

**SENATE JOURNAL
60TH LEGISLATURE
TWENTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
February 7, 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. Quorum present.

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, 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 46

Nays: Balyeat, Jackson, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 2/7/2007
SB 384, do pass. Report adopted.
SB 386, do pass. Report adopted.
HJR 3, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Weinberg, Chairman): 2/7/2007
SB 140, introduced bill, be amended as follows:

1. Title, page 1, line 13.

Following: "COVERAGE;"

Insert: "DEDICATING SPECIFIC APPROPRIATION FUNDS;"

2. Page 4, line 5.

Following: "(a)"

Insert: "(a)"

3. Page 4.

Following: line 10

Insert: "(b) The term includes small employers who obtain group health insurance coverage through a qualified association health plan."

4. Page 4.

Following: line 26

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Insert: "(10) "Qualified association health plan" means a plan established by an association whose members consist of employers who sponsor group health plans for their employees and purchase that coverage through an association that qualifies as a bona fide association, as defined in 33-22-1803, or non-bona fide, as provided for in administrative rule. A qualified association health plan is subject to applicable employer group health insurance law and must receive approval from the commissioner to operate as a qualified association health plan for the purposes of this part."

Renumber: subsequent subsections

5. Page 5, line 12.

Following: "assistance payments"

Insert: "unless that employer group no longer meets eligibility requirements"

6. Page 5, lines 21 and 22.

Strike: "adopt" on line 21 through "₂" on line 22

7. Page 6, line 2.

Following: "operating plan"

Insert: ", implement a wellness benefit, and offer cafeteria plan assistance, as provided for in 26 U.S.C. 125,"

8. Page 6, line 3.

Strike: "90%"

Insert: "95%"

9. Page 6, line 16.

Following: "33-22-1811"

Insert: ", except to the extent that administrative rules allow sole proprietors to participate in the purchasing pool"

10. Page 7, line 2.

Strike: "90%"

Insert: "95%"

11. Page 7, line 2.

Following: "payments"

Insert: ", the wellness benefit, and the cafeteria plan expenses"

12. Page 7.

Following: line 3

Insert: "(g) request that funds be transferred from the funds appropriated for tax credits to the funds appropriated for premium incentive payments and premium assistance payments if the number of eligible small employers seeking tax credits is insufficient to exhaust at least 95% of the funds appropriated for tax credits;"

Renumber: subsequent subsections

13. Page 7, line 30.

Following: "~~plans,~~"

Insert: "the approval of qualified association health plans,"

14. Page 8, line 19.

Strike: "and"

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15. Page 8.

Following: line 23

Insert: "(11) approve or disapprove associations as qualified if their members consist of employers who sponsor group health plan coverage for their employees and purchase that coverage through an association that qualifies as a bona fide association, as defined in 33-22-1803, or non-bona fide, as provided for in administrative rule. A qualified association health plan is subject to applicable employer group health insurance law."

Renumber: subsequent subsections

16. Page 8, line 28.

Following: "(1)"

Strike: "An"

Insert: "Subject to subsection (2), an"

17. Page 9.

Following: line 13

Insert: "(2) An employer may not receive a premium incentive payment, a premium assistance payment, or a tax credit for the premium of any of the following individuals or the individual's dependents if the individual's gross income in the prior tax year exceeds \$75,000:

- (a) a sole proprietor of a sole proprietorship that is the employer;
- (b) a partner of a partnership that is the employer;
- (c) a shareholder of a corporation that is the employer;
- (d) a member or manager of a limited liability company that is the employer; or
- (e) the trustee of a trust that is the employer."

Renumber: subsequent subsections

18. Page 9, line 23.

Strike: "(4)"

Insert: "(5)"

19. Page 12, line 11.

Strike: first "or"

Insert: "instead of"

20. Page 12, line 15.

Following: "(2)"

Insert: "(a)"

21. Page 12, line 17.

Following: "credit."

Insert: "(b)(i)"

22. Page 12.

Following: "health plan." on line 21.

Insert: "(ii) Sixty percent of any additional funds up to \$1 million appropriated to this program from the special revenue account that is an increase over the prior biennium must be dedicated to provide and maintain premium incentive payments and premium assistance payments for employers who have not sponsored group health plans in the previous 2 years and who choose to join the purchasing pool as provided in 53-6-1201(3)(e).

