

**SENATE JOURNAL
60TH LEGISLATURE
SEVENTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
April 10, 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. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Moss, Murphy, Pease, Perry, Peterson, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J. Tropila, M. Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 43

Nays: Balyeat, Gebhardt, Jackson, Lind, McGee, O'Neil, Shockley.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Schmidt, Chairman):
HB 1, be amended as follows:

4/10/2007

1. Page 3, following line 1.

Insert: "Highway Patrol Division

Federal forfeiture 2007 \$257,660 federal

All remaining fiscal year 2007 federal budget amendment authority for the federal forfeiture funds is authorized to continue into state fiscal year 2008.

Division of Criminal Investigation

Federal forfeiture 2007 \$223,750 federal"

2. Page 3, following line 4.

Insert: "Public Service Commission

Public Service Regulation Program

One-call grant 2007 \$7,080 federal

All remaining fiscal year 2007 federal budget amendment authority for the one-call grant is authorized to continue into state fiscal year 2008."

3. Page 3, following line 16.

Insert: "Library Program

Map conservation assessment 2007 \$4,905 federal

Administrative expenses, scholarships, Montana state historical records advisory board 2007 \$9,275 federal

All remaining fiscal year 2007 federal budget amendment authority for the map conservation assessment grant and the Montana state historical records advisory board grant is authorized to continue into state fiscal year 2008."

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4. Page 4, following line 21.

Insert: "Big Hole focus area 2008 \$34,812 federal"

5. Page 5, following line 14.

Insert: "All remaining fiscal year 2008 federal budget amendment authority for the Big Hole focus area grant is authorized to continue into state fiscal year 2009."

6. Page 5, following line 29.

Insert: "Sagebrush grassland focus 2008 \$145,188 federal"

7. Page 6, following line 17.

Insert: "All remaining fiscal year 2008 federal budget amendment authority for the sagebrush grassland focus grant is authorized to continue into state fiscal year 2009."

8. Page 7, following line 8.

Insert: "Libby asbestos grant 2007 \$1,300,000 federal"

9. Page 7, line 10.

Following: "sites"

Insert: "and the Libby asbestos grant"

10. Page 7, line 26.

Strike: "\$32,000"

Insert: "\$67,000"

11. Page 7, following line 27.

Insert: "Big Hole grant 2007 \$25,000 federal"

12. Page 7, line 29.

Following: "IN"

Insert: "the"

Following: "PROGRAM"

Insert: "and the Big Hole grant"

Following: "INTO"

Strike: "STATE"

Insert: "federal"

13. Page 8, following line 8.

Insert: "Natural resources conservation service grant 2007 \$20,000 federal

Northwest region conservation development 2007 \$6,000 federal

Bitterroot technical service 2007 \$6,000 federal

Headwaters technical service 2007 \$6,000 federal"

14. Page 8, line 10.

Following: "GRANT,"

Strike: "AND"

Following: "GRANT"

Insert: ", and the natural resources conservation service grant"

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15. Page 10, following line 16.

Insert: "2005 predisaster mitigation competitive grant 2007 \$3,000,000 federal"

16. Page 10, following line 25.

Insert: "Food stamp bonus grant 2007 \$294,840 federal"

17. Page 11, following line 2.

Insert: "Clinical decisionmaking 2007 \$853,122 federal

All remaining fiscal year 2007 federal budget amendment authority for the clinical decisionmaking grant is authorized to continue into federal fiscal year 2008."

18. Page 11, following line 13.

Insert: "Disability Services Division

All remaining fiscal year 2007 federal budget amendment authority for the general supervision enhancement grant is authorized to continue into federal fiscal year 2007."

19. Page 11, following line 15.

Insert: "Traumatic brain injury grant 2007 \$118,597 federal"

20. Page 11, line 17.

Following: "grant"

Insert: "and the traumatic brain injury grant"

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

HB 3, be amended as follows:

1. Page 1, line 21.

Strike: "\$18,197,300"

Insert: "\$23,379,726"

2. Page 1, following line 21.

Insert: "Administrative Services \$2,666,599 General Fund
Community Corrections \$1,112,839 General Fund
Montana Correctional Enterprises \$65,000 General Fund
Youth Services Division \$1,051,383 General Fund"

3. Page 1, line 25.

Strike: "\$21,500,000"

Insert: "\$25,000,000"

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

HB 592, be amended as follows:

1. Title, page 1, line 4.

Following: "MONEY"

Insert: "TO THE DEPARTMENT OF TRANSPORTATION"

2. Title, page 1, line 5.

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Following: "MEMORIAL"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 1, line 11.

Following: "appropriated"

Insert: "to the department of transportation"

4. Page 1, line 12.

Strike: "general fund"

Insert: "department of transportation state special revenue fund"

Following: "for"

Insert: "the period including"

5. Page 1, following line 13.

Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval."

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

JUDICIARY (Laslovich, Chairman):

4/10/2007

HB 677, be concurred in. Report adopted.

HJR 25, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

4/10/2007

HB 40, be concurred in. Report adopted.

