

MINUTES

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

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **VICE CHAIR TRUDI SCHMIDT**, on February 14, 2005
at 3:20 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Brent R. Cromley, Chairman (D)
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: Sen. John Cobb (R)

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 368, 2/8/2005; SJ 15, 2/7/2005;
SJ 16, 2/7/2005
Executive Action: SJ 18; SB 386; SJ 15; SJ 16

HEARING ON SB 386

Opening Statement by Sponsor:

SEN. GERALD PEASE (D), SD 21, opened the hearing on **SB 386**, Increase penalty for withdrawal from medical savings account.

Proponents' Testimony:

Gene Fenderson, Montana District Council of Labors, told the Committee employers are putting money into accounts for employees for medical savings accounts. Employees are drawing money from the accounts for personal reasons. He said a higher penalty for withdrawals should discourage this. He was concerned about uninsured people and people with medical insurance paying their costs.

SEN. CROMLEY returned and assumed chairing the Committee.

Opponents' Testimony:

Pat Melby, Montana Medical Association, opposes the bill because people often get into financial difficulties and have access to these funds for such emergencies. Accounts, like IRAS, have a 10% penalty for early withdrawals. He thought the penalty for early withdrawal on medical savings accounts should be the same as on other accounts.

Informational Testimony: **Jim McKeon, Department of Revenue**, to answer questions regarding medical savings accounts.

Questions from Committee Members and Responses:

SEN. ESP asked about the rationale allowing exclusion when withdrawing money on the last day of the year without penalty.

Mr. McKeon wasn't sure why that was put into the bill when it was drafted. The penalty only applies when money is withdrawn for non-medical purposes any day of the year other than the last business day of the year.

Closing by Sponsor:

SEN. PEASE said this increase may discourage people from withdrawing funds from their medical accounts. He asked the Committee to pass his bill.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 9.5}

HEARING ON SJ 15

Opening Statement by Sponsor:

SEN. CAROL WILLIAMS (D), SD 46, opened the hearing on **SJ 15**, Support phasing out of PBDEs harmful to humans.

SEN. WILLIAMS explained that fire retardants are causing new problems by emitting polybrominated diphenyl ethers (PBDEs), which can be stored in a mother's body, be contained in breast milk and enter children's bodies through breast feeding. She said the resolution does not ban PBDEs, it supports a phase out of toxic chemicals.

[EXHIBIT \(phs36a01\)](#)

Proponents' Testimony:

Alexandria Gorman, Director of Science and Research for Women's Voices of the Earth, an environmental justice organization, had a handout regarding PBDEs.

[EXHIBIT \(phs36a02\)](#)

{Tape: 1; Side: A; Approx. Time Counter: 9.5 - 17.4}

Florence Williams, Helena, representing herself, brought a breast milk sample, saying she participated in a breast milk study. She explained the qualities of breast milk's healing properties and the problem with PBDEs contained in her sample. Her sample contained 36 parts per gramillion PBDEs. Flame retardants accumulate in American women and double every two to five years. Flame retardants are contained in computers, carpeting, curtains, roofing tiles, household electronics, and appliances. Appliances are soaked in them. These PBDEs are absorbed into the body and passed on in breast milk.

{Tape: 1; Side: A; Approx. Time Counter: 17.4 - 21.8}

Jennifer Scheinz, Helena attorney, representing herself, told the Committee her breast milk level was 79 parts per gramillion when her son was two months old. She asked the Legislature to help in controlling these chemicals through passage of **SJ 15**.

John Senn, representing Women's Voices for the Earth, told about thyroid and liver effects of PBDEs on laboratory mice. He gave the Committee a handout regarding PBDE testing and results.

[EXHIBIT \(phs36a03\)](#)

Dori Gilels, Northern Rockies Program Director for Women's Voices for the Earth, handed Committee members the following co-authored letter from **Alexandra Gorman, Women's Voices for the Earth**, and **Dr. Dana Headapohl, St. Patrick Hospital, Missoula** regarding PBDE's and a letter from a mother who had contaminated breast milk. She asked Montana to join other states in addressing the PBDE issue.

