn't begin the budgeting process with the intention of spending everything it gets.

Another major bill up for a hearing this week is the GOP proposal to boost state spending on K-12 schools by transferring money from many existing accounts, including surplus oil and gas revenues from some energy-rich eastern Montana school districts.

Senate Bill 403 by Sen. Llew Jones, R-Conrad, is somewhat similar to a plan suggested by Gov. Brian Schweitzer, which GOP lawmakers have killed. The Republican plan takes less money from oil- and gas-rich districts.

Other bills up for hearings this week range from DUI reform to repealing the death penalty.

DUI

A bill creating a heightened charge for the state's most dangerous drunken drivers will be heard in the House Judiciary Committee on Thursday. Senate Bill 15 by Sen. Larry Jent, D-Bozeman, would allow prosecutors to charge anyone caught driving with a blood-alcohol concentration of .20 or higher with aggravated DUI.

The charge carries a longer probation sentence. During the bill's Senate hearing, supporters said the charge is warranted because drunken motorists arrested with more than twice the legal limit of alcohol in their system are likely to be repeat offenders.

Montana Attorney General Steve Bullock backs the bill.

On St. Patrick's Day, the same committee is scheduled to hear a Senate bill that would authorize officers to get warrants for blood or breath samples when investigating

possible DUIs.

Sen. Jim Shockley, R-Victor, said he brought Senate Bill 42 to untie law enforcement's hands. Currently, drunken drivers' may refuse to offer samples, making it hard to prosecute them.

Death penalty

The House is scheduled to hold a hearing Tuesday on this session's bill to abolish capital punishment. Senate Bill 185, sponsored by Sen. David Wanzenried, D-Missoula, would replace the death penalty with life in prison. It passed the Senate by a one-vote margin.

A similar bill passed the Senate in 2009 only to fail in the House.

State sovereignty

A resolution asserting states' rights to the federal government is scheduled to come before the Senate Judiciary Committee this week.

House Joint Resolution 14, by Rep. Michael More, R-Gallatin Gateway, asserts the states right under the U.S. Constitution to control its own affairs without interference from the federal government.

The measure passed the House with 54 votes, despite criticism from some Republicans and Democrats that it was a waste of time and laid the groundwork for secession.

This week Senate committees are also scheduled to consider several House bills to expand gun rights and two measures on eminent domain. One would give the state power over federal lands within its borders. The other looks to make the taking process fairer for landowners.

Legislative Feature No. 11

For publication the week of March 13

Details matter in competing bills to cut property taxes for business

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – By session's end, lawmakers say the taxman will most likely have new marching orders in Montana: Take less from businesses and, at the very least, no more from private citizens.

Two competing bills promise to cut the state's property tax on business, and legislators are also considering an income-tax credit for homeowners.

The session's tax bills also include a handful trying to address the problem of property values skyrocketing past Montanans' incomes. One by Republicans would seek to use lesser appraisal values; Democrats want to ensure that property taxes do not exceed a certain percentage of the owner's income.

Neither party has plans to raise taxes.

But the bottom line in the tax-cut game is that the money has to come from somewhere. A break for one group can mean increases for others – or fewer services for somebody who may need them.

The tax is assessed on the value of property and equipment used for business, from farm trucks to all-in-one copy machines. Reducing it has been touted by both parties as a way to help grow jobs in Montana.

The equipment tax

The difference in these bills is in the parties' approaches. Democrats want to gradually eliminate the tax for all but Montana's larger businesses. Republicans want to

give all businesses a tax break up to a certain dollar amount of property value.

Currently, businesses with less than \$20,000 of equipment pay nothing. The Democratic proposal would raise that threshold next year to \$200,000. A year later, the threshold would climb to \$500,000, and then to \$1 million in the third. By then only 450 of Montana largest businesses would be paying the tax.

Gov. Brian Schweitzer included that plan in his proposed budget, and Sen. Kim Gillan, D-Billings, is carrying his bill. She said Senate Bill 392 aims to help small businesses and startups while costing the state and local governments less in lost revenue.

Republicans see it differently. Sen. Bruce Tutvedt, the Kalispell Republican who chairs the Senate Tax Committee, said thresholds penalize larger businesses for buying the equipment they need to expand and create jobs.

“Republicans don't like thresholds,” he said. “They think it's bad tax policy.”

Tutvedt's Senate Bill 372 would cut the tax rate by a third for the first \$2 million worth of equipment that any business owns. They would pay the full 3 percent tax on the value of equipment over that.

That gives relief to all companies, even the larger ones that are more likely to create good jobs, he said.

Concerns

But Democrats see that as giveaway to large businesses that don't need the tax cut and wouldn't necessarily spend the savings in Montana .

Republicans say the Democrats' approach offers no relief to small businesses like logging outfits, which typically need more than \$1 million in equipment to operate.

Tutvedt's bill has another feature businesses like: The tax would disappear entirely if the state's revenues surpass the Legislature's projections over the next two

years.

Democrats and the governor's top economic adviser lampooned that idea when the bill was first discussed. They said Republican legislators could rig the game by intentionally underestimating revenues to make the tax disappear.

Since then Tutvedt has reworked that provision, tying the tax breaks to actual growth in state revenues. Now, if revenue exceeds the past year's by 4 percent, the tax rate would drop to 1.5 percent. The exemption would rise to \$3 million the first year and \$5 million the next.

It's not just businesses that have a stake in this. Tax cuts mean less money for local schools and for cities and counties, who pay for police, fire fighters, streets and other needs.

Tutvedt's plan for softening that blow is a bill to eliminate about \$19 million in tax breaks for such things as alternative energy systems and recycling.

Gillan would cover the revenues lost in her bill by increasing appropriations from the state's general fund for the next two years. She's banking on a growing tax base to fill in the blanks after that.

Montana's cities and counties opposed that idea in the bill's hearing last Thursday, fearing it would merely shift the tax burden toward homeowners.

Also in the mix is a bill to repeal the business equipment tax entirely, but GOP leaders said that idea would cost local governments too much money and won't likely get out of the House.

Income tax

Sen. Kendall Van Dyk, D-Billings, is carrying a proposed income-tax credit that would amount to \$150 dollars for homeowners in the next two years.

It too, was figured into Schweitzer's budget, at a cost of about \$36 million.

Van Dyk said it would give direct relief to Montanans who need it most: those who live, work and raise their families in the state, including those who lost jobs in the recent recession.

But Republicans say the credit is too small to do much good. Nor do they like the fact that it would go to some Montanans who pay no income taxes.

Legislative Roundup 3-20

For publication the week of March 20

Pressure builds to repeal or reform medical marijuana law

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – As federal agents raided growers and dispensaries across Montana last week, legislation to repeal Montana’s voter-approved medical marijuana law stalled in a Senate committee.

The question of whether to reform or repeal Montana’s 2006 medical marijuana law has become a defining problem for Montana’s 62nd Legislature. But with little more than a month left in the session, the answer remains elusive.

The Senate Judiciary Committee deadlocked 6-6 on House Bill 161, the repeal measure. At the same time, federal agents searched and seized property from operations in six cities.

Following the vote, Senate President Jim Peterson, R-Butte, said he expects an attempt to blast the bill from committee so the full Senate can debate the idea. “It’s not over. It’s long from over,” Peterson said.

The bill's sponsor, House Speaker Mike Milburn, R-Cascade, said he likes the odds of getting the bill out of committee. Each day brings forward more people and stories that make repeal look like a better solution, he added.

Meanwhile, the chairman of the Senate Judiciary Committee, Sen. Terry Murphy, R-Cardwell, has appointed three senators to a subcommittee charged with drafting a reform bill. A bipartisan bill to regulate the booming industry, one drafted by an interim committee, remains bottled up in the House.

Peterson said he's not sure if a reform measure would make it through the Senate. Milburn also said that House Republicans are putting their full attention on repeal and no reform measure will pass as they stand now.

Murphy and Sen. Chas Vincent, R-Libby, both voted against repeal, siding with the committee's Democrats who argued that reform better reflects the will of voters who wanted the drug made available to treat serious medical conditions.

Murphy said he promised voters during his campaign that he would not vote for repeal. Vincent said he could see both sides, but didn't think repeal was the right fix.

"I believe that we have a huge mess on our hands and I agree that there are a lot of people in the state that are angry," Vincent said.

He said his constituents are angry that what they got – a burgeoning industry serving tens of thousands of patients – wasn't what they voted for. He said they are angry because the previous Legislature didn't anticipate the problems and that they should be angry at Gov. Brian Schweitzer for not using executive power to implement rules after the lawmakers failed.

Yet he also said he believes Montanans would be equally angry if lawmakers repealed the law and left those with legitimate needs no chance for relief.

But Sen. Larry Jent, D-Bozeman, joined five Republicans in supporting repeal, saying his vote was based on the fact that marijuana remains illegal under federal law.

