

## MINUTES

### MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

Call to Order: By Senator Gary C. Aklestad, on March 14, 1989, at 1:00 p.m. in Room 415 in the state Capitol.

#### ROLL CALL

Members Present: All members were present. Senator Tom Keating, Vice Chairman, Senator Sam Hofman, Senator J.D. Lynch, Senator Gerry Devlin, Senator Bob Pipinich, Senator Dennis Nathe, Senator Richard Manning, Senator Chet Blaylock, and Senator Gary C. Aklestad, chairman.

Members Excused: No members were excused.

Members Absent: No members were absent.

Staff Present: Tom Gomez, Legislative Council Analyst.

Announcements/Discussion: There were no announcements or discussion.

#### HEARING ON HOUSE BILL 639

##### Presentation and Opening Statement by Sponsor:

Representative Jerry Driscoll, House District 92, chief sponsor of HB 639, stated the bill is an act to increase the number of full weeks that an individual may receive unemployment benefits during the benefit year.

Representative Driscoll stated HB 639 changes the number of weeks a person is eligible for unemployment. If the worker doesn't work in every quarter of the year, the worker can not qualify for 26 weeks, current law. The change will make the statute the same as the 1977 law. Senate Bill 639 changes the law so the maximum allowance to earn 26 weeks is 2.96 times X.

##### Testifying Proponents and What Group They Represent:

Don Judge, representing the Montana AFL-CIO.

##### Testimony:

Don Judge, Montana AFL-CIO, stated the union thinks this is a good bill. There is a question about the individuals who works, gets laid off, and does not receive the full 26 weeks of unemployment compensation benefits. We do not believe the fiscal note will reflect any change in the rates the employers currently pay for unemployment compensation. (Exhibit 1A)

List of Testifying Opponents and The Group They Represent:

Chad Smith, representing the Unemployment Compensation Advisors.

Buck Boles, representing the Montana Chamber of Commerce.

James Tutwiler, representing the Montana Chamber of Commerce.

Testimony:

Chad Smith, Unemployment Compensation Advisors and Montana Association of Employers, stated the bill disturbs the association because it undoes what the legislature accomplished when the fund was in trouble. Compromises were made on both sides during the 1987 session in order to make the fund solvent. This bill may not effect the employer's rates this year, but it, with other economic factors, may effect the rates at a later date. The law was not structured so everyone gets 26 weeks. The more work an individual does in the remainder of the year, besides the high quarter, determines how many weeks of benefits the person will receive. Montana is in the lowest fifteen percentile of all the fifty states. The solvency of the fund should be maintained.

Buck Boles, Montana Chamber of Commerce, stated minor tax cuts have been received in the last couple of years. Mr. Boles stated the bill is a whittling away of the fund the Legislature established. Montana still has benefits tied to the weekly average wage. Mr. Boles asked the committee to disregard the legislation.

James Tutwiler, Montana Chamber of Commerce, stated opposition to HB 639.

Questions From Committee Members:

Senator Manning asked what is the cost per year. The amount is \$320,000 per year. The formula works like this: The individual takes the high quarter in the base year, divide the number into the total earnings in the base year, and the individual get a percentage that relates to the number of

weeks the individual gets. Under the present law, the individual takes the high quarter and divide it into the base year, and if it is 3 1/4 times as high, the individual does not get 26 weeks. Because it is multiplied by 3 1/4, the individual has to work another quarter. If the individual lost one quarter of the year, the best the individual can do is 24 weeks under current law.

Closing by Sponsor:

Representative Driscoll stated there is \$63 million in the fund. It has gone down 6 schedules in 4 years. This is a substantial cut in taxes. Representative Driscoll gave an analogy of a asphalt crew worker, who doesn't show up to work on Saturdays during the high quarters of the time period. He compared this person to a person with questionable work hours, and who will get more unemployment weeks because of the high quarter. If the individual does not work Saturdays, the individual can get 26 weeks with on \$26,500 in the base year. If the employee and the employer both agree, the individual can work one week and draw unemployment the other week. This can be done under present law for the rest of the employment history. The new law makes it more fair for the employee that goes to work everyday and doesn't call in sick. It is written for the hard working individual.

