

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES AND AGING

Call to Order: By Stella Jean Hansen, on February 8, 1989, at
3:00 p.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

HEARING ON HB 279

Presentation and Opening Statement by Sponsor:

Rep. Cobb stated that this bill is an act providing legislative direction and oversight of programs administered under the federal job training partnership act in order to ensure that welfare recipients obtain the employment and training needed to avoid long term dependency on public assistance; requiring that Title II-A job training programs serve welfare recipients as a priority target group; mandating performance standards; coordinating job training programs with programs and services of public assistance agencies; making each job training plan subject to legislative review; and providing an immediate effective date and an applicability date.

Testifying Proponents and Who They Represent:

None

Proponent Testimony:

None

Testifying Opponents and Who They Represent:

Jerry Overmier, Concentrated Employment Program Private
Industry
Dan Miller, Champion International
Jane Lopp, Prudential Financial Service
Ann Mary Dussault, Montana Association of Counties

Opponent Testimony:

Jerry Overmier discussed the Job Training Partnership Act and supplied a handout. Exhibit 1.

Dan Miller stated that this bill eliminates that discretion which the councils are given by Federal law. Exhibit 2.

Jane Lopp stated that the legislature, through review and comment on the job training plan and through enactment of a law which provides broad direction and goals, will allow councils to better coordinate their efforts rather than through this bill. Exhibit 3.

Ann Mary Dussault stated that it must be remembered foremost that the purpose of the Job Training Partnership Act was to establish local control over the job training programs. Significant statewide legislation in this area would clearly defeat this purpose. Exhibit 4.

Questions From Committee Members: Rep. Good asked Mr. Miller about the sampling technique used and Mr. Miller stated that he sampled to two standard deviations. That is commonly used to most statistically analysis. There are a number of trainees that are sampled 90 days after they are released from the program. A letter is sent and following of a telephone call is then used. A certain number must be contacted in order to make it valid.

Rep. Simon stated that Mr. Overmier's testimony indicated that Rep. Simon had served on a Private Industry Council and giving the impression, possibly, to the committee that he had served as a legislator. Rep. Simon indicated that he had served on the Private Industry Council under the Comprehensive Employment Training Act in the early 1980's and he was not elected to the House until 1985.

Closing by Sponsor: Rep. Cobb closes on the bill.

DISPOSITION OF HB 279

Motion: Rep. Boharski made a Motion to DO NOT PASS. Rep. Simon made a Substitute Motion to TABLE this bill.

Amendments, Discussion, and Votes: A vote was taken to TABLE the bill and all voted in favor with the exception of Reps. Squires and Boharski. Rep. Squires then made a Substitute Motion to DO NOT PASS.

Rep. Squires stated that this bill is extremely flawed. It has many problems, it has been a ongoing problem, it was refused by the interim committee to put in as a part of the welfare

reform package, and is just not a good piece of legislation.

Rep. Brown stated the bill was probably deadlier being tabled than if goes out of committee on an adverse committee report.

Rep. Boharski stated that the reason he suggested a DO NOT PASS was that there were very serious problems, and a adverse committee report was desired and consequently the bill would be defeated.

Rep. Lee asked Rep. Squires to iterate the serious flaws of the bill and she stated that we were not serving the right populace, not indicating that the survey was in flaw, that the number could not be obtained, the RFP's were not adequate, finding fault with the program, the governor does not have as much power, there are innumerable flaws. Rep. Squires then stated that she would withdraw her motion.

Recommendation and Vote: Rep. Hansen stated that the Motion of Rep. Squires had been withdrawn and the bill was then TABLED.

HEARING ON HB 529

Presentation and Opening Statement by Sponsor:

Rep. Boharski stated that this bill was an act to require coordination of programs under Title II-A of the federal job training partnership act with other programs to assure the delivery of a comprehensive, integrated range of nonduplicative employment and training services to economically disadvantaged persons; and to provide an immediate effective date and an applicability date.

Testifying Proponents and Who They Represent:

Ann Mary Dussault, Montana Association of Counties
Jerry Overmier, Concentrated Employment Program Private
Industry Council
Virginia Jellison, Low Income Coalition

Proponent Testimony:

Ann Mary Dussault stated that there were portions of the bill that she was confused about. The bill contains contradictory statements.

Jerry Overmier stated that he supports this legislation.

Virginia Jellison stated that her organization was very supportive of employment and training programs that truly assist low income people's attempt to become less

dependent on public assistance and feel that this bill is a better bill than HB 279 because it specifies the programs and provides training program for people so they don't have to go on public assistant.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Rep. Boharski closes on the bill.

DISPOSITION OF HB 529

Motion: Rep. Boharski made a Motion to DO PASS.

Discussion: Rep. Squires stated that if Rep. Boharski was not willing to put this in a subcommittee, she would not be in favor of the bill. The items which were outlined by the County Commissioner need to be addressed.

Rep. Blotkamp suggested that this bill not pass out of committee and a statement of intent is needed.

Rep. Good then made a Motion to pass for the day.

Rep. Hansen then stated that the bill would be put into a subcommittee for two days. A vote was then taken to pass for the day and all voted in favor with the exception of Rep. McCormick. Reps. Squires, Knapp and McCormick with Rep. Boharski in attendance.

HEARING ON HB 378

Presentation and Opening Statement by Sponsor:

Rep. Squires stated that this bill was an act requiring the Board of Nursing to establish a program to assist and rehabilitative licenses nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or other substances.

Testifying Proponents and Who They Represent:

Carol Sem, Program for Recovering Nurses
Ken Dunham, Montana LPN Association
Ron Simpson, R.N.
Nancy Bowles, R.N.
Patricia Osterhout, Chemical Dependency Counsellor

Tom Dunlop, Glacier View Hospital
Janice Anderson, Board of Nursing
Darlene Huseby, R.N.
Barb Booher, Montana Nurses Association
Jerry Loendorf, Montana Medical Association
Jim Aherns, Montana Hospital Association

Proponent Testimony:

Carol Sem stated that an impaired nurse is one who is a nurse whose job performance is adversely affected by use or abuse of drugs and or alcohol. The diversion program would create a new arm in the Board of Nursing who would employ a specialist in the field of additions in nursing. Exhibit 5.

Ken Dunham stated that this bill will also be an additional protection to the public by being able to identify and help those nurses who, under drugs or alcohol, could be a threat to patients as well as themselves. Exhibit 6.

Ron Simpson a registered nurse stated that he had been fired from for diverting drugs. The misconduct was reported to the Board of Nursing and was fortunate enough to have PRN there to make an intersession for him.

Nancy Bowles administered to the diversion program for the nursing program in New Mexico. Exhibit 7.

Patricia Osterhout stated that this bill will give the nurses the ability to go to someone where they are not judged but are helped.

Tom Dunlop stated that the plight of these nurses was basically unemployment and loss of licensure. Because of the lack of ability to have an impaired program in the state and give these people the opportunity to maintain their license, they were not longer able to deal with their own lives and some of them took their own lives and other had to change their professions.

Janice Anderson stated that the Board believes that the proposed program can increase public protection by: drawing impaired nurses into treatment under Board control sooner; providing more reliable means of monitoring the nurse, and; rehabilitation. Exhibit 8.

Darlene Huseby stated that as an employer a resource from the Montana State Board of Nursing was needed to call in for advice and to assist in identifying nurses that are in trouble with alcohol and drugs.

Barb Booher stated that reasons why the bill had stayed

relatively broad and that is to give the Board the latitude to develop rules that would fit the state of Montana.

Jerry Loendorf stated that if you require a particular structure, a director be hired, certain health care professionals be hired and this can not be changed.

Jim Aherns stated his support of this bill.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Boharski asked Jerry Loendorf questioned the funding. Mr. Loendorf stated that it would be funded by licensing fees.

Closing by Sponsor: Rep. Squires closed on the bill.

DISPOSITION OF HB 378

Motion: Rep. Good made a Motion TO DO PASS.

