

MINUTES

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

SELECT COMMITTEE ON WORKERS' COMPENSATION

Call to Order: By Senator Tom Towe, on April 22, 1993, at 7:43 a.m.

ROLL CALL

Members Present:

Sen. Tom Towe, Chair (D)
Sen. Gary Forrester, Vice Chair (D)
Sen. Gary Aklestad (R)
Sen. Sue Bartlett (D)
Sen. Jim Burnett (R)
Sen. John Harp (R)
Sen. Bob Hockett (D)
Sen. Tom Keating (R)

Members Excused: None.

Members Absent: Sen. Harry Fritz (D)
Sen. John Hertel (R)
Sen. J.D. Lynch (D)
Sen. Bill Wilson (D)

Staff Present: Bart Campbell, Legislative Council
Kelsey Chapman, Committee Secretary

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

Committee Business Summary:

Hearing: HJR 33
Executive Action: HJR 33

HEARING ON HJR 33

Opening Statement by Sponsor:

Representative Grimes, House District 75, told the Committee that 24-hour health care eliminated the need of different insurance policies for occupational and nonoccupational injuries. He handed out a summary sheet of HJR 33 (Exhibit #1), and explained that some states were using pilot programs to study 24-hour health care. He said experienced workers' compensation professionals including John Burton were writing about the 24-

hour health care program as an option to the regular system. He continued, saying page 4 of HJR 33 dealt with reviewing options that provided incentives for private sector development of specific plans for 24-hour health care coverage. Originally, HJR 33 had been a bill, but had been amended into Representative Elliott's bill dealing with the no-fault exception to workers' compensation. After talking to John Burton, Representative Grimes realized 24-hour health care coverage was very complex, and, perhaps some consideration and study was needed before setting up a structure by which private employers would encourage their health care providers to provide a 24-hour health care program.

He said a survey taken showed the people most active in the workers' compensation and health care issues thought there was an advantage to integrating occupational and non-occupational caseloads. The survey showed that within another 2 years, 24-hour health care coverage will either become an ongoing reality, or will become obsolete because of the Employee Retirement Income Security Act (ERISA) laws. The survey also showed there were ongoing attempts at 24-hour health care programs as a permissive alternative, as well as ongoing efforts to narrow the preemption of ERISA. HJR 33 would show the people of Montana that the Legislature was researching every possible alternative to help get handle on the workers' compensation problems. Representative Grimes concluded that depending on what happened with ERISA on a federal level, HJR 33, at best, could lead to the total or partial elimination of the State Fund.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Bartlett asked Representative Grimes what kind of special interim committee was in mind when page 3, line 1 of HJR 33 was amended in the House committee. Representative Grimes said the intention of the amendment was to make the workers' compensation study committee like the other interim study committees. He stated he wanted to make sure the committee was established, and added he would not object to reinstating the original language.

Senator Bartlett asked what the advocates of the language were meaning to do. Senator Harp said the amendment made it impossible to establish a rating system. He said this was not

SENATE SELECT COMMITTEE ON WORKERS' COMPENSATION

April 22, 1993

Page 3 of 8

the normal language for rating. There might not be an opportunity for the Legislature to vote on HJR 33 with that amendment because of the budget.

Senator Towe said with a special joint interim committee in place, there needed to be an appropriation with the bill. The best thing to do would be to keep the Legislative Council in HJR 33, and thus there would be a priority assigned to it within the Legislative Council's own budget.

Senator Harp said there would be a vote on the Legislative Council budget, and it would be good to get HJR 33 rated priority one.

Senator Towe explained Legislative Council would send out a ballot so the Legislature could vote to have HJR 33 rated priority one.

Senator Keating asked how the Governor's task forces were financed. Senator Towe said these were financed through special appropriations in HB 2.

Senator Harp said that the Governor's Task Force on Workers' Compensation was financed by taking some assignment money from all three insurance plans, through the Montana Department of Labor and Industry administration, about \$10,000.00 all together. Senator Harp further clarified that HJR 33 was the only piece of legislation alive that would provide for something to be done with workers' compensation by the Legislature during the interim.

Senator Aklestad asked for a definition of 24-hour coverage. Senator Towe said this was explained on lines 15 through 22 on page 2 of the resolution.

