

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIR CAROLYN SQUIRES**, on February 16, 1991,
at 3:00 p.m.

ROLL CALL

Members Present:

Carolyn Squires, Chair (D)
Tom Kilpatrick, Vice-Chairman (D)
Gary Beck (D)
Steve Benedict (R)
Vicki Cocchiarella (D)
Ed Dolezal (D)
Jerry Driscoll (D)
Russell Fagg (R)
H.S. "Sonny" Hanson (R)
David Hoffman (R)
Mark O'Keefe (D)
Bob Pavlovich (D)
Jim Southworth (D)
Fred Thomas (R)
Dave Wanzenried (D)

Members Absent:

Royal Johnson (R)
Thomas Lee (R)
Tim Whalen (D)

Staff Present: Eddye McClure, Legislative Council
Jennifer Thompson, Committee Secretary

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

EXECUTIVE ACTION ON HB 465

Motion: REP. THOMAS MOVED HB 465 DO PASS.

Motion: REP. THOMAS moved to amend HB 465. EXHIBIT 1, NUMBERS 1-8 AND 10-11. He explained the amendments, including: Number 8 coordinates HB 465 with HB 837, and Number 10 causes the impairment process to go through mediation.

Vote: Motion to amend carried unanimously.

Motion: REP. THOMAS MADE A SUBSTITUTE MOTION THAT HB 465 DO PASS AS AMENDED.

Discussion:

REP. O'KEEFE said there are a number of REP. WHALEN'S amendments that haven't been moved because REP. THOMAS didn't want them. REP. WHALEN will probably finish amending HB 465 on the floor of the House. REP. THOMAS said there was only one of REP. WHALEN'S amendments that was not moved. REP. O'KEEFE asked REP. THOMAS if no additional amending was done to HB 465, would REP. WHALEN support the bill. REP. THOMAS guessed that he would.

REP. DRISCOLL asked Ms. McClure if the amendments put the Department back into compliance with the law. Ms. McClure said yes.

Vote: HB 465 DO PASS AS AMENDED. Motion carried unanimously.
EXHIBIT 2

EXECUTIVE ACTION ON HB 110

Ms. McClure presented and explained amendments. **EXHIBIT 3**

Motion: REP. WANZENRIED moved to amend HB 110.

Discussion:

REP. THOMAS stated REP. WANZENRIED worked with REP. GILBERT on the amendments and they are compatible.

REP. DRISCOLL said the bill as amended allows drug testing for pre-employment and anytime without reasonable cause. Ms. McClure said the drug testing would be a condition of employment or if the employer has reason to believe employee's faculties are impaired. REP. DRISCOLL stated he would never vote for random testing unless the truck driver could ask for a test from his boss.

REP. O'KEEFE said he supported the bill if it limited the testing to reasonable cause, renewal of license, and pre-employment but not random testing.

REP. WANZENRIED said to REP. DRISCOLL that it wasn't his intention to have random drug testing in the bill. It is a condition of employment and renewal of license. REP. DRISCOLL said Page 2, Line 5, says as a condition for continuation of employment, an employee must submit to a test. That allows testing to be done anytime by the employer without reason.

REP. HANSON said Page 1, Line 18, says, "May not require as a condition of continuation of employment." REP. DRISCOLL said the exception is truck drivers. Ms. McClure said the amendment on Page 2, Line 2, which says except for employment in jobs involving the "intra-state" commercial transportation, changes that. REP. DRISCOLL asked Ms. McClure if the bill required the \$300 test. Ms. McClure said she didn't know.

REP. DRISCOLL said 50 Advils will trigger marijuana on the \$40 test.

REP. WANZENRIED withdrew his motion and proposed to reconsider HB 110 when the committee reconvenes after the House Session. It appears that the Federal Regulations referenced provide for random testing. That is not the intention of the bill.

REP. DRISCOLL said there are two types of urine tests. Many people who take aspirin and Advil for heart conditions will trigger the \$40 test. It must be included that if a person fails the lower test they must take the full-screen test to find out exactly what it is.

CHAIR SQUIRES deferred executive action.

EXECUTIVE ACTION ON HB 525

Motion: REP. DRISCOLL moved to amend HB 525.

Discussion:

REP. DRISCOLL said the amendments remove "workplace." Anyone who wants to get cheaper insurance rates can take a urine test, get the results certified, and take the results to the insurance company. EXHIBIT 4

REP. THOMAS said the amendments change the bill to apply to anyone instead of an employee. REP. DRISCOLL said the bill would apply to any citizen that buys car insurance, who chooses to take the urine test. The discount would be twice as much as a person would receive for driver education. If the insurance company does not give a safe driver education discount it doesn't have to give the urine-test discount and vice versa.

Vote: Motion carried unanimously.

Motion/Vote: REP. DRISCOLL MOVED HB 525 DO PASS AS AMENDED.
Motion carried unanimously.

CHAIR SQUIRES recessed the hearing at 9:00 a.m. to reconvene upon adjournment of the House.

The Committee reconvened at 1:05 p.m. All members were present except Reps. O'Keefe, Hoffman, and Thomas.

HEARING ON HJR 29

Presentation and Opening Statement by Sponsor:

REP. CAROLYN SQUIRES, House District 58, Missoula, said HJR 29 deals with the Job Training Partnership Act and the dislocated worker portion. Montana has provided an effective program for dislocated workers but has been penalized. Because of being able

to spend the money, there has been a decrease of 18 percent in the funding for the State of Montana. Montana Job Training Partnership Inc. has requested that the resolution be drafted and sent to the Secretary of Labor requesting that he review reallocation of funding for Title III. Rhode Island has received a 300 percent increase in their fund and didn't spend all of their dislocated dollars. Dislocated money is spent on workers who, through no fault of their own, are displaced from the workplace. Money has been spent to help retrain, relocate, and reeducate people into new professions.

Proponents' Testimony:

Sue Mohr, Executive Director, Montana Job Training Partnership Inc., presented a handout. **EXHIBIT 5.** Title III for dislocated workers is a portion of the \$7 million job training funds administered across the state. The handout shows that Title III funds rose overall nationwide. Congress allocated a 14 percent increase. The Rocky Mountain states still received a decrease. The job training funds for fiscal year 1991 will decrease \$1 million; \$300,000 is from the Title III program. The back page of the handout shows a national reserve of \$91 million. The national reserve rose 13.7 percent, which almost covers the decreases in Title III funds in states like Montana. Page 128 (7), of the Job Training Partnership Act, provides an opening for the Secretary of Labor to allocate the funds.

Gene Fenderson, Montana State Building Trades Union, stated his support on behalf of the Concentrated Employment Program (CEP).

Opponents' Testimony: None

Questions From Committee Members:

REP. JOHNSON asked **Ms. Mohr** why there was a 17 percent reduction in the funds. **Ms. Mohr** said the formula used to allocate the funds is based on the unemployment rate of the state, the unemployment rate compared to the rest of the country, and the numbers of economically disadvantaged individuals. All states compete with each other for the funds. The size of the recession on the East Coast increased their unemployment rates so high that the funds shifted radically.

Closing by Sponsor:

REP. SQUIRES closed the hearing on HJR 29.

EXECUTIVE ACTION ON HJR 29

Motion/Vote: **REP. PAVLOVICH** MOVED HJR 29 DO PASS. Motion carried unanimously.

Motion/Vote: **REP. DRISCOLL** MOVED HJR 29 BE PLACED ON CONSENT CALENDAR. Motion carried unanimously.

HEARING ON HB 836**Presentation and Opening Statement by Sponsor:**

REP. DRISCOLL, House District 92, Billings, said HB 836 generally revises the Little Davis-Bacon Act of prevailing wage laws in the State of Montana. Page 3, Lines 8-9, "weighted average wage rate" is removed, and "the wage rate that is most commonly paid" is inserted. The prevailing rate is determined from the most commonly paid rate in the ten districts in Montana. Page 4, pertains to liquidated damages and attorney fees for the cost of the collection of the program. The changes on Page 5 pertain to the contractors and subcontractors will submit certified payrolls. Page 6, Subsection 2, is the procedure for disbarment when contractors violate the Prevailing Wage Act on more than two projects within three years. In prevailing wage jobs there are rarely any penalties; it is cheaper for contractors to violate the law than to follow it. When they get caught they just pay what they would have had to pay anyway.