(iii) Forty percent of any additional funds up to \$1 million appropriated to this program from the special

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revenue account that is an increase over the prior biennium must be dedicated to provide and maintain tax credits, as provided in 53-6-1201(3)(d), for employers who have not sponsored group health plans in the previous 2 years and who choose to join a qualified association health plan.

(c)"

23. Page 12.

Following: line 23

Insert: "(d) Funding may be transferred from the allocated fund for tax credits to the allocated fund for premium incentive payments and premium assistance payments if the board requests the transfer as provided in 33-22-2004 and the commissioner approves the request."

24. Page 13, line 18.

Following: "coverage"

Insert: "coverage"

25. Page 13, line 23.

Following: "(5)"

Insert: "(a)"

26. Page 13.

Following: line 24

Insert: "(b) Small employer participants in the purchasing pool who no longer meet eligibility requirements because of statutory changes must be allowed to remain in the purchasing pool, but premium incentive payments and premium assistance payments will be discontinued beginning in January following a loss of eligibility status triggered by reregistration in October.

(c) Small employer participants who currently receive a tax credit but no longer meet eligibility requirements because of statutory changes will lose eligibility to claim a tax credit beginning in January following a loss of eligibility status triggered by reregistration in October."

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

2/7/2007

SB 64, introduced bill, be amended as follows:

1. Page 2, line 22.

Strike: "Permanent"

Insert: "Except for persons employed by the university system, permanent"

And, as amended, do pass. Report adopted.

SB 98, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Following: ";

Insert: "PROVIDING OPTIONS FOR APPOINTING LEGISLATORS TO A COMMITTEE, SUBCOMMITTEE, COUNCIL, COMMISSION, TASK FORCE, OR SIMILAR GROUP;"

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2. Page 1.

Following: line 24

Insert: "NEW SECTION. Section 2. Appointments. (1)(a) Whenever the senate president, speaker of the house, majority leader, or other officer of the senate or house of representatives or the senate committee on committees is required or authorized to appoint more than one legislative member of the majority party to a committee, subcommittee, council, commission, task force, or similar group, the senate president, speaker of the house, majority leader, or other officer or the senate committee on committees may appoint a member of a party other than the majority party instead of a member of the majority party.

(b) Whenever the senate president, speaker of the house, majority leader, or other officer of the senate or house of representatives or the senate committee on committees is required or authorized to appoint more than one legislative member of the minority party to a committee, subcommittee, council, commission, task force, or similar group, the senate president, speaker of the house, majority leader, or other officer or the senate committee on committees may, if requested by the minority leader, appoint a member of a party other than the minority or majority party instead of a member of the minority party.

(2)(a) Whenever an elected state official, as defined in 5-7-102, is required or authorized to appoint more than one legislative member of the majority party to a committee, subcommittee, council, commission, task force, or similar group, the elected state official may, if requested by the senate president for a senate appointee or if requested by the speaker of the house for a house appointee, appoint a member of a party other than the majority party instead of a member of the majority party.

(b) Whenever an elected state official, as defined in 5-7-102, is required or authorized to appoint more than one legislative member of the minority party to a committee, subcommittee, council, commission, task force, or similar group, the elected state official may, if requested by the senate minority leader for a senate appointee or if requested by the house minority leader for a house appointee, appoint a member of a party other than the minority or majority party instead of a member of the minority party.

(3) If a vacancy occurs in the membership of a committee, subcommittee, council, commission, task force, or similar group because of the resignation or disqualification of a member appointed under the provisions of subsection (1) or (2), the appointing authority authorized or required to make an appointment to fill the vacancy is subject to the provisions of subsections (1) and (2).

(4) If an individual appointed under subsection (1) or (2) to a committee, subcommittee, council, commission, task force, or similar group is not a member of either the majority party or minority party and resigns from or is otherwise disqualified from serving on the committee, subcommittee, council, commission, task force, or similar group, the appointing authority shall fill the vacancy under the provisions of subsection (1) or (2) as if the appointment were an initial appointment, and the appointing authority is not required to fill the vacancy with an individual who is a member of the same party of which the individual whose resignation or disqualification caused the vacancy."

