

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY

Call to Order: By **CHAIRMAN TIM CALLAHAN**, on January 26, 2005 at 8:00 A.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Rep. Tim Callahan, Chairman (D)
Sen. Trudi Schmidt, Vice Chairman (D)
Sen. Keith Bales (R)
Sen. Steven Gallus (D)
Rep. Ray Hawk (R)
Rep. Cynthia Hiner (D)
Rep. John E. Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Brent Doig, OBPP
Shannon Scow, Committee Secretary
Shane Sierer, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: HB 2; Department of Labor and Industry

{Tape: 1; Side: A; Approx. Time Counter: 0 - 30}{Tape: 1; Side: B; Approx. Time Counter: 0 - 23.5; Comments: Discussion on Displaced Homemaker Funding Source}

Sheila Hogan, Employee of Career Training Institute in Helena, Vendor of the State Displaced Homemaker Program, spoke to the committee to provide further information on the activity of this program in Helena. She noted that 185 people used the Displaced Homemakers Program during 2001-04. The cost per participant was about \$1,000. She stated that although she values the work of the Department of Labor and Industry, she had never felt secure about the funding of Displaced Homemaker within the Department and is concerned that if the program is left in the general fund, their security will be jeopardized.

Keith Kelly, Commissioner for Department of Labor and Industry, first distributed Exhibit 1, which outlines which programs are involved in the Employment Security Account (ESA) - General Fund issue. He also discussed Decision Package (DP) 5, which has an additional \$450,000 plus to offset the federal computer program. The adjusted fund balance today for the ESA is approximately \$3.8 million. Last session's tight budgeting caused placement of programs into ESA that are traditionally General Fund Programs, totaling \$1,225,200. The aim of the Department of Labor and Industry is to place the programs back to their original places and return to the specific purpose of the ESA. If the Department were to leave the programs in ESA, the fund will be continuously lowered until the ESA will be in a debt situation. Therefore, the Department recommends Jobs for Montana Graduates, Displaced Homemaker Program, Human Rights Program and Office of Community Services are placed back in general fund because they believe they are not the purpose of the ESA.

EXHIBIT(jch20a01)

HB 159 has passed the House of Representatives and is awaiting the Senate. The intent of this bill is tie ESA to its purpose.

Mr. Kelly concluded by stating the employers that pay into the tax which funds the ESA recently added a 0.003 surcharge to their original tax. They were concerned existing programs in smaller communities were shutting down. **Mr. Kelly** believes the employers that pay the tax deserve to pay into a fund that specifically supports their function.

SEN. SCHMIDT inquired how long the Displaced Homemaker Program has been in the ESA. **Ingrid Childress, Administrator of Workforce Services Division, Department of Labor and Industry,** responded that Displaced Homemaker Program has been in General

Fund since 1988 and was only recently switched in the previous session.

Ingrid Childress confirmed a question by REP. WITT, noting that in ESA there is the Apprenticeship Program, as well as Displaced Homemaker Program. **REP. WITT** asked, "What is the difference between the two programs and why was the decision to include one and not the other?" **Ms. Childress** replied that ESA was established by businesses. The Department heard of the supporting employers of the Apprenticeship Program but did not hear from the sponsors or supporters of other programs.

SEN. SCHMIDT queried about more details on the Apprenticeship Program and how it fits into ESA. **Ms. Childress** said there are two components to the Apprenticeship Program, on-the-job training and completing course work through correspondence courses or other education sources. This has been funded by a variety of sources. In 2001 this program was put into the Department base budget, then removed in 2003 thinking employers would be able to pay for the education component. To date, there is no grant for this program.

SEN. SCHMIDT asked, "If it were to go back into ESA, what would be the amount of funding?" **Ms. Childress** responded approximately \$140,00 each Fiscal Year (FY), with a total of \$280,000 for the biennium.

SEN. GALLUS requested the gender break down for the Apprenticeship Program. **Ms. Childress** replied the majority under the Displaced Homemakers are women. There are approximately 10% of females taking part in the Apprenticeship Program.