Proponents' Testimony:

Gene Fenderson, Montana State Building Construction Trades Union, said the prevailing wage is the most commonly paid rate for a particular type of work in a given area. The weighted average is not the true prevailing rate. The rate that the Federal Government has used since 1929 is the most commonly paid rate, and the Montana statute should conform. The liquidated damages of 20 percent of the wages owed, the attorney fees, and court costs are already used in the construction industry by the courts of Montana when it was found employers did not pay the proper fringe benefits into a trust fund. Contractors must pay on a weekly basis and submit certified payrolls. Contractors have tried to avoid the law by not paying employees up to six weeks because there is no certain time period in the law. The \$1,000 retainer is changed to 10 percent of the contract price that can be held by a subdivision. Licenses will be revoked from contractors that repeatedly break this law. If there is a disagreement on what is owed, instead of going to the Board of Personnel Appeals, the Labor Commissioner would go directly to court. Usually the Board of Personnel Appeals members have never dealt with prevailing rates.

Opponents' Testimony:

Mike Micone, Commissioner, Department of Labor, said according to last year's data the rates rose slightly, while the decreases were more significant. Weighted hours will result in less fluctuation in the prevailing wage between districts and sample years. The rate will not be easily defendable. Page 5, Section 4, states that certified payroll records will be provided to the contracting agent; how will the Department of Labor obtain the

records? The Department has said it did not want records; a compromise was reached where the records would be going to the contracting agent. Will the language compel those records to come to the Department? There may be a problem in enforcing the provisions on Page 6, where contractors are repeatedly violating the law. There may be legal violations in prohibiting a contractor from bidding on a project. There has just been legislation that changed the appointments of the Board of Personnel Appeals, and this bill removes the Board of Personnel Appeals all together. The Board of Personnel Appeals has done commendable work in this area and should be retained in the statutes of Montana. It provides a good hearing process.

James Tutwiler, Montana Chamber of Commerce, said if the weighted average is changed to the most commonly paid rate, the balance would shift toward a higher prevailing wage and would provide an advantage of one contractor over another. The weighted average wage is commonly used in many other states and is fair. Repeated violators should be more severely penalized. Five years is more than just a penalty; it is a mandate never to do business again. Abolishing the Board of Personnel Appeals would cause more litigation and more legal cost.

Questions From Committee Members:

REP. BENEDICT said if the penalty violation was changed from \$1,000 to 10 percent of contract price, the penalty would be \$500,000 if it was a \$5 million job. **Rep. Driscoll** said yes.

REP. HANSON asked **REP. DRISCOLL** to define who was included in political subdivisions. **REP. DRISCOLL** said it is any project over \$25,000 paid for with tax money or fees that are mandatory. **REP. HANSON** said agriculture areas are being included, such as conservation districts, ditch companies, etc. **REP. DRISCOLL** said yes, for example, a major rebuilding of a canal that is paid for with tax money or mandatory fees. In most cases ditch companies would not be covered.

CHAIR SQUIRES asked **Mr. Fenderson** if he felt comfortable with that decision. **Mr. Fenderson** said that change is a clarification of the present law. All tax districts are presently covered under the present law of prevailing rates. The Supreme Court has ruled the projects are covered by the prevailing rates. This language clarifies that they are covered to stop any further litigation. **CHAIR SQUIRES** asked if the Commissioner's comments about the wages fluctuating were appropriate based on the zones for prevailing wages. **Mr. Fenderson** said two sessions ago ten districts were put in place in Montana. Wage rates were set for those given areas. There is some question in the law whether the weighted average is legal. Most other states do not use the weighted average; they use the most commonly paid rate. The term prevailing means what is used the most. The weighted average wage is not fair to the workers because they are getting less than the most commonly paid wage in their area. **CHAIR SQUIRES**

said originally there were six zones. The labor and other entities expanded it to ten zones so people would not be "gouged" by the prevailing wage. **Mr. Fenderson** said yes. The rural counties felt higher rates of pay were being imported out of the large cities into the rural areas. A compromise was reached from negotiations between the rural counties and the Prevailing Wage Advisory Committee.

REP. HOFFMAN asked **Mr. Fenderson** to respond to Commissioner Micone's concern about the elimination of the Board of Personnel Appeals. **Mr. Fenderson** said the Board of Personnel Appeals members do not have the expertise to make judgments on Davis-Bacon questions. It was originally set up for unit determinations and unfair labor practices.

REP. JOHNSON asked **Mr. Fenderson** to respond to the comment about a contractor's license being suspended for five years which may put him out of business. **Mr. Fenderson** said there should be an extreme penalty to stop the abuse.

Closing by Sponsor:

REP. DRISCOLL said that Commissioner Micone talked about the weighted average versus the rate paid in the area. In zone 8, Billings and Colstrip, he turned 250,000 hours at \$12.60 per hour for labor. Because some other contractors had turned in only a few thousand hours, the rate had to be reduced by law. In that area, 90 percent of construction work was paid at \$12.60 per hour, but it can't be prevailed. The present enforcement of the law is paid out of other funds. A contractor has been caught four times for wage violations, and each time he did not receive a penalty but only paid what should have been paid in the first place. This is happening because only one person in the State of Montana enforces this law. Instead of being paid for out of other tax monies, it should be paid for by the violators.

HEARING ON HB 837

Presentation and Opening Statement by Sponsor:

REP. DRISCOLL, House District 93, Billings, said HB 837 changes the Workers' Compensation system. In 1987 when the unfunded liability was over \$2 million, the legislature passed the bill that inserted the wage law system. At the time there were 5,000 open cases at the Division and currently there's almost 11,000. It doesn't work. HB 837 changes the present formula to 350 weeks times the formula on Page 17 and 18. The formula is based on age, type of work, and type of work the doctor says the injured worker is able to do after the injury. Those percentages added together times 350 weeks would be what the permanent partial disability award would be. The present law, 39-71-1012, MCA, states that an injured worker can return to his previous job and employer, the previous employer could modify a position, or the injured worker could do anything else in the state of Montana --

which could be a parking lot attendant. Sometimes people get true rehabilitation, but most of the time they do not. HB 837 changes the law where the rehabilitation specialist would have eight weeks to find the injured worker a job. At the end of that time if the specialist hasn't found the worker a job, and the worker has an impairment where he can't return to his former employment or type of work, he's eligible for 104 weeks of rehabilitation benefits paid the same as the temporary total disability rate. The worker would have a choice of whether he wanted the money or true rehabilitation, and he would have more of a decision on the type of rehabilitation. If that worker didn't want to be a 7-11 clerk, he could take the 104 weeks. If the rehabilitation specialist found the worker a job paying an equivalent wage to his previous job, then the worker wouldn't need rehabilitation.

Proponents' Testimony:

Norm Grosfield, Attorney, Helena, said under the current system there is no realistic rehabilitation system. If a minimum wage position is found, the injured worker is not entitled to any rehabilitation benefits even if he was making \$15 per hour before. There should be realistic benefits. To offset the costs, permanent partial benefits would be reduced. The intent is to provide meaningful benefits to those who are truly injured and need assistance. He presented amendments. **EXHIBIT 6.** Adjustments have been made in the percentages that would be paid to injured workers for various categories under the permanent partial system. A claimant could not get in excess of \$20,000 in lump-sum advances. The insurance industry was concerned about claimants who continuously come back and get advances against their final resolution.

George Wood, Executive Secretary, Montana Self Insurers Association, stated the wage law system has not worked; it is not understandable. HB 837 simplifies the permanent partial section and lump-sum procedures. It strengthens the rehabilitation section. When the worker has permanent impairment and can't return to the same or similar job, he can make an agreement with the insurer to become eligible for up to 104 weeks while he is retrained.

Pat Sweeney, State Fund, stated support of the bill as amended. HB 837 as amended is cost neutral from a benefit standpoint.

Mike Micone, Commissioner, Department of Labor, said that HB 837 simplifies and clarifies the process.

James Tutwiler, Montana Chamber of Commerce, stated his support of the bill with amendments. HB 837 will replace wage supplements with an indemnity system which judges and laymen will be able to understand. The bill may have some savings in administrative costs for the State Fund.

Gene Phillips, Alliance of American Insurers, stated his support with the amendments.

John Whiston, Attorney, Missoula, stated he wasn't sure if he was a proponent or opponent. The amendments significantly change the bill. There is no rehabilitation available to injured Workers' Compensation claimants. According to State Fund statistics, only one third of the injured workers have returned to work at the time rehabilitation services were terminated. This needs to be changed, but whether it needs to be changed by the way of HB 837 is the question. He used the system of HB 837 on four claimants he had already settled cases for. Half of them did better under the bill and half did worse. Those claimants are not a significant sample of the thousands of claimants that go through the system, but he would like to have the opportunity to review his claimants and other attorneys who represent claimants.

