

**SENATE JOURNAL
60TH LEGISLATURE
FORTY-NINTH LEGISLATIVE DAY**

Helena, Montana
March 8, 2007

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Cooney presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. Senators Elliott and Tash excused. Quorum present.

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, 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, J. Tropila, M. Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 42

Nays: Balyeat, Esp, Gebhardt, Jackson, O'Neil, Shockley.

Total 6

Absent or not voting: None.

Total 0

Excused: Elliott, Tash.

Total 2

REPORTS OF STANDING COMMITTEES

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

3/8/2007

HB 111, be amended as follows:

1. Title, line 8.

Following: "APPEALS;"

Insert: "RELIEVING CERTAIN EMPLOYERS OF BENEFIT CHARGES ASSOCIATED WITH REHIRING RETURNING MILITARY PERSONNEL;"

2. Title, line 11.

Following: "39-51-1109,"

Insert: "39-51-1214,"

3. Page 4.

Following: line 11

Insert: "(iv) a physical therapist under Title 37, chapter 11;"

Renumber: subsequent subsections

4. Page 16.

Following: line 8

Insert: "**Section 10.** Section 39-51-1214, MCA, is amended to read:

"39-51-1214. Benefit payments chargeable to employer experience rating accounts. (1) Except for cost

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reimbursement, benefits paid must be charged to the account of each of the claimant's base period employers. The benefit charged must be based on the percentage of wages paid by the employer as compared to the total wages paid by all employers in the claimant's base period.

(2) A charge may not be made to the account of a covered employer with respect to benefits paid under the following situations:

(a) if paid to a worker who terminated services voluntarily without good cause attributable to a covered employer or who had been discharged for misconduct in connection with services;

(b) if paid in accordance with the extended benefit program triggered by either national or state indicators;

(c) if the base period employer continues to provide employment with no reduction in hours or wages;

(d) if benefits are paid to claimants who are in training approved under 39-51-2307; ~~or~~

(e) if the base period employer is ordered to military service, as defined in 10-1-1003; or

(f) if benefits are paid to an employee laid off as the result of the return to work of a permanent employee who:

(i) was called to military service, as defined in 10-1-1003; and

(ii) had completed 4 or more weeks of military service and exercised reemployment rights under Title 10, chapter 1, part 10."

5. Page 21, lines 15 and 16.

Following: "dates." on line 15

Insert: "(1) [Sections 10, 16, and 17 and this section] are effective July 1, 2007."

Renumber: subsequent subsections

Following: "7," on line 15

Strike: "and"

Following: "9" on line 15

Insert: ", and 11"

Strike: "16" on line 15 through "section" on line 16

Insert: "15"

And, as amended, be concurred in. Report adopted.

HB 158, be concurred in. Report adopted.

JUDICIARY (Laslovich, Chairman):

3/7/2007

SB 128, do pass. Report adopted.

SB 402, do pass. Report adopted.

NATURAL RESOURCES AND ENERGY (Lind, Chairman):

3/7/2007

HB 94, be concurred in. Report adopted.

HB 167, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

3/7/2007

SB 18, do pass. Report adopted.

HB 43, be concurred in. Report adopted.

HB 46, be concurred in. Report adopted.

HB 48, be concurred in. Report adopted.

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MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence: 3/7/2007
HB 57, introduced by Franklin

House bill passed and transmitted to the Senate for concurrence: 3/7/2007
HB 583, introduced by Jopek

House joint resolution passed and transmitted to the Senate for concurrence: 3/7/2007
HJR 22, introduced by W. Jones

House joint resolution passed and transmitted to the Senate for concurrence: 3/7/2007
HJR 33, introduced by Thomas

House joint resolution passed and transmitted to the Senate for concurrence: 3/7/2007
HJR 39, introduced by Erickson

SB 15 concurred in and returned to the Senate: 3/7/2007
SB 15, introduced by J. Tropila

HB 333, introduced by McChesney and **Transmitted** to the **Senate** for Consideration of the Governor's Proposed Amendments. 3/7/2007

MOTIONS

SEN. TRUDI SCHMIDT, SD 11, GREAT FALLS moved to refer **HB 22** to Finance and Claims Committee.
Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

HB 97, introduced by Barrett, referred to State Administration.
HB 98, introduced by Franklin, referred to Public Health, Welfare and Safety.
HB 113, introduced by McChesney, referred to Business, Labor, and Economic Affairs.
HB 176, introduced by Wilmer, referred to Agriculture, Livestock and Irrigation.
HB 205, introduced by Everett, referred to Natural Resources and Energy.
HB 259, introduced by Reinhart, referred to Natural Resources and Energy.
HB 332, introduced by Thomas, referred to Highways and Transportation.
HB 364, introduced by Malcolm, referred to Fish and Game.
HB 372, introduced by Ingraham, referred to State Administration.
HB 378, introduced by Windy Boy, referred to Business, Labor, and Economic Affairs.
HB 383, introduced by Kerns, referred to Natural Resources and Energy.
HB 400, introduced by Villa, referred to Local Government.

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HB 440, introduced by Barrett, referred to Fish and Game.
HB 442, introduced by Phillips, referred to Finance and Claims.
HB 452, introduced by Kottel, referred to Judiciary.
HB 455, introduced by Stoker, referred to Judiciary.
HB 456, introduced by McNutt, referred to Local Government.
HB 460, introduced by Keane, referred to Natural Resources and Energy.
HB 464, introduced by K. Peterson, referred to Judiciary.
HB 491, introduced by Sinrud, referred to Judiciary.
HB 492, introduced by Himmelberger, referred to Taxation.
HB 514, introduced by Caferro, referred to Judiciary.
HB 524, introduced by Hamilton, referred to Local Government.
HB 537, introduced by Ripley, referred to Business, Labor, and Economic Affairs.
HB 555, introduced by Grinde, referred to Natural Resources and Energy.
HB 559, introduced by Heinert, referred to Taxation.
HB 570, introduced by Cohenour, referred to State Administration.
HB 587, introduced by Himmelberger, referred to Judiciary.
HB 596, introduced by Sands, referred to Local Government.
HB 609, introduced by Hamilton, referred to Education and Cultural Resources.
HB 618, introduced by Sinrud, referred to Finance and Claims.
HB 623, introduced by Olson, referred to Taxation.
HB 634, introduced by Van Dyk, referred to Finance and Claims.
HB 636, introduced by Bixby, referred to Judiciary.
HB 641, introduced by Musgrove, referred to Judiciary.
HB 657, introduced by Ebinger, referred to Judiciary.
HB 662, introduced by Villa, referred to Local Government.
HB 668, introduced by Stahl, referred to Business, Labor, and Economic Affairs.
HB 681, introduced by Driscoll, referred to Natural Resources and Energy.
HB 683, introduced by Reinhart, referred to Judiciary.
HB 690, introduced by Bergren, referred to State Administration.
HB 724, introduced by Furey, referred to Business, Labor, and Economic Affairs.
HB 116, introduced by Ripley, referred to Finance and Claims.
HB 283, introduced by Campbell, referred to Finance and Claims.
HB 412, introduced by Ebinger, referred to Business, Labor, and Economic Affairs.
HB 466, introduced by Jore, referred to Judiciary.
HB 531, introduced by Lambert, referred to Highways and Transportation.
HB 608, introduced by Olson, referred to Finance and Claims.
HB 617, introduced by Sinrud, referred to Judiciary.
HB 629, introduced by Hamilton, referred to Judiciary.
HB 664, introduced by Keane, referred to Natural Resources and Energy.
HB 679, introduced by Sales, referred to State Administration.
HB 687, introduced by W. Jones, referred to Public Health, Welfare and Safety.
HB 689, introduced by Olson, referred to Natural Resources and Energy.
HB 703, introduced by Ripley, referred to Natural Resources and Energy.
HB 706, introduced by Caferro, referred to State Administration.
HB 713, introduced by McGillvray, referred to Public Health, Welfare and Safety.
HB 715, introduced by Olson, referred to Natural Resources and Energy.
HB 717, introduced by Stahl, referred to Fish and Game.
HB 723, introduced by Arntzen, referred to Judiciary.
HB 727, introduced by Lange, referred to Public Health, Welfare and Safety.

