

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN BRENT R. CROMLEY**, on January 24, 2005
at 3:00 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Brent R. Cromley, Chairman (D)
Sen. John Cobb (R)
Sen. John Esp (R)
Sen. Duane Grimes (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Trudi Schmidt (D)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Rita Tenneson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 203, 1/18/2005
Executive Action: None.

HEARING ON SB 203**Opening Statement by Sponsor:**

SEN. GREG LIND, SD 50, opened the hearing on **SB 203**, Require insurance to cover contraception.

The bill represents an insurance mandate. Under the provisions of insurance plans that provide benefits for drugs or devices prescribed by a medical practitioner, they may not exclude or restrict benefits for any FDA-approved contraceptive device. It includes the State Employee Group Insurance Program, the University System Program, group programs for various levels of government and, where permissible, some self-funding Multiple Employer Welfare Arrangements (MEWAs). Excluded are the MEWAs that are regulated under ARISA. Also excluded are some of the mental health policies.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 4}

Proponents' Testimony:

Alison James spoke in favor of the bill.

EXHIBIT(phs18a01)

{Tape: 1; Side: A; Approx. Time Counter: 4 - 8.5}

Kate Cholewa, NARAL Pro-Choice Montana, pointed out that there is an unconscious bias towards men, as the norm, that has negative consequences for women when it comes to healthcare and healthcare coverage. She added that women have had to fight for coverage of prenatal care, mammograms, and drive through deliveries-- mandates that were once considered extras or electives. Contraception is basic health care for women. She said 21 other states have enacted contraceptive equity laws. She presented NARAL statistics.

EXHIBIT(phs18a02)

{Tape: 1; Side: A; Approx. Time Counter: 8.5 - 12.8}

Rebecca Dockter, representing herself, said the public has spoken loudly in favor of the bill. She presented statistics from a 2000 survey done by NARAL Pro-Choice America Foundation nationwide showing 77 percent of rESPondents favored legislation requiring health insurance companies cover the cost of prescription contraceptives. A 1998 survey by the Kaiser Family Foundation

found 75 percent of the rESPondents agreed insurance companies should cover the cost of contraception even if their premiums rose.

EXHIBIT (phs18a03)

{Tape: 1; Side: A; Approx. Time Counter: 12.8 - 15}

Kimberly Patton, Women's Club, University of Montana Women's Resource Center, told the committee that one of the largest reasons women drop out of school is because of unwanted pregnancy. Schools where students have access to affordable prescription contraception lowers the drop-out rate.

EXHIBIT (phs18a04)

Jan Van Riper, American Civil Liberties Union Montana, read written testimony.

EXHIBIT (phs18a05)

EXHIBIT (phs18a06)

{Tape: 1; Side: A; Approx. Time Counter: 15 - 21.4}

REP. DAVID WANZENRIED, HD 97, MISSOULA said contraceptive basic health care was very important. He added that one in five women do not have health insurance. The women that do, do not have access to contraceptives. The State is already absorbing high costs from unintended pregnancies. He asked the committee to think of a can-do attitude as he felt they owed it to the State and the women of the State of Montana to pass the bill.

{Tape: 1; Side: A; Approx. Time Counter: 21.4 - 22.9}

Jeri Duran, Planned Parenthood, Montana, told the committee that among women aged 20 to 44 who have been sexually active, 85 percent have used oral contraceptives. Three in four adult women use cost as a big factor in choosing a birth control method, according to the Kaiser Family Foundation. Without comprehensive coverage, many women choose a method covered by their plan rather than one which might be more appropriate to their medical or life circumstances. Since cost concerns seem to be a big factor in choosing methods, women may put off filling prescriptions. Half of the unintended pregnancies in the U.S. are from women using contraception but not being consistent in use. Several statistics were given regarding use, non-use and pregnancies.

{Tape: 1; Side: A; Approx. Time Counter: 22.9 - 25.7}

Allyson Hagen, on behalf of Darlene Siedschlaw, CEO of a Management Consulting Firm said she was a member of the Bozeman Equal Employment Advisory Council, a group of the nation's largest employers formed in 1976. The Equal Employment Opportunity Council, in December 2000, ruled that an employer's failure to provide coverage for contraceptive devices and services constitutes sex discrimination under federal law.

[EXHIBIT \(phs18a07\)](#)

[EXHIBIT \(phs18a08\)](#)

{Tape: 1; Side: A; Approx. Time Counter: 25.7 - 27.6}

Stacy James, CEO, Planned Parenthood Montana, said that Planned Parenthood has five urban and ten rural clinics across the State with 90 female employees. They support the bill because it is fair, equitable and cost effective.

