SENATE JOURNAL 61ST LEGISLATURE SEVENTEENTH LEGISLATIVE DAY

Helena, Montana Senate Chambers January 24, 2009 State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

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

BILLS AND JOURNAL (Senator Curtiss, Chairman):

1/24/2009

Correctly printed: SB 34, SB 65, SB 67, SB 68, SB 78, SB 155, SB 161, SB 168, SB 268, SB 269, SB 270, SB 271, SB 272, SB 273, SB 274, SB 275, SB 276, SB 277, SB 278, SB 279, SB 280, SB 281, SJR 16.

Correctly engrossed: SB 121, SB 158, SB 191, SB 209.

REPORTS OF STANDING COMMITTEES

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

1/23/2009

SB 135, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "REGISTERING AND"

2. Title, page 1, line 13.

Strike: the first "AND" Following: "33-22-2008,"

Insert: "AND 53-4-1004,"

3. Page 2, line 7.

Following: "from the"
Insert: "reporting"

Strike: "of this section"

Insert: "under subsection (3)"

4. Page 5, line 13.

Strike: "gross" through "commissions"

Insert: "wages, as defined in 39-71-123"

5. Page 5, line 15 through line 16.

Strike: "gross" on line 15 through "business" on line 16

Insert: "wages, as defined in 39-71-123"

6. Page 5, line 27.

Strike: "medicare or"

Strike: "Titles XVIII and"

Insert: "Title"
Following: "Act"

Strike: ", respectively" through "eligible"

Insert: "may become ineligible"

7. Page 10.

Following: line 18

Insert: "Section 6. Section 53-4-1004, MCA, is amended to read:

"53-4-1004. (Temporary) Eligibility for program -- rulemaking. (1) To be considered eligible for the program, a child:

- (a) must be 18 years of age or younger;
- (b) must have a combined family income at or below 250% of the federal poverty level or at a lower level determined by the department of public health and human services as provided in subsection (4);
- (c) may not already be covered by private insurance that offers creditable coverage, as defined in 42 U.S.C. 300gg(c), for 3 months prior to enrollment in the program or since birth, whichever period is less, except that the break in coverage is waived for a covered dependent whose coverage moves from the purchasing pool provided under Title 33, chapter 22, part 20, to coverage under this part;
 - (d) may not be eligible for medicaid benefits; and
 - (e) must be a United States citizen or qualified alien and a Montana resident.
- (2) The department of public health and human services shall adopt rules that establish the program's criteria for residency. The criteria must conform as nearly as practicable with the residency requirements for medicaid eligibility.
- (3) Subject to 53-4-1009(3), rules governing eligibility may also include financial standards and criteria for income and resources, treatment of resources, and nonfinancial criteria.
- (4) If the department determines that there is insufficient funding for the program, it may lower the percentage of the federal poverty level established in subsection (1)(b) in order to reduce the number of persons who may be eligible to participate or may limit the amount, scope, or duration of specific services provided. (Terminates on occurrence of contingency--sec. 15, Ch. 571, L. 1999; sec. 14, I.M. No. 155, approved November 4, 2008.)"" **Renumber:** subsequent sections

8. Page 10.

Following: line 18

Insert: "NEW SECTION. Section 7. Contingent voidness. [Section 6] is void on the date that the centers for medicare and medicaid services notifies the department of public health and human services of disapproval of the state plan amendment. The department of public health and human services shall notify the code commissioner of the date of the notification if the state plan amendment is disapproved."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 176, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "PROVIDING"

Strike: "AN"

Insert: "A LIMITED"

2. Page 1, line 14.

Following: "licensed"

Insert: "only for surety bail bonds or"

3. Page 1, line 16.

Following: "only for"

Insert: "surety bail bonds or for"

4. Page 1, line 18.

Following: "or"

Insert: "topics specific to surety bail bonds or"

5. Page 1, line 25.

Following: "or"
Insert: "or"

6. Page 1, line 26 through line 27.

Following: "commissioner" on line 26

Strike: "; or" on line 26 through "bonds" on line 27

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

SB 9, introduced bill, be amended as follows:

1. Title, line 4.

Following: "FOR"
Insert: "CERTAIN"

2. Title, line 5 through line 7.

Strike: "PROVIDING" on line 5 through "BONDS;" on line 7

Strike: "SECTIONS" on line 7

Insert: "SECTION"

Strike: "7-7-4424, AND 7-14-302" on line 7

3. Page 1, line 26.

Following: ";"
Insert: "and"

4. Page 1, line 27.

Strike: "but not limited to"
Strike: "and facilities"

5. Page 1, line 28.

Following: "passenger trains and lines,"

Strike: "and"

Following: "light rail trains and lines"

Insert: ", and the facilities associated with those systems"

6. Page 1, lines 28 through 30.

Strike: "; and" on line 28 through "paths" on line 30

7. Page 2, lines 2 through 26.

Strike: sections 2 and 3 in their entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

1/24/2009

1/24/2009

SB 79, introduced bill, be amended as follows:

1. Page 1, line 30.

Following: "50-5-101,"

Insert: "including federal facilities,"

2. Page 2, line 24.

Strike: "and"

3. Page 2, line 26.

Following: "residents"

Strike: "."
Insert: "; and"

Following: line 26

Insert: "(3) emergency medical service provided by an ambulance company located in a county with a population of 20,000 residents or more, from a community within that county with a population of 1,500 residents or less to a health care facility in that county."