HEARING ON HOUSE BILL 529

Presentation and Opening Statement by Sponsor:

Representative Boharski, House District 4, stated the bill was written knowing there is a tremendous hodge-podge of welfare legislation. There is one central funding program, the Job Training Partnership Act. Representative Boharski described the bill and the amendment added by the House. The state of Montana is starting to create a welfare industry by building up agencies and programs. The statement of intent says the legislature wants to know if the money is being spent in the correct and most cost effective manner. The intent of the bill is identical to the intent of the federal law. The balance between the private and public sector must be maintained. Representative Boharski stated the bill is an act to require coordination of programs under Title II 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. The bill will give the governor and the job coordinating council the authority to take a look at the various programs as a comprehensive

package.

List of Testifying Proponents and What Group They Represent:

Representative Caroline Squires, representing herself.

Jerry Overmier, representing PIC.

Gorden Morris, representing the Montana Association of Counties.

Kay Norenberg, representing the Private Industry Council.

Valerie Larson, representing the Farm Bureau.

Testimony:

Representative Caroline Squires, House District 58, Missoula, MT, stated she serves on the Private Industry Council. House Bill 529 has been put together by Rep. Boharski, the Human Services' Chairman, the counties commissioners and other Private Industry members. Representative Squires asked the committee not to amend the bill. The legislation intends to provide broad legislative oversight, while allowing the private industry council the flexibility to administer the job training programs. The bill provides for reporting mechanisms to the Legislature concerning outcomes of the Job Training Program. There are many welfare bills under consideration.

Jerry Overmeir, PIC, submitted written testimony in support of HB 529. (Exhibit 1) Mr. Overmeir gave an overview of the PIC program and coordination policies of the JTPA.

Gorden Morris, Executive Director of the Montana Association of Counties, stated support of the amended bill. Morris stated in the past several years, the county commissioners have become involved in JTPA. The act is complex. The commissioners found partnerships with other councils have provided a better understanding of regional needs. JTPA is a results oriented program to meet and account for funds. The bill will give additional accountability in Montana. There will be legislative involvement in the recording, reviewing, and delivery of the programs. The JTPA depends on public comment. The bill gives JTPA general direction from the Legislature and allows county commissioners, working with the Private Industry Council, to run the programs.

Kay Norenberg, Private Industry Council, stated support of HB 529, as amended. Ms. Norenberg stated people look to the JTPA to solve problems. Last year the council served over

7,000 people. Ms. Norenberg addressed issues of JTPA concern. Accountability is now possible.

Valerie Larson, Farm Bureau, stated support of HB 529. The Bureau is a strong believer that welfare recipients and disadvantaged people need to receive training so they can work at productive jobs. We oppose retraining, but give approval to federally funded retraining, only if the retraining is the result of a rehabilitating injury or illness.

List of Testifying Opponents and The Group They Represent:

Roger Koopman, representing Career Concepts.

Testimony:

Roger Koopman, Career Concepts, Bozeman, MT, submitted written testimony in opposition to HB 529. (Exhibit 2)

Questions From Committee Members:

Senator Aklestad discussed the governor's amendment for coordination and asked for Rep. Boharski's approval to incorporate the governor's amendment into HB 529. Representative Boharski stated he would have no objections to the governor's amendment.

Senator Keating asked Sue Mohr about the governor's coordination amendment. How do these requirements tract with HB 529, which seems to accomplish the same purpose. Ms. Mohr stated it depends on how the various departments will work together. If the PIC service delivery system is chosen, the departments will have to pull the private industry councils into the discussions. Senator Keating asked if there is a reason why some of the money goes through the Governor and the other money goes through the Department of Labor, while all the money goes through SRS. Ms. Mohr stated 22% of the JTPA goes through the governor's office by mandate of federal law. The remainder of the funds go to the private Industry Council, even though the Department of Labor acts as an administrative agent. The approach to change the channeling procedures in through federal law. Senator Keating asked if HB 529 is compatible with the language of the governor's coordinating amendment. Ms Mohr stated Section 9 language is taken from the JTPA law. Federal law wants coordination of programs. The law is interesting because it gives the JTPA more authority over more programs than the federal law actually gives them money for.

Senator Blaylock asked Rep. Boharski if he is familiar with

the governor's coordinating amendment. Senator Blaylock explained the amendment gives the governor the power to do the coordinating. If there is duplicating, the governor can stop the duplication. The programs are made to work together. Representative Boharski gave an overview of what he perceived to be the mixing of the Governor's amendment and HB 529. Senator Blaylock asked about how many people are going to be on the council. Tom Gomez stated the legislation does not cite the number of individuals. The makeup of the board dealing with the percentage of various industries is addressed instead. The governor will decide on the number of people on the board, according to Rep. Boharski. The Private Industry Council is already in place. Boharski stated the clarifying issue is about making sure agencies are doing what they say they are doing.