Bill Crivello, Rehabilitation Association of Montana and the Montana Chapter of Rehabilitation Professionals in the private sector, said the 1987 legislation has enhanced rehabilitation for injured workers and the early return to work program for a majority of injured workers. Lack of clarity or compliance in the law has resulted in the insurers over reliance on job alternatives with little or no provision of service to the injured worker. Minimum wage jobs should not be projected without affording the injured worker real rehabilitation assistance in the form of job placement or a plan designed to get that worker back to work. Early intervention and return to work assistance proves beneficial to the injured worker. His association has not taken a formal position on this bill.

Opponents' Testimony:

Jim Smith, Montana Association for Rehabilitation and Montana Association for Rehabilitation Facilities, said the passage of HB 837 could result in the loss of \$3.5 million to Vocational Rehabilitation (Voc-Rehab) at the Social and Rehabilitation Services (SRS) and the loss of the services to thousands of Montanans with severe developmental, physical, emotional, or mental disabilities. Up until 1983 Voc-Rehab at SRS was funded with General Fund money which was used to match federal money available to the state through the Rehabilitation Act. In 1983 the General Fund money was substituted with funds from Industrial Accident Rehabilitation Account at the Workers' Compensation Division. SRS thought the money from that account was to serve all kinds of disabilities including industrial accidents. Workers' Compensation thought the funds were for the rehabilitation of industrial accidents only. About \$650,000 is available through that account. Those funds are used to match federal funds of about \$2.6 million. The referrals have diminished from 500 - 700 in 1984 down to 23 in 1989. Voc-Rehab has tried to access the industrial accident rehabilitation account at Workers' Compensation with no avail. The Workers' Compensation Division has shown no interest. If someone has been

referred by Workers' Compensation to SRS for vocational rehabilitation services, a fair hearing has to be granted and conducted by Voc-Rehab at SRS. The repeal of Sections 39-71-1019 and 39-71-1033 sends that fair hearing process back to the Workers' Compensation Division, which could jeopardize the federal funds. Page 27, Lines 5-7, Section 39-71-1003 established the industrial accident rehabilitation account. The language on page 27 would expand the industrial accident account to all rehabilitation providers and a new group of rehabilitation services. This might further restrict access to the funds and limit all funding available to Voc-Rehab. If the funds are not accessed, Voc-Rehab can't draw the federal funds. Voc-Rehab has 405 cases that have been referred by the Workers' Compensation Division. There are two solutions: 1. Set aside \$650,000 for the Voc-Rehab Division at SRS. 2. The Labor and Employment Relations Committee could report a committee bill appropriating about \$650,000 of General Fund money to SRS.

Joe Mathews, Administrator, Rehabilitative Visual Services Division, Department of Social and Rehabilitation Services, said in 1983 as mandated by Montana's legislature, SRS was given Workers' Compensation trust fund dollars with which to grab its federal match. When Voc-Rehab received the trust fund money, it was able to access those federal dollars because there was a great number of Workers' Compensation clients referred to SRS. The number of referrals has diminished, therefore, preventing access of the trust fund money. If this continues Montana will fail to meet the Federal Maintenance of Effort Level. Montana has to be able to show that it is putting up 20 percent of the money invested in the rehabilitation of all disabled persons before the Federal Government will match with its 80 percent. People need the opportunity to return to work and maximize their potential. This program is serving 8,000 Montanans with disabilities. SRS would not be opposed to replacing the trust fund money with General Fund money.

Questions From Committee Members:

REP. DRISCOLL said SRS has old cases from 3 to 5 years ago, but only 23 cases were referred in 1989. The money follows the injured worker to SRS, but they are not receiving new cases. Their money is slowly drying up. They receive money, but they can't spend it except on Workers' Compensation cases. Slowly the match for federal money for Workers' Compensation is going down. If they want to return the bill to its present form, it won't make any difference, they are going to go broke anyway. They need \$650,000. The bill says the injured worker will decide if he needs rehabilitation or not and not the experts.

REP. WHALEN asked how many injured workers have been rehabilitated into parking lot attendants since 1987. **Liz Pratt, Acting Supervisor of Rehabilitation Unit, Employment Relations Division, Department of Labor and Industry,** said that Section 39-71-1012 Subsection 2, Subsection (c) states the return to a

related occupation suited to the claimants education and marketable skills. The Rehabilitation Panel does not assume that any unskilled job is a related job. Perhaps additional rehabilitation services should be provided by the insurer. Currently, the insurer may approach the claimant with an unskilled job and settlement proposal. If claimants don't realize that the Panel does not accept unskilled jobs as being justification for a related occupation, they do not know they may be entitled to rehabilitation services. Once they receive a settlement from the insurer, they realize the unskilled job is not financially appropriate and seek rehabilitation from SRS or other sources. SRS in turn can't access the trust fund monies appropriated for Workers' Compensation claimants. SRS then has to utilize General Fund money.

CHAIR SQUIRES asked **Ms. Pratt** if the clients were made aware of what they are actually doing if they take a job. There is an insistence that they find some type of employment. **Ms. Pratt** said no; the main criteria to be met under option (c) is the positions have to be "typically available", the positions have to be medically approved, and the claimant is to have appropriate skills. Appropriate skills are not defined. If a claimant meets those criterion, he can go back to work. The lack of an immediate opening is not to be considered and job placement is not required to be provided to the claimant. Then the benefits are reduced to wage supplement.

REP. JOHNSON asked **Mr. Grosfield** why the Montana Association of Rehabilitation of SRS was not made a part of the committee hearing. **Mr. Grosfield** said the proposed bill wouldn't have an effect on the practical operations of SRS. SRS plays a small role in rehabilitation of injured workers under the 1987 law. **REP. JOHNSON** asked if he would object to SRS being involved if the law was changed. **Mr. Grosfield** said no.

CHAIR SQUIRES deferred HB 837 to a subcommittee. **REP. WANZENRIED** was appointed as Chairman, with **REPS. DRISCOLL** and **THOMAS** as committee members.

Closing by Sponsor:

REP. DRISCOLL said Page 27, Lines 13-14, the definition of a rehabilitation provider says, "other than the department of SRS." That is in the present law and is stricken in HB 837. SRS wants the money, which is another issue. SRS does a good job in rehabilitating people. The Division isn't sending them clients, so those clients aren't getting any services. \$650,000 is needed to match the federal money for the rehabilitation program at SRS. The law would be changed to a plan that the worker wants. If an injured worker has a disability percentage of \$30,000, it isn't anybody's business what that worker does with the money. Injured workers are treated like little kids, and they are told what they will be for the rest of their lives. The intent of the bill is to provide an injured worker the ability to go to the

rehabilitation center of their choice to get true services. The rehabilitation providers will find a job for him or retrain him. Under the system if a minimum-wage job is found for the claimant and there is a significant wage loss, the claimant may be entitled to a wage supplement of \$150 per week up to 500 weeks. Then it is negotiated how much the settlement will be. No one ever tells the injured worker to wait and get rehabilitation.

EXECUTIVE ACTION ON HB 110

Motion: REP. THOMAS MOVED HB 110 DO PASS.

Discussion:

REP. WANZENRIED stated there was some concern regarding the federal regulations governing testing. He substituted amendments for Page 1 of Exhibit 3. EXHIBIT 7

Motion: REP. WANZENRIED moved to amend HB 110.

REP. DOLEZAL asked REP. WANZENRIED if the amendments address the Code of Federal Regulations (CFR), Part 40. REP. WANZENRIED said the concern was that the reference material 49 CFR 40, requires random drug testing. It does not. Drug testing would be on a pre-employment and biennial physical basis.

REP. COCCHIARELLA asked REP. WANZENRIED to explain who the employees would be on the second amendment of line 3. REP. WANZENRIED said the bill was directed toward individuals who are employed in commercial transportation of commodities and people on an intra-state basis.

Vote: Motion to amend carried unanimously of members present.

Motion: REP. WANZENRIED MADE A SUBSTITUTE MOTION THAT HB 110 DO PASS AS AMENDED.

Discussion:

REP. DRISCOLL asked REP. THOMAS if he thought Steve Browning would try to amend this bill on the Floor. REP. THOMAS said he didn't know.

REP. DRISCOLL asked if the bill was passed, will there be an attempt to change it back so random testing would be allowed. REP. WANZENRIED said he would only support the bill as written. If there is an attempt to change the limitations on the drug testing, he will do everything he can to make sure it does not become law.

Vote: HB 110 DO PASS AS AMENDED. EXHIBIT 8. Motion carried unanimously of members present.

