

MINUTES OF THE MEETING  
BUSINESS AND LABOR COMMITTEE  
49TH LEGISLATURE SPECIAL SESSION III

June 24, 1986

The meeting of the Business and Labor Committee was called to order by Chairman Bob Pavlovich on June 24, 1986, at 9:00 a.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present, with the exception of Rep. Wallin, who was excused.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 2: Rep. Mary Ellen Connelly, District 8, sponsor of the bill, presented it to the committee. She explained there are a lot of lumber workers in her area who are worried there might be a bill, and that this was too involved to bring to the special session. There has been a study with recommendations for a good bill to be presented in the 1987 session to solve the problems. Rep. Connelly presented written testimony (EXHIBIT 1) which explained the crisis in the Montana Workers' Compensation system. There have been hearings to deal with these problems. The injured workers complained about several things -- they felt it takes too long to get financial help from the Workers' Compensation. Most of the workers had to go to an attorney to get settlements on their claims. They felt employers should be more concerned about safety, and that there should be a family health plan. Employers were concerned that their rates are too high, especially the timber industry as they have the highest accident rates. She said the unions felt there was a lot of fraud on both sides, and most of the proposals adversely affected the workers. There were concerns expressed about the six-day wage loss and also about social security. She also said there are three plans under the Workers' Compensation law. The first is self-insurance, and 50 percent are self-insured. The second is private insurance, and 9,000 to 10,000 are privately insured. The third is state funds, and 23,000 are under this plan.

PROPONENTS: Rep. Clyde Smith, District 5, stated he supported this proposal. He has served on the Governor's council. He cautioned this is a complex issue, but urged the committee's support.

Eric Feaver, president of the Montana Education Association, also urged the committee's support of this resolution.

Bob Robinson, representing Workers' Compensation Division, stated they support that the committee take a look at this issue.

Don Judge, representing the Montana AFL-CIO, said they also support this legislation. He has attended the meeting between the Governor's council and the Workers' Compensation Division. There was no strong support by anyone, and the only thing they agreed on was there was a problem with the Workers' Compensation of Montana. The system is complex and he felt this study is important. Workers' Compensation provides compensation to workers injured on the job. It does not make people rich. The majority of injured workers end up living on less than 66 percent of what they earned while they were working. He urged the committee to adopt this proposal. He said they will work with the committee and also with the Governor's Advisory Council.

OPPONENTS: Rep. Bob Marks, District 75, said he is not exactly opposed to the proposal, but concerned about the study. He just came from the meeting of the legislative council, and there is absolutely no way a study can be conducted without some money. There is real concern on the part of the legislature because there isn't any staff to do the study. The Feed Bill appropriated \$25,000 for a tax study. It is absolutely necessary to have an appropriation bill, and there is no appropriation and no mechanism for appropriating. There is a committee who is studying this composed of legislators, and people from the public and private sector. To go ahead with the study will require considerable financial commitment. He also wondered how many people will be able to spare the time.

There were no further proponents or opponents present.

In closing, Rep. Connelly told the committee that the Administrative Code Committee and its attorney, John McMaster, are already working on this so there would be no need for a new study. They have three meetings left which are already paid for. Sen. Story has agreed to work with this. He would have a bill introduced scheduled for the 1987 session. It is important to the workers in this state and also to the employers, and they want to be fair to both sides. She pointed out that most of the work has been done, and that they are not creating a new committee.

DISCUSSION OF HOUSE JOINT RESOLUTION NO. 2: Rep. Jan Brown asked Rep. Connelly why she did not specify that the Code committee work on this. Rep. Connelly replied they have another meeting scheduled and they aren't sure they have the authority to do it.

Rep. Kitselman said he and Rep. Schultz are members of the Administrative Code Committee, and had \$2,000 that they reverted into the fund. They will meet again before the session is over. John McMaster's time is swamped.

Rep. Schultz said he sees there are several problems that need some type of solutions. He expressed his concern about going into a full-scale study without the time or resources to do it. The Code Committee may not have the time to get together to work on it. There was a lot of controversy in the Governor's council about this. Rep. Schultz felt the committee is starting too late and he would hate to see a partial job done.

Rep. Kadas asked Rep. Smith how satisfied he is with what the council has done. Rep. Smith replied there isn't anyone on the council who is totally satisfied, but there is a hard compromise they all feel they can live with.

