

**SENATE JOURNAL  
60TH LEGISLATURE  
TWENTIETH LEGISLATIVE DAY**

Helena, Montana  
January 30, 2007

Senate Chambers  
State Capitol

Senate convened at 1 p.m. President Cooney presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Cobb, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 44

Nays: Balyeat, Gebhardt, Jackson, O'Neil, Shockley.  
Total 5

Absent or not voting: None.  
Total 0

Excused: Cobb.  
Total 1

**REPORTS OF STANDING COMMITTEES**

**ADVERSE COMMITTEE REPORT**

**BUSINESS, LABOR, AND ECONOMIC AFFAIRS** (Cocchiarella, Chairman):

1/30/2007

**SB 250**, do not pass. Adverse Committee Report adopted as follows:

Yeas: Brueggeman, Cocchiarella, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Murphy, Pease, Ryan, Schmidt, Shockley, Smith, Squires, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 30

Nays: Bales, Balyeat, Barkus, Black, Brown, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, McGee, O'Neil, Perry, Peterson, Stapleton, Steinbeisser, Story, Tash.  
Total 19

Absent or not voting: None.  
Total 0

Excused: Cobb.  
Total 1

**REPORTS OF STANDING COMMITTEES**

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**BUSINESS, LABOR, AND ECONOMIC AFFAIRS** (Cocchiarella, Chairman):

1/30/2007

**SB 108**, introduced bill, be amended as follows:

1. Title, line 11.

**Following:** "DRUGS;"

**Insert:** "PROVIDING FOR UTILIZATION AND TREATMENT GUIDELINES TO BE ESTABLISHED BY RULE;"

2. Title, line 19.

**Following:** ";"

**Strike:** "AND"

**Following:** the second "MCA"

**Insert:** "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 11, line 23.

**Following:** "schedule."

**Insert:** "Until the department adopts a fee schedule applicable to medical services provided by a hospital, insurers shall pay at the rate payable on June 30, 2007, for those services provided by the hospital. The rate must be adjusted by the annual percentage increase in the state's average weekly wage, as defined in 39-71-116, factoring in changes in the hospital's medical service charges."

4. Page 11.

**Following:** line 23

**Insert:** "(3) (a) The department may establish by rule evidence-based utilization and treatment guidelines for primary and secondary medical services. There is a rebuttable presumption that the utilization and treatment guidelines established by the department are correct medical treatment for the injured worker.

(b) An insurer is not responsible for treatment or services that do not fall within the utilization and treatment guidelines adopted by the department unless the provider obtains prior authorization from the insurer.

(c) The department may establish by rule an independent medical review process for treatment or services denied by an insurer pursuant to this subsection (3) prior to mediation under 39-71-2401."

**Renumber:** subsequent subsections

5. Page 12.

**Following:** line 14

**Insert:** "(5) For a medical assistance facility or a critical access hospital licensed pursuant to Title 50, chapter 5, the rate for services is the usual and customary charge. Fees paid to a licensed medical assistance facility or critical access hospital are not subject to the limitation provided in subsection (6)."

**Renumber:** subsequent subsections

6. Page 12, line 24.

**Strike:** "(7)"

**Insert:** "(9)"

7. Page 12, line 30.

**Strike:** "(7)(a)"

**Insert:** "(9)(a)"

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8. Page 14, lines 18 through 20.

**Following:** "exceed the" on line 18

**Strike:** "prevailing" on line 18 through "the" on line 20

**Insert:** "hourly mean wage by area for home health aides, as published by the department in the most recent edition of the Montana Informational Wage Rates by Occupation and adopted annually by the department prior to January 1. The"

**Following:** "day" on line 20

**Insert:** "at the rate in effect at the time that the services are rendered"

9. Page 16, line 15.

**Following:** ".\_"

**Insert:** "Pursuant to 33-28-205, a captive reciprocal insurer may not be a member of an insurance guaranty association or guaranty fund."

10. Page 18, line 17.

**Following:** "(1)"

**Strike:** "A"

**Insert:** "Except as provided in subsection (7), a"

11. Page 19.

**Following:** "line 20"

**Insert:** "(7) A captive reciprocal insurer specified in 39-71-2201 is not subject to this section."

12. Page 19.

**Following:** line 25

**Insert:** "NEW SECTION. **Section 18. Effective date.** [This act] is effective July 1, 2007."

And, as amended, do pass. Report adopted.

**SB 161**, introduced bill, be amended as follows:

1. Title, line 11.

**Following:** "FOR"

**Insert:** "CAPTIVE"

2. Page 2.

**Following:** line 21

**Insert:** "(10) "Captive risk retention group" means a captive insurance risk retention group formed under the laws of this chapter and pursuant to Title 33, chapter 11."

**Renumber:** subsequent subsections

3. Page 2, line 28.

**Following:** "existing"

**Insert:** ", controlling"

4. Page 3, line 20.

**Following:** "is a"

**Insert:** "captive"

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5. Page 4, line 21 through line 22.

**Strike:** subsection (26) in its entirety

**Renumber:** subsequent subsections

6. Page 6, line 24 through line 25.

**Following:** "process"

**Strike:** "and" on line 24 through "state" on line 25

7. Page 12, line 5.

**Following:** "captive"

**Strike:** "insurance company formed as a"

8. Page 13, line 11.

**Following:** "excluding"

**Insert:** "captive"

9. Page 13, line 29.

**Strike:** "Risk"

**Insert:** "Captive risk"

10. Page 13, line 30.

**Following:** "a"

**Insert:** "captive"

11. Page 15, line 2.

**Strike:** "Risk"

**Insert:** "Captive risk"

12. Page 17, line 1.

**Following:** "a"

**Insert:** "captive"

13. Page 17, line 22.

**Following:** "redomestications,"

**Insert:** "captive"

And, as amended, do pass. Report adopted.

**SB 296**, introduced bill, be amended as follows:

1. Title, line 7.

**Strike:** "IMMEDIATE"

2. Page 2, line 22.

**Following:** "(b)"

**Insert:** "(i)"

3. Page 2.

**Following:** line 24

**Insert:** "(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license

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that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser."

4. Page 6, line 11.

**Strike:** "on passage and approval"

**Insert:** "July 1, 2007"

And, as amended, do pass. Report adopted.

**EDUCATION AND CULTURAL RESOURCES** (Ryan, Chairman): 1/30/2007  
**SB 56**, do pass. Report adopted.

**FINANCE AND CLAIMS** (Schmidt, Chairman): 1/30/2007  
**SB 4**, introduced bill, be amended as follows:

1. Page 1, line 14.

**Strike:** "collected"

**Insert:** "credited to the department"

2. Page 1, lines 18 and 19.

**Following:** "(b)"

**Strike:** remainder of lines 18 and 19

**Insert:** "reimburse applicable funds to the federal government."

3. Page 1, line 20.

**Insert:** "(4) The unreserved, unexpended balance of the funds collected under this section must be deposited in the general fund by the close of the fiscal year."

And, as amended, do pass. Report adopted.

**NATURAL RESOURCES AND ENERGY** (Lind, Chairman): 1/30/2007  
**SB 248**, do pass. Report adopted.

**STATE ADMINISTRATION** (Squires, Chairman): 1/30/2007  
**SB 11**, introduced bill, be amended as follows:

1. Page 2, line 15.

**Following:** "board"

**Insert:** ":

(i) for an employee described in subsection (1)(d), within 300 days of the commencement of the employee's employment; and

(ii) for an employee or elected official described in subsection (1)(a), (1)(b), (1)(c), (1)(e), or (1)(f),"

And, as amended, do pass. Report adopted.

**SB 113**, introduced bill, be amended as follows:

1. Page 1, line 20.

**Strike:** "standard"

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**Insert:** "minimum"

**Following:** "part 301-11,"

**Insert:** "rounded to the nearest dollar"

And, as amended, do pass. Report adopted.