EXECUTIVE ACTION ON HB 141

Ms. McClure said there are conflicts with the amendments of HB 141. There is a House Joint Resolution in Washington that would change the law if and when it is passed. She advised Rep. Harrington to propose the bill the way he wanted it and have an applicability date effective when the Governor certifies that the Federal Government has passed the law. The Governor is not mandated to certify the change in the Federal Government laws. Rep. Harrington wanted amendments to remove the previous amendments from the bill and no applicability date. The bill is brought back to its original form. Montana would take a chance and be out of compliance with the Federal Government. **EXHIBIT 9**

REP. BENEDICT asked after changing the bill to its original form, what does it do for the nonprofessional school employees. **Ms. McClure** said it does nothing for the time being. The amendments as under the California law said that employers have to give the employees written notice they have jobs. There is an exemption if there are financial problems. For example, many letters may be written, but the schools could get around it by claiming financial problems. The amendments didn't accomplish Rep. Harrington's intent.

REP. DRISCOLL said the amendments change the bill back to the same as the first reading copy.

Motion/Vote: **REP. DRISCOLL** moved to amend HB 141. Motion carried 17-1 with Rep. Hanson voting no.

Motion/Vote: **REP. DRISCOLL MOVED HB 141 DO PASS AS AMENDED.** Motion carried 14 - 4 with Reps. Benedict, Thomas, Hanson, and Fagg voting no.

EXECUTIVE ACTION ON HB 531

Motion: **REP. DRISCOLL MOVED HB 531 DO NOT PASS.**

Motion/Vote: **REP. DRISCOLL MADE A SUBSTITUTE MOTION THAT HB 531 BE TABLED.** Motion carried 12 - 6 with Reps. Fagg, Benedict, Lee, Hanson, Johnson, and Thomas voting no.

EXECUTIVE ACTION ON HB 836

Motion: **REP. PAVLOVICH MOVED HB 836 DO PASS.**

Discussion:

REP. FAGG asked **REP. DRISCOLL** if he met with the Department of Labor and Jim Tutwiler to make a compromise. **REP. DRISCOLL** said yes. **REP. FAGG** suggested HB 836 be sent to a subcommittee.

CHAIR SQUIRES appointed **REP. DOLEZAL** as Chairman, along with **REPS. DRISCOLL** and **FAGG** as committee members.

EXECUTIVE ACTION ON HB 385

Motion/Vote: REP. DRISCOLL MOVED HB 385 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 465

Motion: REP. WHALEN MOVED TO RECONSIDER ACTION ON HB 465.
Motion carried unanimously.

Motion: REP. WHALEN moved to amend HB 465.

Discussion:

REP. WHALEN explained that the amendment, Page 10, Line 5 provides that both a medical doctor and a chiropractor can be evaluators. It limits chiropractors to be evaluators only in the circumstance where a chiropractor is the treating physician of the claimant.

REP. JOHNSON asked REP. WHALEN how the problem would be handled if it was out of the scope of the chiropractor. REP. WHALEN said the language includes the word "or," so an impairment rating would not be accepted from a chiropractor on parts of the body he is not familiar with. Presently, if the treating physician is a chiropractor, an impairment rating is requested from a doctor. It should work both ways. If the treating physician is a medical doctor and an impairment rating is needed on a person's lower back, the claimant should be able to get an impairment rating from a chiropractor. The ratings would then be given to the panel, and the panel would make a decision.

REP. DRISCOLL suggested to REP. WHALEN that his amendment be reworded to say "obtain an impairment rating from an evaluator who is a medical doctor if he is the treating physician, or from an evaluator who is a chiropractor if he is the treating physician." There is concern that chiropractors will be evaluating head injuries.

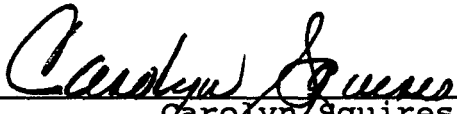
REP. WHALEN proposed a substitute amendment that would do the same as previously stated but also would contain language that would say if the injury in question is one that deals with the part of the body that a chiropractor is also capable of rendering an opinion for an impairment rating.

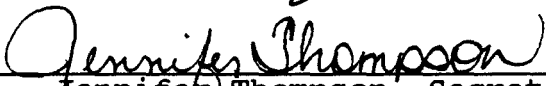
REP. THOMAS asked Ms. McClure to draft the amendment and okay it with him and Rep. Whalen.

Motion/Vote: REP. WHALEN MADE A SUBSTITUTE MOTION TO AMEND HB 465. EXHIBIT 1, Number 9. Motion carried unanimously.

ADJOURNMENT

Adjournment: 4:45 p.m.


Carolyn Squires, Chair


Jennifer Thompson, Secretary

CS/jt

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 2/16/91

[illegible]

HOUSE STANDING COMMITTEE REPORT

February 18, 1991

Page 2

Mr. Speaker: We, the committee on Labor report that House Bill 110 (first reading copy -- white) do pass as amended.

Signed: Carolyn Squires, Chairman

And, that such amendments read:

1. Title, line 7.

Following: "THE"

Insert: "INTRASTATE"

2. Title, lines 8 and 9.

Following: "COMMODITIES" on line 8

Strike: remainder of line 8 through "LAW" on line 9

3. Title, line 10.

Strike: "FEDERAL"

4. Title, line 10.

Following: "LAW;"

Insert: "DEFINING "INTRASTATE" AND "COMMERCIAL MOTOR CARRIER";"

5. Page 2, line 2.

Following: "the"

Insert: "intrastate"

6. Page 2, lines 3 and 4.

Following: "commodities" on line 3

Strike: remainder of line 3 through "law" on line 4

Insert: "by a commercial motor carrier or an employee subject to driver qualification requirements"

7. Page 2, lines 9 and 10.

Following: "use" on line 9

Strike: remainder of line 9 through "law" on line 10

Insert: ", except that drug testing may be conducted at an employee's regular biennial physical for employment in jobs involving the intrastate commercial motor carrier transportation of persons or commodities"

8. Page 2, line 13.

Following: "adopt"

Strike: "a"

Insert: "the"

9. Page 2, line 14.

Following: "procedure"

Insert: "that is provided in 49 CFR, part 40,"

10. Page 2, lines 15 through page 3, line 6.

Following: "testing." on line 15

Strike: remainder of line 15 through "law."

11. Page 3, line 22.

Following: line 21

Insert: "(6) As used in this section:

(a) "commercial motor carrier" has the meaning provided in 69-12-101; and

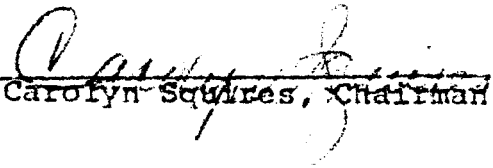
(b) "intrastate" means commerce or trade that is begun, carried on, and completed wholly in this state."

HOUSE STANDING COMMITTEE REPORT

February 18, 1991

Page 1 of 4

Mr. Speaker: We, the committee on Labor report that House Bill 525 (first reading copy -- white) do pass as amended .

Signed: 
Carolyn Squires, Chairman

And, that such amendments read:

1. Title, line 5.

Following: line 4

Strike: "WORKPLACE"

2. Title, line 7.

Following: "AND"

Strike: "INDIVIDUALS"

Insert: "PERSONS"

3. Title, line 8.

Following: "PARTICIPATE"

Insert: "VOLUNTARILY"

4. Page 1, line 12.

Following: "Drug-Free"

Strike: "Workplace"

5. Page 1, line 22 through page 2, line 5.

Following: line 21

Strike: subsections (2) through (4) in their entirety

Renumber: subsequent subsections

6. Page 2, lines 10 and 18; page 7, lines 8 and 19.

Following: "Drug-free"

Strike: "workplace --"

7. Page 2, line 16.

Following: "insured"

Strike: "that has adopted"

Insert: "carrier who voluntarily adopts"

Following: "and"

Strike: "implemented"

Insert: "implements"

8. Page 2, line 23 through page 3, line 2.

Following: line 22

Strike: "participation" on line 23

Insert: "a person who participates"

Following: "course"

Strike: remainder of line 23 through "(2)" on line 2

Insert: "and who voluntarily, through a qualified testing
program,"

9. Page 3, line 8.

Following: "must"

Strike: "be adopted by the employer and"

10. Page 3, lines 9 and 10.

Following: "review" on line 9

Strike: remainder of line 9 through "implementation" on line 10

11. Page 3, line 16.

Following: "the"

Strike: "employer's"

12. Page 3, line 17.

Following: "information"

Strike: "employees"

Insert: "a person"

13. Page 3, lines 19 and 20.

Strike: subsection (1)(c) in its entirety

Renumber: subsequent subsections

14. Page 3, line 22.

Following: "available to"

Strike: "employees"

Insert: "a person"

