

MINUTES OF THE JOINT HOUSE COMMITTEE ON EDUCATION & LABOR AND INDUSTRY

The meeting was called to order by Representatives Denise Apt and Dorothy Nichols at  
Vice Chairperson s

2:30 ~~xxx~~/p.m. on February 13, 1985 in room 519-S of the Capitol.

All members were present except: Education Committee members Representatives Laird,  
Moomaw and Polson who were excused.

Labor and Industry Committee members, Representatives O'Neal, Patrick, Cribbs, Dillon,  
Gjerstad, Webb and Whiteman who were excused.

Committee staff present:

Ben Barrett, Legislative Research Department  
Avis Swartzman, Revisor of Statutes' Office  
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Rod Riffel, National Conference of State Legislatures (NCSL)

This joint meeting of the House Committees on Education and Labor and Industry was Co-  
Chaired by Vice Chairman Denise Apt of Education and Vice Chairman Dorothy Nichols of  
Labor and Industry.

Rod Riffel, staff member of NCSL as Program Manager of Job Training Program, presented  
testimony to the joint committees describing the program with the specific state legis-  
lative involvement. (ATTACHMENTS 1 through 11) He invited any member who had questions  
to feel free to contact him at any time.

The meeting was adjourned at 3:20 p.m.

The next meeting of the House Education Committee will be February 14, 1985 at 3:30 p.m.  
in Room 313-S.





**National  
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SERVICES OF NCSL JOB TRAINING PROGRAM

NCSL has established a technical assistance program, with support from the U. S. Department of Labor, to help state legislatures implement the new federal Job Training Partnership Act (JTPA) as well as deal with other employment and training issues in their states. The services include:

° INFORMATION ON JTPA - The program is creating an information network on what states are doing to implement the new federal legislation. Information can be provided on such key issues as developing enabling legislation, determination of the legislative role, appropriating federal funds, and how to provide the state match.

° INDIVIDUAL TECHNICAL ASSISTANCE - The program provides short-term technical assistance on employment and training matters to legislative committees, members, and staff in individual states on request. These services include committee briefings and seminars; training for legislative staff; staff assistance on policy evaluation of research techniques, oversight strategies, and other requests for information from the states. Assistance will be provided by NCSL staff and key state experts will be identified. The Department of Labor has provided limited funds for this effort. The program staff takes care to tailor the services to the needs and wishes of each state.

° PUBLICATIONS - The program will produce several types of publications on topics of current concern to state legislatures. Issue Briefs are short, four-to-six page papers that outline the major aspects of a single policy issue or problem and the policy options available to legislatures to deal with it. Legislator Guides provide similar information on broader topics, and Legislator Handbooks provide still more detailed discussions of major policy areas, usually by several expert authors. The program also provides briefs on research results and federal policy developments of importance to state legislatures.

HOW TO REQUEST ASSISTANCE

For any of the services outlined above, please telephone or write to:

Rod Riffel  
Program Manager, Job Training Program  
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444 North Capitol Street, N.W., Suite 203  
Washington, D.C. 20001, (202) 737-7004

SPECIFIC STATE LEGISLATIVE ROLES FOUND IN  
THE JOB TRAINING PARTNERSHIP ACT (JTPA)

As a form of block grant, the Job Training Partnership Act (JTPA), P.L. 97-300, will require major state involvement at both the executive and legislative levels. Legislative involvement is called for explicitly and implicitly in the Act with references to the "state legislature" specifically and to "state law" generally.

Because state legislative involvement in federal job training programs is a new departure, we want to highlight those references in the Act for your use. They are:

1. Section 105: The state legislature has the right to review and comment on local job training plans.

COMMENT: Service Delivery Areas (SDAs) must make these plans available for review and comment "to each house of the state legislature for appropriate referral" not less than 120 days before the beginning of the first of the two program years covered by the plan. A final plan must be submitted to the Governor for approval not less than 80 days before the first program year. As the state policymaking body, the Legislature might want to use this opportunity to assure itself that local plans are in compliance with state law, as well as federal law, and with state priorities in economic development, secondary, postsecondary, and vocational education, and interagency and interprogram coordination. Establishing an appropriate committee for referral of JTPA functions should be a procedural priority.

2. Section 122: The state legislature must have representation on the State Job Training Coordinating Council; it must receive recommendations from the Council for ways to improve the effectiveness for job training and related programs in the service delivery areas; and it must receive from the Council comments and recommendations on the relevancy and effectiveness of employment and training and related service delivery systems in the state. Also, this section permits the Governor to transfer to the Council, to the extent such is permitted by applicable law, state coordinating functions for the work incentive program or any advisory council established under the Wagner-Peyser Act.

COMMENT: State legislative leadership may want to confer/negotiate with the Governor on the extent of the legislative representation on the Council and determine who should be appointed. The legislature may want to instruct the Council on the specific information it would need to document the analyses and recommendations the Council will make. Also, reduction of the number of mandatory state boards and commissions was an important feature in our

discussions with Congress during the development of JTPA. Therefore, the legislature may want to examine any pertinent statutes that govern the consolidation of like bodies for purposes of accomplishing such a reduction in order to effect better coordination between programs.

3. Section 123: The legislature may want to be involved in approving matching funds, or the equivalent, for state education coordination.

COMMENT: Not a requirement of JTPA, but the legislature may have to act in keeping with its appropriating powers, as well as whatever constitutional functions it may have in educational policymaking.

4. Section 126: Acknowledges the authority of the state legislature to enact implementing legislation for the programs funded under this Act.

COMMENT: This is an important first in federal employment and training laws, as it recognizes the constitutional role of legislatures as state policymaking bodies, as well as the importance of proper checks and balances. This is carried through in section 164(e)(3) of the Act.

5. Section 127: The legislature may have to be involved in approving interstate agreements to facilitate compliance with this section of the Act.

COMMENT: Clearly, this depends on constitutional prerogatives. Nevertheless, creative solutions may be necessary to iron out difficulties that might arise from the development of a service delivery area that crosses state lines.

6. Section 141: Education programs supported with funds from this Act must meet state and local educational standards, which may be set by direction of the legislature in some states, and academic credit and certification must meet the requirements of applicable state and local law and regulation.

COMMENT: In many states, legislatures are charged with the constitutional responsibility of establishing broad educational policy. This Act will require some legislative attention to matching requirements, standards for educational achievement as they may be directed by the legislature, and perhaps some attention to accrediting and certifying adult education, vocational education, basic education, technical education, etc., as they might apply to specific job training needs.

7. Section 142: State minimum wage laws must be considered when setting wage and compensation levels for on-the-job training and program employment.

COMMENT: A review of these laws relative to this program may be required.

8. Section 143: State Health and Safety and Workmens' Compensation Laws must be adhered to.

COMMENT: A review of these laws relative to this program may be required.

9. Section 164: Violation of applicable federal and state law by any subgrantee can bring about the imposition of sanctions by the Secretary of Labor consistent with the provisions of the Act.

COMMENT: This is another acknowledgement of the importance of state checks and balances and of the authority of the legislature to set the tone for all programs operated by the state.

10. Section 164: The state is required to set up fiscal control and fund accounting procedures, as well as to assure an independent financial and compliance audit of each recipient every two years.

COMMENT: Because of its fiscal responsibilities, the legislature may be responsible for this or for providing some direction for it to occur.

11. Section 170: The Secretary of Labor may accept and use the services and facilities of the agencies of any state or political subdivision of a state with its consent.

COMMENT: This may be a pro forma action on the part of the state, but the legislature should be aware of it.

12. Section 205: The learning network for participants in the youth program funded in Title II must prepare students to meet state and locally determined general education diploma and basic education competency requirements.

COMMENT: In some states, the legislature may play an important role in setting educational attainment requirements.

13. Section 254: The State Job Training Coordinating Council, on which the legislature is represented, has the same general responsibilities for summer youth programs as it would have for regular adult and youth employment and training programs.

COMMENT: Again, the legislature may want to define its relationship to the State Job Training Coordinating Council.

14. Section 302: The legislature may have a policy role in establishing procedures for identifying eligible groups of dislocated workers for employment and training assistance.

COMMENT: Self-explanatory.

15. Section 304: The legislature will have an important policy role in providing the matching requirements for a state to qualify to receive funds for employment and training assistance for dislocated workers.

COMMENT: This may be one of the most important functions for the legislature to carry out early on, as the Dislocated Workers' Program is generally seen as a most urgent function of the Act.

16. Section 435: Job Corps programs have state participation functions that require adherence to applicable state laws and standards, and federal coordination with state-operated programs.

COMMENT: Because state laws apply, the legislature will have a policymaking role with regard to state-federal interaction in Job Corps and related programs.

17. Section 441: Programs to meet the employment and training needs of service-connected disabled veterans, veterans of the Vietnam era, and veterans who are recently separated from military service may be operated through existing public agencies or private nonprofit organizations.