Discussion: Rep. Boharski asked Rep. Squires on the \$5.00 base and Rep. Squires stated that the bill did need a fiscal note; there has never been a figure established so the physicians figure was used and that was the basis. The \$5.00 assessment to the license fee is not anticipated. On page 3, subsection 6, indicates that the Board will have the regulatory power to do that and that section gives the Board the power with which to establish the fee and they do have rule making authority and it is only to hire a person to coordinate this activity and not to pay for the rehabilitation.

Amendments, Discussion, and Votes: A Motion was then made to move the amendments by Rep. Good. A vote was taken on the amendments and all voted in favor.

Rep. Simon then asked about page 3, section 6, subsection 6 regarding the Board "shall establish" rather than "may establish." Should that language be more permissive in case it becomes a difficult thing for the Board to establish. Rep. Squires stated that she felt adamant that they shall establish a board and based upon the consensus of the LPN Association and the Montana Nurses Association and the Board and their supportive testimony, Rep. Squires felt that it should remain "shall."

Recommendation and Vote: A vote was taken to DO PASS AS AMENDED and all voted in favor.

HEARING ON HB 524

Presentation and Opening Statement by Sponsor:

Rep. Hansen stated that this bill was an act expanding the definition of medical assistance for medicaid to include preventive health services by a public health department.

Testifying Proponents and Who They Represent:

Bob Johnson, Montana Public Health Association
Ann Mary Dussault, Missoula County Commissioner

Proponent Testimony:

Bob Johnson stated that the intent of this bill is to allow preventive health services become included under the list of services that are reimbursable through medicaid. Preventive health services provided by a local health department represent a variety of services; all of the local health departments have immunization clinics and are generally open to the public and most of them charge some kind of sliding fee scale and all of these immunization clinics at least in the urban local health departments do charge medicaid for that service when the service is provided to a medicaid child.

Ann Mary Dussault stated that the language in the bill does in fact solve the problem which is trying to be solved by this bill. The bottom line issue is that for some reason when health departments that have clinics serve medicaid clients the health departments cannot get reimbursed for it. Yet when that same medicaid client goes to a physician they can be reimbursed for the services. There is no authorization for medicaid clients to be served in agencies like a health clinic. As indigent health care and people who are underinsured or not insured has become more and more of an issue in the communities.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Lee asked Mr. Johnson if he could quote the number of services which were being offered and Mr. Johnson stated that immunization clinic, high risk maternal and child health nursing, prenatal care

for high risk pregnancies.

Rep. Good asked Mr. Johnson who paid for the services and Mr. Johnson stated that county funds directly from the property tax mill levy, maternal and child health block grant funds and sliding fee scale.

Rep. Lee asked Mr. Johnson if some of these services were available through medicaid if it was provided by a doctor and Mr. Johnson said it was. Are there a group of people who were not covered at all and Mr. Johnson stated if the doctor chose, he could provide all of these services directly and by doing the work that the public health nurse could do. Unfortunately, doctors do not have kind of time. Consequently, physicians call local health departments and ask them through their public health nurses to provide this array of services to people with a lot of health problems.

Rep. Russell asked Mr. Johnson about the fiscal impact this bill would have and Mr. Johnson stated that he did not have that answer other than his health department did save medicaid money.

Closing by Sponsor: Rep. Hansen closes on the bill.

DISPOSITION OF HB 328

The Hearing on this bill was February 3, 1989.

Motion: Rep. Stickney made a Motion that the bill be TABLED.
Rep. Stickney made a Substitute Motion to DO PASS.

Discussion: Rep. Stickney stated that the Board of Nursing does always see fit to as flexible as would be helpful for the good of the health care in the state. A statute is not necessarily the way to go about this bill. It does express a concern by the hospitals, teachers and the nurses doing the work.

Rep. Good stated that she had asked a representative of the Board of Nursing to get a current regulation and Mary McCue stated that she had received this information.

Rep. Stickney stated that the rules that were published in the review that had been prepared were not the current rules.

Recommendation and Vote: Rep. Stickney then withdrew her Motion to DO PASS and the TABLED motion was then voted upon. All voted in favor with the exception of Rep. Good.

DISPOSITION OF HB 458

The Hearing on HB 458 was February 6, 1989.

Rep. Hansen stated that a subcommittee of Reps. Russell, Strizich and Good.

DISPOSITION OF HB 382

The Hearing on HB 382 was January 27, 1989.

Rep. Hansen stated that a subcommittee of Reps. McCormick, Knapp and Whalen.

ADJOURNMENT

Adjournment At: 5:45 p.m.


REP. STELLA JEAN HANSEN, Chairman

SJH/ajs

F0807.min

STANDING COMMITTEE REPORT

February 9, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 378 (first reading copy -- white) do pass as amended .

Signed: _____
Stella Jean Hansen, Chairman

And, that such amendments read:

1. Title, line 5.

Strike: "AND REHABILITATE"

2. Page 3, lines 4 and 5.

Strike: "and rehabilitate"

3. Page 3, line 8.

Following: "substance."

Insert: "The program must provide assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation."



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

February 9, 1989

Mr. Speaker:

We, the committee on Human Services and Aging report that
HB 279 was tabled on this date.


STELLA JEAN HANSEN, Chairman

SJH/ajs



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

February 9, 1989

Mr. Speaker:

We, the committee on Human Services and Aging report that
HB 328 was tabled on this date.


STELLA JEAN HANSEN, Chairman

SJH:ajs

MONTANA'S JOB TRAINING PARTNERSHIP COUNCILS

P.O. BOX 1728, HELENA, MONTANA 59624 • PHONE 444-4500

JTPA OVERVIEW

Hello; I'm Jerry Overmier, Chairman of the Concentrated Employment Program Private Industry Council (CEP PIC). I've served on the CEP PIC for about four years; I also have been chair of the Job Training Coordinating Council and was involved in the Job Training Partnership Act when it became law in 1983. My comments today will refer to both HB 279 and HB 529. I am testifying in opposition to HB 279, while I generally support HB 529.

I've brought with me a handout which I'd like to briefly discuss. The Job Training Partnership Act is a complex law. The handout which I brought is an outline of the money flow; using this I hope to explain how JTPA operates in Montana.

As you see, Congress allots money to the US Department of Labor which, in turn, allocates funds to each state; in Montana this amounts to about twelve million dollars total JTPA funds for all titles. The Governor of the state receives the funds. In Montana, the Governor holds 22 percent of the Title II money for programs which are administered by the Job Training Coordinating

EXHIBIT 1
DATE 2-8-89
HB 529

Job Training Coordinating Council
Concentrated Employment Program Private Industry Council
Concentrated Employment Program Council of Commissioners



Balance-of-State Private Industry Council
Balance-of-State Council of Commissioners

Working Together Works

Council. These funds are used to fund various special programs. The JTCC also administers part of the Dislocated Workers program; the job search portion of the Project Work Program; the state displaced homemaker program; and the New Horizons childcare program.

The remaining funds the Governor then allots to Montana's two service delivery areas: the CEP SDA which is comprised of ten counties in southwestern Montana, and the Balance of State SDA which covers the remaining 46 counties. The SDA councils have separate and joint responsibilities. The council of commissioners are responsible for recruiting and appointing the private industry council. Each council elects its own officers. But the two councils together must select an administrative entity and grant recipient: Our administrative entity and grant recipient is the Employment Policy Division of the Department of Labor and Industry. Oversight of this administrative entity and program operators is a shared responsibility. We also share the responsibility of assessing our area's job training needs and then writing our SDA Job Training Plan. Funding decisions, too, can be shared, as is the case in the Balance of State. Once funding decisions are made and program operators are chosen, we direct the Employment Policy Division to implement the

decisions we, as councils, have made. Subgrants are negotiated, and the programs begun by July 1 of each year. We charge EPD with onsite monitoring of programs, technical assistance to operators, and keeping councils up to date on the program performance and the expenditures of the operators.

The Job Training Partnership Act was designed for coordination of services. The Act provides that councils are made up of a majority of private sector people but also includes representatives of organizations that have an interest in job training. In Montana the Commissioner of Higher Education sits on the Balance of State council, representatives from the Montana Vo-Tech system and the director of the Montana Council on Vocational Education sit on the Concentrated Employment Program council. Both Service Delivery Areas (SDA's) have rehabilitation agency, economic development, employment services, and community-based organization representation on their councils. Some of the council members are also legislators, like Senator Mazurek, Representative Squires, Representative Swysgood and Representative Mel Williams and Representative Simon a few years ago.

