

**HOUSE JOURNAL  
SIXTEENTH LEGISLATIVE DAY**

Helena, Montana  
January 21, 1999

House Chambers  
State Capitol

House convened at 1:00 p.m. Mr. Speaker in the Chair. Invocation by Representative Peck. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

**REPORTS OF STANDING COMMITTEES**

**BILLS** (Rehbein, Chairman): 1/21/1999  
Correctly printed: **HB 64, HB 75, HB 91, HB 123, HB 125, HB 151, HB 192, HB 212, HB 229, HB 238, SB 17, SB 50.**  
Correctly engrossed: **HB 3, HB 41, HB 52, HB 207.**

**BUSINESS AND LABOR** (Simon, Chairman): 1/20/1999  
**HB 154**, introduced bill, be amended as follows:

1. Page 1, line 19.  
**Following:** "customer."  
**Strike:** "concurrent"  
**Insert:** "in conjunction"

And, as amended, do pass. Report adopted.

**HB 156**, introduced bill, be amended as follows:

1. Page 1, line 20.  
**Following:** "limit"  
**Insert:** "on or after January 1, 2000,"

And, as amended, do pass. Report adopted.

**SB 4**, be concurred in. Report adopted.

**HUMAN SERVICES** (Soft, Chairman): 1/19/1999  
**HB 266**, introduced bill, be amended as follows:

1. Title, page 1, line 7.  
**Following:** "LENSES;"  
**Insert:** "REQUIRING THAT MANDATORY COVERAGE FOR INBORN ERRORS OF METABOLISM APPLY TO COVERAGE OF STATE AND LOCAL GOVERNMENT EMPLOYEES AND TO COVERAGE OFFERED BY MULTIPLE EMPLOYER WELFARE ARRANGEMENTS;"  
**Strike:** "SECTION"  
**Insert:** "SECTIONS 2-18-704,"  
**Following:** "33-22-131,"  
**Insert:** "AND 33-35-306,"

2. Page 1.

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**Following:** line 10

**Insert:** "Section 1. Section 2-18-704, MCA, is amended to read:

**"2-18-704. Mandatory provisions.** (1) An insurance contract or plan issued under this part must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions provided by law to remain a member of the group until the member becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended, unless the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:

(a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

(b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

(c) continued membership in the group by anyone eligible under the provisions of this section, notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

(3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended, if the legislator:

(i) terminates service in the legislature and is a vested member of a state retirement system provided by law; and

(ii) notifies the department of administration in writing within 90 days of the end of the legislator's legislative term.

(b) A former legislator may not remain a member of the group plan under the provisions of subsection (3)(a) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost.

(c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and subsequently terminates membership may not rejoin the group unless the person again serves as a legislator.

(4) (a) A state insurance contract or plan must contain provisions that permit continued membership in the state's group plan by a member of the judges' retirement system who leaves judicial office but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial service of the judge's choice to continue membership in the group plan.

(b) A former judge may not remain a member of the group plan under the provisions of this subsection (4) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost; or

(iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395,

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as amended.

(c) A judge who remains a member of the group under the provisions of this subsection (4) and subsequently terminates membership may not rejoin the group plan unless the person again serves in a position covered by the state's group plan.

(5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall pay the full premium for coverage and for that of the person's covered dependents.

(6) An insurance contract or plan issued under this part that provides for the dispensing of prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

(a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions, including the same professional requirements that are met by the mail service pharmacy for a drug, without financial penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is registered with the board under Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

(7) An insurance contract or plan issued under this part must include coverage for treatment of inborn errors of metabolism, as provided for in 33-22-131."

**Renumber:** subsequent section

3. Page 2.

**Following:** line 10

**Insert:** "Section 3. Section 33-35-306, MCA, is amended to read:

**"33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter, self-funded multiple employer welfare arrangements are subject to the following provisions of Title 33:

(a) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;

(b) Title 33, chapter 1, part 7;

(c) 33-3-308;

(d) Title 33, chapter 18, except 33-18-242;

(e) 33-22-131, 33-22-134, and 33-22-135; and

(f) 33-22-525 and 33-22-526.

(2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded multiple employer welfare arrangement that has been issued a certificate of authority that has not been revoked."

**Renumber:** subsequent section

4. Page 2, line 13.

**Following:** "policies"

**Insert:** ",contracts, plans,"

And, as amended, do pass. Report adopted.