[EXHIBIT](#) (phs36a04)

[EXHIBIT](#) (phs36a05)

{Tape: 1; Side: A; Approx. Time Counter: 21.8 - 30.7}

Leslie McClain, Montana Environmental Information Center, rose in strong support of the legislation. She told the Committee that, worldwide, 67,000 metric tons of PBDEs are produced per year. A large amount are shipped to or manufactured in the U.S. PBDEs can be phased out by using alternative fire retardants. The EPA is working with chemical manufactures on a transition to safer substitutes.

{Tape: 1; Side: A; Approx. Time Counter: 30.7 - 32.8}

Pat Melby, Montana Medical Association, rose in support for the same reasons as previous testimonies.

Opponents' Testimony:

Don Allen, Western Environmental Trade Association, brought a statement from **Raymond Dawson, Bromine Science and Environmental Forum**, which he read. **Mr. Dawson's** plane was late so he couldn't be present.

[EXHIBIT](#) (phs36a06)

{Tape: 1; Side: A; Approx. Time Counter: 32.8 - 40.8}

Informational Testimony:

Dr. Kammy Johnson, Department of Public Health and Human Services (DPHHS), read her informational testimony and gave the Committee information on Montana's Biomonitoring Project.

[EXHIBIT](#) (phs36a07)

Questions from Committee Members and Responses:

SEN. GRIMES asked **Ms. Gorman** how specific the study she cited was. **Ms. Gorman** answered that a number of studies have been done on DECA. Concerns with DECA is that it breaks down into toxic components and has been linked to liver cancer in rats and neurotoxins in mice. **SEN. GRIMES** asked if there had been lawsuits in any of the states who have banned PBDEs. **Ms. Gorman** didn't know of any.

SEN. CROMLEY asked **Mr. Allen** if PBDEs were used for purposes other than fire retardants. **Mr. Allen's** information was for fire retardants. **SEN. CROMLEY** asked **Ms. Gorman** the same question. She replied they were mainly used as flame retardants.

SEN. MOSS asked what the Bromine Science and Environmental Forum was. **Mr. Allen** said they issue reports on chemicals, but he wasn't sure. **SEN. MOSS** asked **Ms. Gorman** about other home products carrying PBDEs. **Ms. Gorman** told her just about anything that has plastic in it - home electronics, carpeting, roofing tiles, appliances, fabrics, furniture foam, mattresses, etc. **SEN. MOSS** commented that this isn't identified in many of these products. **Ms. Gorman** said there is no label requirement for them.

SEN. CROMLEY asked **Dr. Johnson** if she was familiar with non-Hodgkin's lymphoma in humans and PBDE's. **Dr. Johnson** said she read one study, done in Sweden, that failed to show an association. **SEN. CROMLEY** asked **Ms. Gorman** the same question and she hadn't heard of any association.

Closing by Sponsor:

SEN. WILLIAMS said we need to remember the Resolution doesn't ban the retardants, it shows there are alternatives on the market. There were consequences with asbestos, which was learned much later. PBDE's put mothers and babies at risk. Mothers should not have to make decisions not to breast feed because of chemicals they may have in their bodies.

{Tape: 1; Side: A; Approx. Time Counter: 40.8 - 55.9}

HEARING ON SJ 16

Opening Statement by Sponsor:

SEN. CAROL WILLIAMS (D), SD 46, opened the hearing on **SJ 16**, Urge congress to resist privatization of social security.

SEN. WILLIAMS said 162,000 Montanans currently receive benefits and over \$127,000,000 a month comes into our economy because of social security benefits. If no changes in social security trust funds are made, participants can rely on benefits up to four decades. She said privatization of social security is a gamble too large to take.

Proponents' Testimony:

Betty Beverly, Executive Director, Montana Senior Citizen's Association, read her testimony in support and referred Committee members to the pink sheet attached to her testimony.

EXHIBIT (phs36a08)

{Tape: 1; Side: A; Approx. Time Counter: 55.9 - 62.8}

Alex Ward, Associate State Director, AARP Montana, read his testimony in support. He referred the Committee to the packet of information he gave them, all attached in the following exhibits. He reminded the Committee that Social Security has been the most successful program in our nation's history.