Under JTPA, operators are selected to run programs by the Job Training Coordinating Council (JTCC) statewide and by councils on the SDA level. In many instances those operators that run SDA programs also run programs for the JTCC. Some examples are Displaced Homemaker Centers who receive JTPA funds for Title II-A Displaced Homemaker programs through SDA councils and who also receive State Displaced Homemaker funds awarded by the JTCC, Human Resources Development Councils receive JTPA funds for Title II-A Adult and Youth programs from SDA councils and also receive JTPA 3% Older Worker funds from the JTCC.

With the enactment of the Economic Dislocation and Worker Adjustment Assistance Act (EDWAAA) of the Federal Trade Act, SDAs and the JTCC will be required to work even more closely to implement dislocated worker programs in Montana.

Coordination among councils extends to staffing councils. This is primarily due to the fact that the JTCC and SDA councils share staff from the Department of Labor and Industry. Sharing staff allows for better communication among councils as well as staff and program operators.

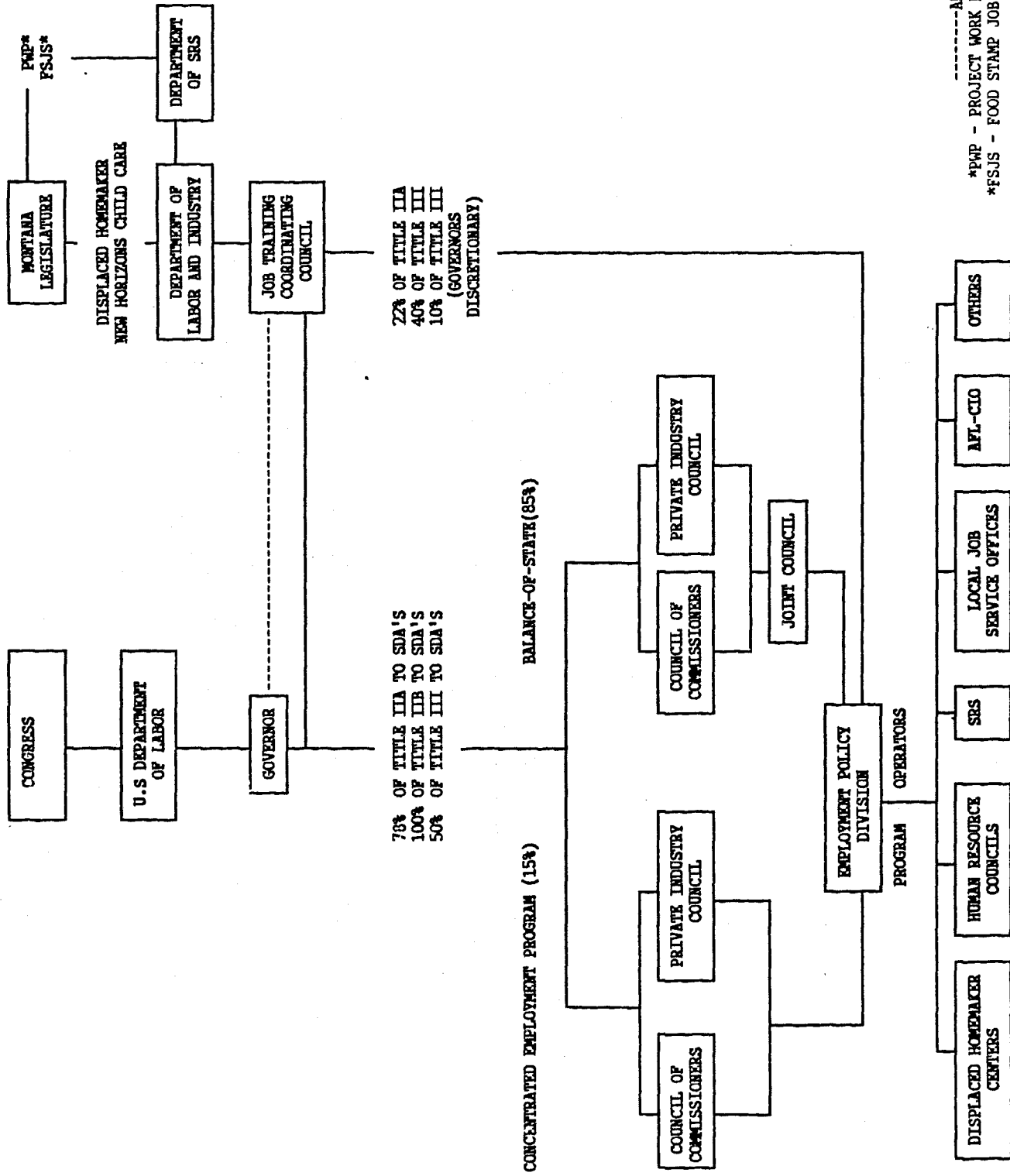
In the past few years the coordination among councils has grown dramatically. SDA councils have developed joint planning for the implementation of EDWAAA. Last September all five job training councils met for a retreat to discuss the future direction of job training in Montana.

JTPA program operators hold an annual meeting to discuss topics of concern, interest and need for the better operation of their programs. This past year Project Work and Apprenticeship operators were invited to participate along with staff from the Montana Career Information System.

When federal changes to JTPA required literacy assessment of summer youths, a Literacy Task Force composed of members of SDA councils, the JTCC, the Office of Public Instruction and program operators was formed to develop and recommend a sound policy for youth literacy. This task force met and presented a well-coordinated policy which was adopted by both SDAs.

I hope I've given you some idea of how JTPA works in Montana. We have other council members here to discuss the merits of both HB's 279 and 529. I'll be happy to answer questions later.

JOB TRAINING PARTNERSHIP ACT (JTPA) & STATE JOB TRAINING FUNDING FLOW CHART



JOB TRAINING PARTNERSHIP ACT (JTPA) Funding Process

The U.S. Department of Labor allocates JTPA funds to Montana through the Governor. The funds which are received by the Governor are Titles IIA, IIB and III.

For Title IIA funds, 22% of the funds are kept at the state level under the jurisdiction of the Job Training Coordinating Council. The Job Training Coordinating Council (JTCC) is appointed by the Governor and acts as his advisors on the following job training programs:

Governors 22% of Title IIA funds include 8% education grants, 5% governors coordination programs (councils, audits etc.), 3% older workers programs and 6% incentive and technical assistance grants.

Along with the Title IIA funds the JTCC also governs 40% of the Title III funds, 10% Governors Discretionary Title III funds and funds from the Montana Legislature for the State Displaced Homemakers program (HB 400).

The JTCC uses the Employment Policy Division of the state Department of Labor and Industry to administer these programs.

The remaining 78% of Title IIA funds are passed through the Governors office to each of the Service Delivery Areas (SDAs) in the State. Montana has two SDAs: the Balance-of-State (BOS) and the Concentrated Employment Program (CEP). The funds are split between the two SDAs based on the national formula. The BOS SDA receives 85% of the funds and the CEP SDA receives 15%.

The Council of Commissioners (CofC) in both SDAs appoint the members of the Private Industry Councils (PIC). In the BOS SDA, the PIC and CofC join together to form the BOS Joint Council which serves as the primary policy making body for the SDA. Both the CofC and the PIC serve as policy making bodies in the CEP SDA.

Programs available under Title IIA are IIA Adult and Youth, IIA Adult Displaced Homemakers and IIA Adult Handicapped.

Both SDAs have chosen the Employment Policy Division of the Department of Labor and Industry as their Administrative Entity.

In addition to the 78% IIA funds the SDAs also receive 100% of the Title IIB Summer Youth Employment and Training Program (SYETP) funds which are also split out 85% BOS and 15% CEP. The SYETP programs are operated by Community Based Organizations within the SDA.

All program operators except those receiving 8% education grants are funded through the Request for Proposal (RFP) process.