“I realize, culturally, I will never understand and participate very well within my own party and that's fine,” he said. “I've had enough cheap cheese and bad chardonnay for a lifetime.”

Senators are also scheduled this week to consider a measure that would put repeal on the 2012 ballot.

Battle of the budget

House cuts to the governor's proposed budget for social services rolled smoothly through the Senate's powerful budget committee, despite protests from representatives for Montana's poor, elderly, sick and disabled.

The Republican-controlled Senate Finance and Claims Committee pushed the largest part of the budget, the health and human services portion, through on Friday. With little debate, they accepted millions of dollars in cuts to a variety of programs, including those that provide food stamps, family planning and health coverage to children from low-income families.

This week, the committee is scheduled to consider GOP cuts to the governor's budget for higher education and prisons. Chairman Dave Lewis, R-Helena, said he hopes to send the budget to the full Senate for debate by the beginning of next week.

All signs point to a showdown between Republicans and Democratic Gov. Brian Schweitzer over the budget. Tempers boiled early last week as David Ewer, the governor's budget director, all but promised a veto if Republicans insist on making deep cuts.

He said the GOP budget “woefully” underfunds social services, education and

prisons. He called GOP votes to reject millions in federal aid for social services “absurd.”

Republicans have said they don’t believe the state will have the income to support the governor’s spending plan, and neither does the federal government.

Gold mining

A Republican senator from Cardwell is scheduled Wednesday to present legislation aimed at restarting gold mining in the Treasure State.

Twice Montana voters have rejected any expansion of so-called heap-leach gold mining, in which dissolved gold is recovered from a cyanide solution that has been poured through low-grade ore.

Critics of the process worry about cyanide leaks and the destructiveness encouraged by mining low-grade ore. Supporters tout the economic benefits of renewed mining, and say the damage can be limited.

Senate Bill 306, by Sen. Terry Murphy, R-Cardwell, would allow new gold mining so long as the ore is processed in existing leaching facilities at the Golden Sunlight Mine, whose operations were grandfathered under the 1998 initiative.

Abortion

The House Judiciary Committee is scheduled to hear two bills Thursday morning that aim to notify parents about their daughters’ decisions to have abortions.

Senate Bill 97, by Sen. Jim Shockley, R-Victor, would require physicians to notify parents or legal guardians 48 hours before they perform an abortion on all girls under 16 or any woman deemed incompetent.

House Bill 627, by Rep. Gerald Bennett, R-Libby, proposes a voter referendum in 2012 on the question of whether parents should be notified before a minor or a woman judged to be incompetent can obtain an abortion. The bill allows judges to make

exceptions in emergencies.

Sales tax

For decades, Montanans have rejected the idea of a general sales tax, but a Billings Republican is scheduled to make another run at it this week.

On Wednesday, the House Taxation Committee is scheduled to hear House Majority Leader Tom McGillvray's plan to repeal Montana's income tax and replace it with a sales tax.

Legislative Feature No. 12

For publication the week of March 20

**Lawmakers weigh the cost of helping
state's poor, aged, sick and disabled**

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – From her wheelchair on Friday, Shyla Patera told the panel of lawmakers something they don't often hear.

“I want to live and work and pay my taxes,” Patera told members of the Senate Finance and Claims Committee.

Patera represents four Montana independent living centers that help disabled people with the daily tasks of life so they can stay in their own homes and be a part of their communities.

In 2003, enrollees in the program were reduced to three showers per week. If budget cuts proposed by Republicans become reality, meal preparation time will be cut to four hours a week, roughly 11 minutes per meal.

Patera said she's just one of many disabled Montanans who want to live productive lives. "This is my goal, and this is the dream of everyone I serve," she said.

To do this, though, she said they need the Senate Finance and Claims Committee to restore funding to the personal assistance program.

"No one ever dreams that they're going to need public assistance," Patera said. "But it's here and we have to understand that the system is needed for people."

The question of how much help taxpayers should offer Montana's poor, aged, sick and disabled is at the heart of every legislative session. But concerns are heightened this year by the recent recession, which strained both taxpayers and programs for those in need.

Neither side's argument is without emotion or logic, but the conservative majority is calling the shots, and the results of budget cuts could be dramatic.

GOP-controlled budget committees are slashing Gov. Brian Schweitzer's proposed budgets for food stamps, for family planning clinics, and for health insurance for children from low-income families. They are cutting proposals for rural hospitals, for personal care for disabled Montanans, for Big Brother and Sisters programs, and for anti-smoking education. The list goes on.

Republicans in the powerful Senate Finance and Claims Committee last week rejected more than 60 attempts to overturn the cuts, which the House has already approved.

The hearings began with an angry confrontation with Schweitzer's budget director, David Ewer, who all but promised a veto of a GOP budget he called "woefully" inadequate, even "absurd" in its refusal on principle to accept millions of federal dollars to ease the pain.

Most of the cuts come from federal money, including \$35 million less for food stamps and \$35 million less to help rural hospitals and community health centers speed the flow of patients' medical information. Another cut would strip \$4.7 million in support for family planning clinics.

Those programs and others, such as the state-federal Medicaid program, often require a minimal match from the state, but Republicans this session are saying no. Montanans can't afford that, they argue. Neither, they insist, can the federal government.

Two legislators, two views

The struggle over spending for Montana's neediest residents is reflected in the politics of two veteran legislators, both with long histories in state government. One sees a state whose economy is on the rebound, with money to help. The other is not convinced.

Sen. Dave Lewis has almost three decades of experience working with the budget. The Helena Republican served as budget director for two governors, chaired the House Appropriations Committee in 2003 and now chairs the Senate Finance and Claims Committee.

He's a numbers guy. In the back of his head, he is always weighing costs against income. He doesn't see enough ongoing state revenue to support the governor's vision.

"I know where I'm at," Lewis said early last week. "I know what I can afford to do and what I can't do. I spent the bulk of my professional career balancing budgets; you don't just walk away from that. I'm not going to be oblivious to how much revenue is coming in."

Before last week's hearings, Lewis said he would be surprised to see the Legislature restore social service spending to the levels proposed by Schweitzer.

If that's the case, Sen. David Wanzonried, D-Missoula, wants to make sure his fellow lawmakers understand the consequences.

“We need to make sure that people understand that behind those numbers, behind those policy statements that they profess, there are lives out there that are in the balance in many cases,” Wanzonried said.

A candidate for governor in 2012, Wanzonried has a resume that dates back to the 1980s when he was Gov. Ted Schwinden's chief of staff. He's spent the past two interims working with health and human services organizations to understand their needs and the aid they give.

Real cuts, real consequences

Where Lewis keeps his running tally in mind, Wanzonried sees the faces of people like Travis Hoffman, a lobbyist for Montana independent living centers, whose budgets depend partly on state aid.

When Patera addressed the committee on Friday, she did so in Hoffman's stead. He was getting his wheelchair fixed. It has broken three times during the session, and earlier in the week he was making do by wedging the dislodged joystick between pieces of the frame.

Hoffman also depends on a professional assistant to help him with the basic tasks of life, like making meals and taking showers.

As Hoffman said earlier in the week, the Republican cuts mean he'll be eating a lot more Hot Pockets.

Lewis says he understands Hoffman's plight. He once directed the state's human service agency, and he chaired the House Health and Human Services Committee in 2000.

“People get in situations where they need that help, we can't turn our back on it,” Lewis said. “But we also can't just say the sky is the limit.”

Likewise, Wanzenried says he understands the taxpayers' concern, but argues that keeping Hoffman, Patera and Montana's neediest healthy can help taxpayers avoid much higher costs for emergency health care or institutionalization.

In Helena, the debate wears on. By week's end, the budget should roll onto the Senate floor where lawmakers will consider not only cuts in budgets for human services, but cuts in Schweitzer's plan for higher education and prisons.

Each cut will have its savings and costs, and each lawmaker will have to strike the balance of heart and brain.

Legislative Roundup 3-27

For publication the week of March 27

**Legislators strike deals to advance reform
of workers' comp, medical marijuana laws**

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – The Legislature took major strides to reform Montana's workers' compensation insurance and medical marijuana laws last week, but left the future of K-12 funding uncertain.

In a compromise worked out between Gov. Brian Schweitzer and GOP leadership, the main workers' comp reform bill was amended and endorsed by the Senate Friday. House Bill 334, sponsored by Rep. Scott Reichner, R-Bigfork, had been criticized for its effort to reduce employers' high work comp premiums by cutting too deeply into

workers' benefits.

But new changes would allow injured workers to have their treatments covered indefinitely, if a board of physicians certifies that the treatments are still needed. It also allows workers to collect lost-wage benefits, no matter how minor the injury, if they did indeed lose wages because of their injuries.

With Schweitzer on board, the measure stands a good chance of making it into law.