COMMENT: The legislature may want to consider the state's ability to interact with this federal program, and to assume some of the responsibilities for it.

18. Section 501: Amendments to the Wagner-Peyser Act which governs the operation of the United States Employment Service and its coordination of state employment services throughout the country.

COMMENT: These represent the first major amendments to the Wagner-Peyser Act since its inception in 1933. Therefore, there are significant issues here that should be of major interest to state legislatures, especially the maintenance of operational and administrative arrangements between the employment service and the unemployment insurance program in the states. NCSL would urge a careful review of this section in conjunction with existing state laws in this area.

OPTION CONSIDERATIONS FOR STATE LEGISLATIVE INVOLVEMENT  
IN THE IMPLEMENTATION OF THE JOB TRAINING PARTNERSHIP ACT (JTPA)

State Legislative involvement with the federal Job Training Partnership Act does not rest fundamentally on federal legislation nor federal regulations. To be sure, there is mention in JTPA of state legislatures both directly and indirectly through reference to state law, and we at the NCSL are responsible for those references being in the Act: we worked for them and for others which did not appear. But, in fact, state legislatures have an entirely independent and separate basis of authority--state constitutions--and Sections 126 and 164(e)(3) of JTPA are, in effect, an acknowledgement of that authority. As the chief policymaking body for the states, state legislatures have a number of functions, which include:

- Enacting law,
- Confirming executive appointments,
- Conducting investigative hearings,
- Conducting oversight hearings,
- Overseeing education policy,
- Matching state funds and approving a state budget, which may include an appropriation of federal funds,
- Reviewing and overseeing state regulations development,
- Establishing boards and commissions,
- Setting the broad organizational structure or framework for state government,
- Protecting the rights of citizens and acting as an ombudsman,
- Directing or overseeing the auditing function,
- Creating local governments, such as counties, cities, towns, school districts, and special service districts, and defining their powers and responsibilities, including any taxing authority,
- Protecting the rights of employers and workers, such as in minimum wages, workers' compensation, unemployment insurance, and workers' health and safety,
- Setting the structure of state judicial systems, including the administrative judicial system.



As a result of these state constitutional functions and acknowledgement of them in the JTPA, legislatures may become actively involved in the employment training, education and economic development decisions and budget considerations associated with state direction of the new job training program, in addition to any state initiatives in the job training area.

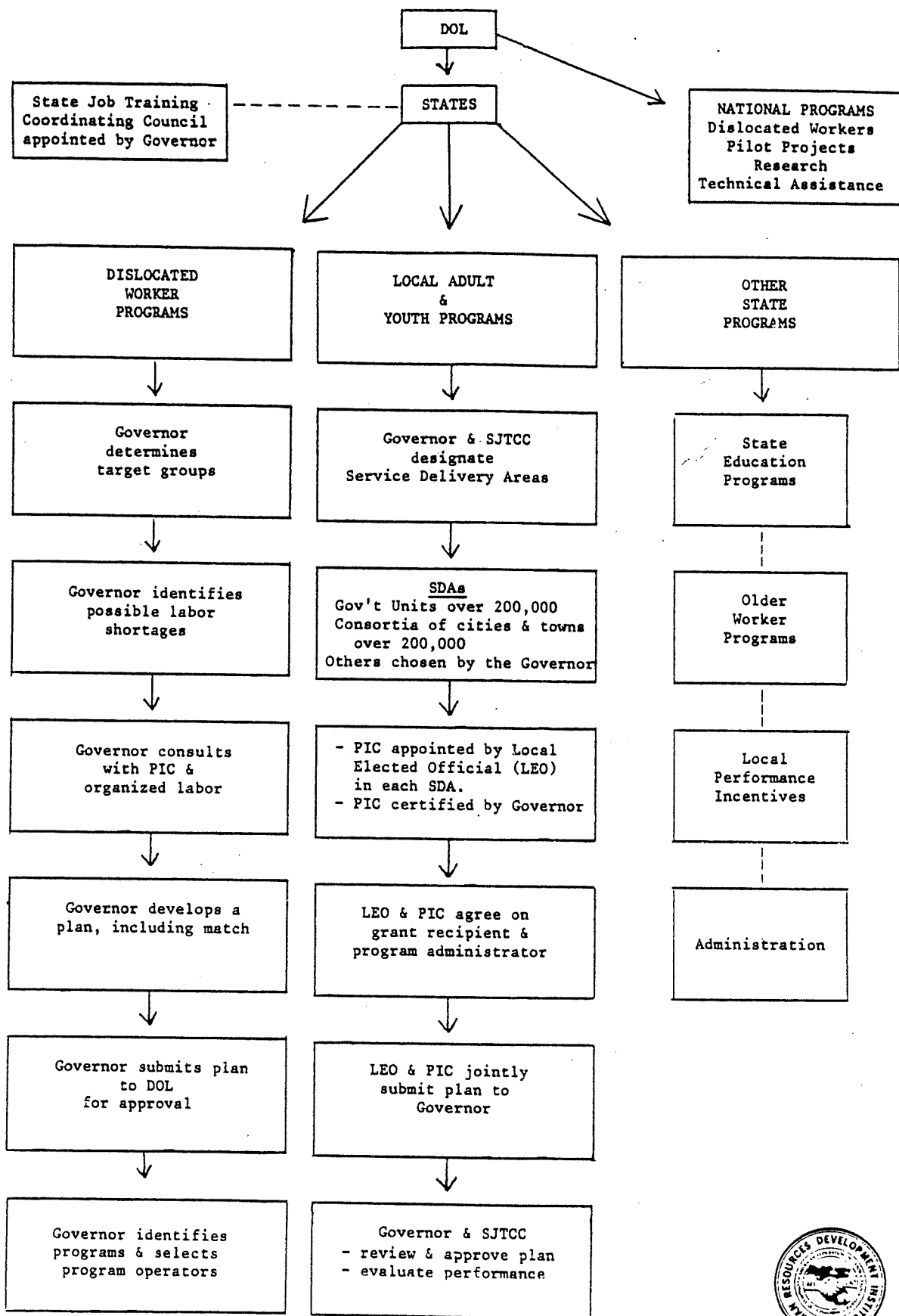
Therefore consistent with state practices and procedures, NCSL urges legislatures to consider the following options for determining the propriety and necessity of acting during their 1983 legislative sessions in order to expedite the transition from CETA to JTPA in their states:

- (1) Section 101 of the Act directs governors to propose and ultimately designate service delivery areas (SDAs) within the states. Should the state legislature involve itself in the establishment of the SDAs? If so, should it be accomplished through (a) legislation, (b) a recommendation to the state Job Training Coordinating Council, (c) a recommendation to the governor? Other than the stipulations for creating SDAs in the Act, does the legislature need to add any other criteria for the establishment of SDAs that may better suit their particular state's needs?
- (2) Section 105 requires each SDA to make available to the legislature their job training plan for review and comment by an appropriate committee in each house not less than 120 days before the beginning of the first of the two program years covered by the plan. Should the legislature direct SDAs to provide any additional specific information about their job training plans over that required by the Act? Also, should the legislature require that SDAs submit their annual report to the legislature as well as to the governor as required in Section 104? How should the legislature act on these submissions and to whom? (A) directly to the SDAs (B) to the state Job Training Coordinating Council? (C) to the governor? (D) to some combination of the three?
- (3) Section 105 directs that job training plans shall be approved unless they fail to meet five specific criteria, one of which is audited deficiencies from previous years. How should the legislature involve the auditor in seeking corrective measures for deficiencies found by audits or in meeting performance standards from previous years?
- (4) Should the legislature establish a special grievance or administrative hearing procedure in order to facilitate Sections 105 (b)(3) and 106(h)(3)?
- (5) Section 106 establishes performance standards. Should the legislature involve itself in the establishment of any additional standards for job training programs in its state? If so, should they be generalized or made only for programs that interact with other state-initiated programs?
- (6) What role, if any, should the legislature have under Sections 107(b) and (c) regarding the duplication of facilities or services available in a service delivery area?

- (7) Should the legislature specify any further cost limitations beyond those contained in Section 108?
- (8) Does the legislature want to involve itself in establishing the provisions of the governor's coordination and special services plan, especially in consideration of employment service functions and joint funding and coordination of programs as referred to in Sections 121(a)(1), 121(b)(1), and 121(c)(10)?
- (9) Should the legislature have a role in determining the size and composition of the state Job Training Coordinating Council called for in Section 122? What role should legislative leadership have in designating which representatives of the legislature should serve on the council?
- (10) Should the legislature specify the nature of the relationship of the state Job Training Coordinating Council to itself, especially considering the comments and recommendations on state services the council is required to make under the provisions of Sections 122(b)(4) and (b)(8)? Should the legislature stipulate the form of those recommendations or the nature of the information it would like to receive with them?
- (11) Should the legislature review its own statutes in order to provide clear direction for compliance with Section 122(c)?
- (12) Where, under state law, the governor has little or no authority with respect to education policy or administration, should the legislature involve itself in the designation of the 8 percent funds specified in Section 123?
- (13) Section 124 provides for training programs for older individuals. Should the legislature be involved in providing guidelines for such programs, especially where they coincide with state programs for older citizens and economic development?
- (14) Does the legislature wish to receive the reports and analyses directed in Section 125(a)? Should the legislature have any say as to the nature of the research and demonstration projects called for in Section 125(a)(5)?
- (15) Does the legislature have a policy role with regard to Section 125(b)(2), which calls for the consolidation of administrative data and surveys to reduce the duplication of recordkeeping of state and local agencies, including secondary and postsecondary educational institutions?
- (16) How broadly should the legislature interpret Section 126?
- (17) What role would the legislature want to or have to play in the establishment of interstate agreements as provided for in Section 127?