HB 257, be amended as follows:

1. Title, line 8.

Following: "TAXPAYER;"

Insert: "PROVIDING FOR A FEE FOR MONITORING COMPLIANCE WITH THE MONTANA TAXPAYER BILL OF RIGHTS;"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-1-122"

Insert: "AND 15-1-223"

2. Page 2, line 27.

Insert: "**Section 2.** Section 15-1-223, MCA, is amended to read:

"15-1-223. Office of taxpayer assistance. (1) The department of revenue shall establish and maintain an office of taxpayer assistance.

(2) The office shall assist taxpayers by:

(a) providing easily understandable tax information on audits and corrections and review procedures of the department;

(b) providing easily understandable information on appeal procedures;

(c) answering questions regarding preparing and filing of returns and reports with the department; and

(d) locating documents or payments filed with or submitted to the department.

(3) The office of taxpayer assistance shall also:

(a) receive and evaluate complaints related to improper or abusive behavior or inefficient service provided by employees of the department and recommend appropriate action to the director of the department ~~of revenue~~ to resolve the complaints;

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- (b) compile data on the number and type of taxpayer complaints received and evaluate the actions taken to resolve complaints;
 - (c) survey taxpayers to obtain their evaluation of the quality of service provided by the department;
 - (d) monitor the department's compliance with the taxpayer bill of rights and report any abuses to the director of the department;
 - (e) monitor the department's collection activities to:
 - (i) report any abuses in collection activities by the department to the director;
 - (ii) recommend to the director whether a particular collection activity should be stopped if the taxpayer has not had an adequate opportunity to discuss alternative means of payment; and
 - (f) perform any other functions that the director may assign to assist taxpayers in complying with Montana's tax laws.
- (4) The department may charge a fee of \$1 for processing a complaint."

Renumber: subsequent section

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

HB 337, be amended as follows:

1. Title, line 7.

Following: "DISABILITY"

Insert: "INCOME"

2. Title, line 9.

Following: "DISABILITY"

Insert: "INCOME"

3. Title, lines 10 and 11.

Strike: "LIMITING" on line 10 through "FIREFIGHTERS;" on line 11

4. Title, line 12.

Following: line 11

Insert: "AND"

Strike: "AND 39-71-118,"

5. Page 1, line 16.

Following: "Disability"

Insert: "income"

Following: "authorized"

Insert: "-- voted levy -- fund"

Following: "(1)"

Insert: "Disability income insurance, as defined in 33-1-235, purchased for volunteer firefighters must provide that:

(a) payments or benefits are paid only if the firefighter is receiving compensation under workers' compensation for an injury received as a volunteer firefighter; and

(b) the duration of payments or benefits may not exceed the lesser of 1 year or until the workers' compensation treating physician determines that the beneficiary is no longer disabled.

(2)"

Renumber: subsequent subsections

6. Page 1, line 17.

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Following: "DISABILITY"

Insert: "income"

7. Page 1, line 18.

Following: "disability"

Insert: "income"

8. Page 1, line 21.

Following: "disability"

Insert: "income"

Following: "coverage"

Insert: "meeting the provisions of subsection (1)"

9. Page 1, line 28.

Following: "DISABILITY"

Insert: "income"

10. Page 2, line 7.

Following: "DISABILITY"

Insert: "income"

11. Page 2, line 8.

Following: "DISTRICT"

Insert: "as provided in [section 1]"

12. Page 2, line 24.

Following: "DISABILITY"

Insert: "income"

13. Page 3, line 3.

Following: "DISABILITY"

Insert: "income"

14. Page 3, line 4.

Following: "COMPANIES"

Insert: "as provided in [section 1]"

15. Page 3, line 7.

Following: "DISABILITY"

Insert: "income"

16. Page 3, line 15.

Following: "disability"

Insert: "income"

17. Page 3, line 16.

Following: "area"

Insert: "as provided in [section 1]"

18. Page 3, line 23.

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Following: "DISABILITY"

Insert: "income"

19. Page 4, line 8.

Following: "disability"

Insert: "income"

Following: "department"

Insert: "as provided in [section 1]"

20. Page 4, line 13.

Following: "DISABILITY"

Insert: "income"

21. Page 4, line 21.

Following: "DISABILITY"

Insert: "income"

22. Page 4, line 22.

Following: "DEPARTMENTS"

Insert: "as provided in [section 1]"

23. Page 4, line 24 through page 9, line 11.

Strike: section 7 in its entirety

Renumber: subsequent sections

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

HB 490, be concurred in. Report adopted.

HB 680, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

April 5, 2007

The Honorable Scott Sales
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Mike Cooney
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Sales and President Cooney:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 168, "AN ACT REVISING THE MANDATORY CASH PAYMENT FOR VACATION LEAVE UPON TERMINATION; CLARIFYING THE USE OF VACATION LEAVE

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PAYMENTS UPON TERMINATION AS PERMISSIBLE CONTRIBUTIONS FOR A VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION; AMENDING SECTIONS 2-18-601, 2-18-617, AND 2-18-1311, MCA; AND PROVIDING AN EFFECTIVE DATE. My proposed amendment clarifies that for an employee who is a member of a Voluntary Employee's Benefit Association (VEBA) if unused annual leave is a contribution source for their account, upon separation from service the annual leave may only be donated to their account and not paid out in cash.