Medical marijuana

The Senate last week endorsed a new measure that would repeal Montana's existing medical marijuana law and replace it with a much stricter system serving far fewer patients.

If passed, Senate Bill 423 would take full effect on Oct. 1. It aims to cut the number of patients, or card holders, from more than 28,000 today to less than 2,000. Among other things, it would ban advertising and storefronts and strip the industry of its profits.

The bill would stop the issuance of any new cards upon passage and then make all medical marijuana illegal on July 1, with the new law coming into effect on Oct. 1.

A number of precautions were worked into the bill to protect card holders during this time and allow them to not run out of the drug.

Senate Majority Leader Jeff Essmann, R-Billings, said he intends give the House just one bill on medical marijuana to consider, so SB 423 may be the session's only chance to reform the current law, which was initiated by voters in 2004.

K-12 funding

The GOP plan to shift oil and gas revenue and other money to fill the funding gap

for schools is still alive, but it contains \$12 million less for K-12 schools than it did a week ago.

The bill was killed in a 25-25 vote last Thursday, and then revived and referred back to committee where its spending was cut to attract the votes of a few reluctant Republican senators. Democrats have so far opposed the bill.

Senate Bill 403, by Sen. Llew Jones, R-Conrad, is the replacement for a plan by Gov. Brian Schweitzer to redistribute about \$76 million of oil and gas revenues to school districts statewide. Republicans said the governor's plan was unfair to many school districts that received oil and gas money but did not have an excess of it.

Jones' bill would take about half of oil and gas money targeted in Schweitzer's plan and make up the rest from a host of other transfers.

Senate President Jim Peterson, R-Buffalo, said he was unsure when the bill would return to the floor, but Senate Minority Leader Carol Williams, D-Missoula, said she expected to see it again late this week.

Currently, Jones bill is the only surviving option that would increase state support for K-12 schools over the next two years.

The Budget

The Senate Finance and Claims Committee last week largely affirmed about \$150 million in cuts that House Republicans have made to Gov. Brian Schweitzer's proposed budget for the next two years.

The big bill includes cuts in spending for social services, higher education and the prison system. It could be debated by the full Senate this week.

Meanwhile, the GOP-controlled House Taxation Committee last week endorsed new revenue estimates, raising the amount that Legislature's forecasters expect the state

to earn over the next two years by some \$63.5 million. But that's still far less revenue than forecasters in the governor's office predict.

The revenue number is important because it guides the Legislature's spending decisions. Republicans have based their call for budget cuts on their more conservative revenue estimates.

Expanded gold mining

A senator's effort to revive Montana's gold mining industry passed a House committee Friday. The bill would allow facilities that process low-grade ore with the cyanide and vat leach procedure to handle ore trucked in from other mines.

Critics blasted the bill last week in hearings, saying it violated the intent of Montana's voter-approved ban on the expansion of such mining and processing operations. They said such mining is environmentally destructive and worried about its potential to pollute ground and surface water.

Montana voters have twice rejected that style of mining over concerns about its environmental effects.

In 1998, voters banned new cyanide leach mining operations after several spills and leaks were recorded, starting with one in 1983 that leaked 19 million gallons of cyanide solution into the groundwater near the Jefferson River. In 2004, voters affirmed the ban by rejecting an initiative to overturn it.

Some Republicans, however, see Senate Bill 306 as a jobs bill that would breathe new life into old mines that were grandfathered under the voter initiative. The bill was written with Whitehall's Golden Sunlight Mine in mind.

Its sponsor, Sen. Terry Murphy, R-Cardwell, said the measure could help taxpayers in his district pay for schools.

“What we need to do in Jefferson County is not only create new jobs, which we think passage of this bill will do, but it will also retain over 200 of the best paying private sector jobs in the county,” he said.

Gay rights

A Havre Republican’s bill to exclude gays, lesbians and others from local anti-discrimination ordinances is stalled in a Senate committee. The committee’s chairman says he expects it will stay there.

House Bill 516, sponsored by Rep. Kristin Hansen, R-Havre, would void local ordinances like one in Missoula that outlaws discrimination based on gender identity, gender expression or sexual orientation.

The bill was pulled from the Senate’s floor agenda last week and sent back to the Senate Local Government Committee by its chairman, Sen. Jon Sonju, R-Kalispell. Sonju said fears that such ordinances would invite a flurry of lawsuits have proved overblown.

Stream access

A bill that supporters say would clarify Montana’s landmark 1985 stream access law has been tabled in a Senate committee, where it is likely to remain.

Anglers and recreationists feared that House Bill 309 would have allowed landowners to block public access to hundreds of Montana’s rivers and streams by declaring them irrigation ditches. Landowners and other supporters said the bill would merely clarify that the access law doesn’t pertain to such ditches.

The controversy stems from a dispute over access to a Bitterroot River slough, which landowners argued was really an irrigation ditch. The Montana Supreme Court disagreed.

Legislative Feature No. 13

For publication the week of March 27

Warden worries about the effects of cutting Montana's prison budget

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

DEER LODGE – Warden Mike Mahoney rests his arm on the steel door as if it were his backyard fence and he was talking to a neighbor about a ball game. Through a narrow, bulletproof window, Mahoney's “neighbor” explains why he stabbed a man in the throat with a pen two months ago at chow.

The inmate tries to convince the warden that it was self defense so he won't be transferred from the Montana State Prison to a federal Super Max facility full of much worse men.

In level tones, Mahoney tells the convict that he has two choices, each with different consequences. The first is to continue his violent ways and end up at a federal prison. The second is to behave and stay in Montana.

Prisons are their own universes. As much as any other, they are governed by choices and consequences.

A few days earlier, Mahoney was in a different world. He stood on plush carpets in the Capitol, trying to explain to senators why he needs \$200,000 more for overtime when he has to call in extra staff to deal with inmates' acts of violence, and why he needs \$2.7 million more for additional beds to handle a growing number of inmates.

Both are among the cuts the Republican-controlled House has approved to the governor's budget for prisons.

As Mahoney saw it, the Senate Finance and Claims Committee had two choices

with different consequences. The first was to affirm the cuts, which he said would force him to come back to ask for more money later. The second was to restore the funding so he could safely contain the prison population at Deer Lodge.

They chose the first, effectively dismissing the prison system's concerns about a growing number of prisoners and saying that the GOP budget plan includes adequate overtime funding.

"We looked at what was absolutely appropriate for the safety of the facility," Sen. Ryan Zinke said at the hearing. "And we're fairly confident that what we have in (the budget) is safe and prudent."

The effects of cuts

But Mahoney says doing without the extra beds means pushing the overflow of prisoners into the county jails. He predicts the problem will trickle down and stop at the squad car, where police will have to decide which criminals pose a big enough threat to earn a spot in lockup.

After that, the department would have to look at shipping some prisoners out of state – an option that has been highly unpopular since it resulted in the death of one Montana inmate in a Texas private prison in 1997.

What Mahoney says legislators don't get is that, for him, not calling in extra help and not locking up violent offenders is not an option. Nor do they understand the changing climate at his prison.

For a multitude of reasons, he says, his prisoners are more violent these days; they're coming up with more ways to hurt each other and to tear apart the prison. This means more guards have to be called back to watch over prisoners while others clean up the mess. It means more maintenance workers have to put in longer hours to fix the

damage.

That's hard to explain in three-minute presentations to busy lawmakers miles away from the prison's concrete floors.

"I don't expect a subcommittee to understand that," Mahoney said after his appearance Monday in Helena. "But I guess I do expect them to respect when I say that's what I need, and I didn't feel that happened today."

So far, the Legislature's budget committees have chopped more than \$18 million from the governor's two-year budget for the Department of Corrections, which is responsible for monitoring 13,200 offenders and managing 13 programs, ranging from drug rehab to mental health counseling.

Over the next two years, Corrections officials forecast an increase of almost 4 percent in the number of offenders, some in state prisons, some in community facilities and some on probation.

The cuts are real, Mahoney insists. Systemwide, they include 74 additional beds for community correction facilities and money for such things mental health services and outside medical treatment for prisoners.

Violence on the rise

Weighing the needs, especially his \$200,000 request for overtime, against the state's \$3.5 billion general fund budget, Mahoney says he doesn't understand why the answer was a firm no. Maybe, he says, he's not explaining it well.

True, his overtime request is higher than what the prison received last session, as lawmakers pointed out when denied the increase. But Mahoney says things have changed at the prison. One reason is gangs.

Corrections officials count 176 confirmed gang members in Montana's secure

facilities. That's more than 10 percent of the incarcerated population. Gangs, or “security threat groups” as the department calls them, create a culture of violence. Members bleed to get in, and they bleed more if they want out, Mahoney says.

The two major gangs in Montana State Prison are the Nortenos and Sorenos, West Coast-outfits that have followed the meth trade to Montana. Mahoney says their violence attracts younger offenders, and the often bloody consequences have rippled throughout the prison.

In one response, Mahoney has converted four cells in the maximum-security block into “hard cells,” with special feeding doors so officers can pass inmates trays of food without ever being in direct contact.

Extra gun ports were cut into the doors and back windows so Tasers could be used during violent cell extractions. New light fixtures had to be fabricated when inmates tore down the old ones and used them as battering rams.

Mahoney's typically subdued voice betrays his frustration with the cuts that legislators advanced last week. “Why are we tripping over dollars chasing dimes here, on a deal that could come back to haunt all of us?” he asks.

That's just a small glimpse of Mahoney's world. It's made of cement and steel. It orbits in a universe governed by choices and consequences. Even with 15 years as warden, there is no way for him to explain it in three minutes.

Legislative Roundup 4-3

For publication the week of April 3

Governor issues session's first vetoes; lawmakers struggle to solve school funding, eminent domain

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – Gov. Brian Schweitzer issued his first vetoes of the session Friday, one of which proposes to take money from lawmakers' health insurance to fund the state's involvement in a lawsuit against federal health care reform.

Rumors abound that these are just the first drops of rain in what could be an April shower of vetoes.

Schweitzer, a Democrat, issued one outright veto and three amendatory vetoes Friday.

The most notable vetoes propose drastic changes to two GOP-backed Senate bills, SB 106 and SB 125, which aim to block federal health care reform. The Legislature has to decide whether to adopt his amendments or the bills could die.

SB 106 would compel Montana Attorney General Steve Bullock to join a multi-state lawsuit seeking to declare federal health care reform unconstitutional. But Schweitzer's changes would merely encourage Bullock to do so.

He is also asking that the 93 legislators who voted for SB 106 give up about half a year's worth of their state funded health insurance – about \$409,000 – to cover the state's cost of joining the suit.

In his letter to the Senate, he wrote, "I find it particularly ironic that some legislators are willing to spend Montana taxpayers' money to challenge the federal health care reform act for symbolic reasons, while at the same time deriving personal advantage from state health care laws and policies that allow them, as legislators, to receive taxpayer-funded health insurance benefits."

Schweitzer also suggested a change to SB 125, which would prevent state workers from taking any step to implement federal health care reform because it is costly and

inconvenient.

The governor said the bill should be changed to say that if a low-cost public health care option comes available, the provisions of SB 125 would end.

K-12 funding

The question of how to pay for public schools remained unanswered last week, though a group of Republicans is working to craft a compromise soon.

Last week Senate Republicans failed to hold together on a proposal to redistribute oil and gas money statewide to help hundreds of Montana public school districts brace shortfalls in their budgets.

After the GOP killed a similar measure by Gov. Brian Schweitzer, Senate Bill 403 was the only shot at a funding plan and it is now dead.

Now, the House formed an informal, bipartisan panel to look at putting parts of SB 403 into a bill by Sen. Ryan Zinke, R-Whitefish.

Rep. Scott Reichner, R-Bigfork, is heading the five-member group and said he hopes to get something pieced together by the end of this week and stuck into Zinke's Senate Bill 329.

Eminent domain

Efforts to ensure that utility companies can seize private land under Montana's eminent domain laws stalled last as the sole-surviving bill on the subject remained locked in committee, two-votes short on getting out.

The bill stems from a December court ruling that a Canadian company did not have the right to take land for a high-voltage power transmission line through northern Montana. Gov. Brian Schweitzer and legislative leaders have said fixing the ruling was a top priority, but Sen. Alan Olsen, R-Roundup, said there is no chance of getting House

Bill 198 out of a Senate committee.

Sen. Jason Priest, R-Red Lodge, is one of the votes against HB 198 on the panel. He said last week that the measure doesn't strike the appropriate balance between public needs and private property rights.

Olsen, who is chairman of the Senate's committee on energy, said his only chance of getting HB 198 out was to revive another bill, House Bill 240, which would give landowners more information and more negotiation power in the eminent domain process.

But because HB 240 was killed last week and because no Democrats will back HB 198, Olson said he sees no change in the standoff unless Gov. Schweitzer, a Democrat, can persuade some members of his party to change their minds.

Meanwhile, the Senate has approved a study that would examine the issue of how businesses are allowed to use the law in Montana.

Same-day registration

Gov. Brian Schweitzer could have the final say on whether would-be Montana voters will still be allowed to register on Election Day.

A House bill to end same-day voter registration cleared what may have been its final legislative hurdle last week when Senate Republicans backed it. In 2005, Montana changed its law to allow same-day registration. Supporters said it would increase voter participation.

But long lines and late voting in some counties in 2006 and 2008 prompted Republican criticism of the law.

House Bill 180, sponsored by Rep. Champ Edmunds, R-Missoula, would close registration at 5 p.m. on the Friday before the election.

Democrats, led by Secretary of State Linda McCulloch, argued that the change would prevent some people from voting.

Medical marijuana

The fate of the 2004 medical marijuana law is now in the hands of the House and, ultimately Gov. Brian Schweitzer.

The Senate passed a repeal bill to Schweitzer's desk Friday, where it awaits action.

The surviving reform bill, Senate Bill 423, has now moved into the House. It would repeal the 2004 law and replace it with a much stricter law that seeks to trim the number of card holders from more than 28,000 to less than 2,000.

It also makes storefronts and advertising for medical pot illegal and dramatically limits the amount growers can produce.

The House voted unanimously to suspend rules on Friday and allow SB 423 to get a hearing after it came over past a deadline, but House Republican leadership has said several times it supports repeal above anything else.

Workers' compensation

Republican leaders cut a deal with Gov. Brian Schweitzer last week to pass a measure they say could save employers millions of dollars by reducing workers' compensation insurance premiums.

The sponsor of House Bill 334, Rep. Scott Reichner, R-Bigfork, said the plan could save businesses \$100 million by July 1, with another \$60 million in savings over the next three to five years.

Schweitzer and the Legislature's Republican leaders targeted Montana's high workers' comp rates early this session as being overly burdensome to businesses and a

drag on the economy. But the two sides were at odds on whether the bulk of the savings should come through reducing workers' benefits or cutting payments to health care providers.

In the deal, HB 334 was amended to restore lost wage benefits to all injured workers, if their injuries did truly result in lost pay. It also removed a clause that would shut off compensation payments after five years.

Cyanide mining

A move to allow some Montana mines to process trucked-in ore with cyanide heap or vat leaching systems passed the House late last week, despite heavy opposition from Democrats and critics concerned about potential environmental damage.

Senate Bill 306 would allow mines that were using cyanide processing at the time of the 1998 ban to now truck in ore from other mines for treatment. Supporters say the bill would keep Montana's mining industry alive, protecting not only jobs but the local tax base near Whitehall's Golden Sunlight Mine.

The trouble with the measure, Democrats said, was that it encourages the expansion of more open-pit style mining, which can lead to acid drainage when sulfuric rock is exposed to rain and runoff. They also worry about the leaching process, which has caused pollution problems in the past.

Legislative Feature No. 14

For publication the week of April 3

Students, officials lobby to restore

funding for state college campuses

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – April 15 could be a double tax day for Montana college students if the Legislature's \$29.5 million cuts to higher education are still on the books when the Board of Regents meets that day, student lobbyists said last week.

But University System officials are keeping mum on just how high tuition might increase or what services might be reduced if the Legislature's cuts to the governor's University system budget become a reality.

“Until that meeting, I honestly don't know,” said Janelle Booth, a lobbyist for students at all of Montana's public campuses. “We can speak in broad terms about tuition rising, about services being decreased, but I don't know what that would look like.”

In broad terms, Booth said, each \$1 million the Legislature withholds could mean a 1 percent tuition increase. If students were to shoulder the total cost of that, it would mean double-digit tuition increases for the next two years.

A 10 percent increase, for example, means a \$617 bump in Montana State University tuition for a resident undergraduate student.

But Commissioner of Higher Education Sheila Stearns said she doesn't see the Regents ever adopting a tuition increase of that magnitude.

She also said she still holds the faith that lawmakers will restore what they have taken out, but she admits that it is getting harder to convince students and faculty that the end is near but not here.

Among the disheartened are Booth and fellow student lobbyists Blake Robertson and Michael Dills.

While Stearns and Mick Robinson, the U-system's fiscal affairs officer, say they are working with lawmakers to restore the complete \$29.5 million, students said they'd be

happy to get back \$15 million to cover the costs of the 5,300 new students who have enrolled in the past two years.

Booth said the \$15 million represents the essential needs of a University System that's looking to ensure that courses are available for a growing number of students and that the classrooms aren't overcrowded.

Now that the Republican-backed budget bill has passed the House and Senate, Stearns, Robinson, Booth and other U-system lobbyists are planning to plead their case to the committee of House and Senate members that will iron out the differences between the two chambers' versions.