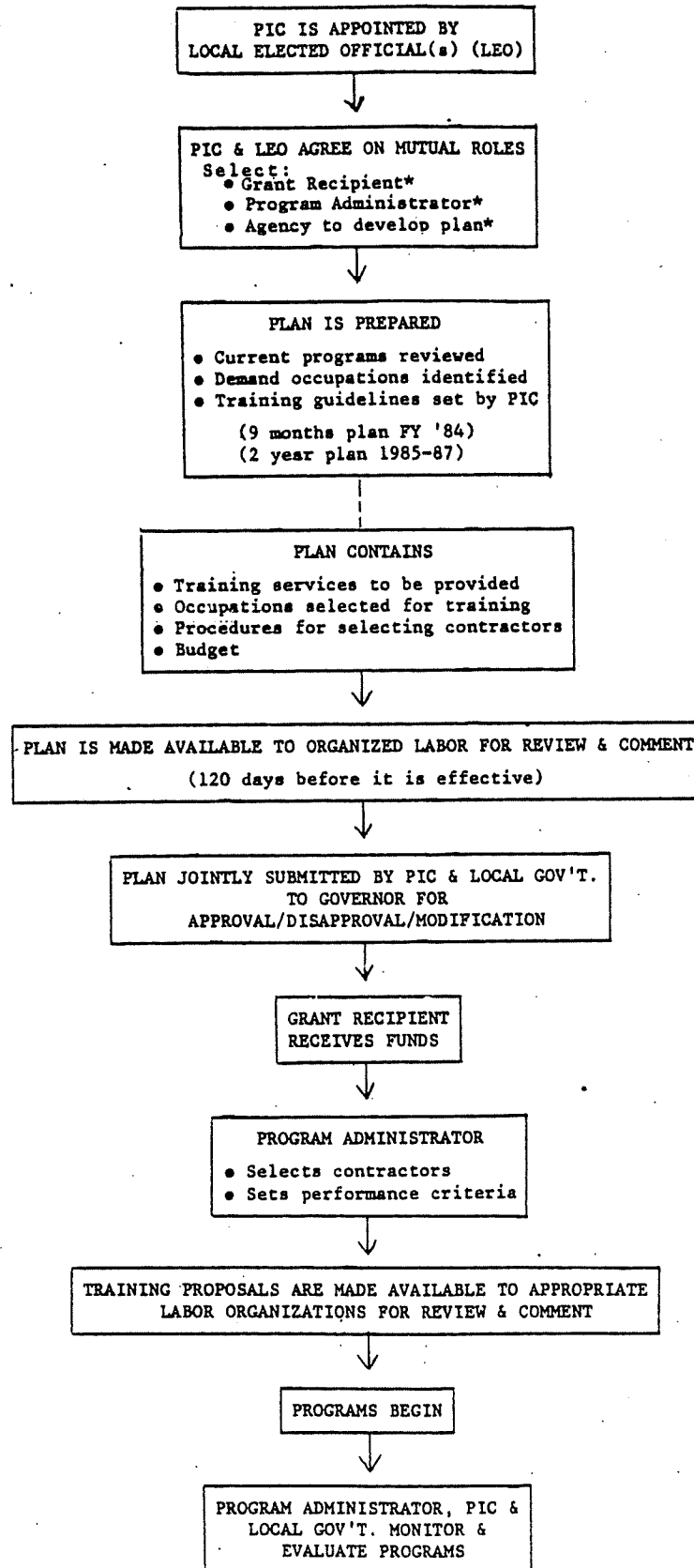
- (18) What role should the legislature play in complying with the provisions of Section 141, especially regarding equitability and maintenance of effort? To support its role, should the legislature require notification of the information provided by Section 141(n)?
- (19) Does the legislature have a role in setting educational standards for the state that might relate to the requirements of Sections 141(o)(1) and (2)?
- (20) Should the legislature review its state minimum wage, occupational health and safety, or workmen's compensation laws relative to the provisions of Sections 142 and 143?
- (21) Does the legislature have a role with regard to establishing and overseeing the fiscal control and fund accounting procedures called for in Section 164?
- (22) Does the legislature have to give consent for the use of state agencies' facilities and services under the provisions of Section 170?
- (23) Does the legislature perceive any other essential role it must play in the transition from CETA to JTPA within the provisions of Section 181?

MAJOR PROGRAMS FUNDED UNDER JTPA



Prepared by HRDI, AFL-CIO

HOW PROGRAMS ARE PLANNED & OPERATED  
IN LOCAL SERVICE DELIVERY AREAS



\*Can be either PIC, Local Government, or Third Party.



Chart #1: Federal Programs which Relate to JTPA

LABOR EXCHANGE

Employment Service  
Unemployment Insurance

PUBLIC ASSISTANCE

Aid to Families with Dependent Children  
Supplemental Security Income  
Food Stamps

PROGRAMS RELATED TO PUBLIC ASSISTANCE

Work Incentive Program  
Medicaid

SOCIAL SERVICES

Title XX, Social Services Block Grant Program  
Alcohol, Drug Abuse and Mental Health Block Grant Program

VOCATIONAL REHABILITATION

EDUCATION

Vocational Education  
Adult Education  
Cooperative Education  
Basic Educational Opportunity Grant Program (PELL Grant)  
Supplemental Education Opportunity Grant Program  
State Student Incentive Grant Program  
College Work Study  
"Trio" Programs  
Talent Search  
Upward Bound  
Special Service in College and Educational Opportunity  
Educational Consolidation and Improvement Act Programs  
Bilingual Education  
Education for All Handicapped Children Act  
Career Education