Senator Nathe asked Ms Mohr if the Department of Labor keeps track of the unemployed. The legislature will eventually have to deal with the Cobb appropriation amendment. The Cobb amendment did away with the project work program to save a million dollars to be applied elsewhere. Ms Mohr stated the department tracks how many people are serviced in the JTPA program, and they track the number of people in General Assistance. The department also tracks significant segments. Senator Keating information is contained in the information packets, which are sent out by the Department of Labor. The problem of using JTPA funds is that they are also federal funds. The state has to have nonfederal funds to match the food stamp program. Representative Boharski stated the food stamp program requires a certain number of people.

Senator Lynch asked if the department tracks the unemployed or the people who are seeking employment. Ms Mohr stated the department tracks the number of people served in our program, who are unemployed.

Closing by Sponsor:

Representative Boharski stated the programs are targeting the wrong groups of people because of the way the programs are being set up. The people who should be helped, are not being helped because it costs too much money.

HEARING ON HOUSE BILL 677

Presentation and Opening Statement by Sponsor:

Representative Jerry Driscoll, House District 92, chief sponsor of the bill, stated the bill is an act to clarify the requirement to deposit unemployment insurance tax into unemployment trust fund account includes any investment

income generated on the tax. Representative Driscoll stated House Bill 677 is the money to pay for House Bill 639. The legislative auditor found the administrative tax on the unemployment insurance account is supposed to go to the state General Fund. During the past few years, the money has not been transferred into the General Fund. The amount is \$418,000. This bill would not require the auditor to transfer the money back to the General Fund. If the bill does not pass, the schedule will trickles down from number six to number five. If the bill passes, the schedule will go from number six to number four, which will mean a 18.2% reduction in unemployment taxes to the employer.

List of Testifying Proponents and What Group they Represent:

Chuck Hunter, representing the Unemployment Insurance Division.

Testimony:

Chuck Hunter, Administrator of the Unemployment Insurance Division, Department of Labor, stated two primaries benefits. House Bill 677 allows the department to continue the current practice of transferring the interest on the administrative tax fund to the trust fund. The difference of \$417,000 would be enough to effect the triggering mechanism of the unemployment tax rate overall. The original tax put on was a percentage of taxes taken out of the greater UI tax break and put to the administrative fund tax to give the department and state greater flexibility. The department feels the bill will allow the spirit of the tax to continue.

List of Testifying Opponents and What Group They Represent:

There were no testifying opponents.

Questions From Committee Members:

Senator Keating asked if the money comes from the administrative income, and is the state using the interest income tax to fund displaced home makers and the new horizons. The penalties are used, not the interest income, replied Mr. Hunter. If the money doesn't go into the unemployment trust fund, it will go into the General Fund. Mr. Hunter replied the amount should be transferred yearly, but it hasn't been done.

Closing by Sponsor:

Representative Driscoll stated if the legislature was going to give the employers an 18.2 rate reduction, the

legislature might consider giving the employees a little bit of SB 639. Both bills are good bills and go together.

#### HEARING ON HOUSE BILL 710

##### Presentation and Opening Statement by Sponsor:

Representative Jerry Driscoll, House District 92, stated HB 710 is an act revising the workers' compensation act to require that, whenever possible, rehabilitation services for a disabled worker must restore the worker's ability to earn the level of wages he was capable of earning prior to the occurrence of a work-related injury. Representative Driscoll stated last session, when the legislature passed SB 315, there was a rehabilitation section concerning workers and the options the rehabilitation councils would have to rehabilitate workers. (page 3, line 20 and page 4, lines 1 - 10) The first most appropriate option must be chosen for the worker phrase is in question. The first most appropriate is recharged with the same position. If that is not possible because the employer does not have work or because the disability of the injury makes it impossible, the second most appropriate is returned to a modified position with the same employer. If that is not possible, then the employee returns to a related occupation suited to the client's education and marketable skills. No one can get past the last item. The rest of the on job training, short term up to 48 months or self employed are meaningless, because under the law, if there is a job the worker can do, then the rehabilitation councilor says "you can do this." An example is: a clerk in any store, so the training ends. In Billings, the rehabilitation people get to "c". There is a job at the parking lot and the client can count and make change. The rehab counselor will place the individual in the parking lot job. The new language says, whenever possible, the rehabilitation services must restore the worker's ability to their level prior to the injury, as demonstrated by past employment history. This is the old law of restored earning capacity. If the worker can demonstrate they made more money in the past than what the parking lot attendants job or other available jobs pays, the councilor has an obligation to comply with the new law.

