

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on January 6, 1993, at
10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Tom Hager (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Daryl Toews (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

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

Committee Business Summary:

Hearing: SB 24
Executive Action: None.

Announcements:

Chair Lynch stated the secretary will note the roll instead of
calling it daily. The roll is to stay open for late comers to
the meeting.

HEARING ON SB 24

Opening Statement by Sponsor:

Senator Chet Blaylock, Senate District 43, stated SB 24 addresses
marital status and would clear up problems with medical group
insurance regarding fairness of coverage and the rates being
charged single people and people with dependents.

Proponents' Testimony:

Phil Campbell, Montana Education Association (MEA), stated SB 24 addresses problems that the MEA has had and the education industry faces. SB 24 addresses questions about an employer providing health care or insurance for their dependents. There has been an indication that providing family coverage costing more than the single coverage is marital status discrimination. The threat of discrimination charges has caused fear among employers; they don't want to offer health insurance to employees and their dependents because of the fear of being sued for marital status discrimination. There has been no rulings on any of the charges filed regarding this issue. Legal counsels have told the employers they should be extra careful when choosing insurance coverage. Employers are interpreting these warnings to mean companies should not provide different coverage for different employees.

Mr. Campbell commented the language presented in SB 24 states it is not discrimination for the employer to make all, or part of, the premium contributions toward group insurance for employees and their dependents. SB 24 is not based on "marital status", but is based on employees and their dependents. A single person can still have dependents. The terms "single" and "family" in insurance companies don't depend on marital status at all. It wouldn't be considered marital status discrimination for an employer to provide insurance for their employees and dependents. Mr. Campbell closed stating that he urged the Committee's swift consideration in favor of SB 24 (Mr. Campbell did not sign the visitor register)

Father Jerry Lowney, Representative of the Social Justice Committee of The Roman Catholic Diocese Priest Council and a member of the faculty at Carroll College stated he felt SB 24 is a very pro-family bill. Carroll College has had instances where professors who are single and maintenance people with lower incomes who have dependents were paying the same amount of premium. Carroll has had a struggle with the legality of their policy. Father Lowney strongly supported SB 24.

Don Waldern, Montana Rural Education Association (MREA), came forth stating the MREA supports SB 24. Mr. Waldern stated SB 24 is not only a bill for the employee, but also for the employer. He strongly supported SB 24 and urged the Committee's support.

Terry Minow, Montana Federation of Teachers, Montana Federation of State Employees, Montana Federation of Health Care Employees, stated that all of the above federations support SB 24 and that the passing of SB 24 would eliminate significant labor/management problems.

Loren Frazier, School Administrators of Montana, showed his support of SB 24.

Alec Hanson, Montana League of Cities and Towns supported SB 24. (Mr. Hanson did not sign the visitors register)

Gordon Morton, Director of the Association of Counties, showed support for SB 24 after looking at the California statutes and asks for the Committee's favorable consideration of SB 24.

Steve Turkiewicz, Montana Auto Dealers Association, stated that he represents approximately 4,000 Montanans who support SB 24.

Tom Hopgood, Health Association of America rose in support of SB 24. (Mr. Hopgood did not sign the visitors register, but is a registered lobbyist for the Legislative Session.)

Larry Akey, Montana Association of Life Underwriters, stating he represents over 600 people, rose in support of SB 24.

Howard Bailey, Program Administrator of the Montana Unified School Trust, encouraged the support of SB 24.

Dave Nevenson, Montana University Systems, supported SB 24 and stated he represents over 488 employees. (Mr. Nevenson did not sign the visitors register.)

Opponents' Testimony:

None.

Informational Testimony:

Ann MacIntyre, Administrator for the Human Rights Commission, stated the commission has taken no position on SB 24. The administration realized there is a problem, but felt the language in SB 24 is ambiguous. Ms. MacIntyre proposed amendments to clarify SB 24. She provided a draft of suggested amendments. (Exhibit #1) The commission staff felt there should be an amendment to part 3 of Title 49 as well as the amendments recommended.

Questions From Committee Members and Responses:

Senator Lynch was confused on the policies and whether the contribution by the school district was per teacher or per dependent toward insurance premiums. Mr. Campbell responded plans vary and the insurance company takes an average of single and family rates and develops a composite rate. The employer then contributes the composite rate on behalf of every employee which goes toward an overall group insurance premium. He also added when an employer pays the whole premium, there is usually not a problem. When the employer cuts back on payments of the premiums and the employees are picking up a portion of the

payment is when there is a problem. For example, every employee has to kick in \$20.00. That amount is their share, and the employer will pay the rest. The single person will question the amount they kick in for single coverage, when another person with three dependents is paying the same amount. The single person will say they are being discriminated against.

Senator Harding asked Mr. Hopgood who SB 24 would affect. Mr. Hopgood responded by saying SB 24 will reach both governmental and private entities which cover both families and single people for the same amount. Senator Harding then questioned whether it was up to the employer to decide whether or not they want to supply the kind of insurance that would cause marital discrimination questions and, in the case of insurance that covers both families and singles, if the single person was subsidizing the married persons insurance. Mr. Hopgood responded the final decision did lie upon the employer and it was true the single person was subsidizing the married persons insurance.

Senator Klampe addressed Mr. Campbell to clarify under some of the plans, a person could be single and still get the dependents covered. Mr. Campbell responded that was true. Senator Klampe then questioned if it wasn't just a semantics game. Mr. Campbell agreed it was a semantics game and the bill should not be called the Marital Status Bill. The Human Rights Commission (HRC) submitted a letter of opinion to questions from Montana School Board Association and the question came up about the provision of money and the method of payment. The opinion came back the methods of payments would be described as marital status discrimination. The point of SB 24 is payments and the benefits received from the group insurance. Senator Klampe submitted SB 24 should be worded "dependent status" and not "marital status". Mr. Campbell responded the MEA was trying to clarify the language isn't the problem of SB 24. The HRC stated the language as "Marital Status" and that is why SB 24 is called the Marital Status Bill.