Rep. Kadas then asked Mr. Robinson of the Workers' Compensation department how satisfied his department is. Mr. Robinson replied they agree with about 80 percent of the recommendations, but have problems with the compensations.

Rep. Ellerd asked how a new study would change this, and could it bring satisfaction. Rep. Connelly replied they are just continuing to put together what has already been done and come up with a compromise.

Rep. Driscoll asked if there was a committee and they reviewed what the council did, could they find a new slant and a different way of doing what the council did. Rep. Connelly replied that was possible. Rep. Driscoll said the system is very complicated and more legislators should understand it.

Chairman Pavlovich asked Mr. Robinson how someone can be in prison and still collect workers' compensation. Mr. Robinson replied that the law does not allow workers' compensation to be cut off just because someone is in prison. This is a court rule.

Rep. Brandewie asked Rep. Smith if there was time for three more meetings, as the Governor's council held 17 meetings. Rep. Smith said they are scheduled for two more meetings. Rep. Brandewie felt it would be more appropriate to do this in January. Rep. Smith said he didn't think a legislative review of what they went over would do any harm.

Rep. Kitselman stated that last year there was a combination of private sector, laborers, etc., to put together a bill, and he wondered if those people had been contacted to put a structure together. He felt that might be a better approach. Rep. Smith said the recommendation they gave to the Governor's council was that kind of compromise.

Rep. Driscoll said this is a very complicated situation and that there are some people who wouldn't give an inch at the Workers' Compensation study. No one has come up with any money, and during the meeting, these issues got so locked in, no one was willing to move.

Rep. Kitselman said that is one of the problems. They need a couple of meetings to get up to speed. They have only one or two meetings to understand the complexity of this problem.

The committee then went into executive session for action on the bill.

DISPOSITION OF HOUSE JOINT RESOLUTION 2: Rep. Driscoll said he supports this because he is trying to educate more legislators so that in the 1987 session they can pass something more meaningful. He felt it can't be passed in three meetings. But maybe the legislature will be able to come up with some answers if they understand the problems better. Employers suffer all the costs.

Rep. Schultz said the Governor's council started in 1985, and the Administrative Code committee has spent time on it. This committee is expected to do something that is impossible. He didn't feel three meetings would be adequate to solve the problems when the others haven't been able to take care of it in 18 months.

Rep. Kadas said he attended the hearings in Missoula, and felt it would be difficult in the next 5 or 6 months to come up with solutions to bring to the next session. He also felt we owe it to ourselves to go beyond what this council has done. If it is left as

it is, it will end up on the floor in January.

Rep. Kitselman said he hoped that the people who served on this committee will return, and felt everyone has to do homework on their own. He further stated if the Administrative Code committee and the Workers' Compensation committee worked together informally, he felt the battle lines could be formed, and they could work out a compromise. He said only 20 percent of the recommendations need to be worked out.

Rep. Jan Brown asked Rep. Kitselman if he was proposing to amend this bill. Rep. Kitselman replied he was not proposing to amend the bill. There is sufficient interest in the private sector as well as the Workers' Compensation, and there is no appropriations for it. Many prefer to table this bill in this committee and see if there can be a compromise.

Rep. Thomas moved to amend page 1, line 21, by striking "tend to" following "and". Question being called for, motion PASSED with Rep. Kadas voting against it.

Rep. Thomas said it was stated earlier that it was important to the employers of Montana, but he felt it is important to the employees of Montana. Right now we are burdened with loss of jobs in the state, and there is \$50,000 difference in rates.

Rep. Kadas moved to amend page 2, line 5, following "That", strike "a special joint interim committee", and insert "the Administrative Code Committee". He explained the reason he used this language is that it doesn't bring the private sector into it.

Rep. Schults asked Rep. Kadas if he thought his amendment should also have legality into it, as we are not sure that we have the legal right to go into the study. Rep. Kadas replied that if the legislature assigns a study, it is basically legal. Rep. Schultz felt if we are going to be legal, it should be in the amendment.

Rep. Connelly said in trying to bring this into the session, she talked with Greg Petesch, director of the legislative legal services division, who told her this committee could do it.

Rep. Kitselman told Rep. Connelly that the Code committee has very restricted authority. When they hold a hearing, they can challenge that rule. They can call for an immediate response in a letter asking the purpose of the rules. Personally, he felt that is contrary to what the scope and mission is.