Representative Grimes told Senator Aklestad that the 24-hour concept could be defined as joint managed care of the workers' compensation system. He explained that 24-hour care was the combining of the coverage for injuries that occurred on the job, as well as off the job. He said that most employees were covered by health insurance policies that were separate from workers' compensation. 24-hour health care coverage would provide both health care and workers' compensation in one insurance plan. He said he agreed with Senator Harp that the language in HJR 33 could be vastly improved.

Senator Aklestad asked Representative Grimes if it was his intent to merge workers' compensation and health benefits together so an employer would only have to carry one insurance coverage plan. Representative Grimes said yes. There were problems with the plan, such as in cases of deductibilities and multiple jobs. There were some companies that had developed 24-hour health care coverage plans, but the plans were not in wide use.

Senator Hockett asked if any states had successfully implemented 24-hour health care pilot programs. Representative Grimes said that California and Florida were now leading in implementing successful pilot test programs.

Senator Harp asked Representative Grimes if he would be opposed to adding language allowing the interim committee to include a follow-up on legislation that passed in the 53rd Session so as to ensure that DOLI, the State Fund, and all other involved parties were doing what the Legislature had intended. Representative Grimes said he would welcome any input from the Committee.

Senator Harp stated in his electrical business, one of his employees making \$40,000 per year as a lineman had a workers' compensation rate of \$8,000 per year. To this employee Senator Harp stated he was also offering this worker health care coverage at a rate of \$2 per hour for every hour worked, or about \$4,000 per year. To cover his employee in both workers' compensation and health insurance was costing Senator Harp about \$12,000 per year. Senator Harp said a 24-hour plan would be a way to reduce this cost and give the worker better health care benefits. The total cost of employing an individual could be reduced with 24-hour coverage.

Representative Grimes said the cost incentive led him to draft HJR 33. Even in a high occupational hazard job such as a lineman had, a long term disability policy would be cheaper than \$8,000.00 per year. The question was how much it would cost to buy a long term disability policy at the current market rate, and then expanded health care insurance to cover a 24 hour period. Setting up a pilot program of the 24-hour health care coverage system would help study how it might work in Montana.

Senator Keating said he heard about 24-hour health care coverage one year ago through an agent who sold 24-hour plan policies in California. This agent explained to him that it was a combined medical and workers' compensation policy for the worker and family. The family and the worker received benefits for both occupational and non-occupational injuries and sicknesses. Because it was a combined policy, 24-hour coverage could be provided cheaper than individual health and workers' compensation insurance policies. Montana laws require workers' compensation coverage, but under an ERISA plan there could be a 24-hour coverage policy.

Senator Keating said page 3, line 23 "a review of funding sources available for pilot projects" sounded like Montana was going to get into funding of some sort. He preferred the language on page 4, line 9 where HJR 33 requires that the interim committee review options and provide incentives for the private sector to develop specific plans. He said he would rather the employer have the option of providing coverage under the law.

Representative Grimes said he had the language on page 3, line 23 added because some of the states trying pilot projects were receiving federal funding.

Senator Towe noted that the language would not limit the project to federal funds only.

Senator Keating said it bothered him that the state was going to control the programs. He said he would rather the state simply allow coverage under a 24-hour plan.

Representative Grimes said HJR 33 was a study that might need more governmental control because every aspect needed to be examined.

Senator Keating conceded that every angle needed to be examined, but reiterated that the idea of more governmental control bothered him.

Senator Hockett suggested incorporating Social Security disability (SSI) into the same program. Employers were paying into the Social Security fund as well as into health insurance and workers' compensation. He said perhaps HJR 33 was broad enough to include this.

Representative Grimes said he had assumed SSI benefits would be included in the HJR 33 study. Senator Towe said that this would be included under general Social Security on page 3, line 14, though HJR 33 did not specify SSI benefits.

Closing by Sponsor:

Representative Grimes told the Committee he would appreciate any amendments that would improve HJR 33. He said there was much interest in the 24-hour health care plan in Montana. He noted the Yellowstone Valley Workers' Compensation Coalition was interested in HJR 33, and had encouraged him to draft it.