REP. WITT noted that the Apprenticeship Program was supported by the employers. He asked, "Were the employers given the opportunity to support the Displaced Homemaker Program?" He also inquired if there was a specific hearing when the support could be heard. **Ms. Childress** stated she heard most from the employers in support of the Apprenticeship Program, and does not know if there was an official forum. She also noted that the Displaced Homemaker Program is valued by the department, which is why it was switched to ESA when there was a General Fund shortfall.

REP. WITT pressed further for a gender comparison between the two programs under question. **Sheila Hogan** replied she does not know the statewide numbers; but, locally, there has only been one man in the last three years.

REP. WITT queried if there was a safety-net program if the state were to lose the Displaced Homemakers Program. **Ms. Hogan** responded that there are other programs, but women do not necessarily qualify for those programs. Those that participate in the Displaced Homemaker Program need to keep a home and keep their kids off welfare; and, therefore, need more immediate results than the Apprenticeship Program.

REP. WITT stated it is important to make sure the committee funds this program properly because it cannot be lost. It is too important for the women and children for whom it is created.

Ingrid Childress returned with exact numbers of genders within the programs, noting that within the Apprenticeship Program there are 11 percent women, 7 percent minorities, and 12 percent veterans.

SEN. BALES confirmed that all but the Apprenticeship Program are General Fund. He then stated that if the programs are in the General Fund without guidelines then they will be in the base the following year. **SEN. BALES** questioned the committee, "Is the program in less danger in the General Fund than in ESA?"

Keith Kelly included that last session when the funds were switched to General Funding it was an anomaly. The department is fighting to put the programs back in the base where Reed Act money could keep the programs going.

REP. HAWK inquired about details of HB 159. **Mr. Sierer** distributed Exhibit 2, a copy of Section 5, HB 159. He noted this has passed the House of Representatives and is now in front of the Senate Finance Committee. This bill is to clean up the transferring of money that occurred in 2003. Section 5 is specific to the ESA account. He continued that if action is taken to put Displaced Homemaker Program into ESA, an amendment will have to be made to HB 159. With the recent appropriation by the Department of Public Health and Human Services for vocational rehabilitation, there will already be an amendment to HB 159.

EXHIBIT(jch20a02)

SEN. SCHMIDT queried why the Apprenticeship Program was included and not the Displaced Homemaker Program. **Ms. Childress** reiterated that the department went with the voices that came forward. **SEN. SCHMIDT** inquired if there was a network to give the opportunity to other programs to speak. **Ms. Childress** replied that at the time Displaced Homemaker Program was stable under the General Fund, meanwhile the ESA was losing funds.

CHAIRMAN CALLAHAN noted that in the current language in HB 159 there is no clause that precludes the Displaced Homemaker Program, and that section D may be able to include the Homemakers' program because it notes employee training or programs. **Ms. Childress** replied that the bill is written in broad language, but that section D states the Apprenticeship Program by name, so would not include the Displaced Homemaker. She added that Section C could possibly include the Displaced Homemaker Program.

SEN. GALLUS asked if the department had heard from the program participants in support of the funding? **Ms. Childress** responded that they did not hear from clients, most likely because they are not aware of the funding source. However, the department did hear from the program vendors that they wanted stable funding. **SEN. GALLUS** inquired if the department had heard concerns from those who pay the taxes to support the program. **Ms. Childress** replied there was concern about the broadening focus of the ESA beyond the purpose they are benefitted.

REP. WITT asked **CHAIRMAN CALLAHAN** if this matter can be addressed in a conceptual amendment or is a hard copy is needed. **CHAIRMAN CALLAHAN** replied a conceptual amendment can be made due to time constraints.

SEN. BALES inquired what would happen to the ESA fund balance if the Displaced Homemaker Program is included. **Keith Kelly** responded the cost of the program, currently \$200,000 will come from ESA. He pointed out that this expense can be handled one time, but in the long term it will jeopardize the fund. The committee did not hear from the employers involved in this program because it was stable in the General Fund.

SEN. BALES noted that the ESA taxes themselves. No sunset was placed on the program. **Mr. Kelly** noted the funds were in decline because of the lack in federal revenue. The employers then decided to tax themselves, without a sunset to maintain the services.