APPRENTICESHIP

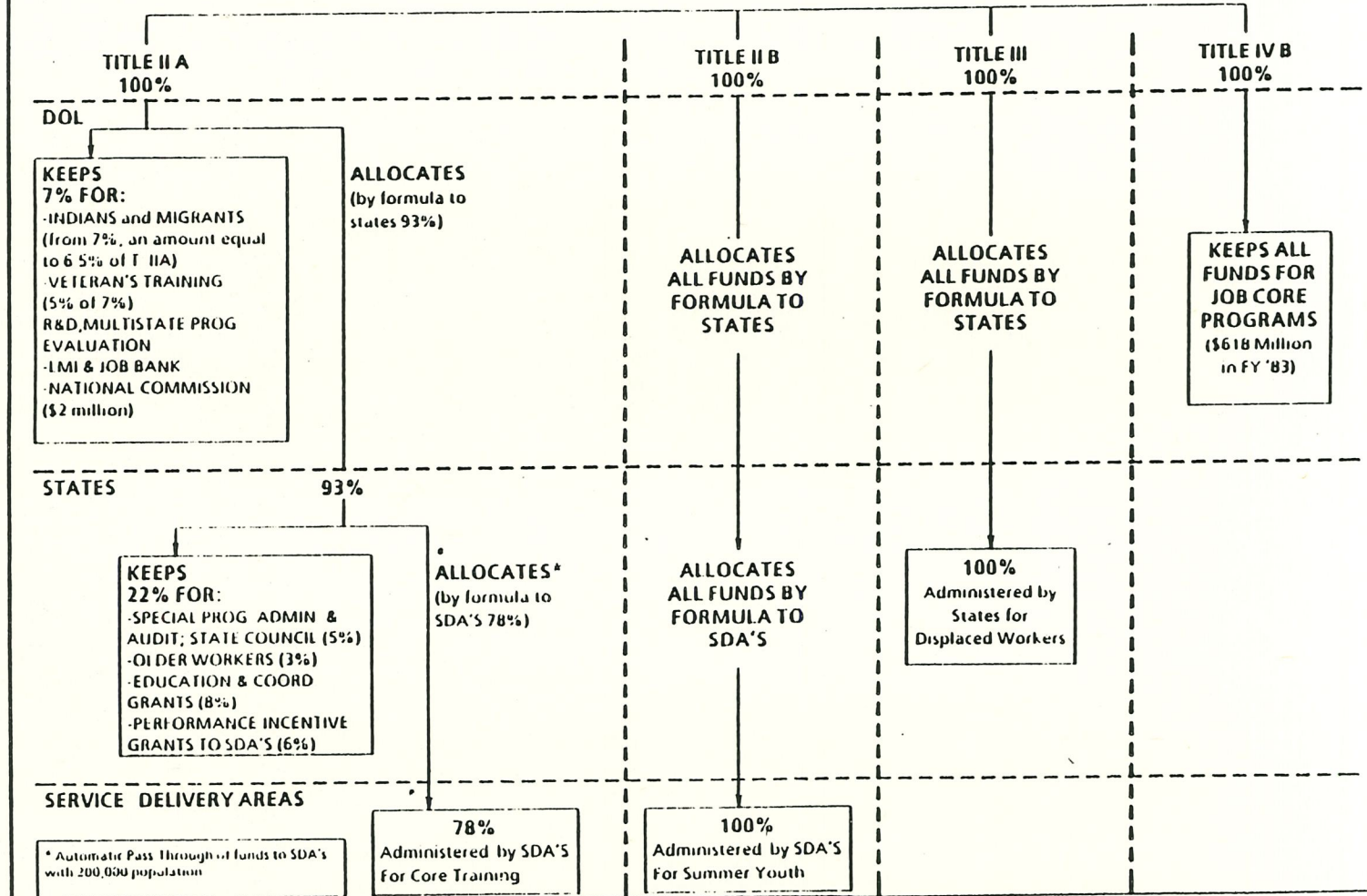
ECONOMIC DEVELOPMENT

Community Development Block Grant Program  
Community Services Block Grant Program  
Urban Development Action Grants  
Small Business Administration  
Minority Business Development Program

**FLOW OF FUNDS  
UNDER THE  
JOB TRAINING PARTNERSHIP ACT**

**CONGRESSIONAL  
APPROPRIATIONS**

KEY	
Title II A	= Core Training
Title II B	= Summer Youth
Title III	= Displaced Workers
Title IV B	= Job Corps



Courtesy of the National Alliance of Business 1982.

The new federal Job Training Partnership Act (JTPA) goes into effect Oct. 1. It provides legislatures with an unusual opportunity to improve coordination of state job training, education, and economic development programs. Here are some tips from the manager of NCSL's program to help legislatures implement JTPA.

# Job Training:

Unemployment, education, and the training and retraining of the American worker, because of the depth and length of the recession, have become major concerns for elected officials at all levels of government.

Now, however, with the enactment of the federal Job Training Partnership Act (JTPA), due to go into effect Oct. 1, state legislatures have been given a fresh opportunity to create new job training and education policies and revise old ones.

The act establishes programs to prepare unskilled youth and adults for employment by creating training opportunities for the "economically disadvantaged" and others who have serious problems gaining employment. JTPA also contains special provisions for youth

employment and training in the summer, dislocated and older workers, native Americans, migrant and seasonal farm workers, and veterans.

JTPA represents a major change in the direction of federal employment training policy. Unlike earlier federal job training efforts, it gives states and localities substantial choice about the direction of their employment and training programs.

For the first time, moreover, legislatures will be provided under the JTPA the chance to play a significant role in planning and overseeing policy in the increasingly important field of job training.

A key factor in understanding JTPA is that these services will be delivered at the local level

# A New Opportunity



Full Circle photo courtesy Denver Public Schools



through agreements by the public and private sectors. This emphasis on a partnership between government and the private sector makes it very different from its predecessor, the Comprehensive Employment and Training Act (CETA).

JTPA, unlike CETA, does not provide funds for public service employment. It is concerned exclusively with training. Under the act, 70 percent of the funds must be spent on training; the remaining 30 percent is divided between administration and support services. (In early May, proposals being discussed in Congress for the first year of funding for JTPA in FY 1984 ranged up to \$4 billion.)

Expenditure of these funds is further restricted by the fact that of the core training funds, only 5 percent can be used by a governor for administrative activities, and 78 percent must go directly to the local level on a formula basis. Youth programs will receive 40 percent of the core training funds. But, of the total funds allocated under JTPA, 75 percent are for the disadvantaged.

The administration of JTPA is the responsibility of the governor who divides his or her state into service delivery areas (SDAs). Each SDA appoints a private industry council (PIC). Membership on a PIC requires the appointment of individuals from different backgrounds, but the majority will be from the private sector. More important, the PIC determines how funds will be spent on the local level.

The mandated role of the legislatures is to review and comment on SDA plans, and also advise the governor through membership on the Governor's State Job Coordinating Council.

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### Determining a state's strategy

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This simple administrative structure, however, is deceptive. Employment and training policy is complex. Strategies that produce effective programs often are difficult to achieve. And the cost of training, retraining, and creating a job opportunity can be very expensive.

For example, enrolling the disadvantaged—JTPA's primary objective—in a training program usually requires support services. Additionally, the public education system often is involved as one of the providers of training. And the state employment service must also help in finding a job for those who are trained. In short, JTPA will be linked to almost 30 other federal programs operating in the states.

Consequently, federal employment and training policy has widespread effects on a state's social, educational, and economic policies. The opening for the states, however, is that development of a job training policy for JTPA allows the legislature an opportunity to undertake a comprehensive examination of the entire state education

and job training system.

In an effort to understand the effects of this significant change in federal policy on their states, legislators are beginning to ask serious questions about the implementation of JTPA and the direction of their state's employment and training policy, including:

- Since JTPA will be so decentralized, how will the legislature be kept informed of its operation, especially as plans are drafted for implementation Oct. 1?
- Will the fiscal accounting or management information systems involved provide the information that a legislature needs to assess program operation?
- Will JTPA supplement certain state policy goals, impose new ones, or draw resources from related programs with differing policy goals?
- Does state law create obstacles to the operation of JTPA and, if so, should state or federal laws be changed?
- What opportunities does JTPA offer for legislatures to strengthen their own state policies?

Fiscal resources for publicly funded job training most likely will continue to shrink in the next few years. Human resource needs will not. The issue facing state lawmakers is how can states coordinate state planning and local discretion, public resources and private initiatives to solve the job training needs of their citizens?

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### Plunging into JTPA

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JTPA presents legislatures with an opportunity to examine the question through oversight of the coordination required of the various policies and resources involved in JTPA—and at the same time become major brokers in the allocation of these resources.

The key issue for a legislature, according to Dr. Carl Van Horn, an expert in employment and training policy at the Eagleton Institute of Politics at Rutgers University, is "just how involved do legislatures want to be?"

Van Horn foresees three basic styles of involvement: first, some legislatures will not place job training high on their agendas but will merely let the federal funds flow through their state to the localities; second, some will adopt a wait-and-see attitude; and, third, some will assume an active role in oversight and determining policy direction.

At this point, the law is so new that it is difficult to ascertain trends among the legislatures. In fact, the response of legislators to JTPA is as rich in strategy and varied as are the states themselves. This diversity is compounded by state financial procedure, administrative structure, and not least of all, the willingness of a governor to cooperate with the legislature.

Maryland, for example, is one state in which the legislature has taken an active role. Last summer, the General Assembly, under the leadership of House Speaker Benjamin L. Cardin and then-Senate President James Clark, Jr., established a joint task force with representatives from business, labor, the legislature, and state and local governments.

The task force examined a variety of issues including creation of state venture capital funds, strengthening education, the role of small business, regulatory reform, unemployment compensation, and the impact of JTPA. The report of the task force was the genesis of the state's own Job Training Partnership Act which was passed by the legislature in the final days of this year's session.

In other states, such as Kentucky where the office of Governor John Y. Brown has decided not to appoint a legislative representative to the State Job Training Coordinating Council, the legislature has instead decided to appoint an interim committee to monitor the implementation of JTPA. A similar approach is being considered in the legislatures in New Hampshire, North Carolina, and Iowa. Many states will not formally consider JTPA until the 1984 legislative sessions, but will discuss it during the interim.

Still others, such as California and Minnesota, have had a long tradition of an active legislative role in job training. California, for example, has moved quickly to bring its state programs under the JTPA umbrella to seek cohesion among education, job training, and unemployment programs.

The shift underway in California's manpower training programs, said Ben Munger, staff consultant to the Senate Industrial Relations Committee, is from categorical programs that serve specific groups—displaced workers, youth, women, minorities, disadvantaged, and so forth—to a statewide approach because unemployment has now become a pressing state issue and because public dollars are scarce. Thus, JTPA offers a state a "fantastic opportunity" to develop its role in this area. "We're at a very important stage in our manpower policy," he added.

An important dimension of the state council will be to set priorities and allocate resources, Munger said. This will be necessary, he explained, because otherwise any one group of recipients, using its political power, could absorb a disproportionate share of the available funds.

In California, the legislature last fall enacted the Family Economic Security Act (FESA), sponsored by then-Assemblyman Bill Lockyer, now a state senator, that envisions the employment and job training system and the welfare system as a single entity coordinated under JTPA.