If nothing else, Rep. Driscoll urged the committee to move "c" down the list.

##### List of Testifying Proponents and The Groups They Represent:

Jan Van Riper, representing herself.

Michael Sherwood, representing the Montana Trial Lawyers



Association.

Don Judge, representing the AFL-CIO.

Testimony:

Jan Van Riper, Helena attorney, stated she represents workers' compensation claimants. The bill grew out of statements made at the public forum held earlier in the session. There were four or five claimants that testified about various workers' compensation law problems. The common theme was the job description at the time of the injury was completely different than what the rehabilitation counselor provided as the new job option. Ms Van Riper gave an example of the man who had worked in construction at a \$12 to \$13 per hour job, but the rehab counselor told him he could be a day care worker. The system is inhumane. The state is in a financial crunch, but the worker's rehabilitation options need to be more humane regarding the injured worker's desire to return to a comparable paying job.

Ms Van Riper discussed private insurance options. The insurance company will owe approximately \$75,000, due to wage loss benefits premiums. If a two year training program was initiated, the insurance company's cost would be \$3,100, which is an economic saving. Ms Riper stated private carriers have the option of retraining people. People are doing this, even though it is not required. The act has many safeguards regarding work training after injury. Ms Van Riper further explained the bill. Ms. Van Riper wanted an amendment written to have retraining mandatory and not at the option of the private insurance carrier.

Michael Sherwood, Montana Trial Lawyers Association, stated injured workers are experiencing frustrations and concerns. Sherwood urged support of HB 710.

Don Judge, Montana State AFL-CIO, stated support for HB 710. (Exhibit 4)

List of Testifying Opponents and The Group They Represent:

Stan Kaleczyc, representing the Montana Municipal Insurance Authority.

Bill Palmar, representing the Workers' Compensation Division.

George Wood, representing the Montana Private Insurance Association.

Testimony:

Stan Kaleczyc, Montana Municipal Insurance Authority, stated opposition to HB 710, stating the bill doesn't have as much savings as we originally thought. The bill opens up the opportunity for litigation. Mr. Judge submitted written

George Wood, Montana Private Insurance Association, stated concern over the new language. The bill changes the whole structure of what is "rapid return to work" to what is a long time retraining program. The language is not an invitation to litigation, it is an advertizement requesting people to litigate.

Bill Palmar, Interim Director of Workers' Compensation Insurance, gave written testimony. (Exhibit 5)

Questions From Committee Members:

Senator Blaylock stated we have gone a long ways, and we have gotten a list for the rehabilitation service procedures. The clients get rehab people to represent them. When the rehab counselor gets to "C", they are done, whether or not you agree with the decision. The bill is needed. Senator Blaylock asked if the rehabilitation system is working. Mr. Murphy stated that the workers' compensation rehab people do go beyond "C", and Mr Murphy stated examples of services offered. Mr. Murphy stated that he has met personally with the rehab vender in the last six months. When you get an amount below \$5.50 you have problems, especially when workers earned \$12, \$13, and \$14. Mr. Murphy further commented about the wide disparity.

Closing by Sponsor:

Representative Driscoll urged passages of HB 710.

ADJOURNMENT

Adjournment At: The meeting adjourned at 2:35 P.M.

  
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Senator Gary C. Aklestad, Chairman

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: April 14

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	✓		
SENATOR SAM HOFMAN	X		
SENATOR J.D. LYNCH	X		
SENATOR GERRY DEVLIN	✓		
SENATOR BOB PIPINICH	✓		
SENATOR DENNIS NATHE	✓		
SENATOR RICHARD MANNING	✓		
SENATOR CHET BLAYLOCK	✓		
SENATOR GARY AKLESTAD	✓		



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SENATE LABOR AND EMPLOYMENT

EXHIBIT NO. 1 A 101

DATE 3-15-89

BILL NO. HB 639

TESTIMONY OF DON JUDGE BEFORE THE SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE ON HOUSE BILL 639, MARCH 14, 1989

Mr. Chairman and members of the Committee, for the record, I am Don Judge representing the Montana State AFL-CIO in support of House Bill 639 which would establish fairness in the number of weeks certain individuals are eligible for unemployment insurance benefits.