MONTANA'S JOB TRAINING PARTNERSHIP COUNCILS

P.O. BOX 1728, HELENA, MONTANA 59624 • PHONE 444-4500

TESTIMONY ON HB 279

I'm Dan Miller. I am the Employee Relations Manager for Champion International in Libby and serve as one of the private sector representatives on the Balance-of-State Private Industry Council. I'm here to testify as an opponent of HB 279.

The first area of this bill that presents a problem to Council members is Section 4 (2). This section along with Section 13 (1) (a) establishes the Department of Labor and Industry as the Administrative Entity for the Job Training Partnership Act (JTPA). Under JTPA the councils (County Commissioners and PIC) have the authority to choose an Administrative Entity. This bill eliminates that discretion which the councils are given by Federal Law.

The second area of concern is section 10 on monitoring and evaluation of programs. The monitoring and evaluation of programs have always been a priority of the councils; follow-up is currently being done by sampling a cross section of participants. This section of the bill calls for follow-up of 100 percent of the participants enrolled in JTPA. While doing follow-up on all participants is a good idea, one that the

EXHIBIT 2
DATE 2-8-89
HB 279

Job Training Coordinating Council
Concentrated Employment Program Private Industry Council
Concentrated Employment Program Council of Commissioners



Balance-of-State Private Industry Council
Balance-of-State Council of Commissioners

Working Together Works

councils have considered for sometime, there are other issues associated with such a follow-up program that need to be discussed. Doing follow-up on all participants will be costly, yet no more accurate than the follow-up we conduct using statistically sound sampling procedures required under federal regulations. 100% sampling is a process which is terribly staff intensive. It will require at least one full-time position for our group dedicated to making follow-up contacts; no telling what the additional cost will be to our contractors. Since all post-program follow-up is charged to the administrative cost category, everyone's administrative costs will increase. It is the concept of the law of diminishing returns. We now sample a 5% level using required federal regulations.

This takes us to the third area of concern with the bill. Section 13 of the bill limits the expenditure of administrative funds to 10% of the total funds expended in the service delivery area. The JTPA Act limits administrative costs to 15% of the grant. Yet the bill requires that we and our contractors incur more administrative cost in section 10 while at the same time limiting the availability of administrative funds to 10 percent. As I stated, such a restriction of administrative costs will seriously impair our ability and the ability of our contractors to do adequate follow-up at the sampling levels we require under the federal regulations.

While the legislature may have concerns regarding administrative costs under JTPA, I would like to assure the members of this committee that the administrative funds used by the Department of Labor and Industry, our Administrative Entity, are thoroughly scrutinized by the councils. During every council meeting, at least four times a year, the councils review the administrative budget line item by line item. In addition monthly and quarterly reports on administrative expenditures are produced and sent to the council members for their review.

When savings in the administrative category are incurred, we distribute them to our contractors for their training programs. For example, council administrative savings were used last year to fund four AFDC models. We believe we have a record of monitoring and administering these funds responsibly.

MONTANA'S JOB TRAINING PARTNERSHIP COUNCILS

P.O. BOX 1728, HELENA, MONTANA 59624 • PHONE 444-4500

TESTIMONY ON HB 279

I'm Jane Lopp. I'm an Insurance Agent/Broker for the ^{Prudential} ~~Equitable~~ Financial Service in Kalispell and a private sector representative on the Balance-of-State Private Industry Council. I'm here to testify as an opponent of HB 279.

I agree with comments made by the other Council members and will not repeat them.

But there are other areas of concern with this bill: section 8 and section 14. Section 8 of this bill mandates that Councils make welfare recipients a priority group in our Job Training Plans. The Job Training Partnership Act requires us to serve economically disadvantaged individuals. It also allows the councils the latitude to establish what target groups should be prioritized based on the needs of the Service Delivery Area (SDA). This bill would, in effect, tie the hands of the councils and not allow us to adequately respond to needs of the SDA since councils will be required to give priority service to welfare recipients over other groups of economically disadvantaged individuals. For example, suppose we have another economic upheaval as occurred in Butte-Anaconda. With this

EXHIBIT 3
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HB 279



legislation we could not prioritize our funds to service people looking for jobs until they went on welfare. Why not catch them while drawing unemployment and keep them off welfare?

Mandating the content of the Job Training Plan in section 8 is also tied to section 14 of the bill. Section 14 deals with the review and approval of the Job Training Plan. The Job Training Plan is jointly written by the Private Industry Council and the Council of Commissioners. The plan is then submitted to the Governor for approval. During this process the plan as required by JTPA law is to be made available for review and comment to each house of the State legislature for appropriate referral. This bill requires that the legislature review, comment and take appropriate action on the plan. Since the JTPA law does not provide for anything more than review and comment, we believe this section conflicts with the federal act.

As a PIC member, I welcome legislative involvement in job training programs. But I believe that the legislature, through review and comment on the job training plan and through enactment of a law which provides broad direction and goals, will allow councils to better coordinate their efforts rather than through this bill.

Thank you for listening to us today.

DEPARTMENT OF LABOR AND INDUSTRY

COMMISSIONER'S OFFICE

STAN STEPHENS, GOVERNOR

P.O. BOX 1728

STATE OF MONTANA

(406) 444-3555

HELENA, MONTANA 59624

January 23, 1989

TO: Sue Mohr, Administrator
Employment Policy Division

FROM: Betsy Griffing *Betsy*
Staff Attorney

RE: HB 279 and enabling legislation for JTPA

You have asked for my legal opinion of HB 279 and whether it is compatible with the federal mandates in the Job Training Partnership Act (JTPA). In many ways, this bill is similar to a bill killed by the Interim Subcommittee on Welfare and I have attached a copy of the memo I prepared for you on that previous bill.

Many of my concerns about the Interim Subcommittee bill are the same for HB279. I would refer you to the discussion of the Governor's Role and the Legislative Role in the attached memo.

To reiterate: Since JTPA gives the Governor the authority to approve, disapprove, or revoke the job training plan and since the Act gives oversight of the JTPA programs to the Private Industry Council and the local government officials, any state legislation attempting to transfer the Governor's or the Councils' authority, would conflict with the federal JTPA procedures and potentially jeopardize federal funding.

Specifically, HB 279 seems to infringe upon the PIC's authority or the Governor's authority in the following provisions:

1. Section 1(1) seems to attempt to transfer JTPA oversight from the PIC to the Legislature;
2. Section 4(2) names the Department of Labor and Industry as the administrative entity of JTPA contrary to the express federal delegation of such authority to the PIC and local government officials;

EXHIBIT 4

DATE 2-8-89

HB 279

3. Section 5 seems to infringe upon the Governor's authority to appoint the JTCC by requiring the approval of the Senate;

4. Section 8 sets priorities for services contrary to Section 103(a) of the Act which grants such discretion to the PIC;

5. Section 10(3) seems to confuse SDAs with service providers; and

6. Section 14 allowing legislative review, comment, and appropriate action potentially conflicts with the JTPA provision allowing solely legislative review and comment.

These are the problems I see in a brief review of the proposed legislation. Please feel free to contact me if you have any questions.

cc: Laurie Lamson
David Scott

DEPARTMENT OF LABOR AND INDUSTRY
COMMISSIONER'S OFFICE



TED SCHWINDEN, GOVERNOR

P.O. BOX 1728

STATE OF MONTANA

(406) 444-3555

HELENA, MONTANA 59624

MEMORANDUM

TO: Peg Hartman, Commissioner

FROM: Betsy Griffing
Staff Attorney *Betsy*

DATE: October 19, 1988

ISSUE: Whether "WEL 0010", a bill to be considered by the Joint Interim Subcommittee on Welfare conforms with federal provisions under the Job Training Partnership Act(JTPA)

You asked me to review this bill in light of our federal mandates for job training and job service. There several separate provisions in the bill that potentially conflict with federal provisions and therefore could jeopardize receipt of federal funds.