EXHIBIT (phs36a09)

EXHIBIT (phs36a10)

EXHIBIT (phs36a11)

EXHIBIT (phs36a12)

EXHIBIT (phs36a13)

{Tape: 1; Side: A; Approx. Time Counter: 62.8 - 63.8}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 3.5}

Don Judge, Teamsters Local 190, rose in strong support. He said in 1978 there were 128,041 pension plans provided through employers in this country. In 2004, this dropped to 26,000. As a result of this in June, 2003, 65% of people receiving Social Security count it as 50% or more of their income; 33% of those receiving social security count it as 90% or more of their income; and 90% of social security recipients rely on it as 100% of their income. Two presidential candidates, who had advocated privatization of Social Security lost elections, which shows the importance Americans have placed on this. Currently it costs less than 1% of every dollar to administer social security. With privatization, it is estimated it will cost 12 to 14% to administer. The amount it would take, according to a study by Allen Goldspeed, University of Chicago, to administer private accounts would equal 25% of the existing deficit in Social Security today over a period of time. The total amount paid over the next 75 years, just to administer the private accounts, would

be \$940 billion. He pointed out stock market investments, made six years ago, are currently worth about 60% of their value, if the investors were lucky.

{Tape: 1; Side: B; Approx. Time Counter: 2.8 - 7.5}

Terry Kendrick, representing Women's Opportunity and Resource Development, Inc., said women comprise about 60% of Social Security beneficiaries over 65-years-of-age, and 70% are over 85-years-old. Privatization plans would divert Social Security payroll taxes into individually owned private accounts, shifting the system from shared risk and collective gains among workers, to private accounts. This would leave workers left to sink or swim on their own.

{Tape: 1; Side: B; Approx. Time Counter: 7.5 - 9.3}

Keith Allen, Montana AFL-CIO, in support. He said privatization would cut guaranteed benefits by 40%. The average retiree would lose \$152,000 in retirement benefits. For people who choose private accounts, the government takes back seventy cents in benefits for every dollar in their accounts. This is on top of the 40% in benefits cuts.

{Tape: 1; Side: B; Approx. Time Counter: 9.3 - 10.5}

Bob Ream, Chairman, Montana Democratic Party, and a retiree, read his testimony and pointed out the privatization information at the bottom of his testimony.

EXHIBIT (phs36a14)

{Tape: 1; Side: B; Approx. Time Counter: 10.5 - 12.5}

Neil Haight, representing himself, said it is important to keep Social Security as a solid base for retirees and people with disabilities. He said privatization is nothing to rush in to.

Gene Fenderson, Montana District Council of Laborers, rose in strong support. He has been a trustee and secretary of a large Montana retirement trust fund of over \$10 million for many years. He said the cycle of the bear market, in regaining wealth that is lost, is about seventeen years. Social security is a solid base for a retirement plan. It is not based on the ups and downs of the market. He said you cannot always depend on the market, but you can depend on the government because we are the government.

{Tape: 1; Side: B; Approx. Time Counter: 12.5 - 19.4}

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. GRIMES had a problem with solvency figures and privatization figures, and wondered if the auditor's office could furnish the Committee with differences and reasons for the differences. **SEN. WILLIAMS** had no problem with this.

SEN. ESP wondered if the current proposal forced anybody to participate. **SEN. WILLIAMS** said it did not force anybody, but if people start doing it, and start pulling out of the system, it won't be able to fund itself.

SEN. O'NEIL said with privatization, when you die your heirs would receive money. Now they receive nothing. **SEN. WILLIAMS** answered yes, if you were very smart with your investments and were lucky on Wall Street. People in lower wage jobs don't have access to investments. What they have now is a safe retirement account.

Closing by Sponsor:

SEN. WILLIAMS said this resolution is directed to our congressional delegation as to where Montanans are in reference to Social Security. It is important to seniors, women, young families with disasters in their family, and disabled persons, to be able to receive Social Security benefits.

{Tape: 1; Side: B; Approx. Time Counter: 19.4 - 31.6}

EXECUTIVE ACTION ON SJ 18

Motion: **SEN. MOSS** moved that SJ 18 DO PASS.