Under current law, workers who are willing to work overtime when requested by an employer, such as on highway construction projects, find themselves penalized when it comes to filing for unemployment compensation after they are laid off. Because of the formula used to determine eligibility, the ratio of wages earned by these workers for performing overtime during their high quarter actually decreases the number of weeks they qualify for.

In essence, it benefits some workers in the long run to refuse to work overtime and perhaps even slough off for a few days. That's not good policy and we don't condone it, but for some workers it makes economic sense. House Bill 639 would amend Montana law to eliminate this problem, and the cost is well worth the small fiscal note attached.

Mr. Chairman, as we understand it, this legislation's impact on the Unemployment Insurance Fund will not significantly impact employer tax rates, and we urge you to give it favorable consideration.

Thank you.

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.

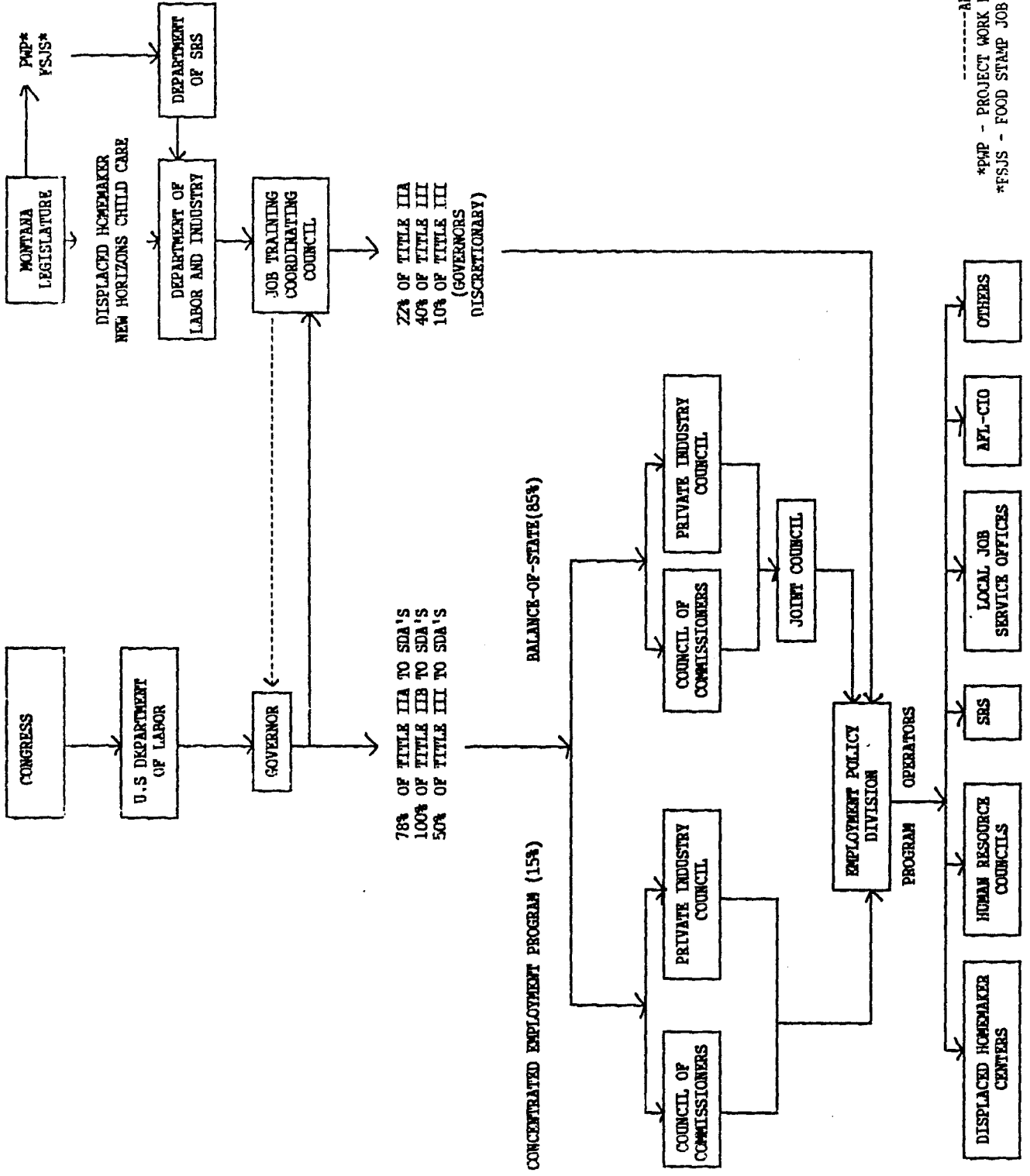
Programs available under Title IIA are IIA Adult and Youth, IIA Adult Displaced Homemakers and IIA Adult Handicapped.