I. BACKGROUND

A. THE PARTNERSHIP

The Job Training Partnership Act (P.L. 97-300, 1982, 29 USC 1501, et seq) is a federal program that was enacted in order to establish a "partnership" between "chief local elected officials" and a "private industry council" (29 USC 1512). It is this council of local government officials and local businessmen that oversees the administration of the training programs funded under the Act. (29 USC 1513). The purpose of the Act was, in essence, to allow local governments and local businesses to oversee job training in their particular areas.

Montana currently has two partnerships serving two different service areas in the state. Each partnership is composed of a Private Industry Council (PIC) and a commission of county commissioners.

B. THE GOVERNOR'S ROLE

The Governor of each state has the authority to set this program in motion by designating the Service Delivery Area (SDA) for the the training programs (29 USC 1511).

The services must be provided in accordance with a "Job Training Plan", or else the state does not receive any federal funds (29 USC 1514). Federal funds are therefore contingent upon the development and approval of a job training plan in accordance with the procedures in Section 104 of the Act (29 USC 1514). The Governor has the authority to approve or disapprove the plan if, among other criteria, the plan "does not comply with a particular provision or provisions" of JTPA. (29 USC 1515(b)(1)(D))

The Governor must report to the U.S. Secretary of Labor in a "Coordination and special services Plan". (29 USC 1531) This plan is approved by the Secretary, unless the plan "does not comply with specific provisions of" JTPA (29 USC 1531(d)).

Most importantly, however, even after the plans have been approved, the Governor can revoke his approval of the state's job training plan if he finds noncompliance with the provisions of the JTPA. (29 USC 1574)

Therefore, if legislation were passed that didn't comply with JTPA, the Governor could revoke his approval of the job training plan. While such a revocation is appealable to the Secretary, federal funds are not available as long as there is no plan. 29 USC 1514 and 29 USC 1574

C. THE LEGISLATIVE ROLE

A provision in JTPA expressly allows state legislatures to participate in the program by enacting legislation for the implementation of the training programs (29 USC 1536). This participation is limited, however, to compliance with the other provisions and procedures already in the Act.

Since the Act gives the Governor the authority to approve, disapprove, or revoke the job training plan and since the Act gives oversight of the JTPA programs to the Private Industry Council, any state legislation attempting to transfer the Governor's authority or the PIC's authority to the Legislature would conflict with the federal provisions in JTPA. Clearly, such legislation that conflicts with JTPA procedures could jeopardize funding for the entire program.

II. WHETHER "WEL 0010" COMPLIES WITH JTPA

The following sections in the proposed legislation potentially conflict with federal provisions:

Section 1. In subsection (1), the purpose of the proposed state act is to provide legislative "direction and oversight" of JTPA programs. JTPA expressly provides:

"It shall be the responsibility of the private industry council to provide policy guidance for, and exercise oversight with respect to, activities under the job training plan for its service delivery area in partnership with the unit or units of general local government within its service delivery area." 29 USC 1513.

Only the PIC is vested with oversight authority under JTPA.

Section 3. In subsection (2), the proposed legislation provides that the Department of Labor and Industry administers the job training plan. Section 103(b)(1)(B) of JTPA expressly provides that one of the duties of the PIC, in accordance with the partnership agreement with the local government officials, is to select an administrative entity to administer the job training plan.

Section 4. Subsection (2) provides that the senate approves members of the Job Training Coordinating Council. Section 122 of the Act (29 USC 1532) expressly provides:

"The State council [job training coordinating council] shall be appointed by the Governor, . . . "

Section 122 of the Act then outlines strict criteria to assure that membership on the council reasonably represents the state's population. To the extent that the Governor would no longer have this authority, the proposed legislation conflicts with JTPA.

Section 6. For the most part, this section repeats federal law and is superfluous. In subsection (2)(f), reference is made to Section 10 of the proposed legislation which is discussed below.

Section 8. This section of the proposed legislation attempts to set performance standards for JTPA. Section 106 of JTPA provides that the U.S. Secretary of Labor shall set performance standards for the program. The Governor of each state, however, may within parameters set by the Secretary establish variations based upon specific economic, geographic and demographic factors.

Section 10. Subsection (2) of the proposed legislation restricts any division of the department from being a service provider under JTPA. In enacting JTPA, Congress also amended certain portions of the Wagner-Peyser Act, the Act that establishes job services for the states. Section 501 of P.L. 97-300, 29 USC 49f, expressly allows state employment agencies to be service providers under JTPA. This section states:

"In addition to the services and activities otherwise authorized by the Act [Wagner-Peyser] the United States Employment Service or any State agency designed under this Act [Job Service Division] may perform such other services and activities as shall be specified in contracts for payment or reimbursement of the costs thereof made with the Secretary of Labor or with any Federal, State, or local public agency, or administrative entity under the Job Training Partnership Act, or private nonprofit organization."

Job Service Division is therefore expressly authorized by the federal government to be a service provider under JTPA. 29 USC 49g then sets out how a state's employment agency may participate in JTPA and the preparation of a plan that must be approved by the state's Job Training Coordinating Council.

Clearly, subsection (2) of Section 10 conflicts with the federal recognition that state employment agencies may be service providers under JTPA.

Section 11. The proposed legislation sets out some coordination requirements. However, Section 121(b)(1) of the Act (29 USC 1531) in describing how the Governor must provide for coordination of services, expressly limits how services may be coordinated. This section provides:

Such criteria [criteria for coordinating activities] shall not affect local discretion concerning the selection of eligible participants or service providers in accordance with the provisions of sections 107 and 203. [Section 107 describes the selection of service providers and section 203 establishes the eligibility for services.]

The PIC and its local government partner have the discretion in coordinating services under JTPA.

III SUMMARY

These are some of the problem areas of the proposed legislation. The difficulty of the state legislating under JTPA is that this area, in great part, is federally regulated.

It must be remembered foremost that the purpose of the Job Training Partnership Act was to establish local control over job training programs. Significant statewide legislation in this area would clearly defeat this purpose.

To: House Human Services Committee

From: Carol Judge, R.N., M.N.

Chairman, Montana Legislative Task Force on the Impaired Nurse

Regarding: HB 378

Date: February 1, 1989

The Program for Recovering Nurses is vitally interested in all aspects of the Impaired Nurse problem: from education to interventions with nurses, assisting with treatment referrals and offering support and monitoring after treatment. Last spring the Program for Recovering Nurses saw the need for a committee to study and write legislation to assist nurses impaired by their use of alcohol and/or drugs. This task force came into existence during the summer of 1988 and is comprised of representatives from PRN, the Montana Nurses' Association, the Montana Licensed Practical Nursing Association, and the Montana State Board of Nursing.

Throughout the fall, the Legislative Task Force on the Impaired Nurse carefully studied legislation from the American Nurses' Association, the National Nurses' Society on Addictions and legislation introduced by the Montana M.D.s and passed by the 1987 Legislature. Furthermore, the Task Force reviewed legislation from other state nurses' associations. This information was available as a result of a survey I conducted in 1988 of all of the state nurses' associations (49) to ascertain how many of them had established a program for impaired nurses. Twenty four of the nurses' associations responded, a 49% return. Two thirds reported either currently having a Diversion Program through their Board of Nursing or actively working toward such legislation.

After a good deal of deliberation the Task Force chose to pattern the nurses' legislation after the M.D.s legislation. In 1987, this was HB 555. The Board of Nursing has been informed of the intent of this task force and

EXHIBIT 5
DATE 2-8-89
BY 278

members of the task force have presented information to the Board and have addressed their questions and concerns.

Realizing that chemical dependency is a preventable and treatable disease and with a serious commitment to protecting the public as well as assisting nurses in need of help, we urge your support of HB 378.

Thank you for your kind consideration.

TO: MONTANA STATE LEGISLATORS

RE: HB378

FROM: M L PROTHEROE,BSN,RN

In the past four years it has been my unhappy task to take administrative action against more than one Registered Nurse in this state who was actively Chemically Dependent and under my employ in a hospital. As a result of current law and Board of Nursing Regulations it was not possible for me to ensure the following;

1. Force the employee to obtain adequate treatment,
2. Ensure that she/he could not continue to use the Montana State license to obtain work elsewhere
3. Provide for her/his safe return to the workplace so as not to forfeit the skills we need so much.