**STATE ADMINISTRATION** (Brainard, Chairman):

1/20/1999

**HB 79**, introduced bill, be amended as follows:

1. Title, page 1, line 28.

**Following:** the first "DATES"

**Insert:** ", AN APPLICABILITY PROVISION,"

2. Page 10, line 19.

**Following:** "beneficiary or"

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**Strike:** "a benefit"  
**Insert:** "an annuity"

3. Page 12, line 27.

**Following:** "subsection (10)"  
**Insert:** "(b)"

4. Page 17, line 26.

**Following:** "paid."

**Insert:** "For purposes of this section, an administrative expense does not include an expenditure of funds allocated under [section 41(1)(b) or (1)(c)] to the education fund established in [section 41(1)(a)] or an expenditure of funds appropriated specifically for the purposes of [section 41]."

5. Page 42, line 23.

**Strike:** "5"

**Insert:** "3"

6. Page 46, line 25 through line 26.

**Strike:** "directly" on line 25 through "and" on line 26

7. Page 46, line 26 through line 27.

**Following:** "board," on line 26

**Strike:** "a benefit" on line 26 through "retirement" on line 27

**Insert:** "an annuity similar to a"

8. Page 51, line 13.

**Strike:** first "and"

**Following:** "74"

**Insert:** ", and 75"

9. Page 51.

**Following:** line 19

**Insert:** "NEW SECTION. Section 74. Contract of employment --applicability. Contract rights of employment are not applicable with regard to the right to choose the defined contribution plan until the plan choice period begins. Contract rights of employment are not applicable with regard to rights in the defined contribution plan or the optional retirement program until the defined contribution plan or the optional retirement program is chosen."

**Renumber:** subsequent section

And, as amended, do pass. Report adopted.

**HB 175**, introduced bill, be amended as follows:

1. Title, page 1, line 6.

**Following:** "ADMINISTRATOR"

**Insert:** "OR TO THE SECRETARY OF STATE"

2. Page 2, line 10.

**Following:** "administrator"

**Insert:** "or by the secretary of state"

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3. Page 2, line 11.

**Following:** "administrator"

**Insert:** "or to the secretary of state"

And, as amended, do pass. Report adopted.

**MESSAGES FROM THE SENATE**

Senate bills passed and transmitted to the House for concurrence:

1/20/1999

**SB 57**, introduced by Stang

**SB 58**, introduced by Wells

**SB 59**, introduced by Wells

**SB 60**, introduced by Halligan

**SB 65**, introduced by Shea

**SB 87**, introduced by Hargrove

**SB 91**, introduced by Swysgood

**SB 112**, introduced by Franklin

**SB 127**, introduced by Waterman

**SB 131**, introduced by Swysgood

**SB 158**, introduced by Glaser

**SB 179**, introduced by Holden

**FIRST READING AND COMMITMENT OF BILLS**

The following House bills were introduced, read first time, and referred to committees:

**HB 343**, introduced by B. Krenzler, T. Dell, K. Gillan, J. Hurdle, T. Schmidt, E. Swanson, referred to Taxation.

**HB 344**, introduced by B. Raney, J. Bohlinger, referred to Fish, Wildlife and Parks.

**HB 345**, introduced by B. Raney, S. Anderson, referred to Agriculture.

**HB 346**, introduced by B. Raney, referred to Natural Resources.

**HB 347**, introduced by J. Mercer, C. Ahner, S. Anderson, J. Barnett, S. Bookout-Reinicke, R. Brown, E. Clark, R. Clark, B. Crippen, R. Dale, B. DePratu, G. Devlin, D. Fuchs, D. Grimes, L. Grinde, D. Haines, M. Hanson, D. Hargrove, J. Harp, C. Hibbard, B. Keenan, D. Mahlum, G. Masolo, D. McGee, J. McKenney, D. Mood, K. Ohs, B. Pavlovich, S. Rose, P. Sliter, R. Somerville, J. Stovall, C. Swysgood, B. Tash, L. Taylor, B. Thomas, F. Thomas, C. Trexler, J. Witt, referred to Appropriations.

**HB 348**, introduced by T. Facey, M. Halligan, L. McCulloch, referred to Education.

**HB 349**, introduced by B. Thomas, R. Dale, B. Davies, T. Hagener, D. Haines, G. Masolo, J. Witt, referred to State Administration.

**HB 350**, introduced by M. Brainard, referred to State Administration.

**HB 351**, introduced by M. Brainard, referred to Local Government.

**HB 352**, introduced by M. Brainard, L. Grinde, P. Sliter, B. Story, referred to Business and Labor.

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

Representative Grinde moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Pavlovich in the chair.