And, as amended, do pass. Report adopted.

SB 82, do pass. Report adopted.

SB 119, do pass. Report adopted.

SB 226, do pass. Report adopted.

COMMUNICATIONS AND PETITIONS

Secretary Miller read a letter from U.S. Congressman Denny Rehberg confirming that he will address a Joint Session of the Montana Legislature on March 13, 2009, at 2:00 p.m.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/23/2009

HB 119, introduced by Hunter

HB 125, introduced by Mehlhoff

FIRST READING AND COMMITMENT OF BILLS

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

SB 282, introduced by Laslovich, referred to Taxation.

SB 283, introduced by Erickson, Debby Barrett, Lewis, referred to Highways and Transportation.

SB 284, introduced by Brueggeman, Blewett, Laslovich, Taylor, referred to Taxation.

SB 285, introduced by Jent, referred to Judiciary.

SB 286, introduced by T. Brown, Bales, Debby Barrett, Black, Gebhardt, Hinkle, Hoven, J. Peterson, Ripley, Sales, Steinbeisser, Zinke, referred to Agriculture, Livestock and Irrigation.

SB 287, introduced by Balyeat, R. Brown, Erickson, Gebhardt, Hinkle, Jackson, Jopek, Kaufmann, McGee, Mendenhall, More, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Williams, Wilmer, referred to Business, Labor, and Economic Affairs.

SB 288, introduced by Hinkle, Bales, Debby Barrett, Black, T. Brown, Curtiss, Gebhardt, Ingraham, J. Peterson, Ripley, Steinbeisser, referred to Judiciary.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Peterson 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:

SB 181 - Senator Esp moved SB 181 do pass.

SB 181 - Senator Esp moved SB 181, second reading copy, be amended as follows:

1. Title, line 6.

Strike: "APPLICABILITY"

Insert: "IMMEDIATE EFFECTIVE"

2. Page 1, line 28 through line 29.

Strike: section 2 in its entirety

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

Amendment adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 181 - Senator Esp moved SB 181, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None. Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 111 - Senator Ripley moved SB 111 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 131 - Senator Williams moved SB 131 do pass. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.

Total 28

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Gebhardt, Hinkle, Jackson, McGee, Perry, Peterson, Ripley, Shockley, Tutvedt, Mr. President.

Total 20

Absent or not voting: Windy Boy.

Total 1

Excused: Gallus.

Total 1

SB 152 - Senator Brueggeman moved SB 152 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 196 - Senator Windy Boy moved SB 196 do pass. Motion carried as follows:

Yeas: Balyeat, Branae, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 32

Nays: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Esp, Gebhardt, Hinkle, Jackson, Lewis, McGee, Peterson, Ripley, Tutvedt, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

Senator Peterson moved SB 197 be passed for the day. Motion carried.

SB 215 - Senator Steinbeisser moved SB 215 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SJR 4 - Senator Laible moved SJR 4 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson,

Essmann, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Branae, Cooney, Esp, Gebhardt, Juneau, Kaufmann, McGee, Murphy.

Total 8

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SJR 8 - Senator Hawks moved SJR 8 do pass. Motion carried as follows:

Yeas: Bales, Black, Branae, T. Brown, Brueggeman, Curtiss, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President. Total 32

Nays: Balyeat, Barkus, Barrett, Brenden, R. Brown, Cooney, Esp, Essmann, Gebhardt, Hinkle, Jackson, McGee, Murphy, Ripley, Shockley, Steinbeisser, Tutvedt.

Total 17

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SJR 13 - Senator Zinke moved SJR 13 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President. Total 46

Nays: Esp, Juneau, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story 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:

SB 34 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Balyeat, Curtiss, Erickson, Hinkle, Jent, Kaufmann, Moss.

Total 7

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 67 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams, Windy Boy. Total 22

Paired: Barkus, Aye; Gallus, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 68 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 78 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President. Total 46

Nays: Hinkle, McGee, M. Tropila.

Total 3

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 155 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 161 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke. Total 47

Nays: Esp, Mr. President.

Total 2

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 168 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President. Total 47

Nays: Murphy, Tutvedt.

Total 2

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 171 passed as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President. Total 36

Nays: Balyeat, Barrett, R. Brown, Cooney, Erickson, Juneau, Kaufmann, Moss, Shockley, Squires, Stewart-Peregoy, Williams, Windy Boy.

Total 13

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

MOTIONS

Senator Jent moved that his vote on SB 34 be changed to no. Without objection, President Story so ordered.

UNFINISHED BUSINESS

Senator Peterson clarified the process for floor amendments.

SPECIAL ORDERS OF THE DAY

Senator Brown thanked the Pages for their work during the week of January 19-24, 2009.

President Story requested Committee Chairman to obtain revised fiscal notes prior to a bill being heard on the Senate floor.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, January 26, 2009. Motion carried.

Senate adjourned at 9:42 a.m.

MARILYN MILLER Secretary of the Senate ROBERT STORY President of the Senate