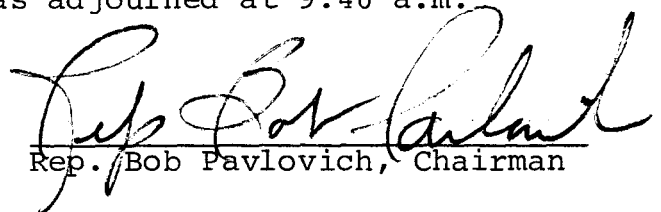
Rep. Driscoll made the motion of DO PASS AS AMENDED.

Rep. Kitselman made a substitute motion to TABLE HJR 2. The motion FAILED on a tied Roll Call Vote. (See attached Roll Call Vote).

Rep. Schultz commented that the committee as a whole is not against it, but will be spending a lot of time learning. There isn't enough time to study the proposals.

Chairman Pavlovich stated the resolution would revert to the original motion of DO PASS AS AMENDED, and go out of committee on a reversed Roll Call tie vote WITHOUT RECOMMENDATION. (See attached Roll Call Vote).

There being no further business to come before this committee, the hearing was adjourned at 9:40 a.m.



Rep. Bob Pavlovich, Chairman

# DAILY ROLL CALL

BUSINESS AND LABOR

COMMITTEE

49th LEGISLATIVE SESSION -- 1986  
SECOND SPECIAL SESSION

Date

June 24, 1986

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Pavlovich, Chairman	✓		
Rep. Les Kitselman, V-Chairman	✓		
Rep. Bob Bachini	✓		
Rep. Ray Brandewie	✓		
Rep. Jan Brown	✓		
Rep. Jerry Driscoll	✓		
Rep. Robert Ellerd	✓		
Rep. William Glaser	✓		
Rep. Stella Jean Hansen	✓		
Rep. Marjorie Hart	✓		
Rep. Ramona Howe	✓		
Rep. Tom Jones	✓		
Rep. Mike Kadas	✓		
Rep. Vernon Keller	✓		
Rep. Lloyd McCormick	✓		
Rep. Jerry Nisbet	✓		
Rep. James Schultz	✓		
Rep. Bruce Simon	✓		
Rep. Fred Thomas	✓		
Rep. Norm Wallin			✓

# STANDING COMMITTEE REPORT

June 24,

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Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE JOINT RESOLUTION 2

☐ do pass

☐ be concurred in

☒ as amended

☐ do not pass

☐ be not concurred in

☐ statement of intent attached

X WITHOUT RECOMMENDATION

REP. PAVLOVICH

Chairman

## BE AMENDED AS FOLLOWS:

1. Page 1, line 21

Following: "and"

Strike: "tend to"

2. Page 2, line 5

Following: "That"

Strike: "a special joint interim committee"

Insert: "the Administrative Code Committee"

3. Page 2, line 6

Following: line 5

Insert: "facilitate a"

"study"  
"of"

FIRST

reading copy ( WHITE )  
color



# ROLL CALL VOTE

BUSINESS AND LABOR COMMITTEE  
 DATE 6/24/86 BILL NO. HJR 2 NUMBER 1

NAME	AYE	NAY
Rep. Bob Pavlovich, Chairman		✓
Rep. Les Kitselman, Vice Chairman	✓	✓
Rep. Bob Bachini		✓
Rep. Ray Brandewie	✓	
Rep. Jan Brown		✓
Rep. Jerry Driscoll		✓
Rep. Robert Ellerd	✓	
Rep. William Glaser	✓	
Rep. Stella Jean Hansen		✓
Rep. Marjorie Hart		✓
Rep. Ramona Howe		✓
Rep. Tom Jones	✓	
Rep. Mike Kadas		✓
Rep. Vernon Keller	✓	
Rep. Lloyd McCormick		✓
Rep. Jerry Nisbet		✓
Rep. James Schultz	✓	
Rep. Bruce Simon	✓	
Rep. Fred Thomas	✓	
Rep. Norm Wallin	✓	

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Marianne Bagley  
 Secretary

Rep. Bob Pavlovich  
 Chairman

MOTION: Rep. Kitselman moved to TABLE HJR 2.  
Chairman Pavlovich reverted to Rep.  
Driscoll's original motion of Do Pass  
As Amended. The bill went out of  
committee without Recommendation.