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.

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



-----ADVISORY  
 \*PMP - PROJECT WORK PROGRAM  
 \*FSJS - FOOD STAMP JOB SEARCH

Testimony of Roger E. Koopman  
Senate Labor Committee  
March 14, 1989  
H.B. 529

Mr. Chairman:

"The art of economics," Henry Hazlitt once wrote, "consists of looking not merely at the immediate but at the longer effects of any act or policy; it consists in tracing consequences of that policy not merely for one group but for all groups."

A century earlier, the great French statesman Frederic Bastiat expressed the same concept in his essay, "What is Seen and What is Not Seen." Bastiat sounded an unheeded warning to his countrymen about the seductive nature of political programs and promises, explaining how short-term benefits to specific interest groups are highly visible, while the long-term harm brought upon all groups throughout the economy is seldom seen or understood.

Federally-funded jobs programs like JTPA are a consummate example of this principle at work. They are sold to the public with inflated statistics on all the people the programs have allegedly "assisted." But the test of a federal program's performance is not whether subsidized company X or federal contractor Y has benefitted by their enrichment, but whether the nation and its people as a whole have benefitted. We must dismiss the self-serving political statements that promise us something for nothing, and understand that everything government provides has its costs. We must count the costs of JTPA that are borne by all people across all of society to see if We win or lose.

Assertions notwithstanding, JTPA almost never creates a new employment opportunity in the local job market, although JTPA placements form the illusion that jobs have sprung from the program. In reality, JTPA applicants are being hired for jobs that already exist, and would have been filled by the employers anyway. The only difference is that the cost of training, which is ordinarily borne by the business, has been transferred to the taxpayer.

Oftentimes the so-called training that is involved in these JTPA placements is pure charade. In most cases, employers are receiving a six-month training subsidy (50 percent of wages) for jobs that require little or no training at all. In other instances, the JTPA placement is already perfectly qualified to perform the job and required virtually no training from the start. Time and again, I have seen the JTPA program place experienced cashiers in "cashier trainee" positions, experienced desk clerks in "desk clerk trainee" jobs, experienced grocery clerks in "grocery clerk trainee" roles, and so forth. And clearly, none of these jobs require six months of training even when the JTPA referral has no experience whatever.

Although they will deny this, I can attest to numerous cases where the JTPA contractor (Job Service, Human Resource Development Council, Women in Transition, union halls, etc.) had nothing to do with the job placement itself, although in their records they will take full credit for it. The employer finds a qualified worker on their own and then quickly runs them through the JTPA certification process to get their six-month subsidy. The person is essentially hired before the JTPA forms are even filled out.

In other cases, the lure of JTPA money induces businesses to provide jobs that don't exist, and thus, to offer training in employment areas where there is little or no labor demand and very low wages. When the JTPA contract period ends, the worker is worse off than before, finding himself back on the street after wasting six months that could have been devoted to genuine career development.

JTPA contractors, who are fiercely competitive for their lifeblood of federal monies, invariably concentrate on the easiest-to-place job applicants who produce the most favorable looking percentages of placement success. As a result, the people whom the program is supposedly designed to assist -- the hardcore disadvantaged -- receive the least help of all. The overwhelming priority becomes the well-being and continued growth of the contractor.

It's worth noting that even with these competitive factors in place, the average cost of a JTPA job placement in Montana is right around \$2,550, as compared to the average cost of a placement through a private employment agency (charged to the user, not the taxpayer) of under \$500. And according to a 1986



General Accounting Office report, private agencies do a significantly better job of placing welfare recipients than the government unemployment office, although government workers still refuse to refer low-income people to agencies because, according to the GAO, they are concerned about their own job security.