According to Greg Schmidt, a staff consultant who worked with Lockyer on FESA, the intent was to establish a system that integrated welfare and training programs and

transformed a welfare check into a training stipend. Such a move would change Aid to Families with Dependent Children (AFDC) from an income support program to a job preparation effort.

FESA will thus send state job-training funds and JTPA funds to the service delivery areas at the local level where PICs can choose from a variety of state job-training programs. FESA was developed in line with JTPA last year, Schmidt said. And the legislature this year is considering several "clean-up" bills that will help the state job training programs dovetail with JTPA.

In addition, said Assemblyman Patrick Johnston, chairman of the select committee on youth and of the subcommittee on education reform, "We're massaging everything" this session to improve the state's job training effort. This includes re-evaluating how the state spends most of its job-training dollars in the areas of vocational education and community colleges. The legislature wants to ensure that, under JTPA, there is no duplication, he said. A second effort, he added, is setting performance standards—which have been lacking—for schools that receive state funds for vocational education.

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### New responsibilities, new risks

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JTPA is clearly one of the first attempts of the Reagan Administration to turn over to the states a program that has traditionally been a federal responsibility. But with new responsibilities come inherent dangers, especially if states assume an active role that depends on the availability of federal dollars.

Moreover, JTPA is a fuzzy law. The authority of legislatures and governors is neither clearly defined nor adequately dealt with. Furthermore, the U.S. Department of Labor has issued very little clarification through its regulations.

However, with such ambiguity also comes legislative opportunity. One of the key questions raised by JTPA is how do the state education and training programs fit together to reduce duplication of effort, function efficiently, and at the same time be effective in meeting the legislature's goals? While answers to these questions can be sought through legislative response to JTPA, the effectiveness of that response might then be tracked through the legislature's oversight process.

Clearly, JTPA offers state legislators both opportunities and risks.



*Rod Riffel is manager of NCSL's Job Training Program.*

# SPECIAL ANALYSIS

## JOB TRAINING PARTNERSHIP ACT

### Background

The Job Training Partnership Act, signed into law on October 13, 1982, replaces the former CETA program. The new statute (P.L. 97-300) authorizes training programs for disadvantaged and dislocated workers. It establishes a partnership between private industry and local governments in the operation of training programs. The act sets no upper limit on funding, but prohibits the use of funds for public job creation.

### Summary

#### I. Effective Date

The provisions of the CETA program will apply through FY 1983 to allow time for transition to the new program. The new program will become effective in FY 1984, with funds becoming available on a program year basis after June 30, 1984.

#### II. Program Authorization and Funding

The new program has indefinite statutory authority, and there is no limit set on amounts that may be appropriated. Funding for the first part of the transition period (October 1 to December 15, 1982) has been set at "not less than the current operating levels" appropriated during FY 1982 for the CETA program. This funding level is subject to change after December 15 if the regular Labor Department appropriations bill is passed or if another continuing resolution sets different funding levels for the remaining part of the fiscal year.

#### III. Service Delivery Areas

State governors have the authority to decide the geographical scope of Service Delivery Areas (SDAs). Governors must approve applications from local units if:

- 1) The unit has a population of 200,000 or more, including voluntary consortia of contiguous local governments with aggregate populations of 200,000; or
- 2) A local private industry council and a unit of local government jointly apply to serve as a SDA for areas of less than 200,000 as long as the smaller region encompasses a "labor market area."

#### IV. Private Industry Councils

Private Industry Councils (PICs) must be set up in each service delivery area. Members are chosen by local government officials from nominated individuals. The program stipulates that a majority of the members must be representatives of business and industry, and the chair must be a business representative. The rest of the members are to be designated from labor and education groups and community based organizations, among others.

#### V. Local Job Training Plan Development and Approval

PICs and local governments must agree on how the plans will be developed, on the administrative entity, and on who shall receive grants for local training funds. The PIC and government officials must jointly approve local training plans and submit them

(cont'd)

## 2 – SPECIAL ANALYSIS

to the Governor. The Governor can mediate if there is any dispute between the PIC and the local government. The PIC and the local government can either administer the plan individually or jointly, as long as both parties agree. Plans are in effect for two years and must be made available for public review 120 days prior to submission to the Governor.

### VI. Eligibility

To be eligible for training, individuals must be 16 years old and economically disadvantaged, with some exceptions. Ten percent of the participants do not have to be disadvantaged as long as they have encountered other barriers to employment. Fourteen- and 15-year-olds may be eligible for the pre-employment skills training program as well as summer youth employment program. At least 40% of the local training funds must be spent on eligible youth under age 22 (excluding funds earmarked for summer youth employment).

### VII. Allowable Training Activities

Allowable activities include remedial education, skills training, on-the-job training (OJT), advanced career training, work experience, employment generating activities, pre-apprenticeship programs, industry-specific training, retraining, and job search assistance. Public service employment is strictly prohibited.

### VIII. Allocation of Funds

Seventy percent of the funds available to local SDAs must be spent directly on training costs. The other 30% is to be equally divided between administrative costs and support services, although the Governor may waive the 15% cap on supportive services under certain circumstances.

### IX. Allowance and Wage Payments

Local service plans may provide for the payment of allowances to participants to facilitate their participation, but these allowances are not required. If allowances are paid, the funds would be drawn from the 15% set aside for supportive services. Participants engaged in OJT must receive at least minimum wage, and summer youth and other authorized employment activities must be paid the higher of the minimum wage or the prevailing wage for that activity.

### X. Summer Youth Employment and Training Program

The new program authorizes a separate summer youth employment and training program that allows full-time, minimum wage employment opportunities for young people aged 14 to 21.

### XI. Federally Administered National Programs

The new training program continues federally administered national programs for Native Americans and migrant farmworkers, and extends the authorization for the Job Corps at a level of \$618 million for FY 1983. The bill includes a requirement that the Secretary of Labor take steps to achieve an enrollment of 50% women in the Job Corps.

### XII. Employment and Training Assistance for Dislocated Workers

The new program authorizes the creation of employment and training programs for dislocated workers who have been laid off from their jobs, have exhausted unemployment benefits, and are unlikely to return to their former employment. There are no income restrictions for participants, and states must provide matching funds.

Issue Brief #1

Education and Job Training Issue Brief Series

LEGISLATIVE RESPONSIBILITIES AND STATE LIABILITIES: THE FEDERAL  
JOB TRAINING PARTNERSHIP ACT

by

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(The author wishes to acknowledge the comments and contributions of Bill Harrison, Burt Carlson, Ruth Ferdrau, and Robin Diamond in the completion of this issue brief).

RESPONSIBILITIES AND LIABILITIES: THE FEDERAL  
JOB TRAINING PARTNERSHIP ACT

The new federal Job Training Partnership Act (JTPA) gives to the states a major new role in implementing federal employment and training policy. However, its implementation raises some important questions for state legislatures:

- o How can a legislature insure a state's proper spending of these federal dollars?
- o To what extent can a legislature's actions protect their state from liability for the federal dollars?
- o What kind of political liability will a legislature incur from its electorate for involvement in setting a state's JTPA priorities?

JTPA is a very different kind of job training policy than its forerunners, and unfortunately, the Act does not provide specific answers to these questions.

This issue brief reviews the Job Training Partnership Act, discusses key issues of legislative liability, and suggests possible approaches for legislative involvement.

WHAT IS THE JOB TRAINING PARTNERSHIP ACT?

The Job Training Partnership Act establishes a national program to prepare unskilled youth and adults for employment. It does this by funding state and local programs, which authorizes training opportunities for the economically disadvantaged and those who have serious barriers to employment. The act contains special provisions for summer youth

employment and training programs, dislocated and older workers, Native Americans, migrant and seasonal farm workers, and veterans. It also contains amendments to the Wagner-Peyser Act and the Social Security Act to implement these goals.

Two principles distinguish JTPA from previous federal programs for employment and training. (1) JTPA provides no funds for public service employment. The emphasis of JTPA is strictly on training with cost limitations for administrative and participant support costs. (2) Services are delivered on the local level through agreements between the public and private sectors. Participation by the private sector in planning and delivering job training services is a key JTPA element.

For the first time, under JTPA, Congress specifically provides state legislatures with an opportunity to play a significant role in planning and overseeing policy for the increasingly important field of job training.

#### FUNDING RESPONSIBILITY UNDER JTPA

The Congress has appropriated 1.9 billion dollars for JTPA in FY 1984. Of the core training monies (Title II A) coming into a state, 22 percent are set-aside for programs earmarked for older workers, education and program coordination grants (which require a state match), and performance-incentive grants. Only 5 percent of these state set-aside monies can be used by the governor for administrative costs. Seventy-eight percent of the core training funds must go directly to the local level on a formula basis. Seventy percent of these funds must be spent on training. the remaining 30 percent is to be divided between administrative and support services. Furthermore, of these core dollars, 40 % must be targeted for youth. The state is also responsible for the Title III funds for

employment and training assistance for dislocated workers. A portion of these funds also require a state match.