That so-called conference committee has yet to be appointed, but it's likely to include the Republican architects of each chamber's budget strategy, Sen. Dave Lewis, R-Helena, and Rep. Walter McNutt, R-Sidney.

"McNutt and Lewis definitely know what we want," Robertson said. "They know what the \$15 million represents to us. At this point, it's just whether or not they believe they have the money. If they do, they'll put it back. If they don't, when they go to conference it will be the same as it was during every stage leading up to that."

University officials are also hoping to secure passage of a \$97 million bonding bill, that would authorize the system and other state agencies to sell bond to build some new buildings and remodel others. That authority would only kick in if state revenues increase.

The list includes a new \$29 million facility for the University of Montana's College of Technology, \$14.25 million for a science and instruction tech building at Montana State University-Billings, a \$7.9 million auto technology center for MSU-Northern, \$4.45 million to remodel UM-Western's main hall, \$2.5 million to renovate

classrooms at MSU and \$4 million for an agricultural and trades building at MSU-Great Falls' College of Technology.

Legislative Roundup 4-10

For publication the week of April 10

Schweitzer, Republicans face off over spending as the clock ticks

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – The struggle over billions of dollars in state spending should come to a head this week as the Republican-controlled Legislature is expected to take its final votes on an offer that Democratic Gov. Brian Schweitzer has already warned he may refuse.

One glaring problem Schweitzer has with the GOP spending plan is its rejection of about \$100 million in federal aid to help fund health and social services for low-income, elderly and disabled Montanans.

Nor is the GOP's financial package complete. Republicans have yet to agree on how much money to give Montana's K-12 public schools or decide the question of raises for thousands of state employees.

In its final tweaks to the main budget bill last week, the Legislature did restore some money, including \$200,000 for overtime pay at state prisons, another \$1.8 million for overtime in state-run health care facilities, and \$910,000 for the a program that recruits energy companies to Montana and then helps guide them through permitting processes.

But the bill still includes cuts to Schweitzer's proposed budget for higher education and for services that help Montana's poor, old and ill. Schweitzer has

threatened to veto the spending plan, which could force lawmakers into a special session this summer.

To avoid that, Republican leaders are floating the idea of extending the session by calling short recess after sending the budget bill to the governor this week. The session's last scheduled day is April 22.

Medical marijuana

Time is running out to fix Montana's controversial medical marijuana law, and hope is dwindling among supporters of the drug's medicinal value as the surviving bill to reform the law was turned into what some were calling "Repeal Lite" last week.

Anthony Smith, a grower from Belgrade, sees the problem as a cultural one. Lawmakers and those who want to repeal the 2004 voter-approved law simply do not want to accept that people can derive use out of the taboo plant, he said.

"It's total prejudice," he said. "I would compare it to the Jim Crow laws of the South. It's the attitude of 'There goes the neighborhood.' It isn't about looking out for the poor or the sick. It's all about 'I don't want my back yard to change. Look who's moving in next door.' That whole attitude is the basis of this."

The lone remaining bill to reform the medical marijuana law was gutted and retooled last week with even stricter regulations designed to dramatically limit the number of people who can legally use or provide the drug. Supporters say it may reduce the number of legal users from 28,000 to less than 2,000.

As it stands, Senate Bill 423 would limit users by requiring much more medical oversight in the approval process.

It would also allow qualified patients to grow their own medical marijuana, or have someone grow it for them without compensation. However, that person may not be

a patient themselves. One person could grow for up to three others, as long as at least two of the people receiving the marijuana were related to the grower.

A bill to repeal the law outright has been on Gov. Brian Schweitzer's desk since last Wednesday. He has 10 days to sign it or it dies, but he has said publicly he supports reform, not repeal.

Environmental laws

A Senate bill aimed at making it harder for environmental groups to legally block state-approved development projects sailed through the House last week.

The House voted 76-24 for Senate Bill 233, sending it to the governor's desk. The bill addresses several parts of the Montana Environmental Policy Act, which requires environmental reviews of major projects under the state's jurisdiction before work begins.

The main thrust of the legislation is to prevent a lawsuit from halting work once a project has earned all of its permits. The court case would continue forward, but so would development. Also, any environmental impact study, once completed, could never be challenged.

Supporters said the bill would boost resource development and create jobs by freeing developers from perpetual litigation. Critics said the bill dilutes the state's environmental protection while creating few, if any, jobs.

Bonds for buildings

In a move supporters say would provide much-needed construction jobs, the Senate on Friday endorsed a bill authorizing the sale of \$97.8-million in bonds to finance construction of new state buildings and repair existing ones. The bonds could only be sold if state revenues improve.

The bonds would finance several new buildings, including a new College of Technology facility at the University of Montana in Missoula (\$29 million), a new Montana heritage center in Helena (\$23 million), a new science and instructional technology building at Montana State University-Billings (\$14.25 million), an auto technology center at MSU-Northern (\$7.9 million), a home for veterans in Silver Bow County (\$5 million), and an agricultural and trades building at MSU-Great Falls (\$4 million).

It would also finance new combined state laboratories in veterinary and wildlife science (\$6.7 million) and renovations at MSU-Bozeman, UM-Western in Dillon, and agricultural experiment stations.

The measure must still pass the House, where it needs two-thirds majority.

Tax cuts for business

The House has backed legislation that would cut Montana's tax rates on business equipment by a third. Supporters said it would save at least \$300 in taxes for every business that owns more than \$20,000 in equipment.

Rep. Derek Skees, R-Kalispell, hailed it as the No. 1 "jobs" bill in Montana, saying the tax was scaring off oil rigs, mines and other equipment-dependent operations. But he said it didn't go far enough and that the tax needs to go away completely.

"If this is all I'll get, then I'll vote for it," he said.

House Democrats said the bill was a giveaway to big out-of-state corporations and would not create a single Montana job. They also found fault with its plan to backfill the lost revenue by voiding a host of other tax credits, some of which helped people make their homes more energy-efficient.

"We're balancing a nice tax break for three big oil refineries on the backs of local

residents who use the tax credits to improve their homes and save energy,” said Rep. Mary McNally, D-Billings. “I’m sorry it just doesn’t make sense to me.”

Drunken driving

Many lawmakers began the session talking tough about stronger DUI laws. As the 62nd Legislature nears its end, two major bills to achieve that are inching closer to passage.

Both chambers have signed off on a bill requiring that anyone arrested for a second or subsequent DUI undergo twice-daily sobriety tests and remain sober from the time of their arrest until their case is resolved.

House Bill 106, the so called “24/7” bill, is in a conference committee, where senators and representatives are tweaking minor differences in each chamber’s version of the bill.

Meanwhile, the Senate Judiciary Committee is scheduled this week to hear House Bill 14, which would allow judges considering tougher penalties to go back 10 years in searching for an offender’s prior DUI convictions. Current law lets judges go back five years.

The bill passed the House by a wide margin.

Legislative Feature No. 15

For publication the week of April 10

Republicans struggle for consensus on state support for public schools

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – GOP lawmakers floated two new plans last week to increase the state’s

financial support for public schools, but as the session's days dwindle, Montana school districts have no clear answers as they prepare to ask residents to vote on local levies.

The state's financial contribution to K-12 schools is a critical piece of most local school budgets. It's a crucial part of the state's budget puzzle too, but so far it remains the missing piece as Republicans debate, largely among themselves, how much to spend and where the money should come from.

GOP leaders say they hope to present their budget to Gov. Brian Schweitzer this week, so the pressure is on to provide the school portion too. As of late last week, the Senate and the House were trying to build support for two different solutions.

The Senate's plan would fully cover the effect of inflation on school budgets and increase the state's share of K-12 costs by about 2 percent over the next two years. The Senate Finance and Claims Committee has tucked its plan in to House Bills 316 and 611.

The Senate endorsed HB 611 Friday, but only after deadlocking on an earlier vote. Sen. Llew Jones, R-Conrad, told GOP senators that the bill held crucial language that dictated levels of funding. If it did not pass, he warned, the Senate would have little clout in negotiations with the House over the issue.

"We're going to have to hammer out some sort of a school solution," Jones said, "but the Senate doesn't have much of a hammer if it doesn't have a bill."

The main sticking point remains the idea of taking oil and gas revenue from resource-rich school districts and redistributing it statewide to help school districts avoid serious budget cuts and teacher layoffs.

Gov. Brian Schweitzer's first recommended using oil-and-gas money in his budget proposal. Jones and other Republicans thought it used too much, so they created their own plan based on using less. Even then, Senate Republicans couldn't unite behind the

idea.

Meanwhile, the more conservative House took a crack at a solution. Last week a House committee backed a plan that would give schools about half of their estimated inflation costs and increase the total state aid by about 1 percent over two years. That plan also relies on oil-and-gas money.

