





## CUT AND PASTE POST JANUARY, 2017

### Montana Legislative Preview

The Montana Legislative Session begins January 2, 2017. Here are the current HR-related bills or bill requests. The session is likely to have a heavy focus on budgetary issues and it will probably be pretty quiet for HR. However, we will keep you updated as the Session progresses.

Bill Draft No. (LC No.)	Request Date	Requestor	Status	Status Date	Short Title
<a href="#">LC1152</a>	11/25/2016	Kelly McCarthy (D) HD 49	(C) Draft Request Received	11/25/2016	Generally revise laws related to non-discrimination
<a href="#">LC1562</a>	12/03/2016	JP Pomnichowski (D) SD 33	(C) Draft On Hold	12/06/2016	Revise discrimination laws
<a href="#">LC0970</a>  	11/17/2016	Adam Hertz (R) HD 96	C) Draft Ready for Delivery	12/22/2016	Income tax credit apprenticeship program for employers of veterans
<a href="#">LC1119</a>  	11/22/2016	Mary Ann Dunwell (D) HD 84	(C) Draft Ready for Delivery	12/29/2016	Raise minimum wage in Montana
<a href="#">HB 132</a>  	LC0390	Nate McConnell (D) HD 89	(H) Referred to Committee -- (H) Business and Labor	12/27/2016	Revise unemployment insurance laws (modifies appeals process)

### New FAQ on the ACA

On December 20, 2016, the U. S. Department of Labor released [FAQs About Affordable Care Act Implementation Part 35](#) (FAQ #35) in an ongoing series of informal guidance regarding the Affordable Care Act (ACA). This FAQ addresses several topics including special enrollment rules, preventative services, and qualified small employer health reimbursement arrangements.

### New Option for Small Employer Health Reimbursement Arrangement

In December, the U.S. Senate passed the [21<sup>st</sup> Century Cures Act](#) which includes a provision allowing small businesses to offer a new type of health reimbursement arrangement for their employees' health care expenses. The provision for Qualified Small Employer Health Reimbursement Arrangements (QSEHRAs), a new type of tax-free benefit, takes effect January 1, 2017.

#### Background

Under the old law, employers were prohibited from making or offering any form of payment to employees for individual health insurance, whether through premium reimbursement or direct payment. Employers were also prohibited from providing cash or compensation to employees if the money

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was conditioned on the purchase of individual health insurance. Violations could result in excise taxes of \$100 per day per affected employee.

#### New Qualified Small Employer HRA -

The [21<sup>st</sup> Century Cures Act](#) does not repeal the ACA's general prohibition against employer payment of individual insurance premiums. Rather, it provides an exception for a new type of arrangement — a Qualified Small Employer HRA or QSEHRA — for employers with less than 50 employees. The Act also retroactively relieves qualified small employers from excise taxes for plan years before 2017. The relief applies retroactively and continues through the 2016 plan year (whether or not the employer offers QSEHRAs in 2017), but certain conditions must be met.

More Information: This seems like it could be a great option for the right small employer. To learn more, see the [21<sup>st</sup> Century Cures Act](#). The relevant provisions are found in Section 18001 beginning on page 306. You can also refer to the DOL's [FAQ #35](#).

## New OSHA Rule on Preventing Slips, Trips and Falls

On November 17, 2016 the Occupational Safety and Health Administration issued a [final rule](#) revising and updating its general industry walking-working surfaces standards specific to slip, trip and fall hazards. The rule establishes requirements on the design, performance and use of personal fall protection systems in general industry. In addition, the rule requires employers to train employees on identifying and minimizing fall hazards, using fall protection systems, and maintaining, inspecting and storing fall protection equipment.

The final rule allows employers to select the fall protection system that works best for their environment instead of requiring the use of guardrail systems, which the current rule mandates. The new Rule takes effect 1/17/17. However, there is some extra time built in for employers who need to take action, such as making an equipment purchase, to meet the new requirements of the new Rule.

## White Collar Salary Rule Update

Here's a timeline of key events since the 11/22/16 injunction blocking the new Salary basis test. We will keep you updated as this progresses through the Courts and under the new Administration.

- 11/22/16 – At the request of 21 states and several business groups, U.S. District Judge Amos Mazzant III of the Eastern District of Texas imposed an injunction blocking the new Salary Rule
- 12/1/16 - The U.S. Department of Labor filed notice that it intended to appeal Mazzant's injunction in Federal Court.
- 12/9/16 - The Texas AFL-CIO moved to intervene in the case. (In the unlikely event that this motion is granted, this could keep the litigation alive even if the Trump administration withdraws the DOL's Federal Court appeal.)
- 12/12/16 - The U.S. Department of Justice asked Mazzant to suspend further action pending the Federal Appeals Court decision on the DOL's appeal.