# ROLL CALL VOTE

BUSINESS AND LABOR COMMITTEE  
 DATE 6/24/86 BILL NO. HJR 2 NUMBER 2

NAME	AYE	NAY
Rep. Bob Pavlovich, Chairman	✓	
Rep. Les Kitselman, Vice Chairman		✓
Rep. Bob Bachini	✓	
Rep. Ray Brandewie		✓
Rep. Jan Brown	✓	
Rep. Jerry Driscoll	✓	
Rep. Robert Ellerd		✓
Rep. William Glaser		✓
Rep. Stella Jean Hansen	✓	
Rep. Marjorie Hart	✓	
Rep. Ramona Howe	✓	
Rep. Tom Jones		✓
Rep. Mike Kadas	✓	
Rep. Vernon Keller		✓
Rep. Lloyd McCormick	✓	
Rep. Jerry Nisbet	✓	
Rep. James Schultz		✓
Rep. Bruce Simon		✓
Rep. Fred Thomas		✓
Rep. Norm Wallin		✓

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Marianne Bagley Rep. Bob Pavlovich  
 Secretary Chairman

MOTION: Rep. Driscoll moved that HJR 2 Do Pass  
As Amended.

6/24/86  
HJR 2  
Rep. Connelly

June 24, 1986

There is a crisis in Montana's Workers' Compensation system.

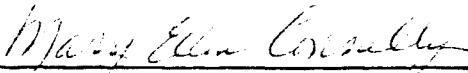
The crisis is:

- (1) The Workers' Compensation fund is over 30 million dollars in deficit.
- (2) Employers are being forced out of business.
- (3) New businesses attracted to Montana are being driven away by high Workers' Compensation costs.
- \* (4) Montana's workers' compensation rates are currently the third highest in the nation.
- (5) Raising rates and lowering benefits will not solve the crisis.
- (6) Abuse by some employers and some workers contribute to the crisis.
- (7) Montana is losing jobs and new employers, due - in part - to the current Workers' Compensation system.

The injured worker deserving benefits is now often the least successful in securing timely and just compensation under the current system. Protection of the injured worker must be the bottom line for any equitable system. Failure to address these concerns immediately in this special session will result in further damage to Montana's future.

\*\* If any one thing stood out at the Libby rally, it was the fact that workers' compensation reform is a jobs issue. That fact was understood by all who participated in the rally: employers and employees; miners and teachers; students and retailers; Republicans and Democrats. Excessive payroll costs negatively effect employment and wages. That's a fact!!

We respectfully ask the Administrative Code Committee to include consideration of the Workers' Compensation program on their agenda for study and to prepare a bill for introduction to the 1987 Legislature.

  
REPRESENTATIVE MARY ELLEN  
CONNELLY

\* Rate changes have been arbitrary and not based on sound fiscal decisions.

\*\* On Friday, May 9th, Libby was the site of a "rally" against the high rates which basic industries in Montana must pay for workers' compensation insurance coverage. In excess of 1,500 people turned out.

May 26, 1986

HONORABLE LEGISLATORS:

The attached petition is being submitted for your consideration at the Special Session #3 of the Montana State Legislature to be given immediate consideration to the concerns herein expressed:

To address our current budget crisis without simultaneously addressing the Workman's Compensation crisis affecting both employers and employees throughout the State of Montana would be derelict.

We recognize that the Governor's Council on Workman's Compensation has not made its' report, however, we do have a crisis.

As indicated herein, the loss of jobs will increase the revenue shortfall in the State of Montana and only serve to compound the very real budgeting problems pressing in upon our State.

If we wish to have a positive, healthy economy, we must have your help and support immediately.

RESPECTFULLY AND THANK YOU,

PEOPLE FOR JOBS, Steering Committee

*Mary Ellen Connelly*

*Colleen Allison*  
*Steve Wagon*

*Keneth Stromer*

*Henry Oldenburg*

*Bruce Homestead*

*Russ Miller*

*James Vandegriff*

*Dorinda L. Wittwer*

*Barbara Luontinen*

*Kent Byrd*

BUSINESS AND LABOR COMMITTEE

DATE June 24, 1986

SPONSOR Rep. Connelly

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.