HB378 provides the remedy for these problems and will make the level of care provided to the citizens of this state that much safer and more humane. It will provide us with a way to regain those professional skills stolen by this wide-spread disease process of Chemical Dependency. Surely it is important enough to ensure that the members of the legal profession have this type of protection and enforced control until they are able to handle their professional role then it is doubly important we ensure that the nurses who provide bedside care and administer medications do so drug-free. Currently, we are "throwing out the baby with the bathwater" and that should no longer be acceptable nor possible.

PROGRAM FOR RECOVERING NURSES

127 N. Higgins

Missoula, Montana 59802

[406] 721-4610

**Carol R. Sem RN, BSN
Program Director**

**Carol Judge RN, MSN, CCDC
Chairperson, Legislative Task Force**

FACT SHEET

DIVERSION PROGRAM FOR CHEMICALLY DEPENDENT NURSES

Nurses who practice under the influence of drugs and/or alcohol unintentionally jeopardize the lives of their patients. The exact number of nurses who are chemically dependent is unknown but it is estimated that 6-20% of nurses become addicted. In Montana with 12,500 licensed nurses, 750-2500 nurses are/may become dependent on alcohol and/or drugs.

The diversion program will provide the Board of Nursing with an alternative to their traditional disciplinary action which is probation, suspension, or revocation of a license. The program would assist with the identification of nurses who are chemically dependent and would direct the nurse into treatment so that he/she may remain in or return to the practice of nursing in a manner which will not endanger the public health and safety.

THE DIVERSION PROGRAM WILL:

- increase the identification and treatment of licensed nurses who are chemically dependent.**
- increase the protection to the public as a result of increased detection and early identification of chemically dependent nurses.**
- decrease the incidence of suicide among nurses awaiting disciplinary action by the regulatory agency.**
- provide an economic savings to the State of Montana and Montana employers by:**
 - keeping nurses employed and not underemployed**
 - decreased nurse turnover in employing agencies and the need to hire and orient new nurse employees**
 - direct nurses into treatment earlier thus reducing the cost of prolonged treatment, unemployment or underemployment of nurses, and family problems**
- provide the nursing profession with increased knowledge of chemical dependency among nurses.**
- facilitate the recovery of nurses through an extensive monitoring program.**
- funded thru an adjustment of the license fee commensurate with the cost of the program. Cost to the public=0.**

From 1986-1988 (calendar years) the Montana State Board of Nursing has received 13 complaints involving drug related issues and 12 cases involving licensees who have had a nursing license encumbered in another state for drug related grounds. This is a total of 25 cases/complaints.

Currently the Program for Recovering Nurses is monitoring the recovery of 10 nurses who have asked to be monitored. The nurses who monitor recovering nurses in the PRN program are volunteers who donate the time and money required for monitoring. The PRN program has been in existence for 2 years.

A Legislative Task Force was developed to study and plan a legislative approach to dealing with this tragic problem. The Task Force is comprised of representatives of the PRN, Montana Nurses Association, Montana Licensed Practical Nursing Association, and the Montana State Board of Nursing.

MAXIMUM

Proposed Budget for Montana State Board of Nursing Diversion Program

Cost: Nursing license surcharge \$5.00

Budget: 12,500 licensed nurses @ \$5.00= \$62,500

1. SALARY-full time

(Contracted Director) \$26,000/year+ (20% benefits) \$5,200= \$31,200
Total \$31,200

2. TRAVEL

Mileage \$.22/mi @ 20,000 miles (base in Helena) = 4,400
Meals \$20/day @ 5 days/month = 1,200
Lodging \$35/day @ 5 days/month = 2,100
Plane fare (winter travel) \$350/trip @ 5 trips = 1,750
Advisory Board Expenses (3 members/4 annual meetings)
Travel 400mi @ .22/mile/member/meeting = 1,056
Food \$20/day (2 days) = 480
Lodging \$35/day (2 days) = 840
Miscellaneous Expenses (emergency lodging etc) = 664
Total \$12,490

3. OPERATING COSTS

Paper/files/stationary/envelopes/pens/business cards/announcements/posters = \$1,150
Copying = 420
Postage/Stamps = 300
Telephone Service (\$200/month) = 2,400
Rent (Office) = 2,400
Rent (Computer/printer/typewriter) (\$50/month) = 600
Telephone/Answering machine = 200
Quarterly meeting expenses (refreshments) = 120
Professional Journal Subscriptions 8 @ \$30/yr = 240
Professional Membership NNSA = 50
Continuing Education : National Conference = 825
Regional Conference = 725
Total \$9,430

4. CONSULTANT FEE'S

Attorney fee \$125/hr @ 4hrs/month = \$6,000
Bookkeeping \$15.00 @ 4 hrs/month = 720
Start-Up Impaired Nurse Consultant
Program Development (Nancy Miller-Cross) = 2,000
Total \$8,720

5. CAPITAL OUTLAY

Office Furniture

= \$520

Equipment Repair

= 140

Total \$660

SUMMARY OF OVERALL COSTS

Salary \$31,200

Travel 12,490

Operating Costs 9,430

Consultant Fee's 8,720

Capital Outlay 660

TOTAL \$62,500

THOMAS H. SCHIMKE, M.D., J.D.

MISSOULA MEDICAL PLAZA
900 N. ORANGE, SUITE 101
MISSOULA, MONTANA 59802
(406) 728-1970

UNIVERSITY OF PENNSYLVANIA
MEDICAL SCHOOL

UNIVERSITY OF MONTANA
SCHOOL OF LAW

February 2nd, 1989

BOARD CERTIFIED - INTERNAL MEDICINE
BOARD CERTIFIED - PULMONARY DISEASES
BOARD CERTIFIED - ADDICTIONOLOGY

The House Health & Human Services Committee
% Carol Sem
127 N. Higgins
Missoula, MT. 59802

RE: House Bill #378

Dear Committee Members:

I am writing to support House Bill #378 requiring the Montana State Board of Nursing to establish a drug rehabilitation program for impaired nurses.

As the chairman of an impaired physician committee in Missoula, I am aware of the benefits which physicians have derived from a similar program of the Montana State Board of Medical Examiners. By granting the power to the State Board of Nursing to develop and operate a drug program for nurses, the State of Montana will gain by rehabilitating and retaining a very valuable and scarce source of health care providers. The nurses should be afforded no less than physicians in overcoming this very common and devastating problem within the professions.

Voluntary programs are effective but have their limits. Statutory power for the nursing board will greatly enhance their effectiveness in this area.

Passage of this bill will cost the State of Montana nothing. Passage of this bill will ensure healthy nurses and improved quality of health care for the citizens of Montana.

Sincerely,



Thomas H. Schimke, M.D., J.D.

THS/rs

LEONARD W. JOHNSON, M.D., P.C.
CARDIOLOGY
601 West Spruce
Missoula, Montana 59802
(406) 721-1617

February 3, 1989

House, Health & Human Services Committee
Helena, MT 59601

RE: House Bill 378

I want to state that I unequivocally support the diversion program proposed by this bill. I feel that nurses as well as physicians can frequently, in fact, usually be rehabilitated and clearly deserve the chance to stay in their profession in much the same way that clinically dependent physicians are handled in Montana.

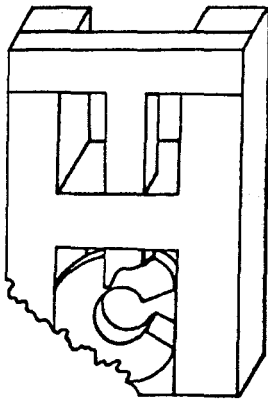
If you have any questions regarding the above, please feel free to call me.

Very sincerely,

A handwritten signature in dark ink, appearing to read 'L. W. Johnson', written over the typed name.

L. W. Johnson, M. D.

LWJ:cl



Toole County Hospital

and Nursing Home

640 Park Drive

P.O. Box P

Shelby, Montana 59474

Phone: 434-5536

Montana House Committee:
Health and Human Services
Helena, Montana

February 3, 1989

Dear Sirs:

This is a letter of support for House Bill 378 to develop a diversion program for chemically impaired nurses.

I am the Director of Nurses at Toole County Hospital and Nursing Home in Shelby, Montana. We have spent the last two months trying to find a solution for the continued employment of a nurse who has completed a chemically dependent treatment program.

The Program for Recovering Nurses directed by Carol Sem, R.N. of Missoula is the best solution for all concerned parties. It must be mandatory to maintain supervision of the employee. This would also alleviate many problems experienced by the hospitals with the nursing shortage.

I will be available for questions or to supply information of our involvement with the program.

Sincerely,

A handwritten signature in cursive script that reads "Edith J. Clark R.N.".

Edith J. Clark R.N. DON

EJC/sj



Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59604

September 29, 1988

Board of Nursing
Phyllis McDonald, Exec. Sec.

Dear Phyllis,

On behalf of the Montana Nurses' Association Board of Directors, I would like you to share with your Board of Nursing a concern of ours. We would like you to consider the plight of the recovering nurses as they battle their way back from addictions and alcohol abuse.

The numbers of registered nurses recovering from drugs and/or alcohol is growing. We would like to assist these nurses in any way we can. As you know, their total recovery time may extend to weeks, months, and possibly even years.

We would like you to consider legislation or rule changes to allow them to be employed on a limited basis during their recovery period. With the nursing shortage, it is unfortunate that we lose these nurses for possibly long periods of time. Their recovery period is also a long, expensive burden for them to bear with no employment.

Thank you for your consideration in this matter.

Sincerely,

Peggy Mussehl
Peggy Mussehl, President
Montana Nurses' Association

copy: MNA Board Of Directors



FRANCES MAHON DEACONESS HOSPITAL

CHEMICAL DEPENDENCY CENTER

621 3rd St. South
Glasgow, MT 59230
1-800-422-LOVE

February 3, 1988

Department of
House, Health and Human Services

Re: Legislative Bill @ Nurses: HB #378

To Whom it May Concern:

We are writing to lend our support and encourage the passage of House Bill #378 to help chemically dependent nurses. We feel it is vitally important that chemically dependent nurses receive treatment, and that they have every right to have this illness arrested - just as we would treat the cancer or diabetic person.

We are in favor of the chemically dependent nurses not losing their jobs or licenses as this is seen as a punishment rather than a way to deal with someone who has a disease. We also feel the loss of nurses' income would be a burden to his/her already devastating problem of chemical dependency.

In our experience with post-treatment, nurses returning to work under structured supervision have a higher percentage of success, and employers report better performance. Monitoring the nurse during follow up treatment is effective and can promote public safety.

Since Montana now has a support program for recovering nurses and an extended follow up care for these individuals, we feel it would be detrimental for them to lose their vocations.

If we can be of any further help in this endeavor, please feel free to contact us at 1-800-422-LOVE, and ask for any of us any time.

Cordially yours,

A handwritten signature in dark ink, appearing to read "Kyle Hopstad", is written over a horizontal line.

Kyle Hopstad, Hospital Administrator

A handwritten signature in dark ink, appearing to read "Ivan Kuderling", is written over a horizontal line.

Ivan Kuderling, Executive Director

A handwritten signature in dark ink, appearing to read "Kit Voakes", is written over a horizontal line.

Kit Voakes, Clinical Director

A handwritten signature in dark ink, appearing to read "Pat Nessland", is written over a horizontal line.

Pat Nessland, Director of Nurses

/wc

Counseling and Consulting Services
Kay Flinn, CDC
555 Fuller, Suite 2
P.O. Box 552
Helena, MT 59624

Telephone: 449-7401

2/1/89

Health and Human Services Committee

re HB 378

I have worked in direct
services as well as administration
in the chemical dependency field
for fifteen years.

I am in total support of
a program to assist the
chemically dependent persons
in this state.

Respectfully,
Kay Flinn, BA, CDC

845 1/2 Edith
Missoula, Montana 59802
February 7, 1989

To: House Health and Human Services Committee
Re: HB 378

My story is one of sadness, silence, isolation, shame, joy and victory. 6 1/2 years ago, I went to treatment for drug and alcohol addiction. I was luckily referred by a friend of mine. After treatment my license was revoked and faced bankruptcy. I was overqualified/underqualified for other jobs and knew nothing but nursing from age 15 to 26. 1 1/2 years of poverty and inability to pay my bills was to be my future with a 4 year bachelors degree to my name which was useless.

When the hospital confronted me with my diverting drugs from the hospital, I was severely addicted to toxic doses of intravenous narcotics. I was told to resign or I would be fired. There was no mention of treatment or hospitalization. It was like I was an unwanted wart that was to be immediately excised. Where would I go? I remember an overwhelming fear come over me. I was suicidal after all I just knew then the world was better off without me. I felt so shameful, and humiliated. I honestly did not know why I took the drugs and noone explained the disease to me. Instead I went home, drank rum to block out the intense pain and suicidal thinking, and proceeded to passed out. When I woke I was experiencing the worst nightmare of my life...withdrawl. If you haven't been through it it is difficult to explain the physical nausea, profuse sweating, skin crawling, hallucinations, and the extreme emotional torment. I experienced this alone, I did not know then that people die in withdrawl. I was alone, noone to reach out to.

6 1/2 years later I have never forgotten those 3 days of hell. The joy and victory for me now is that I am alive thanks to a very dear friend who helped me identify my problem as the hospital couldn't. That seems odd doesn't it. With my experience I have now a deep passion for reaching out to other nurses with these problems and break the secrecy and isolation our own profession can create. Thank God this is changing. The pain and guilt is enough pain to deal with. Professional shame is optional.

I did get my RN license reinstated and am proud to say I have been working sucessfully as a nurse for the last 5 years. The Program for Recovering Nurses has been the greatest treatment for my shame and has continued to fuel my passionate drive to continue to make the world a kinder place to be for nurses with addiction.

I ask of you distinguished members of the committee, help us to break into the isolated, painful world of nurses with drug/alcohol addictions by passing HB 378. Silence, isolation can kill. By requiring the Montana State Board of Nursing to develop this program, nurses don't have to die because they are so ashamed they can't ask for help...they can live and heal themselves as I have done.

Sincerely,



Carol R. Sem RN, BSN

Mary Jean Marron
910 Kensington
Missoula, MT

MT. Legislative Session
Human Services Committee
Helena, MT

January 25, 1989

Dear Hearings Committee,

As a member of the Program for Recovering Nurses from its inception two years ago, I wish to ask for your support in this legislation of HB 378.

I am a recovering chemically dependent R.N. who did not have the benefit of a program like this. Had the education, awarenesses, and diversion program been available four years ago I feel I could have been in treatment earlier, my professional performance would have been much improved and my patients would have had much safer care.

I have seen this program help many nurses treat their addiction, thus ensuring medical competence.

Please support us in our efforts.

Sincerely,
Mary Jean Marron



Montana LPN Association

P.O. Box 1270
Helena, MT 59624

Ken Dunham, Management Consultant

406/443-0640

STATEMENT OF
KEN DUNHAM
Lobbyist for Montana LPN Association
Feb 8, 1989
HB 378

The issue of nurses abusing alcohol and drugs is a problem that should be of concern in Montana. In conversations with LPN's in recent weeks, a number of them indicated they were aware of other nurses - both RN's and LPN's - who were alcohol and drug abusers.

Long hours, the pressures of nursing, and the life and death aspects of nursing all add to the chances that a nurse will succumb to alcohol or drugs to escape.

This bill will help some, in providing some official and established program to deal with and monitor the problem.

It will also be an additional protection to the public by being able to identify and help those nurses who, under drugs or alcohol, could be a threat to patients as well as themselves.

The Montana LPN Association supports this measure.

-0-

EXHIBIT 6
DATE 2-8-89
HB 378

(10) monitor peer-assistant and employee-assistant

programs in the state.

~~At the board may increase the renewal fee for each nurse on the state not to exceed ten dollars (\$10.00) for the purpose of implementing and maintaining the diversion program.~~

~~P.) Files of nurses in the diversion program shall be maintained in the board office and shall be confidential except for making a report to the board concerning any nurse who is not cooperating and complying with the diversion agreement. However, such files shall be subject to discovery or subpoena. The confidential provisions of this subsection are of no effect if the nurse admitted to the diversion program leaves the state prior to the completion of the program.~~

F. Any person making a report to the board or to an advisory committee regarding a nurse suspected of practicing nursing while habitually intemperate or addicted to the use of habit-forming drugs or making a report of a nurse's progress or lack of progress in rehabilitation, shall be immune from civil action for defamation or other cause of action resulting from such reports, provided such reports are made in good faith and with some reasonable basis in fact."

HB 441
Page 3

EXHIBIT 7

DATE 2-8-89

HB 378



The Legislature

of the

State of New Mexico

36TH Legislature, 1ST Session

LAWS 1987

CHAPTER 285

HOUSE BILL 441, AS AMENDED

Introduced by

REPRESENTATIVE RICHARD T. KNOWLES AND REPRESENTATIVE LINN-J. TYTLER
REPRESENTATIVE HENRY KIKI SAAVEDRA
REPRESENTATIVE CISCO MCSORLEY
REPRESENTATIVE ROBERT M. HAWK
REPRESENTATIVE MARTHA L. (HARTY) LAMBERT



CHAPTER 285

AN ACT

RELATING TO THE NURSING PRACTICE ACT; PROVIDING A DIVERSION PROGRAM FOR CHEMICALLY DEPENDENT NURSES; ENACTING A NEW SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Nursing Practice Act, Section

61-3-29.1 NMSA 1978, is enacted to read:

"61-3-29.1. DIVERSION PROGRAM CREATED--ADVISORY COMMITTEE--
FEE--EQUIPMENT--IMMUNITY FROM CIVIL ACTIONS.--

A. The board shall establish a diversion program to rehabilitate nurses whose competencies may be impaired because of the abuse of drugs or alcohol so that nurses can be treated and returned to or continue the practice of nursing in a manner which will benefit the public. The intent of the diversion program is to develop a voluntary alternative to traditional disciplinary actions and an alternative to lengthy and costly investigations and administrative proceedings against such nurses, at the same time providing adequate safeguards for the public.

B. The board shall appoint one or more diversion evaluation advisory committees, hereinafter called the "advisory committee", each of which shall be composed of at least five members with expertise in chemical dependency. Two members of each advisory committee shall be registered nurses and one member shall be a licensed practical nurse. No current member of the board of nursing shall be

House Bill 441, as
Approved April 9, 1987

appointed to an advisory committee. The executive officer of the board shall be the liaison between each advisory committee and the board.

C. Each advisory committee shall function under the direction of the board and in accordance with regulations of the board. The regulations shall include directions to an advisory committee to:

(1) establish criteria for admission and continuance in the program;

(2) review sworn complaints filed with the board against a licensed nurse involving drug abuse or alcohol;

(3) review voluntary requests of each nurse requesting diversion;

(4) develop a written diversion agreement to be approved by the board which sets forth the requirements that must be met by the nurse and the conditions under which the diversion program may be successfully completed or terminated;

(5) recommend to the board in favor of or against each nurse's admission into and release from a diversion program;

(6) receive and review all reports regarding each nurse's progress in treatment and recovery;

(7) report violations to the board;

(8) submit statistical reports to the board;

(9) coordinate educational programs and research related to chemically dependent nurses; and

TESTIMONY ON HB 378 PRESENTED ON BEHALF OF THE STATE BOARD
OF NURSING BY JANICE ANDERSON, PUBLIC MEMBER

February 8, 1989

My name is Janice Anderson. I am a public member of the Montana State Board of Nursing and am here to testify on behalf of that body in support of HB 378.

The Board of Nursing has adopted the following position statement on chemical dependency and the licensed nurse.
(Attached statement read aloud.)

The Board believes that the proposed program can increase public protection by 1) drawing impaired nurses into treatment under Board control sooner, 2) providing a more reliable means of monitoring the impaired nurse and 3) insuring that a greater number of those nurses are rehabilitated.

Janice Anderson

EXHIBIT 9
DATE 2-8-89
HB 378

BOARD OF NURSING
DEPARTMENT OF COMMERCE



1424 9TH AVENUE

STATE OF MONTANA

(406) 444-4279

HELENA, MONTANA 59620-0407

DRAFT

POSITION STATEMENT

CHEMICAL DEPENDENCY AND THE LICENSED NURSE

The Montana State Board of Nursing recognizes an increasing awareness of the needs of licensed nurses whose functioning is impaired by chemical dependency. Insofar as:

- Alcoholism and drug addiction are primary illnesses and should be treated as such;
- Problems resulting from these illnesses can include personal, legal and health problems that may impair the nurse's personal health and ability to practice safely;
- Nurses who develop these illnesses can be helped to recover with appropriate treatment;
- Programs that include treatment and monitoring, as an alternative to a disciplinary process, have been helpful in rehabilitating the licensed nurse and in protecting the public;
- Nurses who are willing to cooperate with a program of assistance for them and accept treatment for these illnesses should be allowed to avoid disciplinary action provided they cooperate fully with recommended treatment and comply with the requirements for monitoring of their continued recovery after formal treatment is completed.

Therefore, the Montana State Board of Nursing supports the enactment of language to the statutes regarding Nursing Practice in Montana, calling for a diversion program for nurses who have been, or are likely to be, charged with a violation of the Nurse Practice Act but who are willing to stipulate to certain facts and enter into a diversion program approved by the Board.

To enable the implementation of a diversion program, the Board supports the increase of license renewal fees to cover all associated costs.

Amendments to House Bill No. 378
First Reading Copy

Requested by Rep. Carolyn Squires

Prepared by Mary McCue
February 7, 1989

1. Title, line 5.

Strike: "AND REHABILITATE"

2. Page 3, lines 4 and 5.

Strike: "and rehabilitate"

3. Page 3, line 8.

Following: "substance."

Insert: "The program must provide assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation."

VISITORS' REGISTER

HUMAN SERVICES AND AGING

COMMITTEE

BILL NO. HB 378

DATE 2/8/89

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Janice Anderson	Box 340 Boulder	✓	
Lynnda Fraayck RN	Stuart Pkwy 142 Clancy	✓	
Dianne Watson RN	2504 Heritage Dr	✓	
Darlene Huseby RN	2445 Winne Ave-Helen	✓	
Ken Simpson RN	2200 GARDEN #27 Mslb	✓	
Carol L. O'Leary RN	1802 Locking	✓	
Carol Sem RN	1277 Higgins MSLA	✓	
Barb Barber	MTA Flw	✓	
Mary Protheroe	717 Elm Helena MT	✓	
KEN DUNHAM	MT LPN ASSOCIATION	X	
Thane T Leland	11126	✓	
Nancy Bowles	200 Heritage Wy	✓	
Tom Dunlap	" "	✓	
James Webster	831 Broadway	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HUMAN SERVICES AND AGING COMMITTEE

DATE 2/8/89

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEE

BILL NO. HB 529

DATE 2/8/89

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JERRY OVERMIE	6752 Applegate	X	
Jane Lopp	KISPL	X	
AMDUSSANT	MBCO	X	
Virginia Jackson	MUC	X	
Lorna Frank	Farm Bureau	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HUMAN SERVICES AND AGING

COMMITTEE

BILL NO. HB 279DATE 2/8/89

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JERRY OVERMIER	4752 Applegate		✓
DAN MILLER	407 KOUTENAI DR. LIBBY		✓
JANE LOPP	Kalispell		✓
ANN MARY DUSSAULT	MACO		✓
Therese Jellison	MCIC	MA	✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2-8-89

NAME	PRESENT	ABSENT	EXCUSED
Stella Jean Hansen	✓		
Bill Strizich	✓		
Robert Blotkamp	✓		
Jan Brown	✓		
Lloyd McCormick	✓		
Angela Russell	✓		
Carolyn Squires	✓		
Jessica Stickney	✓		
Timothy Whalen	✓		
William Boharski	✓		
Susan Good	✓		
Budd Gould	✓		
Roger Knapp	✓		
Thomas Lee	✓		
Thomas Nelson	✓		
Bruce Simon	✓		