The federal legislation is not clear on who will be responsible for these funds. The law does not consider state constitutional differences and authority over the appropriation of federal dollars in its discussion of fiscal liabilities. The Department of Labor's regulations (S 626.4) recognize the governor as recipient of JTPA funds. Should a governor be found to have incurred disallowed costs under JTPA, however, the legislature may be required to appropriate the needed monies.

Most states are implementing the program by following their state's procedures for the oversight of federal funds and by other policies established by the state's constitution. The degree of legislative involvement, then, varies according to the state. 1/ Legislators concerned about this issue may wish to schedule some budget hearings or use other mechanisms for oversight.

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(1. For a more detailed discussion of this issue see A Legislator's Guide to Oversight of Federal Funds, Winnefred M. Austerman, ed. (Denver: National Conference of State Legislatures), June 1980).

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#### ADMINISTRATION OF THE LAW

The administration of JTPA is the responsibility of the governor who chooses a state administrative entity to administer the law. Under a proposal from the State Job Training Coordinating Council, the governor's planning and advisory group established under JTPA, a state is divided into



a series of service delivery areas (SDAs). There are currently 596 SDAs nationally. Under the law, SDAs may be designated no more frequently than every two years.

Within an SDA a private industry council (PIC) is formed by the chief elected official and certified by the governor. The law mandates the PIC membership according to a formula that includes specific requirements for segments of the private and public sector. Private sector members would include owners of businesses or chief executive officers. Representatives of the public sector can be drawn from such organizations as rehabilitation agencies, organized labor, community-based organizations, economic development agencies, and the public employment service.

The function of the PIC is:

To provide policy guidance for, and exercise oversight with respect to, activities under the job training plan for its service delivery area in partnership with the unit or units of general local government within its service delivery area. (Sec. 103. (a)).

Great variability among SDAs can be expected in the relationship between the PIC and the local elected official(s) in the administration of the dollars for training purposes on the local level.

While the law does nothing to prohibit the Secretary of Labor from holding the recipient of SDA grants liable for their use, the Department of Labor regulations are quite explicit as to the governor's responsibility:

The Secretary shall hold the Governor responsible for all funds under the grant. The Governor shall hold subrecipients, including SDA grant-recipients, responsible for JTPA funds received through the grant. (Sec 629.44 (d) (1)).

Once again, state policies and practices may require the legislature to

appropriate funds to cover a governor's liability if disallowed costs are established. Legislatures should also be aware that involvement in setting policies that affect SDA and PIC operations may also incur liability on their part.

At the same time, legislatures may be called upon to air differences between the state administrative entities and local program operators. This may be necessary simply because the federal government holds governor's responsible for the use of funds allowing local officials no access to the federal government for appeal.

#### WHAT IS THE MANDATED RESPONSIBILITY OF THE STATE LEGISLATURE?

The legislative role is more permissive than mandatory. Regulations prepared by the Department of Labor give no recognition to the role of state legislatures in the operation of the act. This suggests that state legislative participation is viewed as flexible and subject to interpretation by the various states.

Since the law and regulations place no restrictions on a state legislature's role, a variety of arrangements are emerging. All but six states now have legislators sitting on the State Job Training Coordinating Council (SJTCC). A bill introduced in the South Carolina Senate required legislative approval of SJTCC membership, including the right of the Senate to appoint their own legislative members. This requirement was dropped in conference committee, but only after the Governor appointed additional legislative members. In New York, the law establishing the job training coordinating council reads that six members of the legislature are to serve on the council, "of whom two shall be recommended by the Speaker of the Assembly, one by the Minority Leader of the Assembly, two by the temporary

President of the Senate and one by the Minority Leader of the Senate."

The Washington legislature reviews the State Job Training Council Coordination Plan in both houses of the legislature, a process neither required nor prohibited by the federal law. The California legislature mandated organizational membership on the local PICs and established the Family Economic Security Act which coordinates the state's federal job training dollars with the state's welfare policy.

In Missouri, the legislature placed a cap, more restrictive than the Federal limitation, on the level of dollars that can be used for the administration of JTPA. In Kansas, under the authority given to state legislatures by the Wagner-Peyser Act, the legislature reorganized the functions of the state employment security agency giving some of the responsibilities to the state's department of development. In sum, state legislative response to JTPA has been diverse and far-ranging.

These actions raise an important question: to what extent does state legislative activity under JTPA take on potential liability for the legislature and the state? Unfortunately, the JTPA does not provide a clear answer to this question. Therefore, any direction a legislature gives as to how JTPA will be implemented should consider what these actions may mean, especially when the legislative decision-making affects how the dollars will be allocated on the local level.

This lack of clarity, however, can also be viewed as an advantage: a chance for the legislature to view JTPA resources as a catalyst for developing a stable state employment and training policy that will not be subject to the changes in federal intent and funding. In that sense, JTPA is a very flexible law. In fact, its policies associate with over thirty other federal human resources program resources.

The real impact of JTPA may not be so much in the level of its resources, but in the way new policies are created or old ones are modified to coordinate the various intents of that body of policy or laws. This can be seen in the Minnesota Emergency Employment Act which will be administered by the JTPA structure or the California Economic Security Act or the changes in Florida's Public Assistance Act which coordinates states welfare and training policies.

ESTABLISHING A STATE FISCAL CONTROL SYSTEM TO ACCOUNT FOR JTPA FUNDS

The Job Training Partnership Act is based on an approach to federal assistance that gives states a maximum of discretion in deciding how to apply federal funds to the state's needs for job training. With this independence comes a lack of direction in accounting for those dollars, but not a freedom from responsibility for those monies. JTPA funds are not an open form of revenue sharing. The law is quite specific about prohibiting the use of these monies to supplant other activities (Sec. 141). Several areas of concern emerge:

OMB circulars do not apply but Comptroller General audit standards do.

Traditional federal assistance has required states to use Office of Management and Budget (OMB) accounting standards. This is not the case under JTPA. States are exempted from these standards. However, the legislation specifies that audits shall be conducted in accord with the Standards for Audit of Governmental Organization, Programs, Activities, and Functions issued by the Comptroller General of the United States. (Sec 164 (a)(3)). Thus, the JTPA monies will be subject to audits in three areas: financial and compliance, economy and efficiency, as well as program

results. In addition, the Department of Labor's Inspector General will investigate financial liability. Will the standards of the Department of Labor's Inspector General be consistent with those of the Comptroller General? It has not been decided. Since the OMB circulars set accounting standards in line with those of the Comptroller General and are no longer mandated, legislatures will need to make certain some sort of consistency is maintained between JTPA accounting systems and the standards of the Comptroller General.

This can be done in several ways. Each state has had a pre-program audit by the DOL Inspector General resulting in a report on the state's financial accounting system. Legislators may wish to follow the pattern being set by the Idaho and Georgia legislatures in examining what the report of the Inspector General on their state has to say about the fiscal accounting system their governor has established and request state administrative clarification of any weak or incomplete points cited in the review. A legislature may wish to ask such advice from the State auditor or controller about whether or not the OMB circulars should be adopted even though they are legally not required.

Audit Procedures Subject to Change. The law specifies that the state shall prepare or have prepared an independent financial and compliance audit of each recipient of funds under Title II, core training dollars, and Title III, dislocated worker monies, of the act at least once every two years. A state may also decide to participate in a single or unified state audit of federal funds. In brief, a state has several options and it will need to be judicious and consistent in its choice making sure the accounting system adopted under JTPA will meet the state's audit decisions.

Classification of costs categories unclear. Unlike previous forms of federal employment and training policy, JTPA places strict limitations on levels of spending for administration and participant support. Misinterpretation of the Department of Labor's guidelines in this area could lead to the greatest abuse of funds. Legislators should be aware of attempts by state and local administrators to charge administrative and support service costs against training categories. Legislatures may wish to receive assurance that their state's program administrators are clear on this issue or invoke some other form of oversight to see that consistent state guidelines in this area are being adopted.

Dollars have political ramifications as well. The limitation of funds relative to earlier federal policies for support services will create great demand for these dollars made available under JTPA. Moreover, the complexities of job training policy suggest that pressure will be made to direct funds from social service uses to economic development use. 2/

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2 For a more detailed discussion of these issues see Janet W. Johnson, "The Allowances and Stipend Issue in Federally Financed Training Programs," (Washington, D.C.: National Commission on Employment Policy, July, 1982), Also, Joseph Fischer, "Using the Job Training Partnership Act to Further Local Economic Development, (Washington, D.C.: National Alliance of Business, March, 1983).

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Matching costs--new dollars versus in-kind contributions. Two areas of the JTPA require state matching dollars: Title II's education coordination .r

grants, and Title III's dislocated worker monies. What can be used as a state match in both categories is a liberal one. When in-kind services are used, proper accounting standards must prevail to assure costs of these contributions will not be disallowed in future federal audits.

