

# Montana State Senate



*The Treasure State*

**SENATOR JASON ELLSWORTH**  
**PRESIDENT OF THE SENATE**

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Montana State Capitol  
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Governor Gianforte, Secretary Jacobsen,

The Judicial Branch has put you, which we will refer to jointly as the Executive Branch, in an untenable position. A district court, backed by a 6-0 ruling from the Montana Supreme Court, has ordered you to conduct a veto override poll of Senate Bill 442. We believe this order is unconstitutional and we are sending a letter to the Montana Supreme Court explaining our position.

SB 442 was returned to the Senate while the Legislature was still in session, and it remains in the possession of the Senate. You have no constitutional authority to take any action on a bill that is in the possession of the Legislature.

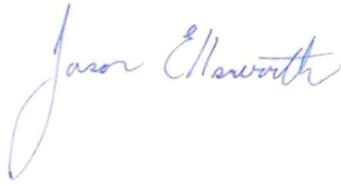
If you were to attempt to manufacture a new version of the bill, one that has not been signed by the President of the Senate and the Speaker of the House per legislative procedure, we would view that as a gross constitutional violation of the Legislative Branch's sole authority to make law.

If the Executive Branch were to take any action on a bill that is in the Legislature's possession, such as preemptively vetoing a bill before it has reached the Governor's desk or issuing a veto override poll for a bill you don't have, such action would be beyond your constitutional authority.

Under the Montana Constitution, the separation of powers is clear. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to another branch. Article III, Section 1. We are the lawmakers, not the Judicial Branch. The Judicial Branch has no power to dictate legislative process or procedure unless our procedures violate the terms of the Montana Constitution.

If the Executive Branch attempts to take possession of any of the Legislative Branch's official documents without the consent of the Legislature, we would view that as a gross violation of the separation of powers. And if you issue a veto override poll on SB 442, we will either not participate in it or we will vote against it, on the basis of separation of powers.

Sincerely,



Sen. Jason Ellsworth  
President of the Senate



Sen. Kenneth Bogner  
Senate President Pro Tem



Sen. Steve Fitzpatrick  
Senate Majority Leader

Sen. Steve Hinebauch, Senate Majority Whip  
Sen. Dennis Lenz, Senate Majority Whip  
Sen. Tom McGillvray, Majority Whip  
Sen. Barry Usher, Majority Whip  
Sen. Dan Bartel, Senate District 15  
Sen. Becky Beard, Senate District 40  
Sen. Mike Cuffe, Senate District 1  
Sen. Daniel Emrich, Senate District 11  
Sen. John Esp, Senate District 30  
Sen. Chris Friedel, Senate District 26  
Sen. John Fuller, Senate District 4  
Sen. Bruce Gillespie, Senate District 9  
Sen. Carl Glimm, Senate District 2  
Sen. Greg Hertz, Senate District 6  
Sen. Theresa Manzella, Senate District 44  
Sen. Wendy McKamey, Senate District 12  
Sen. Mark Noland, Senate District 5  
Sen. Keith Regier, Senate District 3  
Sen. Dan Salomon, Senate District 47  
Sen. Jason Small, Senate District 21  
Sen. Jeremy Trebas, Senate District 13  
Sen. Shelley Vance, Senate District 34  
Sen. Terry Vermeire, Senate District 39  
Sen. Daniel Zolnikov, Senate District 22

Additional Names Added:  
Senator Jeff Welborn, Senate District 36