**SB 136**, do pass. Report adopted.

**SB 172**, do pass. Report adopted.

**SB 177**, do pass. Report adopted.

**SB 181**, do pass. Report adopted.

**SB 235**, introduced bill, be amended as follows:

1. Title, line 5.

**Following:** "MADISON,"

**Insert:** "POWELL,"

2. Page 1, line 15.

**Following:** "Madison,"

**Insert:** "Powell,"

3. Page 1, line 18.

**Following:** "Madison,"

**Insert:** "Powell,"

4. Page 1, line 19.

**Strike:** "five"

**Insert:** "six"

5. Page 2, line 5.

**Following:** "home"

**Insert:** "in southwestern Montana"

And, as amended, do pass. Report adopted.

**SB 239**, do pass. Report adopted.

**TAXATION** (Elliott, Chairman):

**SB 215**, do pass. Report adopted.

**SB 233**, introduced bill, be amended as follows:

1. Page 3, line 15.

**Strike:** "registered voters"

**Insert:** "taxable value"

And, as amended, do pass. Report adopted.

**SB 275**, introduced bill, be amended as follows:

1. Title, line 6.

**Strike:** "PRECLUDING" through "GAMBLING;"

1/30/2007

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2. Title, line 10.

**Following:** "DISCONTINUED;"

**Insert:** "ALLOWING CONTINUED ESTABLISHMENT OF RESORT AREAS FOR IMPOSITION OF THE RESORT TAX;"

3. Page 1, line 20 through line 26.

**Strike:** "the" on line 20 through "'Taxable" on line 25

**Insert:** "'taxable"

**Strike:** "any gift" on line 25 through "limited to" on line 26

4. Page 1, line 27.

**Strike:** "(i)"

**Insert:** "(1)"

**Renumber:** subsequent subsections

5. Page 1, line 28.

**Following:** "out;"

**Insert:** "and"

6. Page 1, line 29 through page 2, line 21.

**Strike:** ";" on page 1, line 29 through "life" on page 2, line 21

7. Page 3, line 24.

**Following:** "special"

**Insert:** "mail ballot"

8. Page 7, line 13.

**Following:** "tax."

**Insert:** "If a resort area is established, a county local option sales tax may not be imposed within the resort area. If a county imposes a local option sales tax at the time that the resort area is established, the county local option sales tax may not be imposed within the resort area."

9. Page 8, line 3.

**Strike:** "has" through "act["

**Insert:** "(a) is an unincorporated area and is a defined contiguous geographic area;

(b) has a population of less than 2,500 according to the most recent federal census or federal estimate;

(c) derives the major portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the area for purposes not related to their income production; and

(d) has been designated by the department of commerce as a resort area prior to its establishment by the county commissioners as provided in 7-6-1508."

And, as amended, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

**House bills** passed and transmitted to the Senate for concurrence:

1/31/2007

**HB 82**, introduced by Parker

**House bill** passed and transmitted to the Senate for concurrence:

1/30/2007

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**HB 132**, introduced by Sesso

**House bill** passed and transmitted to the Senate for concurrence: 1/30/2007

**HB 156**, introduced by Franklin

**House bill** passed and transmitted to the Senate for concurrence: 1/30/2007

**HB 209**, introduced by K. Peterson

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 384**, introduced by Wanzenried, referred to Highways and Transportation.

**SB 385**, introduced by Cobb, referred to Judiciary.

**SB 386**, introduced by Shockley, referred to Highways and Transportation.

**SB 387**, introduced by Squires, Henry, referred to Public Health, Welfare and Safety.

**SB 388**, introduced by Lind, referred to Business, Labor, and Economic Affairs.

**SB 389**, introduced by Shockley, referred to Judiciary.

**SB 390**, introduced by Juneau, Bixby, Kaufmann, Campbell, Erickson, Hamilton, Augare, Sands, Pease, Ankney, Essmann, Nooney referred to Education and Cultural Resources.