Senator Toews addressed Mr. Campbell and asked whether SB 24 was a reversal proposition of what Mr. Campbell's organization had proposed three or four years ago. Mr. Campbell responded it wasn't. Senator Toews then inquired if there was any assurance SB 24 would stand up in court. Mr. Lynch answered any bill could be tested in the court of law and the drafting process by the legal council is the best legal test available to the Committee at this point.

Senator Rea asked Mr. Campbell if there was a law stating that an employer can not offer an employee the right to the money differential. Mr. Campbell stated that there was no law, but that was the way that group insurance worked. The purpose of group insurance is purchasing power and that is why the employer offers it.

Senator Christiaens referring to section 2, when SB 24 talked

about \$170 a month for the fiscal year of 1992, and \$190 for 1993, if there was any way that those amounts could be left out and the bill be generalized. Mr. Campbell stated the amounts were current law and was not sure what the legislature will do with the amounts. Mr. Campbell stated the bill does not deal with the issue of the amounts.

Senator Lynch wanted to know if SB 24 would prevent people from suing. Mr. Campbell stated that people could sue on other grounds, but not on the marital status bill.

Senator Koehnke inquired about employers charging employees for dependents who were covered and how many were covered, and if charging different amounts would eliminate lawsuits. Mr. Campbell responded that he didn't know that there would be a lawsuit in the case stated. Mr. Campbell then reiterated the problem is in the cases where the employees are all paying the same amount for different coverage.

Closing by Sponsor:

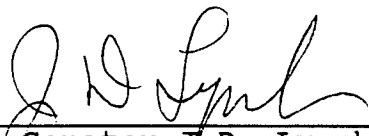
Senator Blaylock closed saying that he would take no position on the amendments and would like the opportunity to look at the amendments and the bill before taking a stand.

Announcement:

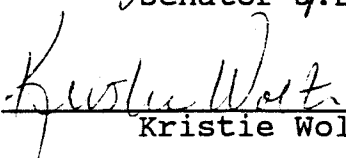
Chair Lynch stated that he would like to take executive action on SB 24 on Friday after the hearing on SB 51.

ADJOURNMENT

Adjournment: 10:45 a.m.



Senator J.D. Lynch, Chair



Kristie Wolter, Secretary

JDL/klw

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 1/6/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch	/		
Senator Christaens	/		
Senator Bruski-Maus	/		
Senator Gage	/		
Senator Hager	/		
Senator Harding	/		
Senator Kennedy	/		
Senator Klampe	/		
Senator Koehnke	/		
Senator Mesaros	/		
Senator Rea	/		
Senator Toews	/		
Senator Wilson	/		

Amendment to Senate Bill No. 24 (white copy)
Prepared by Anne MacIntyre
January 6, 1993

1. Page 1, line 20.
Following: dependents.
Strike: the remainder of lines 20 - 23 in their entirety
Insert: "The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit public group insurance plans from providing additional or greater contributions for insurance benefits to employees with dependents than to employees without or with fewer dependents."
2. Page 4.
Strike: Lines 15 - 18 in their entirety
Insert: "The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit public group insurance plans from providing additional or greater contributions for insurance benefits to employees with dependents than to employees without or with fewer dependents."
3. Page 6.
Strike: Lines 15 - 18 in their entirety
Insert: "(5) It is not a violation of the prohibition against marital status discrimination in this section for an employer or labor organization to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without or with fewer dependents."
4. Page 7.
Strike: Lines 7 - 10 in their entirety
Insert: "(3) It is not a violation of the prohibition against marital status discrimination in this section for an employer to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without or with fewer dependents."
5. Page 7.
Following: line 22
Insert: "NEW SECTION. Section 6. Section 49-3-103, MCA, is amended to read:

SENATE BUSINESS & ADMINISTRATION
BRANCH NO. 1
DATE 1/6/93
BILL NO. 2024

"49-3-103. Permitted distinctions. (1)
Nothing in this chapter prohibits any public ~~or~~
~~private~~ employer:

(a) from enforcing a differentiation based on marital status, age, or physical or mental handicap when based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or where the differentiation is based on reasonable factors other than age;

(b) from observing the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this chapter, except that an employee benefit plan may not excuse the failure to hire any individual; or

(c) from discharging or otherwise disciplining an individual for good cause.

(d) from providing greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without or with fewer dependents.

(2) The application of an employment preference as provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39, chapter 29 or 30, by a public employer as defined in 39-29-101 and 39-30-103 may not be construed to constitute a violation of this chapter."

Renumber:

Subsequent section

DATE 1/6/92

SENATE COMMITTEE ON SB 24 Business & Industry

BILLS BEING HEARD TODAY: SB 24

Name	Representing	Bill No.	Check One	
			Support	Oppose
Fr. Jerry Lemoine	Priests Council Diocese of Helena	SB 24	✓	
Sharon Hoff	Mont Cath Cont	"	✓	
Tim BERGSTROM	MT. STATE FIREMENS ASSOC	SB 24	✓	
Gordon Morris	MALC	SB 24	✓	
Larry M. Now	MT. Fed. of Teachers	SB 24	✓	
Steve Turkiewicz	MT. Auto Dealers Assn	"	✓	
Howard R Bailey	MT. Unified Sch Trust		✓	
Loran FRAZIER	SAM	" 24	✓	
Don Waldron	MREA	HB 24	✓	
R THROSSELL	AIA	SB 24	—	
LARRY AKEY	MT ASSOC OF LIFE UNDERWRITERS		✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY