



Montana Association of Counties

Serving Montana Counties Since 1909

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A LETTER TO THE CITIZENS OF MONTANA

County Commissioners from across Montana appreciate the widespread support that Senate Bill 442 enjoyed throughout its legislative process. Marijuana revenues are new to Montana, and the bill's thoughtful distribution of this higher-than-expected new revenue stream included some funding for county roads.

Bipartisan and impactful legislation backed by such a wide variety of Montanans is a rarity, and we commend Senator Lang and the bill's many proponents for their efforts. Even after Governor Gianforte exercised his right to veto, we were confident the Legislature would overturn it.

The Governor's veto letter made clear his belief that State revenues should solely fund State projects. No Governor in the history of Montana has ever taken such a State-centric position that blatantly disregards the needs of Montanans.

Public infrastructure benefits Montana's economy, the State's revenue, and Montana's citizens and visitors alike. The veto letter stated that SB 442 would create a "slippery slope" by utilizing State funds for local infrastructure. However, Montanans have always benefited from State resources provided to local governments for assisting with bridges, the secondary road system, and access roads to recreational sites, to name a few.

Given that the State relies almost exclusively on federal funding and gas taxes to maintain the State jurisdictional road system, the Governor's position that "what's ours is ours" is ill-informed and inaccurate. It is not how our state has operated in the past and doesn't recognize the fact that ALL Montanans benefit from infrastructure investments, no matter where the money comes from, even the State's General Fund. SB 442 doesn't create a "slippery slope." It provides new dollars to help meet longstanding infrastructure needs.

Governor Gianforte didn't just veto the bill. He tried to invent a new "pocket veto," which was specifically rejected by the framers of our constitution. There is no scenario where a governor's veto cannot be checked by the Legislature, and that check is an important part of Montana's "separation of powers doctrine." If a governor vetoes a bill while the Legislature is in session, the Legislature can override that veto. If the veto comes when the Legislature isn't able to review that action, it is sent to the Secretary of State to poll members of the Legislature. The procedural framework is simple and straightforward. Every governor in Montana has followed this constitutional process. Yet when asked to submit the bill to the Secretary of State for polling, this Governor refused.

The litigation surrounding SB 442 sought to protect the Legislature's authority under the Montana Constitution, a right that was violated by the Executive Branch, which in turn required the Judicial Branch to intervene and mandate the Executive Branch into compliance. Any twisting or spinning of the case is pure political gamesmanship.

The Court Order is clear. Judge Menahan stated, "At the time the Senate voted to adjourn, few if any legislators were aware of the governor's veto. Following adjournment and a request from the bill sponsor, Jacobsen refused to initiate the post session override procedure, claiming she had not received a copy of the governor's veto and a

statement explaining his reasons for doing so. The legislature was thus deprived of an opportunity to override the veto of Senate Bill 442 and draft the policy contained therein into law.”

We respect the right of the Governor to veto legislation. We respect the rules established by the Legislature on how they conduct their business. We respect any legislator’s vote on the poll being conducted on the veto of SB 442. But we do not respect the political spin that when a governor fails to allow the Legislature the opportunity to review his veto action—and the Court is required to compel him to allow the Legislature their constitutional duty—that it somehow justifies a legislator refusing to participate in the poll.

As local elected officials, we take our oaths seriously. We have jobs to do, serving our constituents and our communities. State Senators and Representatives take the same oath and serve the same constituents.

SB 442 was good policy when it passed by a supermajority in both the House and Senate. It was good policy when the Executive exercised his veto authority. It was good policy when the Court ordered the Secretary of State to poll the legislators. And if those legislators evaluate the merits of the bill and vote according to their constituent needs, it will become good policy for the State of Montana.

If legislators decide to play politics and cite claims about “separation of powers” as an excuse to sabotage SB 442, then it is clear that those legislators are more concerned with engaging in political games than they are working to represent you.

The Court ordered the Governor to abide by the separation of powers and respect the role of the Legislature by issuing the veto poll. And as legislators return their ballots on this critical issue, we would urge you to watch carefully to see how your local legislator votes—because a vote to support SB 442 is a vote in the best interests of Montanans, and a vote to let the Governor’s veto stand is proof your local legislator is ignoring you, and just playing politics.

Respectfully Submitted by the Board of Directors of the Montana Association of Counties (MACo).

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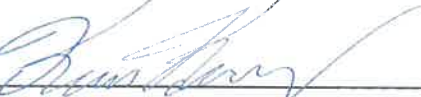
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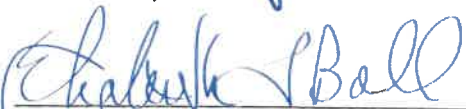

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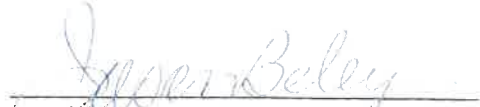

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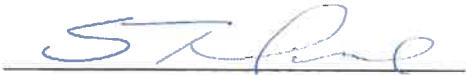
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