**SB 391**, introduced by Weinberg, referred to Natural Resources and Energy.

**SB 392**, introduced by O'Neil, Everett, Jackson, Thomas, Gebhardt, Curtiss, Balyeat, referred to Judiciary.

**SB 393**, introduced by Gillan, referred to Judiciary.

**SB 394**, introduced by Squires, referred to Public Health, Welfare and Safety.

**SB 395**, introduced by O'Neil, Rice, Jore, Cordier, Wells, Bixby, Windy Boy, referred to Judiciary.

**SB 396**, introduced by Laible, referred to Education and Cultural Resources.

**SB 397**, introduced by Gillan, referred to Public Health, Welfare and Safety.

The following Senate joint resolutions were introduced, read first time, and referred to committee:

**SJR 7**, introduced by Lind, Schmidt, referred to Public Health, Welfare and Safety.

**SJR 8**, introduced by Gillan, referred to Public Health, Welfare and Safety.

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

**HB 82**, introduced by Parker, referred to Judiciary.

**HB 132**, introduced by Sesso, referred to State Administration.

**HB 156**, introduced by Franklin, referred to Business, Labor, and Economic Affairs.

**HB 209**, introduced by K. Peterson, referred to State Administration.

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

Senator Williams moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hawks in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading,



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recommend as follows:

**HB 41** - Senator Kaufmann moved **HB 41** be concurred in. Motion carried with Senator Barkus, McGee voting nay.

**SB 214** - Senator Lewis moved **SB 214** do pass. Motion carried unanimously.

**SB 4** - Senator Harrington moved consideration of **SB 4** be passed for the day. Motion carried unanimously.

**SJ 2** - Senator Smith moved **SJ 2** do pass. Motion carried unanimously.

**SB 282** - Senator Lind moved **SB 282** do pass. Motion carried unanimously.

**SB 243** - Senator Balyeat moved consideration of **SB 243** be passed for the day. Motion carried unanimously.

**SB 143** - Senator Shockley moved **SB 143** do pass. Motion carried unanimously.

**SB 227** - Senator Laslovich moved **SB 227** do pass. Motion carried unanimously.

**SB 25** - Senator Larson moved **SB 25** do pass. Motion carried unanimously.

**SB 32** - Senator Schmidt moved **SB 32** do pass. Motion carried unanimously.

**SB 67** - Senator Wanzenried moved **SB 67** do pass. Motion carried as follows:

Yeas: Cocchiarella, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Ryan, Smith, Squires, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 25

Nays: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, O'Neil, Perry, Peterson, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 23

Absent or not voting: None.

Total 0

Excused: Cobb, Schmidt.

Total 2

**SB 249** - Senator Barkus moved **SB 249** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Jackson, Jent, Laible, Laslovich, Lewis, Moss, Murphy, O'Neil, Perry, Peterson, Shockley, Stapleton, Steinbeisser, Story, Tash, Williams, Mr. President.

Total 27

Nays: Cocchiarella, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Juneau, Kaufmann, Kitzenberg, Larson, Lind, McGee, Pease, Ryan, Smith, Squires, J.Tropila, M.Tropila, Wanzenried, Weinberg.

Total 21

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Absent or not voting: None.  
Total 0

Excused: Cobb, Schmidt.  
Total 2

**SB 89** - Consideration of **SB 89** was passed for the day.

**SB 81** - Senator Williams moved consideration of **SB 81** be passed for the day. Motion carried.

Senator Williams moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Cooney in the chair. Chairman Hawks moved the Committee of the Whole report be adopted. Report adopted unanimously.

**THIRD READING OF BILLS**

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

**SB 12** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Cobb, Schmidt.  
Total 2

**HB 10** concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

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Excused: Cobb, Schmidt.  
Total 2

**HB 42** concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Cobb, Schmidt.  
Total 2

**SB 251** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Cobb, Schmidt.  
Total 2

**SB 10** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 48

Nays: None.  
Total 0

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Absent or not voting: None.  
Total 0

Excused: Cobb, Schmidt.  
Total 2

**SB 101** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Cobb, Schmidt.  
Total 2

**SB 175** passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.  
Total 48

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Cobb, Schmidt.  
Total 2

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Williams moved that the Senate adjourn until 1 p.m., Wednesday, January 31, 2007. Motion carried.

Senate adjourned at 3:27 p.m.

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JOHN MUDD  
Secretary of the Senate

MIKE COONEY  
President of the Senate