Kim Abbott, Working For Equality and Economic Liberation, represented the families that cannot afford \$30 a month. As women move into the workforce, it is imperative for insurance to cover contraceptives. Work, for these women, is important to break the level of poverty. There are the resources to avoid this.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 0.1}

Linda Gryczan, Women's Lobby, said they have had to mandate mammograms, hospital stays after a hysterectomy, and a host of other women's specific health procedures. They have never had to mandate coverage for prostate problems or Propecia for male pattern baldness. The insurance companies covered it. When Viagra became available, the companies covered it. If they can cover Viagra, she asked the committee to cover contraception.

{Tape: 1; Side: B; Approx. Time Counter: 0.1 - 5.3}

Erin McGowan-Fincham, Insurance Commissioner's Office. Their office has supported all these measures in the past and continue to do so today. They urge passage of the bill. When insurance companies exclude certain pharmaceuticals it is usually based on those pharmaceuticals being experimental. Contraceptives have been around over 30 years and no longer fit into that category.

{Tape: 1; Side: B; Approx. Time Counter: 5.3 - 6.4}

Georgia Lovelady, Self, said that her two planned pregnancies cost her insurance company \$10,000. She said one unwanted pregnancy costs insurance companies far more than years of birth control. She added that the United States and Montana have a

raging debate over abortion. The only point she has seen a pro-life and a pro-choice opponent agree is at a reduction in unwanted pregnancies. She thought this bill helped to facilitate this.

{Tape: 1; Side: B; Approx. Time Counter: 6.4 - 7.3}

Brad Martin, Executive Director for the Montana Democratic Party, supported SB 203 as a straight-forward bill mandating equality and quality services provided by health insurance for all Montanans. He said it was supported by their platform but not a partisan issue. He said it was time to reverse discrimination in the health insurance system.

{Tape: 1; Side: B; Approx. Time Counter: 7.3 - 8.7}

Meghan Trainer-Fitch, Self, spoke in support. She stated that she would like to have a family one day but is not yet ready for it.

Gerik Kransky, Missoula rose in support.

[EXHIBIT \(phs18a09\)](#)

Opponent's Testimony:

Eric Schiedermayer, Montana Catholic Conference, read written testimony.

[EXHIBIT \(phs18a10\)](#)

{Tape: 1; Side: B; Approx. Time Counter: 8.7 - 14}

Tana Ask, Blue Cross Blue Shield Montana. Their concern with the bill was choice for individual employers and individuals purchasing health insurance, as well as cost. She said they should have the option to choose a policy offering benefits the individual needs. They offer a number of policies with prescriptive contraceptives as part of the benefit package. They also have policies that do not include contraceptive coverage and policies that do not include prescription drugs. The choice exists to reduce costs. The bill is written to say that any policy that provides benefits for drugs or devices prescribed by a medical practitioner must include contraceptives. Most policies are going to provide coverage for medical devices. Now there is an additional benefit in policies that some people will not use.

{Tape: 1; Side: B; Approx. Time Counter: 14 - 17.4}

Riley Johnson, National Federation of Independent Business, opposed another mandate. Each mandate adds additional cost. Small businesses in Montana are dropping insurance because of costs. They would rather have choice and no mandate.

{Tape: 1; Side: B; Approx. Time Counter: 17.4 - 19.2}

Dallas Erickson, Montana Family Coalition, thought the bill would force people who have insurance to pay for someone without and it could eventually lead to coverage for abortions. He thought it would be expensive for those who have insurance.

Harris Hines, Pastor, Big Sky Christian Center, Hamilton and President of Montana Family Coalition, was concerned that abortion was an outpatient procedure, and thought the bill could be construed to cover abortions. He said there was a link between abortions and breast cancer.

{Tape: 1; Side: B; Approx. Time Counter: 19.2 - 22.7}

Frank Cote, America's Health Insurance Plan, said they operate in various states and mandates add additional costs in each and every town. They must change a product for a specific state and reprogram their computers, which is an expensive process. Montana is three tenths of one percent of the insurance market country. By adding and increasing costs there will be problems for insurance in Montana.

{Tape: 1; Side: B; Approx. Time Counter: 22.7 - 24.1}

Jason Todhunter, Montana Logging Association, opposed the bill because of increasing insurance costs.

Angela Huschka, New West Health Services opposes mandates because they increase costs. They are not opposed to covering contraceptive drugs; they already offer them in all their plans.

EXHIBIT (phs18a11)

{Tape: 1; Side: B; Approx. Time Counter: 24.1 - 28.1}

Informational Witnesses: None.

Questions from Committee Members:

SEN. WEINBERG asked **Ms. Ask** if Blue Cross Blue Shield covered pregnancy and birth procedures. **Ms. Ask** said they do, and they also cover follow-up care needed after a pregnancy prenatal test.

SEN. WEINBERG asked that since she is making a financial argument, what costs more: covering contraception or covering all the other things she just mentioned. **Ms. Ask** replied that information she has concerning policies covering prescription contraceptives and those that do not, the costs seem to be a wash.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 0.1}

SEN. ESP wondered if **SEN. LIND** intended to not include the opponent's abortion concerns. **SEN. LIND** answered that the intent was to cover contraception, not abortion. The purpose of the bill is to decrease the number of abortions. By using the term "devices" the bill intends to cover intrauterine devices (IUDs), rings and things of that nature. He added he would work with everyone to make that clear. **SEN. ESP**, when looking at cost savings accounts and high-deductible combinations, the consumer could use it for diabetes, contraception or whatever was appropriate. **SEN. LIND** answered he did not know how the bill would fit into SSA's. He said, as he understood it, you keep track of pharmaceutical costs for the year. You spend your own money up to the deductible, then the insurance policy kicks in.

{Tape: 2; Side: A; Approx. Time Counter: 0.1 - 3.9}

SEN. CROMLEY told **SEN. LIND** he had read an article on contraceptives where it mentioned some of the facts he referred to regarding a number of states who have passed this and the Equal Employment Opportunity Commission (EEOC) decision and the Federal District Court decision in Seattle. He asked if there was any reason why those decisions would not be applicable to this State right now. He asked why Montana plans have not yet been declared discriminatory. **SEN. LIND** thought that it did not apply to individual policies. The cases he has looked at are employer based group plans that offered benefits. **Ms. Van Riper** said the EEOC decision would be applicable in Montana as a case. She doesn't believe that has happened in Montana at this time. The federal law that the EEOC cited only applies to employer groups of 15 to 20 or more.

{Tape: 2; Side: A; Approx. Time Counter: 3.9 - 5.9}

SEN. CROMLEY asked if the use of contraceptives was used for more than avoiding pregnancies. He said he understood they were used by females for other conditions such as regulating menstrual cycles. **SEN. LIND** answered that contraceptives with combinations of progesterone and estrogen agents are used to treat a multitude of medical conditions. **SEN. CROMLEY** asked if he knew if they were covered. **SEN. LIND** referred the question to **Ms. Ask** who answered

that if a plan does have prescription drug coverage as part of the benefit selection and the prescription is given for a disease state, that prescription is reimbursable.

{Tape: 2; Side: A; Approx. Time Counter: 5.9 - 7.6}

SEN. O'NEIL asked **Ms. Huschka** if, when the Legislature last session gave a waiver of requirements to insurance companies for an affordable health care policy at \$42 a month, that policy included contraceptives. **Ms. Huschka** said it was a one year pilot program to offer that product and thought a generic contraceptive is covered under that policy. **SEN. O'NEIL** asked her if women that once took birth control pills later have children with low birth-weights. He said that he had witnessed this phenomenon. **Ms. Huschka** couldn't answer that.

{Tape: 2; Side: A; Approx. Time Counter: 7.6 - 9.7}

SEN. ESP asked **Ms. Huschka** if she would be willing to work with the sponsor or the committee on the language in the bill where she had a problem. She said she would.

SEN. GRIMES asked **SEN. LIND** if he would like to respond to the mandate regarding costs. **SEN. LIND** said there are studies on both sides of the issue showing cost savings. He added that 50% of pregnancies are unintended. They know women that have unintended pregnancies are less likely to seek prenatal care, placing them at higher risk for fetal problems and increased risk of prematurity. Premature babies incur extra costs.

SEN. CROMLEY said **Ms. Ask** referred to a problem with prosthetic devises that are not necessarily covered by the term prescription drugs. **Mr. Cote** said when you use the term "devise", most policies would cover a prosthetic as a devise. It could be a splint or crutches, but it would not cover prescription medicines. He thought the way the bill was written, there would be an issue if there was a medical expense policy that did not have prescription benefits. The bill, in its current form, would require the policy to pay for contraceptives.

Closing by Sponsor:

SEN. LIND said religion plays an important role in all our lives and he respects those comments on this issue. He had concerns about religion entering into policy decisions. He said he respects the views of Jehovah Witnesses and Christian Scientists, but he wouldn't want to see them running health policies. Several years ago prenatal care was not covered. Prenatal care is associated with better birth outcomes and decreased costs. It is

now accepted in insurance coverage. One of the biggest risk factors for low birth weight is prematurity which directly is related to lack of prenatal care.

{Tape: 2; Side: A; Approx. Time Counter: 12.6 - 17.8}

ADJOURNMENT

Adjournment: 4:31 P.M.

SEN. BRENT R. CROMLEY, Chairman

RITA TENNESON, Secretary

BC/rt

Additional Exhibits:

EXHIBIT ([phs18aad0.PDF](#))