15. Page 3, line 23 through page 4, line 5.

Strike: subsections (1)(e) through (1)(f) in their entirety

Renumber: subsequent subsections

16. Page 4, line 7.

Strike: "employer intends to test"

Insert: "person will be tested"

17. Page 4, lines 8 and 9.

Following: line 7

Strike: subsection (1)(h) in its entirety

Renumber: subsequent subsections

18. Page 4, lines 16 and 17.

Strike: ": (i)"

Following: "tested"

Strike: "employee"

Insert: "person"

19. Page 4, line 18 through page 5, line 12.

Strike: subsection (1)(j)(ii) through subsection (3) in their
entirety

Renumber: subsequent subsections

20. Page 5, line 14.

Following: "of the"

Strike: "employee"

Insert: "person"

21. Page 5, line 16.

Strike: "an employer has"

Insert: "there is"

Following: "believe"

Strike: "an employee"

Insert: "a person"

22. Page 5, lines 17 and 18.

Following: ", "

Strike: remainder of line 17 through "that" on line 18

Following: "sample"

Insert: "may be required to"

23. Page 6, line 8.

Following: line 7

Strike: "An employee" through "employee"

Insert: "A person"

24. Page 6, line 16.

Following: "by"

Strike: "the employer"

Insert: "a person"

25. Page 6, lines 21 through 24.

Strike: ":" on line 21 through "(b)" on line 24

Following: "to"

Strike: "a workplace"

Insert: "an"

26. Page 7, line 1.

Following: "tested"

Strike: "employee"

Insert: "person"

27. Page 7, line 14.

Following: "insured"

Strike: "that has adopted"

Insert: "carrier who voluntarily adopts"

Following: "and"

Strike: "implemented"

Insert: "implements"

28. Page 7, line 16.

Following: "to"

Insert: "voluntarily"

Following: "test"

Strike: "employees"

Insert: "a person"

29. Page 7, line 24 through page 8, line 2.

Following: line 23

Strike: "participation"

Insert: "a person who participates"

Following: "course"

Strike: remainder of line 24 through "program" on page 8, line 2

Insert: "and who voluntarily, through a qualified testing
program"

30. Page 8, lines 3 and 4.

Following: "54]]"

Strike: remainder of line 3 through "(2)" on line 4

Insert: ",,"

CLERICAL

Jennifer

HOUSE Bill No. 525

Date: 2/10/91

Time: 2:20

SBN
(Legislative Council Staff)

☒ S / H Standing Committee

LABOR
Carolyn Squires
(Chairman) SQUIRES

☐ S / H Committee of the Whole

(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment #12 should read:

Following: "information to"

Amendment #18 should read

Strike: "employee;"

Insert: "person."

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

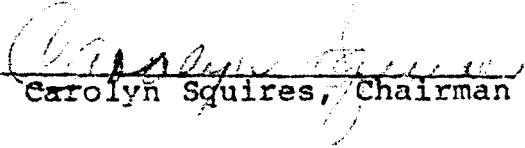
HOUSE STANDING COMMITTEE REPORT

February 18, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that House
Joint Resolution 29 (first reading copy -- white) do pass and
be placed on consent calendar .

Signed: _____


Carolyn Squires, Chairman

HOUSE STANDING COMMITTEE REPORT

February 18, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that House Bill 141 (second reading copy -- yellow) do pass as amended .

Signed: Carolyn Squires, Chairman

And, that such amendments read:

1. Page 2, lines 6 through 10.

Following: "or" on line 6

Strike: remainder of line 6 through "A" on line 10

2. Page 2, line 11.

Strike: "REEMPLOYMENT"

Following: "such"

Insert: "such"

3. Page 2, line 12.

Following: the first "for"

Strike: "any"

Following: "such"

Insert: "the"

4. Page 2, line 13 through page 3, line 8.

Following: "terms" on page 2, line 13

Strike: remainder of line 13 through "TERM" on page 3, line 8

5. Page 4, lines 16 and 17.

Strike: "(4)" on line 16 through "(A)" on line 17

Insert: "The term"

6. Page 4, line 20 through page 5, line 3.

Following: "institutions" on page 4, line 20

Strike: remainder of line 20 through "ASSURANCE" on page 5, line

TABLED BILL

LABOR & EMPLOYMENT RELATIONS
Name of Committee

2/18/91
Date

, 19

The following bill HB 531

was TABLED, by motion, on February 16, 19 91.

Jennifer Thompson
For the Committee

J.D. Bauman
For the Chief Clerk

9:50
Time

CS-04
1991

2-18-91
Date

HOUSE STANDING COMMITTEE REPORT

February 18, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Labor report that House Bill 465 (first reading copy -- white) do pass as amended .

Signed: Carolyn Squires, Chairman

And, that such amendments read:

1. Title, lines 8 through 9.

Following: "HEARINGS;"

Strike: remainder of line 8 through "DOCUMENTS;" on line 9

2. Title, line 17.

Following: "39-71-306,"

Strike: "39-71-601,"

3. Title, lines 19 and 20.

Following: "39-71-2410" on line 19

Insert: "AND"

Following: "39-72-402,"

Strike: "AND"

Following: line 19

Strike: "39-72-403,"

4. Page 4, lines 12 through 25.

Strike: section 4 in its entirety

Renumber: subsequent sections

5. Page 6, lines 7 and 8.

Following: "place"

Strike: "therefor, due"

Insert: "for the examination, with"

Following: "regard"

Strike: remainder of line 7 through "employee and" on line 8

Insert: "for the employee's convenience,"

Following: "condition"

Insert: ", "

Following: "and"

Insert: "his"

HOUSE STANDING COMMITTEE REPORT

February 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that House
Bill 385 (first reading copy -- white) do pass .

Signed: _____

Carolyn Squires
Carolyn Squires, Chairman

6. Page 6, line 9.

Strike: "fixed"

Insert: "that is as close to the employee's residence as is practical"

7. Page 7, line 12.

Following: "rates"

Insert: "-- fee limitation"

8. Page 9, line 16.

Following: "1988."

Insert: "After December 31, 1991, the percentage increase in medical costs payable under this chapter may not exceed the annual percentage increase in the state's average weekly wage as defined in 39-71-116."

9. Page 10, lines 5 and 6.

Following: "chiropractor" on line 5

Strike: remainder of line 5 through "chiropractor" on line 6

Insert: "if the injury falls within the scope of chiropractic practice"

10. Page 12, lines 9 and 10.

Following: "39-71-605" on line 9

Strike: remainder of line 9 through "mediation" on line 10

11. Page 18, line 20 through page 19, line 13.

Strike: section 14 in its entirety

Renumber: subsequent sections

Amendments to House Bill No. 465
First Reading Copy

Requested by Rep. Driscoll
For the House Committee on Labor and Employee Relations

Prepared by Eddye McClure
February 12, 1991

1. Title, lines 8 through 9.
Following: "HEARINGS;"
Strike: remainder of line 8 through "DOCUMENTS;" on line 9
2. Title, line 17.
Following: "39-71-306,"
Strike: "39-71-601,"
3. Title, lines 19 and 20.
Following: "39-71-2410" on line 19
Insert: "AND"
Following: "39-72-402,"
Strike: "AND"
Following: line 19
Strike: "39-72-403,"
4. Page 4, lines 12 through 25.
Strike: section 4 in its entirety
Renumber: subsequent sections
5. Page 6, lines 7 and 8.
Following: "place"
Strike: "therefor, due"
Insert: "for the examination, with"
Following: "regard"
Strike: remainder of line 7 through "employee and" on line 8
Insert: "for the employee's convenience,"
Following: "condition"
Insert: ", "
Following: "and"
Insert: "his"

6. Page 6, line 9.

Strike: "fixed"

Insert: "that is as close to the employee's residence as is practical"

7. Page 7, line 12.

Following: "rates"

Insert: "-- fee limitation"

8. Page 9, line 16.

Following: "1988."

Insert: "After December 31, 1991, the percentage increase in medical costs payable under this chapter may not exceed the annual percentage increase in the state's average weekly wage as defined in 39-71-116."

