

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTH LEGISLATIVE DAY**

Helena, Montana
January 13, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Windy Boy, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Senator Curtiss, Chairman): 1/13/2009
Correctly printed: **SB 10, SB 24, SB 25, SB 197, SB 198, SB 199, SB 200, SB 201, SB 202, SB 203.**

Correctly engrossed: **SB 39, SB 42.**

Transmitted to the House: **SB 10, SB 25**

Returned to the House: **HB 1**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman): 1/13/2009
SB 47, introduced bill, be amended as follows:

1. Page 2, line 5.
Following: "any"
Insert: "applicable"

And, as amended, do pass. Report adopted.

SB 54, introduced bill, be amended as follows:

1. Page 2, line 18.
Following: "any"
Insert: "applicable"

And, as amended, do pass. Report adopted.

SB 133, introduced bill, be amended as follows:

1. Title, page 1, line 13.
Following: "PROVISIONS;"
Insert: "CLARIFYING CERTAIN INCURRED GROUP HEALTH INSURANCE CLAIMS MAY BE HELD
PENDING PREMIUM PAYMENT;"

2. Title, page 1, line 15.
Following: "33-22-302,"
Insert: "33-22-530,"

3. Page 24.
Following: line 18

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Insert: "Section 26. Section 33-22-530, MCA, is amended to read:

"33-22-530. Notice required for cancellation for nonpayment of group health insurance. (1) A health insurance issuer shall provide at least 15 days prior notification of cancellation for nonpayment of premium for group health insurance coverage.

(2) The notice must be sent to the policyholder at the policyholder's last-known address and must specify the date of cancellation of coverage. The insurer shall attach a properly executed proof of mailing to this notice and maintain a copy of the proof of mailing in its records.

(3) The health insurance issuer shall hold for processing of payment any claims ~~received~~ for covered benefits incurred during the 15-day notification period for nonpayment of premium for group health insurance coverage. Upon receipt of the premium, claims held for the 15-day notification period must be processed for payment.

(4) The policy continues in full force and effect, subject to the requirements of subsection (3), until the proper 15-day notice has been given, unless the coverage has already been replaced.

(5) The 15-day period begins to run from the date of the proof of mailing.

(6) The issuer may collect premiums for any time period that the coverage remains in effect.

(7) When coverage is actually canceled, notice must also be mailed to all certificate holders at:

(a) their last-known home addresses if available; or

(b) the business address of the group policyholder.

(8) The notice of cancellation to certificate holders must be separate from the certificate of creditable coverage required in 33-22-142, although it may be mailed simultaneously with the certificate."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman): 1/13/2009
HB 1, be concurred in. Report adopted.

JUDICIARY (Perry, Chairman): 1/13/2009
SB 35, introduced bill, be amended as follows:

1. Title, line 5 through line 6.

Following: "THAT" on line 5

Strike: remainder of line 5 through "STATE PRISON" on line 6

Insert: "A SHERIFF DELIVERING A DEFENDANT TO A PLACE OF CONFINEMENT, COMMITMENT, OR EXECUTION SHALL ALSO DELIVER ALL INFORMATION IN THE SHERIFF'S POSSESSION"

2. Title, line 7 through line 8.

Following: "OF THE" on line 7

Strike: remainder of line 7 through "PRISON" on line 8

Insert: "DEFENDANT, INCLUDING HEALTH INFORMATION CONTAINED IN A PRESENTENCE INVESTIGATION REPORT"

3. Title, line 8.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "46-18-112"

Insert: "AND 46-19-101"

4. Page 1, line 13 through line 14.

Following: "report" on line 13

Strike: remainder of line 13 through "prison" on line 14

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5. Page 1, line 30 through page 2, line 2.

Strike: subsection (4) in its entirety

Insert: "(4) Upon sentencing, the court shall forward to the sheriff all information contained in the presentence investigation report concerning the physical and mental health of the defendant, and the information must be delivered with the defendant as required in 46-19-101."

6. Page 2, line 3.

Following: line 2

Insert: "Section 2. Section 46-19-101, MCA, is amended to read:

"46-19-101. Commitment of defendant -- transfer of information in possession of sheriff. (1) Upon oral pronouncement of a sentence imposing punishment of imprisonment, commitment to the department of corrections, placement in a prerelease center, community corrections facility, or other place of confinement, or death, the court shall commit the defendant to the custody of the sheriff, who shall deliver the defendant to the place of confinement, commitment, or execution and give that place an order, which must be signed by the sentencing judge on the date of oral pronouncement of sentence, stating that the defendant is sentenced to that place for imprisonment, commitment, placement, or execution, as the case may be. The order is authority for that place to hold the defendant pending receipt by that place of a copy of the written judgment.

(2) When a sheriff delivers the defendant to the place of confinement, commitment, or execution, the sheriff shall deliver at the same time all information in the possession of the sheriff regarding the physical and mental health of the defendant, including health information contained in a presentence investigation report."

And, as amended, do pass. Report adopted.