The root assumption of programs like JTPA is the belief that freedom and free markets do not work; that the way to maximize job opportunities and job training is through government intervention and manipulation, **not** free enterprise. By accepting the "necessity" of these jobs programs, we embrace the notion that government planners and bureaucrats can do a better job of allocating the nation's resources than free men and women, and that local bureaucracies with fistfuls of JTPA dollars are more capable of determining what kinds of job training is needed where, than private employers are themselves.

How easily we forget that the massive amount of wealth devoted to programs like JTPA is drained directly from the private sector, through taxation, inflation or borrowing. Left in place, these private funds would have created more net jobs than the government did -- jobs demanded by the economy, not dictated by high-salaried bureaucrats.

But this type of common sense economics never enters into the debate over JTPA. Hazlitt and Bastiat tell us why. While the neighbor's six-month training job "created" with JTPA funds is obvious to all, the job that same amount of money could have created somewhere else cannot be seen. The tidy little subsidy that George's business received thanks to JTPA is highly visible. The job that wasn't created because that sum was removed from the private sector to fund JTPA in the first place is never perceived, and the person who didn't go to work because the money was appropriated for George is an invisible victim. Meanwhile, George and the neighbor believe that they have been genuinely blessed, as if by magic.

There's a well-worn adage that describes this process exactly: "Government is that great myth by which everyone believes they are living at the expense of everyone else."

Who really profits from JTPA's spending? Three groups: 1) Unprincipled politicians who spend our taxes to buy our votes; 2) Business owners who are willing to stoop for the JTPA handouts to

SENATE LABOR & EMPLOYMENT  
EXHIBIT NO. 2 485  
DATE 3-14-87  
BILL NO. HB 529 4

fatten their bank accounts and gain advantage over their competitors; and 3) Labor unions and professional welfare organizations (often with openly left-wing political agendas) that become JTPA contractors and live off our taxes.

One group conspicuously missing from this list consists of the average, unemployed Americans. On balance, they lose far more than they gain. Many job seekers, thanks to JTPA, find themselves utterly discriminated against -- locked out of "equal employment opportunity" because employers may be hiring only JTPA-certified workers, and they don't fit the federal criteria. Moreover, as a result of federal spending programs like JTPA, job seekers will have far fewer total jobs available to them in the private sector, precisely because JTPA funds are often misallocated into jobs that aren't real and training that isn't needed. Left in private hands where they belong, these same funds would be directed by private entrepreneurs into productive, wealth-producing jobs that expand the economy and ultimately create more employment.

-END-



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SENATE LABOR & EMPLOYMENT  
EXHIBIT NO. 4 108  
DATE 3-14-89  
BILL NO. 128 710

TESTIMONY OF DON JUDGE BEFORE THE SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE ON HOUSE BILL 710, MARCH 14, 1989

Mr. Chairman and members of the Committee, for the record, I am Don Judge representing the Montana State AFL-CIO in support of House Bill 710 which would require that, whenever possible, the rehabilitation services for a disabled worker would restore that worker to their former earning capacity.

We submit to you that there is no better goal for rehabilitation services than to restore a worker's earning capacity. Injured workers want to return to the work force as productive members of society. They also want to return from their injuries to employment which is comparable to that which he or she held prior to the injury. This legislation simply provides that as a goal. This goal carries the necessary caveat "whenever possible" so that the services are reasonable for the injury.

We support House Bill 710 and urge you to give it favorable consideration.

Thank you.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 2 595

DATE 3-14-87

BILL NO. HB 529

SPECIFIC PROPOSALS RE: H.B. 529

OVERVIEW: As established in the preceding testimony, the JTPA program is a consummate failure, and always will be a failure because it violates the basic economic tenets of a free society and embraces the false notion that business must be induced by government intervention to train workers. On net, there is far more loss than gain, although the "gain" is often very visible while the loss requires true wisdom to see and understand. While this body cannot repeal JTPA, the laws of this state relating to JTPA ought to at least acknowledge these economic truths.

Beyond that, bills like H.B. 529, which deal with the implementation of the JTPA program and the use of federal funds, should set as their highest priority, establishing standards of fairness and efficiency which recognize the role of the private sector and the need to avoid duplication of effort and wasted tax dollars.