Youth and other populations. The legislation requires that certain populations receive certain percentages of the state's allocation (Sec. 202, 203). Proper accounting procedures will require that checks are in place to assure that this happens. One legislative oversight mechanism would be to request information from the state administrative entity on how these costs will be accounted for.

SDA allocation procedures. Section 629.43 of the JTPA regulations charge the governor with responsibility for the oversight of all SDA grant recipient activities and state supported programs. By implication, the legislature could finally be responsible for unallowed costs incurred by SDAs. Legislatures are required to review local plans. The review mechanism adopted will vary from state to state. The legislative committee responsible for JTPA oversight will want to see that the mechanisms for review of the locals plans put into effect. In Arizona the legislature has gone one step further and required that they receive additional information on PIC membership and local awardees of JTPA dollars.

WHAT KINDS OF INFORMATION WILL BE NEEDED TO JUDGE THE SUCCESS  
OF JTPA IMPLEMENTATION?

More than its predecessor CETA, JTPA is geared to measuring the outcome of participants in the program. In Section 106, the law establishes performance standards which require an increase in employment and earnings

and a reduction in welfare dependency among participants in training programs sponsored by JTPA. The use of specific performance standards is considered one of the major innovations of the law. Furthermore, six percent of the funds made available to a state are tied to the performance standards. These monies can be used as incentive grants available to SDA's that exceed their performance standards, or funding to provide technical assistance to SDA's that cannot meet these standards. While the responsibility for proposing specific standards is up to the Department of Labor, governors may adjust these standards to meet the specific needs of their state.

How much, then, should a state legislature become involved in the establishment of program performance standards? This question has no specific answer. It will vary according to the concerns of each state legislature on JTPA's operation in their state. Several questions are central:

Does the administrative use of performance standards influence local planning? Legislatures may wish to review local plans to see how each SDA will assess performance standards according to its needs. Ideally, the local plan should show some test of the strategy for matching JTPA and other resources to meet its job training needs.

What kind of emphasis will be placed in the measures? As with any formula, certain manipulation of the "weights" or value assigned to factors to influence the outcome. For example, will short-term training be "weighted" higher than longer-term training, to make the program appear more cost effective? Or, for dealing with reduced welfare roles, will welfare recipients who enter employment receive a higher "weight" than other groups--a wise decision for meeting the goals of JTPA, but not



necessarily the most politically expeditious. Liability is tied to proper use of funds. However, the Comptroller General will be auditing JTPA for program results, as well in terms of efficiency and effectiveness factors. A legislature may wish to conduct oversight hearings on this issue to examine how effectively performance standards are being adopted.

How adequate is the data being collected? Proper program assessment will require integration of program performance and financial management data. Traditionally, this information has been collected by a variety of sources: state departments of education, state occupational information coordination committees, state employment services, and other organizations units in a state. Data integration is usually a difficult issue to coordinate. Each agency, for example, may prefer to define the same term differently. Assuming that its information needs are being met, it will be up to each legislature to decide how involved to get on this issue.

#### WHO WILL BE AFFECTED BY THE PROGRAM?

Since the need for job training is so pervasive, many individuals are eligible to participate in JTPA programs. One state plan mentions no fewer than twelve potential target groups: unemployment insurance claimants, veterans, migrant and seasonal farmworkers, welfare recipients, handicapped, minorities, women, youth, dislocated workers, displaced homemakers, older workers, and public offenders. Many of these groups have organized lobbies on the state and local level which are currently monitoring the implementation of JTPA programs. Within the broad eligibility limits of the law, and state constitutional practices and procedures, states are given the latitude to determine eligibility for JTPA. This suggests that JTPA dollars will be more political than the

largely targeted CETA dollars. Legislators could be subject to intensive lobbying from the potential target populations.

States cannot target JTPA dollars. Some states, however, have tried to influence the direction of these funds. California is the most notable. By implementing the Family Economic Security Act, welfare recipients may be more inclined to receive JTPA monies. In South Carolina, a bill was introduced to allow unemployment insurance recipients to be eligible for dislocated worker training monies under Title III of JTPA. Each of these changes has proponents and opponents and the legislator who decides to deal with the issue of eligibility will need to be aware of the state's political climate before proposing changes. Furthermore, legislators should expect to receive inquiries from their constituents concerning participating in JTPA's programs. In theory, the choice of the recipient of training grants should be related to the population targeted to be served. The history of local training funds suggests, however, that the dollar can be politically charged.

A wise use of performance standards with clear statements on their intent should mediate some of the potential political pressures in the implementation of JTPA. The legislature may thus be able to avoid some of the liability decisions in this area can carry. However, a legislature will still be approached by a variety of groups who have not been targeted to receive JTPA funding.

WHAT WILL BE THE ROLE OF THE LEGISLATURE VIS-A-VIS THE GOVERNOR  
IN THE ESTABLISHMENT OF A STATE POLICY FOR JTPA?

By leaving to the state and local government most of the decisions involving the implementation of the Job Training Partnership Act, the

Congress also left them with the problem of deciding how the policy will be shaped and administered. In some states, with low unemployment rates, the legislature has not seen job training as a major problem and thus has left most of the decision making up to the state's administration. In other states, where the legislature has seen job training as a major issue for their constituents the opposite has happened. For other reasons, such as being of a different political party than the governor, a great deal of legislative activity has occurred. The level of legislative involvement is aided or hampered more by policies and practices based in state constitutional procedures than by the federal law. For example, while the JTPA may regard the governor as the recipient of the federal funds, the state's constitution may require the funds to first be appropriated by the legislature. In other instances, the JTPA may require certain organizations be represented on the local private industry councils, but state law may prohibit such membership in cases where the state and the federal law conflict. This is especially true when state law prohibits PIC members from receiving contracted funds for establishing training programs. In other states, the state constitution has prohibited state legislators from participating in the state job training coordinating council.

State law will in some instance differ from or impede the implementation of JTPA. This factor is bound to create some tension between legislative and administrative branches of state government. Since, the administrative procedures in JTPA are not clear, what the legislature and the governor will need to decide what are their appropriate roles so that liability issues can be decided if the need should arise to do so. Texas and Iowa, for example, have built legislative oversight into their implementing legislation. Still other mechanisms, used by the Idaho

legislature, see that the state's administrative regulations for JTPA are consistent with the states Rules and Procedures Act for standardizing state policies.

#### WHAT APPROACH CAN A LEGISLATURE ADOPT?

The Job Training Partnership Act allows for varying degrees of legislative involvement. Dependent on a state's constitution or established procedures and policies for dealing with Federal programs, enabling legislation may not be needed. The same approach can apply to the contribution of state dollars to JTPA programs.

Some state legislatures may wish to get involved by by taking a more cautious approach. In Kentucky, where the governor did not appoint a legislator to the State Job Training Coordinating Council, the legislature has decided to establish a interim committee to monitor the implementation of JTPA. In New Hampshire, a state where counties sued the state over service delivery area designations, the House has proposed a select committee appointed by the Speaker to start a continuing study of the JTPA. The House bill making this proposal notes "Such select committee be comprised of members of several different standing committees of the house since implementation of the act and realization of its goals involves many difficult areas of expertise."

While some legislatures are utilizing their Labor and Employee Relations, Industry, or Joint House-Senate Government Operations Committees to oversee JTPA issues, other states are still undecided. One of the more

common questions is "Do we refer JTPA to an education committee or a labor-oriented committee?" This decision depends on what policy perspective a state prefers to place in job training.

Other states have not emphasized involvement in JTPA. Their concern is with associated policies. These programs complement the federal law. Moreover, they do not impose any liability under JTPA for the legislature. Minnesota, for example, adopted the Minnesota Emergency Employment Development Act for a two-year employment program to provide for jobs in the public and non-profit sectors. The program will be administered along JTPA service delivery areas. Michigan adopted a Youth Corps Act to provide summer employment and work training for youth ages 18-21. Numerous states have established customized job training programs. For many states JTPA is a catalyst for activity beyond limited federal resources.

California as mentioned earlier, has used JTPA as a means to develop a state comprehensive employment and training policy. This approach, of course, can consume a great deal of legislative effort. Thus, the question of how involved to become is an open question. It will depend on a variety of needs and the political climate in a state.

For further information of how to get involved, contact Job Training Program, National Conference of State Legislatures, 444 N. Capitol St., N.W., Washington, D.C. 20001, (202-737-7004).

Issue Brief #2

Education and Job Training Issue Brief Series

ALIGNING STATE EDUCATION AND JOB TRAINING POLICY

by

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## ALIGNING STATE EDUCATION AND JOB TRAINING POLICY

The federal Job Training Partnership Act (JTPA) provides a major opportunity for state legislatures to bring their education and job training policies into agreement for the first time. It also provides some powerful incentives for doing so. It makes available approximately three billion dollars for job training programs; targets most of these monies for training youth and economically disadvantaged individuals; and according to recent surveys, will make the public secondary and postsecondary education systems the major recipients of these monies.