EXECUTIVE ACTION ON HJR 33

Discussion:

Senator Harp asked to reinstate the original language on page 3, line 1. He said he would like to include an amendment that would direct the study to follow up on legislation that was passed in the 53rd Legislature.

Senator Harp said it would be advantageous to track the work of all agencies in charge of implementing the current legislation. He said there were at least four new programs being implemented through new legislation, and the ability to track the success of implementing these programs would be helpful. He noted that HJR

33 was the only vehicle left to accomplish this. Senator Harp said workers' compensation problems would not be totally solved by the package of reforms passed in the Legislature, and an ongoing study of the issues may help resolve the problems in full.

Senator Towe suggested adding a new subparagraph 12 following line 13, page 4, striking the period on line 13 and inserting a semi-colon. He suggested the Committee strike "and" on line nine, and add "a review of the safety program created under SB 163; the fraud program created under SB 164; and other programs created and improved by legislation adopted during the 53rd Session."

Senator Harp said he was most interested in following up on SB 347, as managed care was mentioned in HJR 33, and SB 347 dealt with cost containment.

Senator Hockett said the amendment should identify all the bills relating to workers' compensation. Senator Harp said it might be good to specifically identify the bills.

Senator Towe said that the amendment would include SB 163, SB 164 and SB 347 specifically, and all other workers' compensation bills in general. This would specify studies of the cost containment legislation, the workers' compensation fraud program, and the workers' compensation safety program, while including "other programs created and improved by legislation adopted in the 53rd session."

Senator Keating asked Senator Forrester, if as a sponsor of HJR 33, he minded making the study omnibus. Senator Forrester answered that he agreed with Senator Harp that because there was no other legislation adopted to allow for such studies HJR 33 would have to be amended to implement them.

Senator Keating said the title would have to be changed to include a review of workers' compensation legislation passed by the 53rd Legislature.

Senator Harp said he was not offering the amendment specifically toward SB's 163, 164 and 347 because he did not trust the people who would implement the programs, but rather because other legislation he had sponsored in the past had not been implemented as was his intent.

Senator Bartlett asked Senator Harp if, in adding the language, it was his intent that the focus of the study be predominately on the 24-hour coverage, and the monitoring of legislation adopted be a secondary purpose. Senator Harp answered the monitoring of the legislation would be a secondary purpose. He said he offered this amendment only because the legislation needed to be monitored, but there was no other bill to be a vehicle for such a follow-up study. He said it might be an asset to have a

permanent study committee on workers' compensation, because the problems were not going away.

Motion:

Senator Harp moved the amendments as discussed, including reinstating the original language on page 3 BE ADOPTED by the Committee.

Discussion:

Senator Harp asked if there would be any opposition to HJR 33 because of Senator Franklin's bill, SB 285.

Senator Bartlett suggested adopting an amendment to HJR 33 that would keep the bill cognizant of the activity of the health care authority where that investigation and work coincided with the workers' compensation issue.

Senator Towe said adoption of the amendment would call for the addition of a paragraph 13 to coordinate the workers' compensation study with the health care study in the chance there may be an overlap.

Senator Keating said there was language on page 2, line 10 for coordination between any national and state health care reform studies and the workers' compensation studies. He said he would hate to dilute the real purpose of HJR 33, as understanding 24-hour coverage could be helpful in alleviating the burden of the workers' compensation fund. He said HJR 33 was broad enough that the interim committee could go anywhere to gather information, and added anything else could steer the committee off the 24-hour study course.

Vote:

The Motion by Senator Harp that HJR 33 BE AMENDED CARRIED UNANIMOUSLY.

Motion\Vote:

Senator Bartlett moved an amendment that would include the Montana worker on page 3, line 8. The Motion CARRIED UNANIMOUSLY.

Motion:

Senator Harp moved HJR 33 BE CONCURRED IN AS AMENDED. The Motion CARRIED UNANIMOUSLY.

Senator Keating was assigned to carry HJR 33 on the Senate Floor.

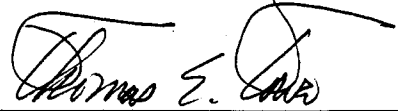
SENATE SELECT COMMITTEE ON WORKERS' COMPENSATION

April 22, 1993

Page 8 of 8

ADJOURNMENT

Adjournment: 8:29 a.m.



SENATOR THOMAS E. TOWE, Chair



KELSEY CHAPMAN, Secretary

TET/ksc

ROLL CALL

SENATE SELECT COMMITTEE ON Workers' Compensation DATE 4/22/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Towe	X		
Senator Forrester	X		
Senator Bartlett	X		
Senator Wilson		X	
Senator Burnett	X		
Senator Lynch		X	
Senator Aklestad	X		
Senator Fritz		X	
Senator Hockett	X		
Senator Hertel		X	
Senator Harp	X		
Senator Keating			

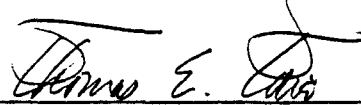
Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 22, 1993

MR. PRESIDENT:

We, your select committee on Workers' Compensation having had under consideration House Joint Resolution No. 33 (third reading copy -- blue), respectfully report that House Joint Resolution No. 33 be amended as follows and as so amended be concurred in.

Signed: 
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Title, line 8.

Following: "SYSTEM;"

Insert: "AND A REVIEW OF WORKERS' COMPENSATION LEGISLATION PASSED
BY THE 53RD LEGISLATURE;"

2. Page 3, line 1.

Strike: "A"

Insert: "the Legislative Council assign an appropriate"

3. Page 3, line 2.

Strike: "SPECIAL JOINT"

Strike: "BE ESTABLISHED"

4. Page 3, line 8.

Following: "businesses,"

Insert: "Montana workers,"

5. Page 4, line 9.

Strike: "and"


6. Page 4, line 13.

Strike: "."

Insert: "; and

(12) a review of the safety program created under Senate Bill No. 163, the fraud program created under Senate Bill No. 164, the cost containment program created under Senate Bill No. 347, and other programs created and improved by legislation adopted in the 53rd session."

-END-

m- Amd. Coord.
 Sec. of Senate


Senator Carrying Bill

891016SC.S

Amendments to House Joint Resolution No. 33
Third Reading Copy

Requested by Senator Harp
For the Senate Select Committee on Workers' Compensation

Prepared by Bart Campbell
April 22, 1993

1. Title, line 8.
Following: "SYSTEM;"
Insert: "AND A REVIEW OF WORKERS' COMPENSATION LEGISLATION PASSED
BY THE 53RD LEGISLATURE;"
2. Page 3, line 1.
Strike: "A"
Insert: "the Legislative Council assign an appropriate"
3. Page 3, line 2.
Strike: "SPECIAL JOINT"
Strike: "BE ESTABLISHED"
4. Page 3, line 8.
Following: "businesses,"
Insert: "Montana workers,"
5. Page 4, line 9.
Strike: "and"
6. Page 4, line 13.
Strike: "."
Insert: "; and (12) a review of the safety program created under
Senate Bill No. 163, the fraud program created under Senate
Bill No. 164, the cost containment program created under
Senate Bill No. 347, and other programs created and improved
by legislation adopted in the 53rd session."

HOUSE JOINT RESOLUTION 33

24-HOUR HEALTH CARE AND OTHER ALTERNATIVES

Rep. Duane Grimes

Work Comp alternatives are limited but this concept is a state-of-the-art option which is gaining increasing attention around the country.

24-hour health care is being studied in many States (Florida, Maine, California, Iowa, Colorado, Missouri, Georgia, and Oregon) via pilot programs, studies, and other means. This is on the cutting edge of work comp reform.

The most respected and experienced work comp professionals in the nation are researching and writing on this issue.

This particular resolution is unique because it encourages Montana to pursue options that would allow private industry to develop specific aspects of the concept.

AT LEAST: This resolution will send a message to Montana businesses that the Legislature is willing to consider ALL viable and progressive alternatives.

AT BEST: This resolution could result in the total or partial elimination of the State Fund.

The 24 hour concept is too early in development to implement in the Montana but next year may be a optimum time for related bills. This bill explores the possibilities of giving employers control over their own "work comp destiny." Since Work Comp is Montana's number one problem I encourage you to make this your number one study bill.