Renumber: subsequent sections

3. Page 1, line 27.

Strike: "The"

Insert: "Subject to [section 2], the"

4. Page 7, line 4.

Following: "to"

Insert: "[section 2] and"

Following: "(5)(b)"

Insert: "of this section"

5. Page 7, line 28.

Following: "and"

Insert: ", subject to [section 2],"

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6. Page 8, line 1.

Following: "and"

Insert: ", subject to [section 2],"

7. Page 9, line 3.

Following: "committees"

Insert: ", subject to [section 2]"

8. Page 9, line 6.

Following: "speaker"

Insert: ", subject to [section 2]"

9. Page 9, line 15.

Strike: "Three"

Insert: "Subject to [section 2], three"

10. Page 10, line 4.

Strike: "Three"

Insert: "Subject to [section 2], three"

11. Page 13, line 24.

Following: "instruction."

Insert: "(1)"

12. Page 13.

Following: line 25

Insert: "(2) [Section 2] is intended to be codified as an integral part of Title 5, chapter 5, part 2, and the provisions of Title 5, chapter 5, part 2, apply to [section 2]."

And, as amended, do pass. Report adopted.

SB 117, do pass. Report adopted.

SB 168, do pass. Report adopted.

SB 173, do pass. Report adopted.

SB 213, introduced bill, be amended as follows:

1. Title, line 4 through line 6.

Strike: "BOARD" on line 4 through "PROGRAM" on line 6

Insert: "VALUATION OF THE TRUST LAND OFFERED FOR SALE THROUGH THE LAND BANKING PROGRAM MAY NOT REFLECT A REDUCTION IN VALUE DUE TO LACK OF LEGAL ACCESS"

2. Title, line 7.

Following: "DETERMINED BY A"

Strike: "LICENSED AND CERTIFIED"

Insert: "MONTANA-LICENSED AND MONTANA-CERTIFIED"

3. Title, line 8.

Following: "SECTIONS"

Insert: "77-2-213,"

Following: "77-2-363"

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Insert: ", "

4. Page 1, line 11.

Insert: "**Section 1.** Section 77-2-213, MCA, is amended to read:

"77-2-213. Department to investigate. (1) When a proposal for an exchange pursuant to 77-2-211 is made and the owners of the respective tracts involved seem agreeable to negotiate ~~such~~ exchanges, the proposal ~~shall~~ must be referred to the department and the department shall thoroughly investigate all the lands involved in the proposal, ~~and~~ estimate the value of all of the lands, and consider every factor in connection with the proposal ~~as~~ that may affect the public interest.

(2) The estimated fair market value must be determined by a Montana-licensed and Montana-certified appraiser. The valuation of the trust land offered for exchange may not reflect a reduction in value due to lack of legal access."

Renumber: subsequent sections

5. Page 1, line 18 through line 19.

Strike: "The board shall" on line 18 through "program." on line 19

6. Page 1, line 20.

Strike: "licensed and certified"

Insert: "Montana-licensed and Montana-certified"

7. Page 1, line 20.

Following: "appraiser."

Insert: "The valuation of the trust land offered for sale may not reflect a reduction in value due to lack of legal access."

8. Page 2, line 18 through line 19.

Strike: "The board shall" on line 18 through "program." on line 19

9. Page 2, line 20.

Following: "determined by a"

Strike: "licensed and certified"

Insert: "Montana-licensed and Montana-certified"

Following: "appraiser."

Insert: "The valuation of the trust land offered for sale may not reflect a reduction in value due to lack of legal access."

And, as amended, do pass. Report adopted.

SB 269, do pass. Report adopted.

SB 290, do pass. Report adopted.

SB 308, do pass. Report adopted.

MOTIONS

SEN. DANIEL MCGEE, SD 29, LAUREL re-referred **SB 215** to Judiciary Committee. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

- SB 432**, introduced by Brueggeman, referred to Natural Resources and Energy.
- SB 433**, introduced by Laslovich, referred to Judiciary.
- SB 434**, introduced by Cocchiarella, Arntzen, Hawks, Tash, Bales, Bergren, Schmidt, McGillvray, Perry, Lake, referred to Business, Labor, and Economic Affairs.
- SB 435**, introduced by Jackson, referred to Judiciary.
- SB 436**, introduced by Gebhardt, referred to Taxation.
- SB 437**, introduced by Elliott, referred to State Administration.
- SB 438**, introduced by Elliott, referred to Local Government.