REP. WITT expressed concern that one program was protected over another. **Sheila Hogan** stated that the program funding has always been bounced around. Individuals have not come forward because they are not often aware of funding sources, but results are heard often.

EXECUTIVE ACTION ON HB 2; DEPARTMENT OF LABOR AND INDUSTRY

Motion/Vote: SEN. GALLUS moved to APPROVE THE BASE BUDGET FOR THE DEPARTMENT OF LABOR AND INDUSTRY. Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that APPROVE THE PRESENT LAW ADJUSTMENTS FOR THE DEPARTMENT OF LABOR AND INDUSTRY. Motion carried unanimously by voice vote.

Work Force Services Division

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 6, WORKFORCE SERVICES DIVISION OPERATING ADJUSTMENTS, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 7, PROGRAM 1, STATEWIDE FTE REDUCTION, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 999, EMPOWERMENT ZONE, BE ADOPTED. Motion carried unanimously by voice vote.

Mr. Sierer distributed Exhibit 3 in relation to DP 1. Exhibit 3 clarifies a change in the funding source that is noted on D-128 of the LFD Budget Analysis.

EXHIBIT(jch20a03)

This DP relates to restoring funding from the ESA back to General Funding within the Reed Act for the Displaced Homemaker Program and Jobs for Montana Graduates Program.

REP. WITT inquired if an amendment will be needed both here and on HB 159 to ensure the Displaced Homemaker Program is placed on the ESA Account. **CHAIRMAN CALLAHAN** stated that the committee would deal with just the DP now.

Motion: REP. WITT moved that DECISION PACKAGE 1, PROGRAM ONE, GENERAL FUND/ESA/REED ACT FUNDING SWITCH, BE ADOPTED.

Discussion:

Substitute Motion: REP. WITT made a substitute motion that DECISION PACKAGE 1 BE ADOPTED AS AMENDED TO INCLUDE THE FUNDING FOR THE DISPLACED HOMEMAKER PROGRAM INTO THE ESA ACCOUNT.

Discussion:

Mr. Sierer clarified that the Jobs for Montana Graduates would move to General Funds, and the Displaced Homemaker Program, as well as their program costs, be moved to ESA. He then asked for specific numbers for the cost of this program. **Tammi Peterson, Administrator of Centralized Services**, estimated the cost is approximately \$213,000 a year.

SEN. BALES feels that this is the wrong way to go. The program does need to get funding, but there is a reason that it was placed in the General Fund. The program is seeking permanent funding and the committee is discussing placing Displaced Homemaker Program in an account without permanent federal funding. The employers that fund ESA have just placed an additional tax on themselves and it is not fair to put another program that needs funding on these employers. He purposed that the committee does as the administrators and governor's office recommends.

SEN. GALLUS said he will support the amendment due to the gender question. Both the Apprenticeship and Displaced Homemaker Programs are needed in the work force.

SEN. SCHMIDT agreed with Gallus and Witt, although she knew it will be revisited next session. However, she believed it to be a good match to the Apprenticeship Program.

Mr. Doig expressed concern that the money amounts given were not correct and desired the language in the DP contain broad or conceptual language.

REP. HAWK clarified the disadvantages of the two funding sources, noting that in General Fund the program can be moved and cut. In the ESA, there is concern the taxpayers will be unable to support all the programs. **CHAIRMAN CALLAHAN** confirmed there is volatility in either funding, and that the question is which source is more permanent, General Fund or ESA. **REP. WITT** commented that he has followed HB 2 for many years and believes there is more protection in ESA than in the General Fund. **SEN. BALES** maintained that he does not totally agree, because he believes the ESA will be insolvent in a few years. He believes moving Displaced Homemaker Program to ESA will put all the programs in jeopardy. The General Fund is more long term and secure.

Vote: Motion passed 5-2 by voice vote with REPS. BALES and HAWK voting no.

Mr. Sierer informed the committee that language needs to be corrected on DP 5 before it can be moved. He pointed to Exhibit 3, Page 1 for the language change. The funding sources have changed, increasing the state special revenue cost by \$532,000 and decreasing federal funding cost by the same amount.