9. Page 10, lines 5 and 6.

Following: "chiropractor" on line 5

Strike: remainder of line 5 through "chiropractor" on line 6

Insert: "if the injury falls within the scope of chiropractic practice"

10. Page 12, lines 9 and 10.

Following: "39-71-605" on line 9

Strike: remainder of line 9 through "mediation" on line 10

11. Page 18, line 20 through page 19, line 13.

Strike: section 14 in its entirety

Renumber: subsequent sections

EXHIBIT 2
DATE 2/16/91
HB 465

HOUSE OF REPRESENTATIVES

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL VOTE

DATE 2/16 BILL NO. 465 AS NUMBER

MOTION: AMENDED

NAME	AYE	NO
REP. JERRY DRISCOLL	✓	
REP. MARK O'KEEFE	✓	
REP. GARY BECK	✓	
REP. STEVE BENEDICT	✓	
REP. VICKI COCCHIARELLA	✓	
REP. ED DOLEZAL	✓	
REP. RUSSELL FAGG	✓	
REP. H.S. "SONNY" HANSON	✓	
REP. DAVID HOFFMAN	✓	
REP. ROYAL JOHNSON	✓	
REP. THOMAS LEE	✓	
REP. BOB PAVLOVICH	✓	
REP. JIM SOUTHWORTH	✓	
REP. FRED THOMAS	✓	
REP. DAVE WANZENRIED	✓	
REP. TIM WHALEN	✓	
REP. TOM KILPATRICK, VICE-CHAIRMAN	✓	
REP. CAROLYN SQUIRES, CHAIR	✓	
TOTAL		

Rep. Southworth had Rep. Whalen's proxy vote

Amendments to House Bill No. 110
First Reading Copy

Requested by Rep. Wanzenried
For the House Committee on Labor and Employee Relations

Prepared by Eddye McClure
February 15, 1991

1. Title, line 10.
Following: "LAW;"
Insert: "DEFINING "INTRASTATE" AND "COMMERCIAL MOTOR CARRIER";"

2. Title, line 11.
Following: "AN"
Insert: "APPLICABILITY DATE AND AN"

3. Page 2, line 3.
Following: "commodities"
Insert: "by a commercial motor carrier"

4. Page 2, line 13.
Following: "adopt"
Strike: "a"
Insert: "the"

5. Page 2, line 14.
Following: "procedure"
Insert: "that is provided in 49 CFR, part 40,"

6. Page 2, lines 15 through page 3, line 6.
Following: "testing." on line 15
Strike: remainder of line 15 through "law."

7. Page 3, line 22.
Following: line 21
Insert: "(6) As used in this section:
(a) "commercial motor carrier" has the meaning provided in 69-12-101; and
(b) "intrastate" means commerce or trade that is begun, carried on, and completed wholly in this state."

NEW SECTION. Section 2. Applicability. [This act] applies to intrastate motor carriers and persons who operate a commercial motor vehicle, as defined in 61-1-134, in intrastate commerce and are subject to the driver qualification requirements of this state [after the effective date of this act].

Renumber: subsequent section

Amendments to House Bill No. 110
White Reading Copy

Requested by Rep. Gilbert
For the Committee on

Prepared by Valencia Lane
January 9, 1991

1. Title, line 7.
Following: "THE"
Insert: "INTRASTATE"

2. Title, lines 8 and 9.
Following: "COMMODITIES" on line 8
Strike: remainder of line 8 through "LAW" on line 9

3. Title, line 10.
Strike: "FEDERAL"

4. Page 2, line 2.
Following: "the"
Insert: "intrastate"

5. Page 2, lines 9 and 10.
Following: "use" on line 9
Strike: remainder of line 9 through "law" on line 10
Insert: ", except that drug testing may be conducted at an
employee's regular biennial physical for employment in jobs
involving the intrastate commercial motor carrier
transportation of persons or commodities"

Amendments to House Bill No. 525
First Reading Copy

Requested by Rep. Driscoll
For the House Committee on Labor and Employee Relations

Prepared by Eddy McClure
February 14, 1991

1. Title, line 5.
Following: line 4
Strike: "WORKPLACE"
2. Title, line 7.
Following: "AND"
Strike: "INDIVIDUALS"
Insert: "PERSONS"
3. Title, line 8.
Following: "PARTICIPATE"
Insert: "VOLUNTARILY"
4. Page 1, line 12.
Following: "Drug-Free"
Strike: "Workplace"
5. Page 1, line 22 through page 2, line 5.
Following: line 21
Strike: subsections (2) through (4) in their entirety
Renumber: subsequent subsections
6. Page 2, lines 10 and 18; page 7, lines 8 and 19.
Following: "Drug-free"
Strike: "workplace --"
7. Page 2, line 16.
Following: "insured"
Strike: "that has adopted"
Insert: "carrier who voluntarily adopts"
Following: "and"
Strike: "implemented"
Insert: "implements"
8. Page 2, line 23 through page 3, line 2.
Following: line 22
Strike: "participation" on line 23
Insert: "a person who participates"
Following: "course"
Strike: remainder of line 23 through "(2)" on line 2
Insert: "and who voluntarily, through a qualified testing program,"
9. Page 3, line 8.
Following: "must"

Strike: "be adopted by the employer and"

10. Page 3, lines 9 and 10.

Following: "review" on line 9

Strike: remainder of line 9 through "implementation" on line 10

11. Page 3, line 16.

Following: "the"

Strike: "employer's"

12. Page 3, line 17.

Following: "information"

Strike: "employees"

Insert: "a person"

13. Page 3, lines 19 and 20.

Strike: subsection (1)(c) in its entirety

Re-number: subsequent subsections

14. Page 3, line 22.

Following: "available to"

Strike: "employees"

Insert: "a person"

15. Page 3, line 23 through page 4, line 5.

Strike: subsections (1)(e) through (1)(f) in their entirety

Re-number: subsequent subsections

16. Page 4, line 7.

Strike: "employer intends to test"

Insert: "person will be tested"

17. Page 4, lines 8 and 9.

Following: line 7

Strike: subsection (1)(h) in its entirety

Re-number: subsequent subsections

18. Page 4, lines 16 and 17.

Strike: ": (i)"

Following: "tested"

Strike: "employee"

Insert: "person"

19. Page 4, line 18 through page 5, line 12.

Strike: subsection (1)(j)(ii) through subsection (3) in their
entirety

Re-number: subsequent subsections

20. Page 5, line 14.

Following: "of the"

Strike: "employee"

Insert: "person"

21. Page 5, line 16.

Strike: "an employer has"

Insert: "there is"
Following: "believe"
Strike: "an employee"
Insert: "a person"

22. Page 5, lines 17 and 18.
Following: ", "
Strike: remainder of line 17 through "that" on line 18
Following: "sample"
Insert: "may be required to"

23. Page 6, line 8.
Following: line 7
Strike: "An employee" through "employee"
Insert: "A person"

24. Page 6, line 16.
Following: "by"
Strike: "the employer"
Insert: "a person"

25. Page 6, lines 21 through 24.
Strike: ":" on line 21 through "(b)" on line 24
Following: "to"
Strike: "a workplace"
Insert: "an"

26. Page 7, line 1.
Following: "tested"
Strike: "employee"
Insert: "person"

27. Page 7, line 14.
Following: "insured"
Strike: "that has adopted"
Insert: "carrier who voluntarily adopts"
Following: "and"
Strike: "implemented"
Insert: "implements"

28. Page 7, line 16.
Following: "to"
Insert: "voluntarily"
Following: "test"
Strike: "employees"
Insert: "a person"

29. Page 7, line 24 through page 8, line 2.
Following: line 23
Strike: "participation"
Insert: "a person who participates"
Following: "course"
Strike: remainder of line 24 through "program" on page 8, line 2
Insert: "and who voluntarily, through a qualified testing
program"

30. Page 8, lines 3 and 4.

Following: "54]]"

Strike: remainder of line 3 through "(2)" on line 4

Insert: ", "

EXHIBIT 5DATE 2/16/91HB HJR 29

U.S. Department of Labor
JTPA Title III Dislocated Worker
Funding Cuts

<u>State</u>	<u>%</u>	<u>\$</u>
Louisiana	- 39	7,533,868
Arizona	- 30	1,686,392
Colorado	- 28	1,989,818
Kentucky	- 19	1,681,021
Wyoming	- 19	186,281
Montana	- 18	302,313
Oklahoma	- 18	1,101,246
Mississippi	- 10	849,669
Arkansas	- 8.5	145,354
Maryland	- 8.5	300,409
New Mexico	- 6	189,959
Hawaii	- 5	25,892
Nevada	- 5	63,396
Wisconsin	- 5	251,725
Texas	- 3	1,227,744
Tennessee	- 2	135,323
Alabama	- 1	88,162
North Dakota	- 1	4,405
West Virginia	- .3	18,779
	TOTAL	17,781,756

(5) provide advice to the Governor regarding performance standards.

(29 U.S.C. 1561f) Enacted August 23, 1988, P.L. 100-418, sec. 6302, 102 Stat. 1536.

PART B—FEDERAL RESPONSIBILITIES

FEDERAL ADMINISTRATION

SEC. 321. (a) STANDARDS.—The Secretary shall promulgate standards for the conduct and evaluation of programs under this title.