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

**HJR 6** - Representative Mood moved **HJR 6** be adopted. Motion carried as follows:

Ayes: Ahner, J. Andersen, S. Anderson, Barnett, Beck, E. Bergsagel, P. Bergsagel, Bookout-Reinicke, Brainard, Brown, E. Clark, P. Clark, R. Clark, Cobb, Curtiss, Dale, Davies, Dell, Eggers, Erickson, Ewer, Facey, Fisher, Fuchs, Gallus, Galvin-Halcro, Gillan, Golie, Grinde, Guggenheim, Gutsche, Hagener, Haines, Hanson, Harper, Harrington, Hedges, Hibbard, Holden, Hurdle, Jackson, Juneau, Kasten, Kitzenberg, Krenzler, Lawson, Lenhart, Lindeen, Mangan, Masolo, Matthews, McCulloch, McGee, McKenney, Menahan, Molnar, Mood, Noennig, Ohs, Pavlovich, Peck, Quilici, Raney, Rehbein, Rose, Ryan, Schmidt, Shockley, Simon, Sliter, Soft, Somerville, Squires, Story, Stovall, Swanson, Tash, Taylor, Thomas, Trexler, Tropila, Tuss, Vick, Wagner, Walters, Williams, Witt, Wyatt, Younkin, Zook, Mr. Speaker.

Total 91

Noes: Adams, Barnhart, Buzzas, Johnson, Jore, Orr, Smith.

Total 7

Excused: None.

Total 0

Absent or not voting: Bitney, McCann.

Total 2

**HJR 9** - Representative Tuss moved **HJR 9** be adopted. Motion carried as follows:

Ayes: J. Andersen, S. Anderson, Beck, E. Bergsagel, Bitney, Bookout-Reinicke, Buzzas, E. Clark, P. Clark, Dell, Erickson, Ewer, Facey, Gallus, Galvin-Halcro, Gillan, Golie, Guggenheim, Gutsche, Hagener, Haines, Hanson, Harper, Harrington, Hedges, Hibbard, Hurdle, Juneau, Kasten, Kitzenberg, Krenzler, Lenhart, Lindeen, Mangan, Masolo, Matthews, McCann, McCulloch, McKenney, Menahan, Mood, Noennig, Ohs, Pavlovich, Peck, Quilici, Rose, Ryan, Schmidt, Sliter, Smith, Soft, Squires, Story, Swanson, Tash, Taylor, Tropila, Tuss, Williams, Witt, Wyatt, Younkin, Zook, Mr. Speaker.

Total 65

Noes: Adams, Ahner, Barnett, Barnhart, P. Bergsagel, Brainard, Brown, R. Clark, Cobb, Curtiss, Dale, Davies, Eggers, Fisher, Fuchs, Grinde, Holden, Jackson, Johnson, Jore, Lawson, McGee, Molnar, Orr, Raney, Rehbein, Shockley, Simon, Somerville, Thomas, Trexler, Vick, Wagner, Walters.

Total 34

Excused: None.

Total 0

Absent or not voting: Stovall.

Total 1

**HB 237** - Representative Swanson moved **HB 237** do pass. Motion carried as follows:

Ayes: Adams, Ahner, J. Andersen, S. Anderson, Barnett, Barnhart, Beck, E. Bergsagel, Bitney, Bookout-Reinicke, Brown, Buzzas, E. Clark, P. Clark, R. Clark, Cobb, Curtiss, Dale, Dell, Eggers, Erickson, Fisher, Fuchs, Gallus,

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Galvin-Halcro, Gillan, Golie, Grinde, Guggenheim, Gutsche, Hagener, Haines, Hanson, Harper, Harrington, Hedges, Hibbard, Holden, Jackson, Johnson, Juneau, Kitzenberg, Krenzler, Lawson, Lenhart, Lindeen, Mangan, Masolo, Matthews, McCann, McCulloch, McGee, McKenney, Menahan, Molnar, Mood, Noennig, Ohs, Pavlovich, Peck, Quilici, Raney, Rehbein, Rose, Ryan, Schmidt, Shockley, Simon, Sliter, Soft, Somerville, Squires, Story, Stovall, Swanson, Tash, Taylor, Thomas, Trexler, Tropila, Tuss, Wagner, Walters, Williams, Witt, Younkin, Zook, Mr. Speaker.

Total 88

Noes: P. Bergsagel, Brainard, Davies, Ewer, Facey, Hurdle, Jore, Kasten, Orr, Smith, Vick, Wyatt.

Total 12

Excused: None.

Total 0

Absent or not voting: None.