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HB 729, introduced by Raser, referred to State Administration.
HB 738, introduced by Mendenhall, referred to Business, Labor, and Economic Affairs.
HB 739, introduced by Olson, referred to Natural Resources and Energy.
HB 741, introduced by L. Jones, referred to Business, Labor, and Economic Affairs.
HB 742, introduced by Raser, referred to Judiciary.
HB 743, introduced by Clark, referred to Public Health, Welfare and Safety.
HB 744, introduced by Rice, referred to Education and Cultural Resources.
HB 748, introduced by Sonju, referred to Taxation.
HB 755, introduced by Keane, referred to Business, Labor, and Economic Affairs.
HB 756, introduced by L. Jones, referred to Business, Labor, and Economic Affairs.
HB 759, introduced by Hendrick, referred to Fish and Game.
HB 764, introduced by Milburn, referred to Business, Labor, and Economic Affairs.
HB 765, introduced by Olson, referred to State Administration.
HB 770, introduced by Pomnichowski, referred to Business, Labor, and Economic Affairs.
HB 771, introduced by W. Jones, referred to State Administration.
HB 781, introduced by Windy Boy, referred to Judiciary.
HB 785, introduced by Lange, referred to Business, Labor, and Economic Affairs.
HB 786, introduced by Blasdel, referred to Business, Labor, and Economic Affairs.
HB 789, introduced by Campbell, referred to State Administration.
HB 791, introduced by Kasten, referred to Finance and Claims.
HB 803, introduced by Himmelberger, 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 Essmann in the chair.

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

HB 72 - Senator Brown moved **HB 72** be concurred. Motion carried with Senator O'Neil, Balyeat, Shockley voting nay.

HB 115 - Senator Jent moved **HB 115** be concurred. Motion carried unanimously.

HB 127 - Senator Black moved **HB 127** be concurred. Motion carried unanimously.

HB 219 - Senator Hawks moved **HB 219** be concurred. Motion carried unanimously.

HB 22 - Senator Gillan moved **HB 22** be concurred. Motion carried unanimously.

HB 292 - Senator Jent moved **HB 292** be concurred. Motion carried unanimously.

HB 44 - Senator Essmann moved **HB 44** be concurred. Motion carried with Senator M. Tropila, J. Tropila, Ryan voting nay.

HB 419 - Senator Gebhardt moved **HB 419** be concurred. Motion carried unanimously.

Senator Williams moved the committee rise and report. Motion carried. Committee arose. Senate resumed.

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President Cooney in the chair. Chairman Essmann 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:

HB 431 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, 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, Steinbeisser, Story, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Stapleton, Tash.
Total 3

HJR 6 concurred in as follows:

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

Nays: Bales, Balyeat, Barkus, Brown, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, O'Neil, Perry, Peterson, Stapleton, Steinbeisser, Story, Tash.
Total 20

Paired: Elliott, Gallus, Larson, Ayes; Barkus, Stapleton, Tash, Noes.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 122 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, 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, Steinbeisser, Story, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 45

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Nays: Brown, Essmann.
Total 2

Absent or not voting: None.
Total 0

Excused: Elliott, Stapleton, Tash.
Total 3

HB 126 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, 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, Steinbeisser, Story, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Stapleton, Tash.
Total 3

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Williams moved that the Senate adjourn until 1:00 p.m., Friday, March 9, 2007. Motion carried.

Senate adjourned at 2:02 p.m.

JOHN MUDD
Secretary of the Senate

MIKE COONEY
President of the Senate