Discussion: **SEN. O'NEIL** pointed out the different states doing stem-cell research in the private sector. He thought the Resolution was a waste of State tax dollars. It was making a bigger federal program competing with the private sector.

SEN. ESP said there is information on the internet saying stem cell research is being done and can be done.

Motion/Vote: **SEN. MOSS** moved that SJ 18 DO PASS. Motion carried 5-4 by roll call vote. **SEN. WILLIAMS** voted aye by proxy and **SEN. COBB** voted no by proxy.

{Tape: 1; Side: B; Approx. Time Counter: 31.6 - 37.5}

EXECUTIVE ACTION ON SB 386

Motion: SEN. ESP moved that SB 386 DO PASS.

Discussion: SEN. GRIMES said there have been no proven difficulties with the existing 10% penalty. The purpose of the bill is to kill the finding of affordable options for people in an emergency.

SEN. WEINBERG understood that the raising from 10 to 20% was to discourage drawing down the medical account.

Substitute Motion/Vote: SEN. ESP made a substitute motion that SB 386 BE TABLED. Substitute motion carried unanimously by voice vote. SEN. WILLIAMS and SEN. COBB voted aye by proxy.

{Tape: 1; Side: B; Approx. Time Counter: 37.5 - 41.8}

EXECUTIVE ACTION ON SJ 15

Motion: SEN. SCHMIDT moved that SJ 15 DO PASS.

Discussion: SEN. GRIMES wanted an amendment to remove DECA because results have only been confined to lab animals. He said it should only apply to proven PBDEs.

Motion/Vote: SEN. GRIMES moved that SJ 15 BE AMENDED TO INSERT "CERTAIN" ON PAGE 1, LINE 13 AND ON PAGE 2, LINE 15 TO SAY "THOSE". Motion carried unanimously by voice vote.

Motion/Vote: SEN. ESP moved that SJ 15 BE AMENDED TO STRIKE "NON-HODGKINS LYMPHOMA IN HUMANS". Motion carried unanimously by voice vote.

Motion/Vote: SEN. SCHMIDT moved that SJ 15 DO PASS AS AMENDED. Motion carried 8-1 by voice vote with SEN. ESP voting no. SEN. COBB, SEN. WEINBERG and SEN. WILLIAMS voted aye by proxy.

{Tape: 1; Side: B; Approx. Time Counter: 41.8 - 49.2}

EXECUTIVE ACTION ON SJ 16

Motion: SEN. SCHMIDT moved that SJ 16 DO PASS.

Discussion: SEN. GRIMES opposed the motion. He said he thought it was for political purposes and he said the President's information regarding privatizing was a solution.

SEN. ESP supported privatizing because young people, under 50-years-old, could begin to put 25% of their income into a private fund. He was against the Resolution.

SEN. GRIMES pointed out that Social Security trustees said in 2042 the system would be exhausted. The same group said that 2018 would be the point in time Social Security would be paying out more than they are taking in. He said at that point it begins to go negative and this Resolution forces them to do nothing to fix the system. He said it would cost \$10.4 billion a year to support their "whereas" theme.

Substitute Motion/Vote: SEN. GRIMES made a substitute motion that SJ 16 BE TABLED. Substitute motion failed 4-5 by roll call vote with SEN. COBB, SEN. ESP, SEN. GRIMES and SEN. O'NEIL voting aye. SEN. WILLIAMS and SEN. WEINBERG, voted no by proxy.

Motion/Vote: SEN. ESP moved to pass consideration to consider SJ 16 another day. Motion failed 4-5 by roll call vote with SEN. COBB, SEN. ESP, SEN. GRIMES and SEN. O'NEIL voting aye.

Motion: SEN. CROMLEY moved that SJ 16 VOTE BE REVERSED AND MOVED OUT OF COMMITTEE. Motion passed 5-4 vote.

{Tape: 1; Side: B; Approx. Time Counter: 49.2 - 58.5}

ADJOURNMENT

Adjournment: 5:15 P.M.

SEN. BRENT R. CROMLEY, Chairman

RITA TENNESON, Secretary

BC/rt

Additional Exhibits:

EXHIBIT ([phs36aad0.PDF](#))