(b) BY-PASS AUTHORITY.—In the event that any State fails to submit a plan that is approved under section 311, the Secretary shall use the amount that would be allotted to that State to provide for the delivery in that State of the programs, activities, and services authorized by this title until the State plan is submitted and approved under that section.

(29 U.S.C. 1662) Enacted August 23, 1988, P.L. 100-418, sec. 6302, 102 Stat. 1536.

FEDERAL DELIVERY OF DISLOCATED WORKER SERVICES

SEC. 322. (a) GENERAL AUTHORITY.—The Secretary shall, with respect to programs required by this title—

(1) distribute funds to States in accordance with the requirements of section 302;

(2) provide funds to exemplary and demonstration programs on plant closings and worker dislocation;

(3) otherwise allocate discretionary funds to projects serving workers affected by multi-State or industry-wide dislocations and to areas of special need in a manner that efficiently targets resources to areas of most need, encourages a rapid response to economic dislocations, and promotes the effective use of funds;

(4) monitor performance and expenditures and annually certify compliance with standards prescribed by the Secretary under section 106(g);

(5) conduct research and serve as a national clearinghouse for gathering and disseminating information on plant closings and worker dislocation; and

(6) provide technical assistance and staff training services to States, communities, businesses, and unions, as appropriate.

(b) ADMINISTRATIVE PROVISIONS.—The Secretary shall designate or create an identifiable dislocated workers unit or office to coordinate the functions of the Secretary under this title.

(29 U.S.C. 1662a) Enacted August 23, 1988, P.L. 100-418, sec. 6302, 102 Stat. 1536-1537.

ALLOWABLE ACTIVITIES

SEC. 323. (a) CIRCUMSTANCES AND ACTIVITIES FOR USE OF FUNDS.—Amounts reserved for this part under section 302(a)(2) may be used to provide services of the type described in section 314 in the following circumstances:

(1) mass layoffs, including mass layoffs caused by natural disasters or Federal actions (such as relocations of Federal facilities).

JTPA TITLE III ALLOTMENTS TO STATES
18-Jan-91

	PY 1990	PY 1991	% CHG	SHARE OF TOTL '90	SHARE OF TOTL '91
AL	\$10,556,916	\$10,468,754	-0.8%	2.3%	2.0%
AK	\$1,715,835	\$1,570,481	-8.5%	0.4%	0.3%
AZ	\$5,563,787	\$3,877,395	-30.3%	1.2%	0.7%
AR	\$6,276,852	\$6,288,391	0.2%	1.4%	1.2%
CA	\$33,650,395	\$40,019,381	18.9%	7.3%	7.6%
CO	\$7,046,862	\$5,057,044	-28.2%	1.5%	1.0%
CT	\$1,941,298	\$3,589,150	84.9%	0.4%	0.7%
DE	\$367,807	\$493,790	34.3%	0.1%	0.1%
DC	\$810,613	\$1,012,992	25.0%	0.2%	0.2%
FL	\$15,409,064	\$22,391,129	45.3%	3.3%	4.2%
GA	\$9,439,179	\$9,695,200	2.7%	2.0%	1.8%
HI	\$516,522	\$490,630	-5.0%	0.1%	0.1%
ID	\$1,252,165	\$1,439,677	15.0%	0.3%	0.3%
IL	\$22,845,352	\$27,775,566	21.6%	4.9%	5.3%
IN	\$4,610,943	\$8,635,706	87.3%	1.0%	1.6%
IA	\$2,440,442	\$3,045,105	24.8%	0.5%	0.6%
KS	\$2,011,325	\$2,254,856	12.1%	0.4%	0.4%
KY	\$8,995,313	\$7,314,292	-18.7%	1.9%	1.4%
LA	\$19,213,068	\$11,679,200	-39.2%	4.1%	2.2%
ME	\$730,075	\$975,891	33.7%	0.2%	0.2%
MD	\$3,538,508	\$3,238,099	-8.5%	0.8%	0.6%
MA	\$3,432,783	\$8,090,462	135.7%	0.7%	1.5%
MI	\$24,571,517	\$30,699,004	24.9%	5.3%	5.8%
MN	\$3,499,322	\$4,151,377	18.6%	0.8%	0.8%
MS	\$8,148,703	\$7,299,034	-10.4%	1.8%	1.4%
MO	\$8,191,242	\$9,672,559	18.1%	1.8%	1.8%
MT	\$1,694,449	\$1,392,136	-17.8%	0.4%	0.3%
NB	\$933,313	\$944,261	1.2%	0.2%	0.2%
NV	\$1,329,775	\$1,266,379	-4.8%	0.3%	0.2%
NH	\$473,189	\$1,146,899	142.4%	0.1%	0.2%
NJ	\$5,213,270	\$7,855,684	50.7%	1.1%	1.5%
NM	\$3,475,608	\$3,285,649	-5.5%	0.7%	0.6%
NY	\$17,046,607	\$26,117,788	53.2%	3.7%	5.0%
NC	\$3,877,627	\$4,460,468	15.0%	0.8%	0.8%
ND	\$586,875	\$582,470	-0.8%	0.1%	0.1%
OH	\$18,094,923	\$22,224,928	22.8%	3.9%	4.2%
OK	\$6,025,032	\$4,923,786	-18.3%	1.3%	0.9%
OR	\$3,955,470	\$4,798,144	21.3%	0.9%	0.9%
PA	\$11,301,340	\$15,668,841	38.6%	2.4%	3.0%
PR	\$14,824,715	\$17,075,338	15.2%	3.2%	3.2%
RI	\$495,421	\$1,910,579	285.6%	0.1%	0.4%
SC	\$2,420,807	\$4,145,738	71.3%	0.5%	0.8%
SD	\$572,328	\$589,822	3.1%	0.1%	0.1%
TN	\$6,697,973	\$6,562,650	-2.0%	1.4%	1.2%
TX	\$39,866,018	\$38,638,274	-3.1%	8.6%	7.3%
UT	\$1,158,707	\$1,439,021	24.2%	0.2%	0.3%
VT	\$263,000	\$468,203	78.0%	0.1%	0.1%
VA	\$3,845,767	\$4,846,509	26.0%	0.8%	0.9%
WA	\$7,939,661	\$8,462,216	6.6%	1.7%	1.6%
WV	\$6,343,038	\$6,324,259	-0.3%	1.4%	1.2%
WI	\$4,663,636	\$4,411,911	-5.4%	1.0%	0.8%
WY	\$1,007,963	\$821,682	-18.5%	0.2%	0.2%
AM SAMOA	\$36,675	\$37,521	2.3%	0.0%	0.0%
GUAM	\$247,347	\$282,642	14.3%	0.1%	0.1%
MARSHALL IS	\$105,020	\$120,006	14.3%	0.0%	0.0%
MICRONESIA	\$247,230	\$282,508	14.3%	0.1%	0.1%
NO MARIANAS	\$26,641	\$29,711	11.5%	0.0%	0.0%
PALAU	\$26,641	\$29,711	11.5%	0.0%	0.0%
VIRGIN IS	\$296,232	\$338,501	14.3%	0.1%	0.1%
NATL RESERVE	\$91,734,814	\$104,276,600	13.7%	19.8%	19.8%
	\$463,603,000	\$526,986,000	13.7%	100.0%	100.0%

(JTPA:allocIII.wk1)

(7) PARTA

13.7 to Western States

discretionary
(number of gns)

HB 837
(Introduced)

1. Page 11, line 14 and 15.
Following: "department"
Strike: "or by any court"
2. Page 11, line 16 through page 13, line 3.
Strike: section 4 in its entirety
Renumber: subsequent sections
3. Page 13, line 7.
Following: "is"
Strike: "unable to return to work due to injury"
Insert: "totally disabled as defined 39-71-116"
4. Page 17, line 20.
Following: "percentages"
Insert: "to the impairment rating"
5. Page 17, line 23.
Following: "injury."
Strike: "3%"
Insert: "2%"
6. Page 17, line 25.
Following: "injury."
Strike: "5%"
Insert: "3%"
7. Page 18, line 2.
Following: "education."
Strike: "5%"
Insert: "3%"
8. Page 18, line 4.
Following: "education."
Strike: "3%"
Insert: "2%"

9. Page 19, line 2.

Following: "injury"

Insert: "or injuries"

10. Page 19, line 5.

Following: "injury"

Insert: "or injuries"

11. Page 22.

Following: line 22

Insert: "(b) The total of any lump sum conversion in part, awarded a claimant prior to the claimant's final award may not exceed the anticipated award under 39-71-703, or \$20,000, whichever is less."