Unemployment Insurance Division

Motion/Vote: SEN. BALES moved that DECISION PACKAGE 5, TRANSFER UI CONTRIBUTIONS BUREAU FROM DOR TO DLI WITH CHANGES, BE ADOPTED. Motion carried unanimously.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 7, UNEMPLOYMENT INSURANCE DIVISION BUDGET ADJUSTMENTS, BE ADOPTED. Motion carried unanimously by voice vote.

Commissioner's Office/Centralized Services Division

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 8, COMMISSIONER'S OFFICE/CSD BASE ADJUSTMENTS, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 3, PROGRAM 3, GENERAL FUND/ESA FUND SWITCH, BE ADOPTED. Motion carried unanimously by voice vote.

Mr. Sierer explained the committee next needs to approve rates for the Commissioner's Office Proprietary Base Adjustment for DP 6, found on Exhibit 4.

EXHIBIT(jch20a04)

Motion/Vote: REP. HINER moved that DECISION PACKAGE 6, COMMISSIONER'S OFFICE/CSD PROPRIETARY BASE ADJUSTMENT RATES, BE ADOPTED. Motion carried unanimously by voice vote.

Employment Relations Division

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 1, PROGRAM 4, STATEWIDE FTE REDUCTION, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 9, EMPLOYMENT RELATIONS DIVISION BASE ADJUSTMENT, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: REP. HINER moved that DECISION PACKAGE 10, ONE-TIME-ONLY CONTRACT WITH INGENIX, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 2, GENERAL FUNDS/ESA FUND SWITCH FOR THE HUMAN RIGHTS BUREAU, BE ADOPTED. Motion carried unanimously by voice vote.

Business Standards Division

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 11, HEALTH CARE LICENSING BUREAU BASE ADJUSTMENT, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 12, BUSINESS AND OCCUPATIONAL LICENSING BUREAUS BASE ADJUSTMENT, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 13, BUILDING CODES BUREAU BASE ADJUSTMENT, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: REP. HINER moved that DECISION PACKAGE 14, WEIGHTS AND MEASURES BUREAU BASE ADJUSTMENT, BE ADOPTED. Motion carried unanimously by voice vote.

Mr. Sierer distributed Exhibit 5 in relation to DP 22, Business Services Division Proprietary Base Adjustment. The department is actually requesting a decrease in rate. The DP is outlined in Exhibit 3, Page 2.

EXHIBIT(jch20a05)

Motion/Vote: SEN. BALES moved that DECISION PACKAGE 22, BUSINESS SERVICES DIVISION PROPRIETARY BASE ADJUSTMENT RATES, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. BALES moved that DECISION PACKAGE 18, LEGAL CONTINGENCY FUND, BE ADOPTED. Motion carried unanimously by voice vote.

Office of Community Services

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 19, OFFICE OF COMMUNITY SERVICES BASE ADJUSTMENT, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: REP. HINER moved that DECISION PACKAGE 21, OFFICE OF COMMUNITY SERVICE FUNDING MATCH, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. BALES moved that DECISION PACKAGE 4, PROGRAM 7, GENERAL FUND/ESA FUND SWITCH, BE ADOPTED. Motion carried unanimously by voice vote.

Mr. Sierer pointed to Exhibit 3, Page 2, for changes in DP 20, Program 9.

Worker's Compensation Court

Motion: SEN. GALLUS moved that DECISION PACKAGE 20, PROGRAM 9, WORKER'S COMPENSATION COURT BASE ADJUSTMENTS, AS CHANGED, BE ADOPTED.

Discussion:

REP. WITT noted that the \$10,000 move from one budget to another will impact a travel base elsewhere. Mike McCarter, Worker's Compensation Bureau of the Department of Labor and Industry, replied that another travel base would be impacted. However, some years there is money left over and that reverts to the assessment fund.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. BALES moved that DECISION PACKAGE 902, WORKER'S COMPENSATION STAFF ATTORNEY, BE ADOPTED. Motion carried unanimously by voice vote.