SB 140, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

1/13/2009

SB 74, introduced bill, be amended as follows:

1. Title, lines 5 and 6.

Strike: "FIRE CHIEF" on line 5

Strike: "ALLOWING" on line 5 through "STANDARDS;" on line 6

Insert: "REVISING REQUIREMENTS FOR PROVISION AND MANAGEMENT OF EMERGENCY SERVICES BY A FIRE CHIEF;"

2. Page 1, line 20.

Strike: the first "as"

3. Page 1, lines 20 and 21.

Strike: "as practicable, considering agency budget and staffing limitations,"

4. Page 1, line 21.

Strike: "and other appropriate"

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

1/13/2009

SB 5, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: the first "THE"

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Insert: "GIFT OR"

2. Page 3, line 3.

Following: "A"

Insert: "gift or"

3. Page 4, line 13.

Following: "A"

Insert: "gift or"

And, as amended, do pass. Report adopted.

SB 22, introduced bill, be amended as follows:

1. Title, page 1, line 10.

Following: "EFFORTS;"

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Page 1, line 14.

Following: the first "committee."

Insert: "(1)"

Following: the second "committee."

Strike: "The"

Insert: "Except as provided in subsection (2), the"

3. Page 1, line 16.

Strike: "(1)"

Insert: "(a)"

4. Page 1, line 17.

Strike: "(2)"

Insert: "(b)"

5. Page 1, line 18.

Strike: "(3)"

Insert: "(c)"

6. Page 1, line 20.

Strike: "(4)"

Insert: "(d)"

7. Page 1.

Following: line 20

Insert: "(2) At least two members of the committee must hold a water right in Montana and possess experience in agriculture."

8. Page 3.

Following: line 8

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Insert: "NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2009."
And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman): 1/13/2009
SB 72, introduced bill, be amended as follows:

1. Page 1, line 13 through line 14.
Strike: "The" on line 13 through "69-3-105." on line 14

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman): 1/13/2009
SB 11, do pass. Report adopted.
SB 23, do pass. Report adopted.
SB 43, do pass. Report adopted.
SB 48, do pass. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

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

- SB 204**, introduced by Moss, Steinbeisser, referred to Agriculture, Livestock and Irrigation.
- SB 205**, introduced by Brueggeman, Caferro, referred to Judiciary.
- SB 206**, introduced by Debby Barrett, referred to Natural Resources.
- SB 207**, introduced by Lewis, referred to Business, Labor, and Economic Affairs.
- SB 208**, introduced by Lewis, referred to Public Health, Welfare and Safety.
- SB 209**, introduced by Laslovich, Shockley, Jent, referred to Judiciary.
- SB 210**, introduced by Wanzenried, referred to Taxation.
- SB 211**, introduced by Wanzenried, referred to Taxation.
- SB 212**, introduced by Jackson, referred to Judiciary.
- SB 213**, introduced by Bales, Zinke, Shockley, Lewis, Debby Barrett, J. Tropila, Peterson, Curtiss, Ripley, Tutvedt, Steinbeisser, Brenden, Murphy, Hansen, Jackson, Gebhardt, Brown, Brueggeman, Laible, Black, Stahl, Kerns, Kasten, McNutt, Randall, Taylor, Hinkle, referred to Fish and Game.
- SB 214**, introduced by Steinbeisser, Welborn, Bales, Ripley, Brenden, Lewis, Zinke, Curtiss, Black, Story, Tutvedt, referred to Agriculture, Livestock and Irrigation.
- SB 215**, introduced by Steinbeisser, referred to Local Government.
- SB 216**, introduced by Laslovich, Debby Barrett, Welborn, referred to Education and Cultural Resources.
- SB 217**, introduced by Debby Barrett, Zinke, Stahl, Bales, Ripley, Steinbeisser, Laible, Brenden, Lewis, Murphy, T. Brown, Peterson, Brueggeman, referred to Agriculture, Livestock and Irrigation.
- SB 218**, introduced by McGee, referred to Taxation.

**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 McGee in the chair.

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

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SB 7 - Senator Gebhardt moved **SB 7** do pass. Motion carried as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, 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, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 24 - Senator Williams moved **SB 24** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, 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, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SR 1 - Senator J. Peterson moved **SR 1** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, 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, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

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SJR 1 - Senator J. Peterson moved **SJR 1** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, 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, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Peterson moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Peterson moved to suspend the Rules and that **HB 1** be placed on second reading. Motion carried unanimously.

**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 Story in the chair.

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

HB 1 - Senator Bales moved **HB 1** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, 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, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: Windy Boy.
Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Peterson moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senator Peterson moved to suspend the rules and allow HB 1 to be heard on third reading. Motion carried 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 10 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, 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, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 25 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, 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, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

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HB 1 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, 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, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SPECIAL ORDERS OF THE DAY

Senator Esp stated the Committee on Committees would be making some interim and special committee appointments and requested that interested Senators contact leadership and express their interest.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, January 14, 2009. Motion carried.

Senate adjourned at 1:35 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate