



Economic Affairs Interim Committee

63rd Montana Legislature

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July 30, 2013

Revised HJR 25 Workers' Compensation Study Plan

Prepared by Pat Murdo, Committee Staff

For Aug. 21, 2013, meeting

Introduction

The HJR 25 Study Resolution, assigned to the Economic Affairs Committee, identified the following topics:

- Review subrogation as it relates to Montana Constitutional requirements and case law regarding making an injured worker "whole". *Background Information Appendix A.*
 - Review the use of subrogation in civil actions and settlements.
 - Review how other states handle subrogation.
- Examine the structure of the workers' compensation court and whether nonpolitical appointments are feasible or needed. *Background Information Appendix B.*
- Examine the structure of the State Compensation Insurance Fund as a state agency and the potential impacts if the State Fund were to no longer be a state agency. Determine what would be required for independence. *Background Information Appendix C.*
- Examine the implementation and use of medical utilization and treatment guidelines, including the guidelines related to narcotic prescriptions, and whether any cost savings are related to the use of the guidelines. *Background Information Appendix D.*
- Examine the use of stay-at-work and return-to-work forms and the interaction between medical providers and employers regarding an injured worker returning to work. *Background Information Appendix E.*
- Examine the impact on employees of benefit changes under HB 334 in the 2011 session, including the revised definition of permanent partial disability. *Background Information Appendix F.*
- Examine the actions taken or needed for improving workplace safety. *Background Information Appendix G.*

Scope of Activities

The Committee decided to address all the items in HJR 25 at its regularly scheduled meetings, paying particular attention to the structure of the Montana State Fund and including calculations for the costs of meeting Old Fund obligations. Old Fund obligations are those payments for continuing or reopened claims for injuries or occupational diseases that occurred prior to July 1, 1990, when major reforms to Montana's workers' compensation system were put in place. There's a whole history behind those obligations, which will be part of a briefing paper.

The Committee also agreed to assign two liaisons to the Labor-Management Advisory Council from among its members and to pay for their participation (salary and per diem). (*See Appendix H for more information on the Labor-Management Advisory Council, or LMAC.*)

Proposed HJR 25 Schedule:

August 2013 Committee meeting	<ul style="list-style-type: none"> ✓ Introduction to workers' compensation, including how premiums are calculated ✓ Presentations on safety training, safety concerns and collaborative options from the Department of Labor and Industry, WorkSafeMT, and OSHA and MSHA ✓ Introductory overview of Montana State Fund history
October 2013 Committee meeting	<ul style="list-style-type: none"> ✓ Presentations of Montana State Fund finances ✓ State Fund/private insurer/self-insurer panel discussion on Montana State Fund's structure ✓ Review of options for Montana State Fund structure ✓ Introductory overview of subrogation topics
January 2014 Committee meeting	<ul style="list-style-type: none"> ✓ Panel discussion from self-insurers, private insurers, State Fund, and representatives of workers on impacts of subrogation ✓ Staff white paper on how other states handle subrogation ✓ Introductory overview of utilization and treatment guidelines
March 2014 Committee meeting	<ul style="list-style-type: none"> ✓ Panel discussion from physicians, insurers, department staff regarding utilization and treatment guideline implementation and suggestions for improvement. ✓ Report from current workers' compensation judge ✓ Presentation from work comp attorneys and Judicial Nomination Commission on options for appointing work comp judge. ✓ Introductory overview of stay-at-work, return-to-work forms and work comp benefits.
May 2014 Committee meeting	<ul style="list-style-type: none"> ✓ Panel discussion from physicians, rehabilitation specialists, insurers, employers, and potentially injured workers regarding stay-at-work, return-to-work forms and suggestions for improvement. ✓ Department staff overview of work comp benefits ✓ Possible panel of injured employees or their representatives to review HB 334. benefit changes.
July 2014 Committee meeting	<ul style="list-style-type: none"> ✓ Followup to Montana State Fund structure. ✓ Followup to subrogation.
September 2014 Committee meeting	<ul style="list-style-type: none"> ✓ Legislation from HJR 25 study, if any

Appendix A - Subrogation

The term subrogation means, according to Black's Law Dictionary:

The substitution of one person in the place of another with reference to a lawful claim, demand, or right, so that he who is substituted succeeds to the rights of the other in relation to the debt or claim, and its rights, remedies, or securities. (citation omitted) Subrogation denotes the exchange of a third person who has paid a debt in the place of the creditor to whom he has paid it, so that he may exercise against the debtor all the rights which the creditor, if unpaid, might have done. Subrogation appears commonly in construction contracts, insurance contracts, suretyship, and negotiable instrument law. Insurance companies, guarantors and bonding companies generally have the right to step into the shoes of the party who they compensate and sue any party whom the compensated party could have sued.

The right of one who has paid an obligation which another should have paid to be indemnified by the other. (citation omitted) A device adopted by equity to compel ultimate discharge of an obligation by him who in good conscience ought to pay it. (citation omitted)

Subrogation is of two kinds, either conventional or legal; the former being where the subrogation is express, by the acts of the creditor and the third person; the latter being (as in the case of sureties) where the subrogation is effected or implied by the operation of the law.

The Montana Constitution states in Article II, Section 16, that a person may not be deprived "of full legal redress for injury incurred in employment for which another person may be liable ... if such immediate employer provides coverage under the Workmen's Compensation Laws of this state". The portion of the section that has been interpreted to impact subrogation is the one referencing "full legal redress".

Section 16. The administration of justice. Courts of justice shall be open to every person, and speedy remedy afforded for every injury of person, property, or character. No person shall be deprived of this full legal redress for injury incurred in employment for which another person may be liable except as to fellow employees and his immediate employer who hired him if such immediate employer provides coverage under the Workmen's Compensation Laws of this state. Right and justice shall be administered without sale, denial, or delay.

Case law often has been referenced regarding making an injured worker "whole". Among the relevant cases are:

- ✓ *State Compensation Insurance Fund v. McMillan*, 2001 MT 168, 306 Mont. 166, P. 3d 347;
- ✓ *Francetich v. State Compensation Mutual Insurance Fund*, 252 M 215, 827 P. 2d, 49 St. Rep. 222 (1992).
- ✓ *Skauge v. Mountain States Telephone & Telegraph*, 172 M 521, 565 P2d 628 (1977) - This was not a workers' compensation case but related to insurance and "made whole" issues.
- ✓ *Thayer v. Uninsured Employers' Fund*, 1999 MT 304, 297 M 179, 991 P. 2d 447.
- ✓ *Shattuck v. Kalispell Regional Medical Center, Inc.* 2011 MT 229, 362 M 100, P.3d 1021. This was not a workers' compensation case but related to insurance and "made whole" issues.
- ✓ *Oberson v. Federated Mutual Insurance Co.*, 2005 MT 329, 330 M 1, 126 P. 3d 459. This case allowed Montana's "made whole" principle to apply rather than Michigan law for a Michigan employee injured while working in Montana and that the "made whole" doctrine proscribes subrogation in this case.

Activities:

- ✓ Review the use of subrogation in civil actions and settlements in Montana, if possible, and compare with how subrogation works in a workers' compensation case?
- ✓ What were the elements of successful subrogation lawsuits under 39-71-414, MCA? The workers' compensation subrogation statute says:

39-71-414. Subrogation. (1) If an action is prosecuted as provided for in 39-71-412 or 39-71-413 and except as otherwise provided in this section, the insurer is entitled to subrogation for all compensation and benefits paid or to be paid under the Workers' Compensation Act. The insurer's right of subrogation is a first lien on the claim, judgment, or recovery.

(2) (a) If the injured employee intends to institute the third-party action, the employee shall give the insurer reasonable notice of the intention to institute the action.

(b) The injured employee may request that the insurer pay a proportionate share of the reasonable cost of the action, including attorney fees.

(c) The insurer may elect not to participate in the cost of the action. If this election is made, the insurer waives 50% of its subrogation rights granted by this section.

(d) If the injured employee or the employee's personal representative institutes the action, the employee is entitled to at least one-third of the amount recovered by judgment or settlement less a proportionate share of reasonable costs, including attorney fees, if the amount of recovery is insufficient to provide the employee with that amount after payment of subrogation.

(3) If an injured employee refuses or fails to institute the third-party action within 1 year from the date of injury, the insurer may institute the action in the name of the employee and for the employee's benefit or that of the employee's personal representative. If the insurer institutes the action, it shall pay to the employee any amount received by judgment or settlement that is in excess of the amounts paid or to be paid under the Workers' Compensation Act after the insurer's reasonable costs, including attorney fees for prosecuting the action, have been deducted from the recovery.

(4) An insurer may enter into compromise agreements in settlement of subrogation rights.

(5) Regardless of whether the amount of compensation and other benefits payable under the Workers' Compensation Act have been fully determined, the insurer and the claimant's heirs or personal representative may stipulate the proportion of the third-party settlement to be allocated under subrogation. Upon review and approval by the department, the agreement constitutes a compromise settlement of the issue of subrogation. A dispute between the insurer and claimant concerning subrogation is a dispute subject to the mediation requirements of 39-71-2401.

(6) (a) The insurer is entitled to full subrogation rights under this section, unless the claimant is able to demonstrate damages in excess of the workers' compensation benefits and the third-party recovery combined. If the insurer is entitled to subrogation under this section, the insurer may subrogate against the entire settlement or award of a third-party claim brought by the claimant or the claimant's personal representative without regard to the nature of the damages.

(b) If a survival action does not exist and the parties reach a settlement of a wrongful death claim without apportionment of damages by a court or jury, the insurer may subrogate against the entire settlement amount, without regard to the parties' apportionment of the damages, unless the insurer is a party to the settlement agreement.

(7) Regardless of whether the amount of compensation and other benefits payable

have been fully determined, the insurer and the claimant may stipulate the proportion of the third-party settlement to be allocated under subrogation. Upon review and approval by the department, the agreement constitutes a compromise settlement of the issue of subrogation. A dispute between the insurer and claimant concerning subrogation is a dispute subject to the mediation requirements of 39-71-2401.

- ✓ Review how other states handle subrogation. A quick Internet search provided an article by Gary Wickert, author of "Workers' Compensation Subrogation in All 50 States", who noted that in 2001 the Ohio Supreme Court struck down on state constitutional grounds Ohio's subrogation statute. This may have been revised since then. Mr. Wickert does not single out Montana's situation from that of other states.
- ✓ Hear from self-insured employers and other insurers to determine if their situations related to subrogation differ significantly and whether there are options to recognize in law these differences without changing constitutionally the "made whole" provision in Article II, Section 16, of the Montana constitution. For example, self-insured employers may be required to have motor vehicle insurance but pay for any employee's automotive claims that involve personal injury under workers' compensation insurance; any motor vehicle insurance money goes toward making the worker whole. As a result, the employer's workers' compensation premiums increase even though other insurance may have been available to offset the increase in costs to the employer.
- ✓ Hear from injured workers to doctrine to fill in gaps from workers' compensation coverage. From the worker's perspective, workers' compensation benefits do not make up for pain and suffering or fully compensate for lost wages in most circumstances. For that reason, employee representatives urge retention of the "made whole" doctrine.

Subrogation may also be considered by the Labor-Management Advisory Council, but public comments made at the Committee's June 25 meeting indicated that the LMAC's approach may be different from the approach that the Committee might be able to take.

An introductory overview of subrogation issues will be presented at the October 2013 Committee meeting. At the January 2014 meeting, there will be a panel of insurers and injured workers (or their representatives) to discuss the impacts of subrogation. Staff also will provide a white paper on how other states handle subrogation. After the presentations, the committee may decide to further explore the topic or assign tasks to interested persons to report back on proposals for further discussion.

Appendix B - Workers' compensation court and whether nonpolitical appointments are feasible or needed.

Montana's workers' compensation judge is selected by the governor from a list provided by the Judicial Nomination Commission and serves a 6-year term. Although not specifically a political appointment, there is an argument that, because the workers' compensation judge is not elected as are other judges subsequent to their appointment to fill a vacancy, there may be an indication of the judge being politically attuned as far as the governor is concerned. However, an argument could also be made that the 6-year term removes a judge from the same election cycle as the governor. Each nomination must be confirmed by the Senate, according to 3-1-1013, MCA.

3-1-1010. Lists submitted to governor and chief justice -- report on proceedings. (1) If a supreme court justice, a district court judge, the workers' compensation judge, the associate water judge, or the chief water judge gives notice of the judge's resignation to take effect on a specific date, the commission shall meet as soon as possible after the justice's or judge's proposed resignation date has been verified by the chief justice of the supreme court. If notice is not given, the commission shall meet as soon as possible after a vacancy occurs. The meeting must be held in compliance with 3-1-1007. The commission shall submit to the governor or chief justice, within the time period established under 3-1-1007, a list of not less than three or more than five nominees for appointment to the vacant position.

(2) The list must be accompanied by a written report indicating the vote on each nominee, the content of the application submitted by each nominee, letters and public comments received regarding each nominee, and the commission's reasons for recommending each nominee for appointment. The report must give specific reasons for recommending each nominee.

39-71-2901. Location of office -- court powers -- withdrawal -- substitution. (1) The principal office of the workers' compensation judge must be in the city of Helena.

(2) The workers' compensation court has power to:

- (a) preserve and enforce order in its immediate presence;
- (b) provide for the orderly conduct of proceedings before it and its officers;
- (c) compel obedience to its judgments, orders, and process in the same manner and by the same procedures as in civil actions in district court;
- (d) compel the attendance of persons to testify; and
- (e) punish for contempt in the same manner and by the same procedures as in district court.

(3) The workers' compensation judge shall withdraw from all or part of any matter if the judge believes the circumstances make disqualification appropriate. In the case of a withdrawal, the workers' compensation judge shall designate and contract for a substitute workers' compensation judge to preside over the proceeding from the list provided for in subsection (4). The substitute judge must be compensated at the same hourly rate charged by the department of justice agency legal services bureau for the provision of legal services to state agencies. The substitute judge must be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. When the substitute judge has accepted jurisdiction, the clerk of the workers' compensation court shall mail a copy of the assumption of jurisdiction to each attorney or party of record. The certificate of service must be attached to the assumption of jurisdiction form in the court file.

(4) The workers' compensation judge shall maintain a list of persons who are interested in serving as a substitute workers' compensation judge in the event of a recusal by the judge and who prior to being put on the list of potential substitutes have been admitted to the practice of law in Montana for at least 5 years, currently reside in Montana, and have resided in the state for 2 years.

Activities:

- ✓ Hear from Workers Compensation Court Judge James Jeremiah Shea regarding work load, ability of petitioners to function without attorneys, suggestions for improvements in work comp law.
- ✓ Hear from representatives of the Judicial Nomination Commission to determine if the process for appointing a workers' compensation judge ought to include election, a rotating bench of potential workers' compensation judges, or some other approach.
- ✓ Hear from workers' compensation attorneys to determine if the current procedure could be improved.

The Committee's March 2014 meeting will include the above presentations.

Appendix C - The structure of the State Compensation Insurance Fund as a state agency and the potential impacts if the State Fund were to no longer be a state agency.

At the Committee's introductory meeting in June 2013, representatives from Montana State Fund and members of the public cautioned against including in the Montana State Fund administrative structural review any discussion of privatization, which would be making the Montana State Fund a private entity no longer a state agency.

Laurence Hubbard, president and chief executive officer of Montana State Fund, informed the Committee that nationwide about 25 state funds participate in the American Association of State Compensation Insurance Funds. He noted that Montana State Fund provides a competitive option to private insurers in this state. Workers' compensation is mandatory in Montana unless the employer meets one of 26 exemptions under 39-71-401, MCA. He noted that making a State Fund private raises questions about who would provide the guaranteed coverage for workers' compensation in a required market and whether a private entity could be required to do so.

Hubbard noted that oversight continues to be an issue, with actuarial reviews required from three entities:

- Montana State Fund itself as part of its business plan and pricing requirements;
- the legislative auditor as part of legislative oversight; and
- most recently by the State Auditor's Office, which reviews the other two actuarial firms' assumptions to determine if the process is similar to that of private firms over which the State Auditor has regulatory authority.

Among options that may be explored are whether Montana State Fund:

- could have a greater degree of independence from the legislative process and legislative oversight by altering the oversight requirements and perhaps revising funding obligations for Old Fund claims;
- Should pay premium taxes as other insurers do. Premiums have not been required of Montana State Fund because it is a state agency and the provider of a guaranteed market.

Activities:

- ✓ Review the history of the State Compensation Insurance Fund, including the problems that arose with political rate-setting directives in the mid-1980s and the concerns that arose when initially the State Compensation Mutual Insurance Fund was regulated under Title 33 along with all other workers' compensation insurers. Possible presentation or white paper.
- ✓ Determine what would be required for greater independence and whether that independence is from legislative oversight and budget calculations or another independence:
 - Would a guaranteed market still work (and, if so, how) or would an assigned-risk pool requiring the participation of all private insurers (but not self-insured entities) be feasible without driving out other workers' compensation insurers?
 - What would be the actuarially established cost of requiring the Montana State Fund, instead of the state's general fund, to cover claims under the Old Fund for injuries or occupational disease that occurred before July 1, 1990, if that were to be a condition of the Montana State Fund gaining more independence?
 - What have other states done prior to making their state compensation funds into private

- entities?
- What exclusions or alterations would be necessary for regulating the Montana State Fund under Title 33 if the Montana State Fund remained a work comp provider of last resort?
- How would an open market affect the state of Montana's workers' compensation insurance premiums and what would be required if the state of Montana no longer was required to purchase workers' compensation insurance from the Montana State Fund? What impacts on the market would occur if the state were to self-insure for workers' compensation?
- ✓ Obtain input from private insurers to determine if competition would improve or decrease without the state's guaranteed market basically provided by the Montana State Fund.

The August 2013 meeting will include a brief overview of issues related to Montana State Fund and its history, with indepth panel discussions scheduled for the October 2013 meeting. The October meeting would include:

- Presentations of Montana State Fund finances from three actuaries' perspectives;
- State Fund/private insurer/self-insurer panel discussion on Montana State Fund's structure; and
- Review of options for Montana State Fund structure.

Future meetings could explore any of these topics in more depth, at the direction of the committee and taking into account the time required of other HJR 25 components.

Appendix D - Medical utilization and treatment guidelines, implementation and use

At the June organizational meeting the Committee voted to address all components of HJR 25, including the review of how the medical utilization and treatment (U&T) guidelines are being implemented by physicians and others. The review will include the guidelines related to narcotic prescriptions and any cost savings related to the use of the guidelines.

Activities:

- ✓ Hear from a panel comprised of physicians, insurers, and department staff regarding utilization and treatment guideline implementation and suggestions for improvement.
- ✓ Hear, if possible, from injured workers regarding effectiveness of the U&T guidelines.

The above activities are scheduled for the March 2014 Committee meeting. Followup is possible at later meetings.

Appendix E - Stay-at-work and return-to-work program and forms

Under House Bill No. 334 in the 2011 session, new provisions became law regarding the use of stay-at-work, return-to-work programs to assist an injured worker to stay at work or return to work. Forms were to be developed to provide information to the employer about restrictions that may be needed to help get a worker back into the routine of a job without potentially reversing recovery or creating new problems while the worker is recuperating.

Rules regarding the responsibilities of insurers for adopting a stay-at-work/return-to-work policy went into effect in July 2012. If the Department of Labor and Industry cannot determine which insurer is responsible for an injured worker's stay-at-work/return-to-work services, the department is to step in and provide that assistance.

Activities:

- ✓ Hear from the department regarding department-provided stay-at-work/return-to-work assistance and the development of forms to share information with the employer;
- ✓ Hear from rehabilitation counselors regarding stay-at-work/return-to-work provisions adopted in 2011 and how these may differ from earlier efforts at injured worker rehabilitation and what may be done to improve the process.

The above activities are scheduled for the May 2014 meeting, featuring a panel discussion from physicians, rehabilitation specialists, insurers, employers, and potentially injured workers regarding stay-at-work, return-to-work programs and suggestions for improvement.

Appendix F - Impact on employees of benefit changes under HB 334 in the 2011 session

Finding injured workers willing to testify before a legislative committee often is problematic. Some are severely injured and rely on an attorney to help make a presentation. Others are busy and back at work so they do not want to take time out of their day to address a committee of legislators. If possible, this segment of HJR 25 will try to recruit injured workers to testify about the impact of HB 334 changes on their benefits.

For the most part, HB 334 only began impacting those workers injured on or after July 1, 2011. One exception is that the Sixth Edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* was made retroactive to Jan. 1, 2008, for impairment ratings that were determined after that date. This was because the law amended in 2011 had referenced the use of the "current" AMA guide and many insurers were already using the Sixth Edition. Under the new definition of "permanent partial disability" a treating physician must use the Sixth Edition guide to determine an impairment rating for a worker who has reached maximum medical healing. The Sixth Edition guide is considered more strict than the previous guide for many types of injuries.¹ Under 39-71-703, MCA, the calculation for receiving an impairment award under a permanent partial disability requires under HB 334 that the injured worker have a Class 2 or greater impairment as converted to a whole person. Class 2 indicates an injury that continues to cause or be a "moderate problem".

Activities:

- ✓ Hear from department staff a report on observable impacts related to the HB 334 change in injured worker benefits, including the number of mediation disputes associated with the changes in impairment rating calculations, the changes in insurer payments, if any, and other data available from the Department of Labor and Industry's workers' compensation data set.
- ✓ Hear, if possible, from injured employees or their representatives regarding the impact on them from HB 334 benefit changes.

The above activities are scheduled for the May 2014 meeting.

¹An analysis by the National Council on Compensation Insurance (NCCI) of three states that switched from the Fifth Edition to the Sixth Edition of the AMA Guides showed that in each state the impairment ratings for whole body dropped: in Montana by 28%, in New Mexico by 32%, and in Tennessee by 25%. See: <http://www.lexisnexis.com/legalnewsroom/workers-compensation/b/ama-guides-impairment-ratings/archive/2012/06/16/ncci-states-that-switch-to-ama-guides-sixth-edition-se-e-big-drop-in-impairment-ratings.aspx>.

Appendix G - Actions taken or needed for improving workplace safety.

More workers are injured in Montana than the countrywide average or regionally, according to data compiled from 2010 claims by the National Council on Compensation Insurance, Inc. NCCI's information, presented in early June to insurers, regulators, and interested parties, showed in 2010 that claims for 100,000 workers averaged:

- ✓ 4,793 claims in the region;
- ✓ 3,633 claims nationwide; and
- ✓ 5,832 claims in Montana.

Since WorkSafeMT was still getting off the ground in 2010, the year of the reported claims (above), the organization's training efforts, along with those of the Department of Labor and Industry's Safety Bureau may put downward pressure on those numbers in future claim years.

The Committee's Aug. 21, 2013, meeting will feature a panel discussion on safety training and safety concerns as well as potential collaborative efforts involving the state, the private sector, and the federal safety agencies -- the Occupational Safety and Health Administration and the Mine Safety Health Administration. Further information may be made available at future meetings, along with recommendations to improve safety in the workplace.

Montana's Fatal Incidence Rate per 100,000 Workers among the Top 6 States for 5 Years

2007		2008		2009		2010		2011*	
Louisiana	7.3	W. Virginia	6.8	Mississippi	6.3	Montana	8.2	S. Dakota	6.7
Mississippi	7.4	S. Dakota	6.9	Arkansas	6.4	N. Dakota	8.5	Arkansas	8.0
W. Virginia	7.7	N. Dakota	7.8	Wyoming	7.5	S. Dakota	8.8	Alaska	11.1
Alaska	8.9	Montana	8.3	N. Dakota	7.9	Alaska	11.5	Montana	11.2
Montana	10.6	Alaska	9.9	Louisiana	8.0	Wyoming	12.9	Wyoming	11.6
Wyoming	17.1	Wyoming	11.6	Montana	12.1	W. Virginia	13.7	N. Dakota	12.4
<i>Nat'l Average</i>	<i>3.8</i>	<i>Nat'l Average</i>	<i>3.7</i>	<i>Nat'l Average</i>	<i>3.5</i>	<i>Nat'l Average</i>	<i>3.6</i>	<i>Nat'l Average</i>	<i>3.5</i>

*2011 numbers are preliminary. All rates were calculated using Current Population Survey (CPS) data. Industry was classified according to the North American Classification System, 2007. Excludes military personnel, volunteers, and workers under the age of 16. Includes all self-employed, family business, and wage and salary workers.

Source: Census of Fatal Occupational Injuries, U.S. Department of Labor & Industry, Bureau of Labor Statistics, in cooperation with the Montana Department of Labor & Industry, Research & Analysis Bureau.

Appendix H - Labor Management Advisory Council

The Commissioner of Labor and Industry, Pam Bucy, created a Labor-Management Advisory Council within the Department of Labor and Industry on May 14, 2013, with endorsement by Gov. Steve Bullock on May 17.

The purpose of the LMAC is:

- to monitor the effectiveness of the reforms generated by House Bill No. 334 in the 2011 legislative session;
- to continue to improve Montana's workers' compensation system; and
- to recommend solutions to the Commissioner in order to facilitate education, promote mutual cooperation between labor and management, and improve the workers' compensation system in Montana.

Membership consists of:

- 5 representatives of employers, including one representing self-insurers and one representing the Montana Chamber of Commerce;
- 5 representatives of employees, one of whom is to be chosen by the Montana Trial Lawyers' Association.
- Lt. Gov. John Walsh as chair; and
- Diana Ferriter, Employment Relations Division Administrator, a non-voting member.

A subcommittee consists of:

- 1 representative of the Montana Medical Association;
- 1 member of the Montana Hospital Association;
- 1 member of the Montana State Fund;
- 1 member representing private work comp insurers; and
- 1 member representing the Rehabilitation Association of Montana.

Additional subcommittee members may be added upon a favorable vote of the advisory council.

Procedures:

- The advisory council will meet at least quarterly and terminates on Dec. 31, 2015..
- Approval of a position or recommendation requires a favorable vote of at least a majority of the representatives of employers and of employees and the Lt. Governor's vote.

LMAC Members:

Representing Employees

Doug Buman
Laborers' International Union
of N. America

Al Ekblad
Montana AFL-CIO

Jim Larson
Teamsters Local 190

Don Judge
Injured Workers' Resource
Council

Al Smith
Montana Trial Lawyers Assn.

Representing Employers

Bill Dahlgren
Sun Mountain Sports

Annette Hoffman
St. Vincent's Healthcare

Riley Johnson
Nat'l Federation of
Independent Business

Bob Worthington
PMB 424

Lance Zanto
Workers' Compensation
Management Bureau (State)

Subcommittee Members

Bob Olsen
Montana Hospital Assn.

Kevin Braun
Montana State Fund

Jackie Lenmark
American Insurance Assn.

Jean Branscum
Montana Medical Assn.

Lisa Kozeluh
Vocational Management Services