The Senate's plan would redistribute \$34.6 million in oil-and-gas revenue, while the House measure would transfer \$17.6 million.

The House's plan is tucked into Senate Bill 329, which was scheduled for a vote Friday but was pulled from the agenda. One lawmaker close to this issue said the bill was being held in the House to pressure the Senate Education Committee to pass a bill allowing for public charter schools in Montana.

The chairman of the Senate Education Committee, Sen. Ryan Zinke, R-Whitefish, is also the original sponsor of SB 329. He said last week that he wants that bill to be part of the Legislature's final discussion over school funding.

Zinke also said he opposes the charter school bill, House Bill 603. He added that he's willing to consider it with changes, but won't be pushed into it. "I don't yield to pressure," Zinke said.

House Majority Leader Tom McGillvray, R-Billings, said a vote on SB 329 was delayed to give members more time to understand the issue and had nothing to do with the charter schools bill.

As of Saturday, the House had yet to schedule a vote on its plan, and the Senate had yet to vote on the second component of its plan, contained in House Bill 316.

Whatever solution legislators craft must ultimately win the governor's approval.

Legislative Roundup 4-17

For publication the week of April 17

Veto-wielding governor puts

his stamp on 62nd Legislature

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA – Montana’s Legislature began its final eight days of work Monday with major questions still unanswered. Yet the dust is settling on a number of issues ranging from states’ rights to abortion – at least for this year.

Many conservative lawmakers came to Helena with a head of steam on social issues and ready to tell the federal government to butt-out of Montana's business. But after early success in the more-conservative House, many of those bills crumbled in the Senate and others are dying at the end of Democratic Gov. Brian Schweitzer's veto branding iron.

In a public show of smoke and fire outside the Capitol last week, Schweitzer branded his veto on a half-dozen bills he described as “frivolous, unconstitutional and just bad ideas.” With less fanfare, he vetoed another 10 bills that day, including a bill to repeal Montana’s voter-approved medical marijuana law.

The GOP-controlled Legislature can override those vetoes with two-thirds votes in each chamber. That’s easily done in the 100-member House, where Republicans have a 68-vote majority. But it’s an impossible task in the 50-member Senate, if all 22 Democrats side with the governor.

Here’s a rundown of Schweitzer’s recent vetoes and the issues they affect.

State’s rights

A bill to require that federal law enforcement agents check in with county sheriffs before making arrests fell to Schweitzer's veto last week. So did legislation giving the state the power to take federal land under Montana's eminent domain law.

Bills to prevent Montana from participating in the new federal health care law drew the governor's fire, as well.

Schweitzer vetoed a GOP bill requiring that Montana join a multi-state legal challenge to the new federal health care law. He has also vetoed legislation to prohibit the state from setting up health insurance marketplaces under the new federal law.

Other measures didn't get that far. A move to nullify the federal Endangered Species Act cleared the House, but then fizzled in the Senate. A bill to prohibit any infringement of Montana's ability to nullify federal law also failed to make it to Schweitzer's desk.

Abortion

This session was set for social conservatives to make headway with anti-abortion legislation, but it appears they will walk away with fairly little of what they sought.

A bill requiring that parents be notified of abortions involving teenage daughters appears headed toward the governor's desk. That bill also gives judges some discretion in such cases.

Meanwhile, Schweitzer has vetoed a bill that would have prevented insurers from covering abortions in plans created under the new federal health care law.

Other, more highly publicized measures didn't get that far. They include bills that would have asked voters to change the Montana Constitution to say that "personhood" begins at conception and that women have no specific right to an abortion.

Lawmakers themselves rejected a bill that would have required that pregnant

women undergo a pre-abortion ultrasound examination and have the results read to them. Legislators also tabled a bill that would have required pre-abortion screenings to detect provider negligence or coercion.

Mining

The governor has all but vetoed legislation that would have allowed a handful of existing mines to use the cyanide leaching process to extract gold and silver ore from new open-pit mines.

Schweitzer slapped his veto brand on a mock version of the bill last week, though the actual bill had yet to reach his desk.

Montana voters have twice decided to restrict the expansion of such mining. Critics of the process worry about water pollution and other environmental damage.

But supporters said the measure would extend the life of some existing mines that were grandfathered under the voter ban, especially Whitehall's Golden Sunlight Mine.

"Ultimately the bill forces me to choose between the decision of the citizens of Montana and the decision of 91 members of the 62nd Montana Legislature," the governor wrote in a statement forecasting his veto. "That is not a difficult choice."

Elections

The governor last week vetoed a GOP-backed bill to end Montana's relatively new practice of allowing prospective voters to register on Election Day.

Unhappy with long lines and late voting in Montana's 2006 and 2008 elections, Republicans and some county election officials wanted to shut off registration at 5 p.m. on the Friday before Election Day. Some worried that late voting would lead to election fraud.

But the bill's critics, mostly Democrats, said the move would disenfranchise tens

of thousands of voters. Schweitzer sided with them, saying that the measure's supporters "failed to produce a single verifiable example of any voter fraud that has occurred in Montana as a result of Election Day registration."

Republicans had more success in blocking Secretary of State Linda McCulloch's bill to establish voting by mail throughout the state. That bill failed early in the session.

Alternative energy

As expected, governor vetoed legislation that he said would have diluted incentives to boost development of new renewable energy sources and create new jobs in Montana.

The bill would have allowed utilities to count existing hydropower under a 2005 law that sets goals for the percentage of alternative energy they must sell to customers.

In his veto message, Schweitzer said passage of Senate Bill 109 would undercut incentives for various hydro and wind projects currently in planning stages or under examination for potential power production.

Sex education

The governor also vetoed a bill to require that school districts notify parents in advance about events or programs that discuss human sexuality. The law sprang from Helena's controversy last summer over changes to its sex ed curriculum.

In vetoing the bill, Schweitzer said the "opt-in" nature of the legislation would make it difficult for school officials to administer. He also said local school districts are better suited to decide curriculum questions than the Legislature.

"Where parents object to curriculum or policies adopted by members of local school boards, their recourse properly lies at the local level," he wrote.

Other legislation

All the spectacle of Schweitzer's branding aside, the vetoes erased some big question marks and replaced them with periods.

The governor's vetoes last week also included his rejection of legislation to repeal Montana's voter-approved medical marijuana law. That opens the door to last-ditch negotiations on ways to control the number of marijuana patients and the controversial industry that serves them.

But still to come are decisions on big questions such as state spending, K-12 school funding, pay for state workers and a bonding program for new state buildings. The governor's willingness to use his power to veto or suggest amendments shows that he intends to be a factor in those decisions, too.

Legislative Roundup 4-24

For publication the week of April 24

Schweitzer, GOP leaders strike a bargain

**Crucial votes slated this week on funds for K-12 schools,
pay for state workers, bonds for state buildings and more**

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA — Deadlines make deals come easier. Gov. Brian Schweitzer and the Legislature's Republican leaders made theirs on the state's major spending plan on Friday with five days left in the regular session.

Senate President Jim Peterson, R-Buffalo, House Speaker Mike Milburn, R-Cascade, and the governor signed an agreement on Good Friday that stipulates the Legislature will pass the \$3.6 billion budget and other spending bills that accompany it.

In return, the governor promised not veto parts of it.

The compromise still needs the approval of lawmakers, who must also decide other key questions this week, including how to fund the state's share of K-12 public schools, whether state workers should get minimal raises, and if the state should sell nearly \$100 million in bonds to finance new buildings and repair existing ones.

If all goes according plan, leaders say Montana's 62nd Legislature could adjourn by Friday.

The Democratic governor and GOP leaders made concessions to reach a deal. Republicans agreed to allow Schweitzer to accept about \$100 million in federal support for social programs such as food stamps and prescription drug assistance for the elderly.

The governor accepted Republican cuts to his budget proposal, including about \$20 million less than what he wanted for the state's university system.

Milburn said Saturday that the budget hashed late last week is a conservative one that tightens spending and shrinks government.

"All in all, we came out pretty much with what we needed," he said.

However, the deal did not contain a specific mechanism to fund K-12 schools or give state workers a pay raise over the next two years.

Milburn said an agreement was made to advance a Senate bill that would effectively give public schools less state money next year but slightly more the year after.

The bill hinges on transferring about \$11 million a year in oil-and-gas revenues from a handful of eastern Montana school districts while allowing those districts to keep some of that money to cover costs related to booming energy development.

Milburn also said a bill setting pay levels for state workers will be revived this week in the House, where it failed last week. That version would have given employees a

1 percent increase in 2012 and another 3 percent in 2013.

The bill is a key point of disagreement between Schweitzer and GOP leaders who feel it's unfair to give public employees a raise when so many Montanans in the private sector are out of work or taking pay cuts. Many state workers have had their salaries frozen since 2008.

Milburn said lawmakers may consider a plan to allow for minimal raises, but only if state revenues reach a level that has yet to be determined. He said Republicans have made no deal to approve that bill and that individual members of his caucus are free to vote their consciences.

If it bill doesn't pass it will mean a four-year pay freeze for state workers.

Another big issue left unresolved last week was a \$97 million bonding bill for new state buildings and renovation work to others.

Most of the projects involve buildings on college campuses in Missoula, Bozeman, Billings, Havre, and Great Falls. But they also include a new state historical museum in Helena, a nursing home in Butte, state wildlife and veterinary labs in Bozeman, and work at agricultural experiment stations.

The measure has support from business groups and contractors who see it as a jobs bill, but some conservatives argued that now was not the time for the state to take on new debt.

Milburn said the bill was held to see what would happen with the budget. Now, with a more conservative budget all but decided, the bonding measure may stand a better chance of passing, he added.

There is talk, however, of possibly trimming the list of projects, but which ones and whether to trim at all remains undecided. The bill also included a condition that the

bonds won't be sold unless state revenues improve.

Schweitzer wants changes in eminent domain bill

Efforts to sort out whether utility companies and other non-government entities can take private land for publicly approved constructions projects are still in flux as Montana's 62nd Legislature heads into its final days.

Lawmakers thought they had the problem solved when they passed a bill last week confirming that utilities have that power. But Gov. Brian Schweitzer said the bill is only a Band-Aid and wants a change to make the law effective only until Oct. 1, 2013.

He said the bill was enough of a fix to allow work to begin work on the Montana-Alberta Tie Ltd. power line, along with work at the Rim Rock wind farm in Glacier and Toole counties.

Schweitzer said the bill failed to address landowners' concerns about just compensation and fair play in eminent domain negotiations.

But the sponsor of House Bill 198, Rep. Ken Peterson, R-Helena, said the measure doesn't need the sunset clause. He said it merely affirms a historical practice and that other concerns about the eminent domain process should be addressed separately.

The bill seeks to clarify the law in the wake of a district judge's ruling that MATL, a Canadian company, did not have such legal authority.

The judge ruled in favor of landowners who sued MATL, which aims to run a 214-mile power line from Lethbridge, Alberta, to Great Falls to serve the area's wind farms.

Lawmakers may vote on Schweitzer's changes this week.

Vote looms on stricter limits for medical marijuana

The fate of Montana's medical marijuana law is far from settled, but the Legislature's work on the issue appears to be nearly complete.

A panel of lawmakers from both houses hammered out an agreement last week on legislation to dramatically limit the number of people authorized to use the drug and all but eliminate the booming industry that sprouted to support patients.

Senate Bill 423, the only surviving medical marijuana bill, would ban advertising, storefront dispensaries and take money nearly completely out of the equation.

Those seeking to use the drug to treat chronic pain would need the approval of two doctors, and all patients would need to have a proven and ongoing relationship with the recommending physician. Those controls aim to reduce the roughly 30,000 Montanans who can legally use the drug today to less than 2,000.

Patients would either have to grow their own marijuana or rely on essentially volunteer growers who would be allowed to cultivate a small amount of the drug for up to three patients.

Growers would have to undergo background checks and register with the state. Such fees could be paid by the people they supply, but growers could earn no profits or be compensated for their time.

House Speaker Mike Milburn, R-Cascade, who supported a complete repeal of the Montana's 2004 voter-approved medical marijuana law, said he thinks the Legislature will pass the reform measure.

If measure does pass, the bill could still be changed by Gov. Brian Schweitzer and returned to the Legislature for another vote.

Legislature Roundup 5-1

For publication the week of May 1, 2011

Sorting through the session: How

the 2011 Legislature might affect you

By the COMMUNITY NEWS SERVICE

UM School of Journalism

Montana's 62nd Legislature adjourned last week after a contentious session that spanned most of four months and saw the introduction of more than 1,100 bills.

Less than a third of those have been signed into law. The rest failed to pass, were vetoed or still await Gov. Brian Schweitzer's decision.

It may take months to sort out the session's effects, but here's a rundown by topic of some of its more newsworthy results:

Abortion

The governor is considering whether to sign a measure clarifying that parents of girls under 16 must be notified of impending abortions, except in cases where a judge rules otherwise. A referendum posing the question to voters in 2012 also passed the Legislature.

Schweitzer vetoed a bill that would have banned insurers from covering abortions under any state health care exchanges established under the new federal health care law.

The session's most emotional abortion debates erupted over unsuccessful bills that would have required that women undergo pre-abortion ultrasound examinations or be screened to ensure that they weren't being coerced to end their pregnancies. Legislators also rejected proposed constitutional ballot measures asking voters to specifically outlaw abortions and declare that life begins at conception.

Buildings

The Legislature rejected a bonding bill that would have financed construction of

\$97.8 million in new state buildings and renovation projects, including college expansions in Billings, Bozeman, Dillon, Great Falls, Havre and Missoula; a new Montana Historical Society Museum in Helena; and a nursing home in Butte for veterans.

The House fell seven votes short of approving the measure, with critics arguing that now was not the time for the state to take on new debt. A bonding bill has not passed the Legislature since 2005.

Business and labor

Gov. Schweitzer has signed legislation that aims to reduce the premiums Montana employers must pay for workers' compensation insurance. Montana businesses pay some of the nation's highest rates for work comp, but the state also ranks high in on-the-job injuries.

The compromise cuts costs by decreasing some of the benefits workers receive and by reducing payments to medical providers. It also includes a new tax to help pay off the State Fund's previous liabilities.

Meanwhile, the governor has yet to sign GOP-backed legislation that would cut the state's tax on business equipment for all Montana businesses by a third. The GOP-backed bill differs from the governor's own plan, which would have reduced such taxes for all but the state's largest businesses.

Drunken driving

Lawmakers promised to do more this session to combat drunken driving, and they passed several bills to that effect, including a measure that would require twice-daily testing of suspects charged with repeat offenses.

They also passed bills that would stiffen penalties for drunken drivers carrying passengers under age 16, create the crime of aggravated DUI for offenders with

extremely high blood-alcohol concentrations, and allow police to request warrants for blood and breath tests for drivers who refuse to take them in the field.

Legislators tabled a bill that would allow judges to count 10-year-old DUI convictions when considering tougher penalties for repeat offenders. The current law allows a 5-year-lookback. Legislators also balked at giving counties the power to pass ordinances holding adults responsible for hosting events where alcohol is served to underage drinkers.

Education policy

A battle over dollars for public schools and colleges dominated the education debate, but lawmakers also tangled over sex education in public schools and the question of charter schools.

In the end, Gov. Schweitzer vetoed legislation requiring that local school officials notify parents in advance about human sexuality programs and allow them to withdraw their children from sex education classes.

The bill, like many other bills this session, sprang from a controversy last summer over proposed changes in Helena's sex education curriculum. That debate also spawned unsuccessful bills that would have allowed tax credits for scholarships supporting students attending private schools.

A plan to allow for the creation of experimental charter schools within the public school system also failed during the final negotiations over K-12 funding.

Elections

Early in the session, Republicans rejected Secretary of State Linda McCulloch's bill to establish statewide mail-in elections as way to encourage voter participation.

The governor, meanwhile, vetoed a GOP-backed bill that would have ended

Montana's practice of allowing would-be voters to register on Election Day. The bill, which sprang from complaints about long lines and late voting in 2006 and 2008, would have cut off voter registration at 5 p.m. on the Friday before an election.

In other elections-related action, lawmakers passed a referendum asking voters in 2012 whether candidates for Montana's Supreme Court should be elected by districts.

Eminent domain

The Legislature passed a controversial bill affirming that utilities can seize private land for state-approved projects such as power lines. The measure springs from a district court ruling that has stalled work on the 214-mile Montana Alberta Tie transmission line that would serve wind farms in north central Montana.

The bill's fate rests with Gov. Schweitzer, who demanded such a law at the session's outset. However, he argued in the session's final days that House Bill 198 didn't go far enough in answering landowners' complaints that they were being treated unjustly in such negotiations.

Schweitzer wanted the bill to take effect only until Oct. 1, 2013, but lawmakers rejected that change.

Environment

Republicans began the session vowing to roll back environmental regulations that they believe are blocking development of Montana's natural resources. They passed several bills to that effect, some of which are now sitting on the governor's desk.

The most notable is a bill that allows state-permitted development projects to continue, even if a court finds that the state's environmental review was flawed. It would also prohibit state officials from reviewing potential impacts beyond Montana's borders.

Meanwhile, the governor has promised to veto legislation to expand gold and

silver mining. The measure would have allowed a few mines to expand their treatment of low-grade gold and silver ore via the cyanide vat- or heap-leach process. Voters have twice rejected any expansion of such mining.

The governor has vetoed GOP bills aimed at relaxing the state's push to promote new renewable energy projects.

Gun rights

Despite an early flurry bills, lawmakers passed only one measure to expand gun rights in Montana. House Bill 271, which must be approved by the governor before becoming law, would allow Montanans to carry concealed weapons in city limits without a permit if they can prove they have passed the state's concealed-weapons training course.

Lawmakers rejected measures that would have legalized the use of sound suppressors when hunting, allowed people to carry weapons into bars and banks, given legislators the go-ahead to bring weapons into the state Capitol, encouraged the production of ammunition in-state, and encouraged the governor to work with other states to create "Firearms Freedom Acts."

Human rights

Despite emotional debate, the session broke little new ground on the issue of expanding human rights protections for Montanans regardless of sexual orientation or gender expression.

The Senate blocked a House bill that would have banned local anti-discrimination ordinances that offer such protections for lesbian, gay, bisexual or transgendered residents.

The House, meanwhile, rejected a Senate bill that would have erased language in state law classifying homosexuality as a crime. Montana's Supreme Court ruled the

language unconstitutional several years ago, but the Legislature has refused to take the law off the books.

Immigration

Montana lawmakers approved a 2012 ballot measure asking voters to bar illegal aliens from receiving state-funded services such as jobless benefits, tuition assistance or employment with state agencies.

Meanwhile, lawmakers rejected legislation that would have required businesses to use a federal database to verify a job applicant's legal status. It also would have made it a crime for businesses to hire undocumented immigrants.

K-12 funding

Montana's K-12 schools will head into the next biennium with a slight increase in state support. After intense debate, lawmakers passed a school funding bill that will mean less state money for public schools this year, followed by a 2.4 percent increase next year.

Many districts are counting heavily on local mill levies this spring to make up the difference.

The debate over how to fund public schools came down to how much oil-and-gas revenue should be taken from a handful of resource-rich eastern Montana school districts and redistributed statewide. The money would cover inflation costs and the loss of federal stimulus dollars that were plugged into school budgets last session.

Senate Bill 329 transfers about \$18 million oil-and-gas revenues to the state. Schools with oil-and-gas revenues can keep up to 130 percent of their total budget in such funds, but any amount over that goes to the state for redistribution. The bill also calls for the Office of Public instruction to collect data on student assessment and

enrollment.

Medical marijuana

This issue grabbed more headlines than any other issue this session, and it was nearly the last question settled. In the end, lawmakers voted to repeal the existing voter-approved law and replace it with one that would ban advertising and storefront dispensaries while prohibiting anyone from making a profit by providing the drug.

Minors and those seeking to use the drug to treat chronic pain would need the approval of two doctors. All patients would need to have a proven and ongoing relationship with the recommending physician. Those controls aim to reduce the roughly 30,000 Montanans who can legally use the drug today to less than 2,000.

Patients would either have to grow their own marijuana or rely on essentially volunteer growers who would be allowed to cultivate a small amount of the drug for up to three patients.

Social services

How Montana should care for its aged, ill, disabled and poor was at the heart of the budget debate this session. The GOP took a knife to the Democratic governor's proposed spending initially, but Schweitzer regained much of that in the final negotiations, including the authority to accept millions in federal funds for a variety of programs.

Saved in the end was funding for personal assistants for disabled and elderly who need help with some basic tasks. But the money for this service is one-time only money, so lawmakers will have to revisit the issue in 2013.

The Legislature also restored money to subsidize prescription drugs for the elderly through the Big Sky RX program. Meanwhile, the Healthy Montana Kids, a program to

provide health insurance for children of low- and moderate-income families, ended the session with a \$40 million-a-year increase after initially being targeted for cuts.

About \$25 million per year of federal funding was reinstated for other health services. Among other things, the money could go to help family planning clinics that were largely defunded by the Legislature.

State sovereignty

Fueled by Tea Party anger, conservative lawmakers introduced a raft of bills aimed at denying or restricting the federal government's power in Montana. Many of them died, some by the governor's hand.

Schweitzer vetoed legislation requiring that federal law enforcement officers notify local sheriffs before making arrests. He also snuffed a bill authorizing the state to seize federal land under Montana's eminent domain law.

Legislators, however, blocked bills giving state officials a role in saying how federal health care reform will play out in Montana. However, most Republican bills aimed nullifying federal health care reform died.

State workers' pay

The Legislature rejected a deal negotiated by the governor and key public employee unions that called for 1 percent and 3 percent raised over the next two years.

Republicans argued that state workers shouldn't receive raises at a time when Montana's economy is still recovering from recession. With some exceptions, most state workers have had their wages frozen since 2008.

University funding

The Montana University System will operate with \$13.8 million less the next two years. Montana's colleges and universities were bracing for nearly \$30 million in cuts

until legislative leaders struck a deal with the governor in the session's last week.

The Board of Regents will now decide how to divide the smaller budget between schools. They can make up the shortage with tuition increases, cuts in campus budgets, or a combination of the two.

Regents have said they hope to freeze tuition at two-year schools but have made no promises for the other campuses. The university system voluntarily cut its spending 5 percent last year in response to declining state revenue.

Final Legislative Feature

For publication the week of May 1, 2011

Session in hindsight: Weary legislators look back with pride and frustration

By CODY BLOOMSBURG

Community News Service

UM School of Journalism

HELENA — Rep. Liz Bangerter has the angular build of a runner. No surprise, the Helena Republican runs and lifts weights to stay in shape. The first-termer came into the Capitol sure that she could keep her feet under her for the full 90 days. She was wrong – sort of.

“I think I hit my breaking point somewhere before transmittal,” she said. “That's when it really got hard for me.” The first night of the haltime break she slept for 16 hours straight.

At session's end, Democrats and Republicans seem to agree on three things: that it was a grueling four months, that they were able to do some good things, and that they will also be haunted by the ghosts of good bills that died.

Bangerter regrets the failure of a \$100 million bonding bill to repair some state

buildings and build new ones at universities, a new veterans' home in Butte and a state historical museum in Helena. It would have created jobs, she said.

Fellow freshman Rep. Ellie Hill, D-Missoula, also saw that bill's failure as a major loss.

Another thing most lawmakers agreed on was that they hardly ever heard from people who were pleased with their work – only those who were upset.

Bangerter said that every time she checked her email it seemed like there were 20 more venom-filled messages, usually from people she doesn't even represent, telling her she was making a catastrophic mistake on some issue or another.

Bangerter may have drawn more heat than most majority Republicans because she sometimes voted against her party. Still, she and Hill saw the session's outcome from different perspectives.

Hill has a hard time finding successes to trumpet back home. Both agree that great strides were made to strengthen DUI laws with a program to make repeat drunken drivers give twice daily breath samples.

But other than that, Hill has an even harder time listing all of the things she sees as major failures.

The worst of those, she said, was the death of a bill that would have stricken a law that criminalizes homosexuality. Years ago Montana's Supreme Court ruled that the law is unconstitutional, but the Legislature has repeatedly killed any measure to cut it from code.

"The only reason to leave that on the books is just to be cruel," she said.

Bangerter, meanwhile, counts reforming the state's workers' compensation system as a major success. She's also proud of a bill she carried that straightened out a problem

within the Department of Corrections that left the state open to hundreds, if not thousands of lawsuits.

The bill allows the department to revoke offenders' suspended sentences the moment it becomes clear they are not complying with the treatment programs that were part of their deals to get reduced sentences.

Most Republicans also count the \$3.6 billion budget that reduces general fund spending by 6.5 percent as a win. Most Democrats see it as a loss, saying it doesn't give enough to higher education and programs that help Montana's poor, old and ill.

Rep. Krayton Kerns, R-Laurel, sees it as a loss because it doesn't cut enough.

“I do still maintain that there is a huge financial reckoning coming on the federal level and the state level,” he said. “And this budget does not prepare us for that inevitability.”

Kerns, who wears a teapot pin on the lapel of his jacket, came into the session eager to expand state's rights, cut spending and tell the feds to butt out of Montana business with measures to nullify federal law.

But though Republicans held solid majorities in both chambers, and a historic 68-32 one in the House, Kerns said the conservative Tea Party's results this session could be summed up in one word: “Poor.”

Tea party Republicans argued in vain for bills to nullify federal health care reform and the federal Endangered Species Act and to assert Montana's right to overrule federal law. However, Kerns said he thinks those efforts drew more attention to conservative causes and will rally more folks to the effort.

Hill disagreed. “I hope that this 62nd session went so far off the rails that we won't see much of the tea party in the 63rd,” she said.

She later added that she intends to come back to the Capitol in 2013 and bring more Democrats with her.

No single lawmaker got exactly or everything they wanted, and many left with more frustration than achievements. But as they say in football, most will return home having left everything on the field.

“At this stage of the game you just feel like, 'Man, oh man, did we just waste a winter?’” Kerns said. “But you enter the battle anyway.”