{Tape: 2; Side: B; Approx. Time Counter: 11.6 - 22.2}

SEN. BALES asked about an action that occurred yesterday in the Department of Public Health and Human Services (DPHHS), which allocated a \$1 million program into the ESA. He asked if the committee had any authority over that action since ESA is under the jurisdiction of this committee. CHAIRMAN CALLAHAN replied that it can be amended back out when we reach that part of the budget. The other option is for this committee to appropriate all the money in the ESA so the two issues would eventually conflict. Mr. Sierer explained that the DPHHS made a contingency to HB 152 to include the activities of Vocational Rehab.

SEN. BALES inquired if an amendment could be made to move the DPHHS program back to the General Fund. CHAIRMAN CALLAHAN did

not believe the committee could affect their decisions, outside of appropriating the money from that fund, which would lead to further attention to the issue. **SEN. BALES** expressed concern that the fund will be cut in half shortly, and wanted to make a way to save the fund. **CHAIRMAN CALLAHAN** reiterated that appropriating those funds for a particular purpose would be the cleanest way to address those concerns.

Mr. Sierer presented the committee with three options: The first option is to do nothing; the second is to make a language appropriation; the third option is to make a DP and line item the DP for whatever the committee wants to appropriate. This would ask for the end fund balance. **Mr. Kelly** and **CHAIRMAN CALLAHAN** asked for a break to determine the details and language of the proposed DP.

{Tape: 2; Side: B; Approx. Time Counter: 22.2 - 29.5; Comments: Decision Package 01}

CHAIRMAN CALLAHAN, REP. WITT AND SEN. GALLUS are no longer present.

Mr. Sierer distributed Exhibit 6, which outlines the proposed DP 01. He outlined the purpose of this DP, which is to reserve the funds in ESA to the Department of Labor and Industry by appropriating the entirety of funds to Workforce Development, causing the fund to be \$1 million over with the DPHHS program.

EXHIBIT(jch20a06)

Motion: **SEN. BALES** moved that DECISION PACKAGE 01, ESA FOR WORKFORCE DEVELOPMENT FUND OF \$4.2 MILLION RESTRICTED ONE-TIME-ONLY, BE ADOPTED.

Discussion:

SEN. BALES voiced support for this DP, stating that the business which support ESA should be taxed for the purposes outlined and that this DP would ensure the use of the fund is restricted.

SEN. HAWK and **Mr. Sierer** discussed how there will need to be a resolution to this issue before HB 2 is passed.

CHAIRMAN SCHMIDT interrupted discussion for public testimony because they were delayed by introducing another bill.

January 26, 2005

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***{Tape: 3; Side: A; Approx. Time Counter: 1.5 - 5.4; Comments:
Riley Johnson}***

Riley Johnson, National Confederation of Independent Businesses, stated they are the largest business organization in Montana. They value the employment services supported by the Department of Labor and Industry, and specifically have used the Apprenticeship Program due to the lack of trained employees in rural areas. These businesses do pay the taxes to support the ESA, and is concerned that if the end fund balance is spent for everything that there will be more taxes for the employers. He finished by stating that it is important to keep the focus of the ESA on the intent.

Vote: Motion carried unanimously by voice vote with CHAIRMAN CALLAHAN, REP. WITT and SEN. GALLUS voting aye by proxy.

Motion/Vote: SEN. BALES moved to CLOSE THE SECTION ON THE DEPARTMENT OF LABOR AND INDUSTRY. Motion carried unanimously by voice vote with REPS. CALLAHAN, WITT and GALLUS voting aye by proxy.

Exhibits 7, 8 and 9 were distributed to the committee during the meeting for further information on the Department of Labor and Industry.

[EXHIBIT\(jch20a07\)](#)

[EXHIBIT\(jch20a08\)](#)

[EXHIBIT\(jch20a09\)](#)

ADJOURNMENT

Adjournment: 10:50 A.M.

REP. TIM CALLAHAN, Chairman

SHANNON SCOW, Secretary

TC/ss

Additional Exhibits:

EXHIBIT ([jch20aad0.PDF](#))