Senate Bill 168 authorizes the addition of annual leave to a VEBA account. My proposed amendment clarifies that an employee may not receive a cash out of their annual leave and a contribution to their VEBA account upon termination. If an employee is not a member of a VEBA, they will still receive a cash out of their unused leave.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Amendments to Senate Bill No. 168
Reference Copy
Requested by the Governor
For the Senate Committee of the Whole
Prepared by Greg Petesch
August 27, 2008 (3:52pm)

1. Page 3, line 25.

Following: "~~2-18-611~~"

Insert: "if the employee is not subject to subsection (2)(b)"

MOTIONS

SEN. CAROL WILLIAMS, SD 46, MISSOULA moved appointment of a conference committee on **SB 118** appointing Senators Cobb, Wanzenried and Laslovich as the committee. Motion carried unanimously.

SEN. AUBYN CURTISS, SD 1, FORTINE moved **HJR 31** be taken off the table in Natural Resources Committee and put on second reading the 76th Legislative day. Motion **failed** as follows:

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

Total 25

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

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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**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 J. Peterson in the chair.

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

HB 19 - Senator Larson moved **HB 19** be concurred in. Motion carried unanimously.

HB 139 - Senator Brueggeman moved **HB 139** be concurred in. Motion carried unanimously.

HB 540 - Senator Barkus moved **HB 540** be concurred in. Motion carried unanimously.

HB 583 - Senator Wanzenried moved **HB 583** be concurred in. Motion carried as follows:

Yeas: Balyeat, Black, Brown, Brueggeman, Cocchiarella, Curtiss, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Kitzenberg, Laible, Larson, Laslovich, Lind, Moss, Pease, Peterson, Ryan, Schmidt, Smith, Squires, Steinbeisser, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 33

Nays: Bales, Barkus, Esp, Gebhardt, Jackson, Lewis, McGee, Murphy, O'Neil, Perry, Shockley, Story, Tash.
Total 13

Absent or not voting: Juneau, Kaufmann, Stapleton.
Total 3

Excused: Cobb.
Total 1

HB 77 - Senator Esp moved **HB 77** be concurred in. Motion carried unanimously.

HJR 45 - Senator J. Tropila moved **HJR 45** be concurred in. Motion carried as follows:

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

Total 42

Nays: Balyeat, Barkus, Esp, Gebhardt, O'Neil, Shockley.
Total 6

Absent or not voting: Stapleton.
Total 1

Excused: Cobb.
Total 1

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HB 778 - Senator Story moved **HB 778** be concurred in. Motion carried with Senator Barkus, Hawks, Gebhardt, Essmann, O'Neil voting nay.

SB 102 - House Amendments - Senator Lind moved House amendments to **SB 102** be concurred in. Motion carried unanimously.

SB 175 - House Amendments - Senator Squires moved House amendments to **SB 175** be concurred in. Motion carried unanimously.

SB 269 - House Amendments - Senator Larson moved House amendments to **SB 269** be concurred in. Motion carried unanimously.

SB 369 - House Amendments - Senator Smith moved House amendments to **SB 369** be concurred in. Motion carried unanimously.

SB 225 - House Amendments - Senator Moss moved House amendments to **SB 225** be concurred in. Motion carried unanimously.

SB 50 - House Amendments - Senator Gallus moved House amendments to **SB 50** be concurred in. Motion carried unanimously.

SB 95 - House Amendments - Senator Smith moved House amendments to **SB 95** be concurred in. Motion carried unanimously.

SB 145 - House Amendments - Senator Shockley moved House amendments to **SB 145** be concurred in. Motion carried unanimously.

SB 214 - House Amendments - Senator Lewis moved House amendments to **SB 214** be concurred in. Motion carried with Senator Esp voting nay.

SB 289 - House Amendments - Senator Gallus moved House amendments to **SB 289** be concurred in. Motion carried unanimously.

SB 339 - House Amendments - Senator Murphy moved House amendments to **SB 339** be concurred in. Motion carried unanimously.

SB 118 - House Amendments - Senator Cobb moved House amendments to **SB 118** not be concurred in. Motion carried as follows:

Yeas: Bales, Black, Brown, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Pease, Peterson, Schmidt, Smith, Squires, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 36

Nays: Balyeat, Barkus, Esp, Essmann, Gebhardt, Jackson, McGee, Murphy, O'Neil, Perry, Shockley, Stapleton, Steinbeisser.
Total 13

Absent or not voting: Ryan.
Total 1

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Excused: None.
Total 0

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

SPECIAL ORDERS OF THE DAY

SEN. CAROLYN SQUIRES, SD 48, MISSOULA moved **SR 8** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, 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, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.
Total 47

Nays: Cobb, Gebhardt, Jackson.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Williams moved that the Senate adjourn until 9:00 a.m., Wednesday, April 11, 2007. Motion carried.

Senate adjourned at 2:16 p.m.

JOHN MUDD
Secretary of the Senate

MIKE COONEY
President of the Senate