There are approximately 25 private employment agencies in MONTANA, representing the finest single group of personnel professionals in the state. Not only are the resources of these offices going completely untapped by the JTPA program, but the manner in which JTPA funds are being used are greatly harming our industry and our ability to serve the public. Specifically:

1. JTPA programs are being used by its contractors as a competitive weapon to eliminate private agencies from company hiring procedures, even to the point of setting up exclusive hiring contracts with the lure of JTPA funds. (These arrangements are agreements in restraint of trade and do violence to the whole spirit of E.E.O.)
2. Where federal block grants are involved, JTPA contractors are being set up as exclusive "Designated Hiring Agents", which completely locks out the private agency and its job-seeking clients.

DIVISION TESTIMONY  
HB 710

Rehabilitative Services for Disabled Workers  
Restore Earnings Capacity

The Division of Workers' Compensation opposes this bill as it attempts to change the legislative intent enacted in 1987 as it relates to rehabilitation and payment of permanent partial benefits.

Section 39-71-105, Declaration of Public Policy, in the current statutes states:

"(1) . . . Wage loss benefits are not intended to make an injured workers whole; they are intended to assist a worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

"(3) . . . the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities."

The language in House Bill 710 states that, "Whenever possible" the claimant should be restored to the level of wages "he was capable of earning prior to the occurrence of a work-related injury as demonstrated by past employment history."

This approach causes several problems and could be extremely expensive to the system. First, words "whenever possible" invite litigation. The words are very subjective and will certainly create disputes on claims considering the "capable of earning" language.

Secondly, the language in House Bill 710 also expands the wages used for making such a comparison from "wages at the time of injury" to "wage he was capable of earning prior to the injury."

For example, an individual was injured while earning \$6 per hour at the time of the injury, but "demonstrated by past employment history" the claimant could show he was capable of earning \$12 per hour because he had earned that much on a different job prior to the injury. Even if the insurer was able to identify jobs after the injury which paid \$6 per hour, the insurer would still be obligated to provide training or self employment in an attempt to return the claimant to a \$12 per hour job. Remember, the claimant was only earning \$6 at the time of the injury. Such a system would undoubtedly raise rates.

Thirdly, the terms "capable of earning" instead of "actual wage at the time of injury" will also increase litigation. "Capable of earning" equates to "loss of earning capacity" which was one of the major reasons for the high cost of a system before the 1987 Legislation.

In summary, the Division does not believe the system should be changed before there is an opportunity to determine the impact of the 1987 Legislation. It would be premature if we now tried to change or alter the basic concepts enacted by the 50th Legislature. This bill changes the purpose of the rehabilitation system and, in our view, will unnecessarily increase litigation and allied costs.

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WILLIAM R. PALMER  
Interim Administrator  
DIVISION OF WORKERS' COMPENSATION

3/14/89

SENATE LABOR & EMPLOYMENT  
EXHIBIT NO. 3 2 of 2  
DATE 3-14-89  
BILL NO. HB 710

DATE 3/14/87

COMMITTEE ON LABOR

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Don Judge	MT STATE AFL-CIO	HB 639 HB 710	X	
Rob Morawiec	Missoula Chamber Commerce	HB 710		X
Jerry OVERMIER	Pic	HB 529	X	
Ray Norenberg	BOS PIC	HB 529	X	
Jan Van Riper	self	HB 710	X	
Ray Wood	MT Self Insurance Assoc	HB 710		X
Mike Micon	Dept of Labor Industry	HB 529 HB 477 <del>HB 710</del> HB 710	X	
F.H. Buck Boles	MONTANA CHAMBER	HB 639		X
Michael Sherwood	MTLA	710	X	
Nalopie Larson	Farm Bureau	HB 529	X	
Gordon Morris	BOS C of C / MACO	HB 529	X	
CHAD SMITH	unemployment Comp admin	HB 639		X
JIM TWILER	MONT CHAMBER	HB 710		X
Roger Korfman	Career Concepts	HB 529		X
CHUCK HUNTER		<del>HB 529</del> 677	X	
Kate Strick	SCIF	710		X
Vernon Butler	SCIF	710		X
William Deane McLaughlin	WIAIUB	710		
Frank Mann	WCD	710		
Stan Kacey	MT MUNICIPAL INSURANCE AUTHORITY	710		X
Ted J. Dorey	Rehabilitation Assn. of Montana	710		X