Total 0

**HB 238** - Representative Ohs moved **HB 238** do pass.

**HB 238**- Representative Rose moved for cloture. Motion, requiring two-thirds vote, failed as follows:

Ayes: Adams, J. Andersen, S. Anderson, Barnett, E. Bergsagel, P. Bergsagel, Bitney, Bookout-Reinicke, Brainard, Brown, E. Clark, R. Clark, Curtiss, Dale, Facey, Fisher, Fuchs, Gallus, Hagener, Haines, Hanson, Harrington, Hedges, Hibbard, Jackson, Jore, Kasten, Kitzenberg, Krenzler, Masolo, Menahan, Molnar, Mood, Ohs, Pavlovich, Peck, Quilici, Rehbein, Rose, Ryan, Shockley, Smith, Somerville, Story, Swanson, Thomas, Trexler, Vick, Walters, Younkin.

Total 50

Noes: Ahner, Barnhart, Beck, Buzzas, P. Clark, Cobb, Davies, Dell, Eggers, Erickson, Ewer, Galvin-Halcro, Gillan, Golie, Grinde, Guggenheim, Gutsche, Harper, Holden, Hurdle, Johnson, Juneau, Lawson, Lenhart, Lindeen, Mangan, Matthews, McCann, McCulloch, McGee, McKenney, Noennig, Orr, Raney, Schmidt, Simon, Sliter, Soft, Squires, Stovall, Tash, Taylor, Tropila, Tuss, Wagner, Williams, Witt, Wyatt, Zook.

Total 49

Excused: None.

Total 0

Absent or not voting: Mr. Speaker.

Total 1

Thereupon, the House reverted to the original motion of Representative Ohs for further discussion.

Representative Brainard called for the previous question. Motion carried.

**HB 238** failed as follows:

Ayes: Ahner, J. Andersen, S. Anderson, Barnett, E. Bergsagel, Bitney, Bookout-Reinicke, Brainard, Brown, R. Clark, Curtiss, Dale, Fisher, Fuchs, Grinde, Hanson, Harrington, Hedges, Hibbard, Jackson, Kasten, Kitzenberg, Krenzler, Lawson, Masolo, McGee, McKenney, Mood, Noennig, Ohs, Pavlovich, Quilici, Rehbein, Rose,

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Shockley, Simon, Sliter, Somerville, Story, Stovall, Swanson, Tash, Taylor, Thomas, Trexler, Tuss, Younkin, Zook, Mr. Speaker.  
Total 49

Noes: Adams, Barnhart, Beck, P. Bergsagel, Buzzas, E. Clark, P. Clark, Cobb, Davies, Dell, Eggers, Erickson, Ewer, Facey, Gallus, Galvin-Halcro, Gillan, Golie, Guggenheim, Gutsche, Hagener, Haines, Harper, Holden, Hurdle, Johnson, Jore, Juneau, Lenhart, Lindeen, Mangan, Matthews, McCann, McCulloch, Menahan, Molnar, Orr, Peck, Raney, Ryan, Schmidt, Smith, Soft, Squires, Tropila, Vick, Wagner, Walters, Williams, Witt, Wyatt.  
Total 51

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

Representative Grinde moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Pavlovich moved the Committee of the Whole report be adopted. Report adopted as follows:

Ayes: Adams, Ahner, J. Andersen, S. Anderson, Barnhart, Beck, E. Bergsagel, P. Bergsagel, Bitney, Bookout-Reinicke, Brown, E. Clark, P. Clark, R. Clark, Cobb, Curtiss, Dell, Eggers, Erickson, Ewer, Facey, Fisher, Galvin-Halcro, Gillan, Golie, Grinde, Guggenheim, Hagener, Haines, Hanson, Harper, Harrington, Hedges, Hibbard, Holden, Jackson, Johnson, Jore, Juneau, Kasten, Kitzenberg, Lawson, Lenhart, Lindeen, Mangan, Masolo, Matthews, McCann, McCulloch, McGee, McKenney, Menahan, Molnar, Noennig, Orr, Pavlovich, Peck, Quilici, Raney, Rose, Ryan, Schmidt, Shockley, Smith, Soft, Somerville, Squires, Story, Stovall, Swanson, Tash, Taylor, Thomas, Trexler, Tropila, Tuss, Wagner, Walters, Williams, Wyatt, Younkin, Zook.  
Total 82

Noes: Barnett, Brainard, Dale, Davies, Fuchs, Hurdle, Mood, Ohs, Rehbein, Simon, Sliter, Vick.  
Total 12

Excused: None.  
Total 0

Absent or not voting: Buzzas, Gallus, Gutsche, Krenzler, Witt, Mr. Speaker.  
Total 6

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Grinde moved that the House adjourn until 1:00 p.m., Friday, January 22, 1999. Motion carried.

House adjourned at 3:10 p.m.

MARILYN MILLER  
Chief Clerk of the House

JOHN MERCER  
Speaker of the House