12. Page 22, line 25.

Following: "(e)"

Strike: "(b)"

Insert: "(c)"

13. Page 24, line 6 through line 8.

Strike: line 6 through line 8 in their entirety.

14. Page 27, line 9 through line 11.

Strike: line 9 through line 11 in their entirety.

Insert: "to assist a disabled worker in acquiring skills or aptitudes to return to work through job placement, on the job training, education, training or specialized job modification."

15. Page 28, line 15 through page 30, line 6.

Strike: page 28, line 15 through "department." on page 30, line 6

Insert: "(1) An injured worker is eligible for rehabilitation benefits if (a) through (d) are met:

(a) the injury results in permanent disability;

(b) a physician certifies that the injured worker is physically unable to work at the job the worker held at the time of the injury or any job requiring similar abilities;

(c) a rehabilitation plan completed by a rehabilitation provider, designated by the insurer, certifies that the injured worker has reasonable vocational goals, a reemployment and wage potential and takes into consideration the worker's age, education, training, work history and residual physical abilities;

(d) a rehabilitation plan between the injured worker and the insurer is filed with the department.

(2) After the filing of the rehabilitation plan with the department, the injured worker is entitled to receive rehabilitation benefits at the injured worker's temporary total disability rate. The benefits shall be paid for the period specified in the

agreement, not to exceed 104 weeks. Rehabilitation benefits shall be paid during a reasonable period, not to exceed 10 weeks, while the worker is waiting to begin the agreed upon rehabilitation plan. Rehabilitation benefits shall be paid while the worker is satisfactorily completing the agreed upon rehabilitation plan.

16. Page 30, line 11.

Following: "provider"

Insert: "as authorized by the insurer"

17. Page 30, line 19.

Following: "for"

Insert: " :"

18. Page 30, line 20.

Insert: "(1)"

19. Page 30, line 21.

Strike: "(1)"

Insert: "(a)"

20. Page 30, line 22.

Strike: "(2)"

Insert: "(b)"

21. Page 30, line 23.

Strike: "(3)"

Insert: "(c)"

22. Page 31, line 1.

Strike: "(4)"

Insert: "(d)"

23. Page 31, line 2.

Insert: "(2) If the rehabilitation plan provides for job placement, a vocational rehabilitation provider shall assist the worker in obtaining other employment and the worker shall be entitled to weekly benefits for a period not to exceed 8 weeks at the worker's temporary total disability rate. If, after receiving benefits under this subsection, the worker decides to proceed with a rehabilitation plan, the weeks in which benefits were paid under this subsection must be credited against the maximum of 104 weeks of rehabilitation benefits provided in this section."

24. Page 31, line 15.

Following: "cooperates."

Strike: page 31, line 15 through 18.

25. Page 32, line 2.

Following: "(3)"

Strike: page 32, line 2 through "provider." on line 6.

26. Page 35.

Following: line 11

Insert: "NEW SECTION, SECTION 19. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Amendments to House Bill No. 110
First Reading Copy

Requested by Rep. Wanzenried
For the House Committee on Labor and Employee Relations

Prepared by Eddy McClure
February 15, 1991

1. Title, line 10.
Following: "LAW;"
Insert: "DEFINING "INTRASTATE" AND "COMMERCIAL MOTOR CARRIER";"
2. Page 2, line 3.
Following: "commodities"
Insert: "by a commercial motor carrier or an employee subject to driver qualification requirements"
3. Page 2, line 13.
Following: "adopt"
Strike: "a"
Insert: "the"
4. Page 2, line 14.
Following: "procedure"
Insert: "that is provided in 49 CFR, part 40,"
5. Page 2, lines 15 through page 3, line 6.
Following: "testing." on line 15
Strike: remainder of line 15 through "law."
6. Page 3, line 22.
Following: line 21
Insert: "(6) As used in this section:
(a) "commercial motor carrier" has the meaning provided in 69-12-101; and
(b) "intrastate" means commerce or trade that is begun, carried on, and completed wholly in this state."

Amendments to House Bill No. 110
First Reading Copy

Requested by Rep. Wanzenried
For the House Committee on Labor and Employee Relations

Prepared by Eddye McClure
February 15, 1991

1. Title, line 7.
Following: "THE"
Insert: "INTRASTATE"
2. Title, lines 8 and 9.
Following: "COMMODITIES" on line 8
Strike: remainder of line 8 through "LAW" on line 9
3. Title, line 10.
Strike: "FEDERAL"
4. Title, line 10.
Following: "LAW;"
Insert: "DEFINING "INTRASTATE" AND "COMMERCIAL MOTOR CARRIER";"
5. Page 2, line 2.
Following: "the"
Insert: "intrastate"
6. Page 2, lines 3 and 4.
Following: "commodities" on line 3
Strike: remainder of line 3 through "law" on line 4
Insert: "by a commercial motor carrier or an employee subject to
driver qualification requirements"
7. Page 2, lines 9 and 10.
Following: "use" on line 9
Strike: remainder of line 9 through "law" on line 10
Insert: ", except that drug testing may be conducted at an
employee's regular biennial physical for employment in jobs
involving the intrastate commercial motor carrier
transportation of persons or commodities"

8. Page 2, line 13.

Following: "adopt"

Strike: "a"

Insert: "the"

9. Page 2, line 14.

Following: "procedure"

Insert: "that is provided in 49 CFR, part 40,"

10. Page 2, lines 15 through page 3, line 6.

Following: "testing." on line 15

Strike: remainder of line 15 through "law."

11. Page 3, line 22.

Following: line 21

Insert: "(6) As used in this section:

(a) "commercial motor carrier" has the meaning provided in 69-12-101; and

(b) "intrastate" means commerce or trade that is begun, carried on, and completed wholly in this state."

Amendments to House Bill No. 141
Second Reading Copy

Requested by Rep. Harrington
For the House Committee on Labor and Employee Relations

Prepared by Eddy McClure

1. Page 2, lines 6 through 10.
Following: "or" on line 6
Strike: remainder of line 6 through "A" on line 10
2. Page 2, line 11.
Strike: "REEMPLOYMENT"
Following: "such"
Insert: "such"
3. Page 2, line 12.
Following: the first "for"
Strike: "any"
Following: "such"
Insert: "the"
4. Page 2, line 13 through page 3, line 8.
Following: "terms" on page 2, line 13
Strike: remainder of line 13 through "TERM" on page 3, line 8
5. Page 4, lines 16 and 17.
Strike: "(4)" on line 16 through "(A)" on line 17
Insert: "The term"
6. Page 4, line 20 through page 5, line 3.
Following: "institutions" on page 4, line 20
Strike: remainder of line 20 through "ASSURANCE" on page 5, line

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Labor & Empl. Relations COMMITTEE BILL NO. HR 29
DATE 2/16/91 SPONSOR(S) Rep. Carolyn Squires

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
SUE MOHR, 101 N Last Chance	M JTP	X	
Don Edwards	OCNW	X	
Don Judge	MT STATE AFL-CIO	X	
Eugene Fendler	MT St Rly Trade	X	
Bob Heiser	UFCW	X	

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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Labor & Empl. Relations COMMITTEE BILL NO. 836

DATE 2/16/91 SPONSOR(S) Rep Jerry Driscoll

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Mike [unclear]	DLI	ARMED X	
Jim Twifler	MT CHAMBER		✓
DAN EDWARDS	ORAW	✓	
EFENDERSON	MT ST BLS TRADES	✓	
Don Judge	MT STATE AFL-CIO	X	
Bob Heiser	ULFCW	X	

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**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

Labor & Empl Relations COMMITTEE BILL NO. 837

DATE 2/16/91 SPONSOR(S) Rep. Jerry Driscoll

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Joe Mathews	ST. Dept of SRS - Rehab/ Visual Services		X
Pey Williams	"		X
Jim Smikh	THE MAR/MARF		+
George Weed	Nt Self Insurer Assoc	as amended X	
Pat Sweeney	STATE FUND	amended ✓	
GENE PHILLIPS	ALLIANCE AMER INS	AMENDED X	
DAN EDWARDS	OLAW	✓	
Ben Elward	MIMCA	amended X	
Jim Tutwiler	MT Chamber	✓	
E FENDERSON	MT ST BLS TRAILER	✓	
Nike McLean	DLE	✓	
W Crivello	Rehab Assoc/MT	✓	
Bob Heiser	UFCW	✓	

**PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.**

2/16/91 -

2/16 L.A. Son Committee

My Proxy

For Fred Jones

Ray S. Jones

2/16/91

My Proxy on all
notes on Friday the
10th of February the
Cal. State

My Proxy

110 out