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

- SJR 3**, introduced by Squires, referred to State Administration.
- SJR 4**, introduced by Squires, referred to State Administration.
- SJR 5**, introduced by Squires, referred to State Administration.

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

- HB 90**, introduced by MacLaren, referred to Finance and Claims.
- HB 139**, introduced by Branae, referred to Finance and Claims.
- HB 167**, introduced by Hands, referred to Natural Resources and Energy.
- HB 369**, introduced by Pomnichowski, referred to Local Government.
- HB 409**, introduced by Sinrud, referred to Business, Labor, and Economic Affairs.

The following House joint resolution was introduced, read first time, and referred to committee:

- HJR 6**, introduced by Phillips, referred to Agriculture, Livestock and Irrigation.

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

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

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

- SB 322** - Senator Brueggeman moved **SB 322** do pass. Motion carried unanimously.
- SB 324** - Senator Jackson moved **SB 324** do pass. Motion carried unanimously.
- SB 370** - Senator Tash moved **SB 370** do pass. Motion carried unanimously.
- SJR 3** - Senator Weinberg moved **SJR 3** be adopted. Motion carried with Senator McGee, Esp voting nay.
- SB 272** - Senator O'Neil moved **SB 272** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gallus,

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Gebhardt, Hansen, Hawks, Jackson, Jent, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, Weinberg, Williams.

Total 38

Nays: Brown, Elliott, Gillan, Juneau, Lind, McGee, Moss, Smith, M.Tropila, Wanzenried, Mr. President.

Total 11

Absent or not voting: Harrington.

Total 1

Excused: None.

Total 0

SB 121 - Senator Elliott moved **SB 121** be passed for consideration for the day. Motion carried unanimously,

SJR 4 - Senator Curtiss moved **SJR 4** be adopted. Motion carried unanimously.

SB 127 - Senator Wanzenried moved **SB 127** do pass. Motion carried with Senator McGee voting nay.

SB 266 - Senator Shockley moved **SB 266** do pass. Motion carried with Senator Smith, Moss, Juneau voting nay.

SB 278 - Senator Gillan moved **SB 278** do pass. Motion carried as follows:

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

Total 28

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

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Williams moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Cooney in the chair. Chairman Jent 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 233 passed as follows:

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus,

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Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 48

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 316 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, 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, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 244 passed as follows:

Yeas: Cobb, Cocchiarella, Elliott, Esp, Essmann, Gallus, Gillan, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Murphy, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Curtiss, Gebhardt, Hansen, McGee, O'Neil, Peterson, Stapleton, Steinbeisser, Story.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 315 passed as follows:

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Yeas: Bales, Black, Brown, Brueggeman, Cobb, Cocchiarella, Elliott, Esp, Essmann, Gallus, Gebhardt, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Peterson, Ryan, Smith, Squires, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 38

Nays: Balyeat, Barkus, Curtiss, Gillan, Jackson, Murphy, O'Neil, Perry, Schmidt, Shockley, Stapleton, Steinbeisser.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 108 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, 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, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 165 passed as follows:

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

Total 44

Nays: Balyeat, Esp, Gebhardt, Laible, McGee, O'Neil.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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MOTIONS

SEN. TRUDI SCHMIDT, SD 11, GREAT FALLS re-referred **SB 127** to Finance and Claims. Motion carried.

UNFINISHED BUSINESS

SEN. CAROL WILLIAMS, SD 46, MISSOULA reminded the body of transmittal break dates noting concern for time lines dealing with **HB 2**. Senator Williams asked **SEN. COREY STAPLETON, SD 27, BILLINGS** if he knew the status of **HB 2**. Senator Stapleton commented that conversations were taking place, however, he didn't know what would happen with the bill. Senator Williams stressed the importance of efficiency in dealing with the budget.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Williams moved that the Senate adjourn until 1 p.m., Thursday, February 8, 2007. Motion carried.

Senate adjourned at 3:01 p.m.

JOHN MUDD
Secretary of the Senate

MIKE COONEY
President of the Senate