Nevertheless, the Act gives few clues about how to bring state education and job training policies into agreement, and to date few states have tried. Few if any states have set up the necessary information and accounting systems to assess the impact of the targeted JTPA dollars on trainees or the public education system.

This issue brief presents background information for legislators on techniques for overseeing the impact of the JTPA on state education policies. It also presents a variety of options available to state legislatures for coordinating state education and job training policies.

### Background

The purpose of the JTPA, as stated in Sec. 2 of the law, is to "establish programs to prepare youth and unskilled adults for entry into the labor force...." The goals of the JTPA share many similarities with other federal and state education policies. This permits a flexible use of the JTPA funds in a variety of state determined strategies.

The JTPA cross references federal education law for administrative and

funding purposes. Both the term "state education agency" and "local education agency" are defined according to the Vocational Education Act of 1963. The Higher Education Act of 1965 is used to define "institutions of higher education" and "post secondary institutions." These definitions allow dollars for JTPA training to go to most state supported education institutions. JTPA also permits funding of programs at community based organizations (CBOs), however, early evidence suggests these organizations will be playing a smaller role under JTPA than they did under the previous federal programs the JTPA replaced.

The JTPA recognizes the state's role in academic certification. The law specifies that whenever academic credit is given for education, training, or work experience that is applicable to a secondary school diploma, post-secondary degree, or accredited certificate of completion, such credit must be "consistent with applicable State law and regulation and the requirements of an accredited educational agency or institution in a state." In the long run, this may be one of the more controversial feature of the federal law's impact in a state public education system.

JTPA does not mandate monies for any specific curriculum or program of instruction. It is highly permissive in this respect. Training monies may be spent on basic skills programs, traditional vocational education programs, or any training that aids the participant in obtaining productive employment.

How dollars flow: The role of public education .

There are two ways education and training institutions can receive JTPA dollars. The first way is through the local private industry councils, or PICs, made up of representatives from the private and public sector. They will decide how most of the JTPA dollars coming into a state will be spent.



The number and size of the PICs, as well as their administrative structure vary within and among other states. For example, in some states community colleges have been officially designated by the local PIC as the JTPA administrative entity and grant recipient.

The law recognizes and mandates a major role for the public education system:

Appropriate education agencies in the service delivery area shall be provided the opportunity to provide educational services, unless the administrative entity demonstrates that alternative agencies or organizations would be more effective or would have greater potential to enhance the participants continued occupational and career growth. (Sec. 107 (c)).

This dollar flow will be difficult to determine, however, since it takes place outside of a state's educational accounting system. Thus, unless the state establishes a tracking system or requires monitoring study the impact of these dollars on the education system cannot be assessed.

The second way education programs can be funded under JTPA is through the 8% set-aside required for education and coordination from the funds available to the state. Of the JTPA dollars allocated to a state, eight percent is set aside for education and coordination grants. Of this amount, 80 percent must be used to provide service to eligible participants "through cooperative agreements between the state education agency or agencies, administrative entities in service delivery areas in the state, and (where appropriate) local education agencies." These funds must be matched by the state, although local funds could be used and the JTPA regulations are generous in permitting in-kind or non-dollar matching.

There are two strategies a state can use for distributing the

eight percent dollars. One method is to distribute them on a formula basis to local jurisdictions for whatever purpose the state decides. This, however, can dilute any potential impact of these dollars given the large number of institutions eligible to receive them. The other method is to develop some state-level strategy for distributing the money through a request for proposal or grant application process as is done in Maryland to target the funds to disadvantaged youth and other groups.

In North Carolina, for example, the governor issued an executive order mandating that the public schools and community and technical colleges have primary responsibility for training dollars. The eight percent monies are divided among three state agencies: State Board of Education, local education agencies, and the State Job Training Coordinating Council.

#### Issues for State Legislatures

In order for a legislature to become more involved, there are five basic issues concerning JTPA programs and funding that legislators need be aware of:

1. To what extent can a legislature set policy for coordinating education and job training programs?

All state legislatures can have a great deal of influence over JTPA policy, but the means for exercising their authority may not be direct. The legislature's primary role in formulating a state's education policy and the Congress' intent that JTPA programs must recognize those state education standards is the most obvious legitimate reason for involvement. A legislature will have a greater role to play when it is also responsible for appropriating federal dollars in a state.

Targeting JTPA dollars. States cannot target JTPA dollars. The Congress

intended any targeting to occur on the local or private industry council level between the public and private sectors. States can, however, determine the direction of a limited amount of funds recognized by the Congress to be better directed from the state level. This includes the set-asides for education coordination, older workers, incentive grants for program performance, and the Title III dislocated worker programs.

States, and especially legislatures, can influence local program operations by varying the eligibility criteria in other state laws to target certain groups. Since JTPA is targeted to economically disadvantaged persons, most will need some kind of income support to enroll in a training program. Such changes in eligibility will allow for greater or lesser access to training programs for this population. The policy will vary according to the population targeted. For example, dislocated workers can be served by making unemployment compensation recipients eligible for JTPA training programs. Teenage parents can be served by providing incentive grants from state monies to private industry councils to create successful programs for serving in-school youth who are AFDC recipients.

States can also decide to rely on public education institutions as a major vehicle for training. Several new programs have been created which do this. The New York legislature established the \$5,000,000 Emergency Employment Intervention Program Act. Part of these monies can be channelled through the state's education system. Iowa created the Iowa Industrial New Jobs Training Program funded by off setting property taxes to employees and other tax credits or by tuition and other student fees. Public education institutions will do some of this training. The Florida House of Representatives is considering a Youth Dropout Prevention Program.

Inventory of Resources. Legislators interested in one of the above

approaches are advised first to have an inventory done of their state resources currently being made available to the population they wish to serve. Education and training for economically disadvantaged groups is a particularly difficult problem given the patchwork of uncoordinated state and local resources currently made available. Furthermore, the most economically disadvantaged often fall through this program network. Such an inventory allows a legislature to decide where duplication exists and where any new program dollars can be most effectively used. California has used this approach very effectively. The Assembly Office of Research produced a report Training Tomorrow's Workers. It surveyed existing state programs, identified future needs, and gave recommendations for consolidation of programs in state law.

2. What is the best way for a legislature to manage JTPA policy and coordinate it with a state's education policy will vary from state to state?

This point is really two questions. First, as mentioned, what is the best way to organize JTPA oversight in the legislature? Secondly, once the policy goals for JTPA and education have been agreed upon, what is the best way to organize the policy's administration?

Organizing oversight. Many legislators appear to be having difficulty conducting oversight on this issue. One of the reasons is that JTPA is frequently assigned to Labor Committees. As a result, issues such as quality standards for programs, impact on the state's education system, lack inadequate data collection for program evaluation, and the like are maybe overlooked since oversight of training programs is new to most legislatures. Legislators representing Education Committees often feel it is inappropriate

for them to raise these questions, yet, the institutions over which they have jurisdiction will be the primary recipients of JTPA funds.

Arizona and Kentucky have solved this problem by holding joint committee hearings. New Hampshire and Idaho formed select study committees for this purpose. In other states, committee education chairman hold informal meetings with state labor department officials to be kept informed of the impact of JTPA in a state's education system. It is important to realize that all these approaches establish an information link between the legislative committees and the administrators of job training and education programs. The legislature is thus kept informed of problems should they arise.

Administrating the policy. The governors have taken the lead in deciding how the administration of program coordination provision and education set-aside are to be administered. In Maryland, for example, both the State Department of Education and the State Board of Community Colleges receive a portion of the set-aside monies. In Indiana, the governor has developed a comprehensive policy and statement of coordination criteria for "vocational education training, and employment" involving the state departments of Commerce, Employment Security, Occupational Development, Rehabilitation Services, and Vocation and Technical Education. Legislatures need not get involved in the administrative policy of these programs, however, since diverse administrative arrangements will be utilized, it is important that legislatures be kept informed of program operation. This will require collecting comparable information from different systems so that program evaluation can be made when necessary. For example, both the JTPA and education systems would need to use compatible definitions of such terms as "youth," "adult," "basic skills instruction," "work experience," and the like. if any assessment about the effectiveness of the program is to be made.

3. What options are available for coordinating education and JTPA funding?

There are three basic reasons for examining the possibility of combining education and job training monies. First, this approach could extend services to additional JTPA eligible persons who may not be served with JTPA funds alone. Secondly, considered in unison JTPA and education funds may be stretched and thus be more cost-effective. This would permit a third reason for improving the quality and diversity of services for youth and adult separately served by education and job training policies. In fact, the Minnesota State Department of Education has identified 43 such funding mix strategies in that state alone.

The most serious policy issue will probably be how to meet the requirements imposed by the education set-aside matching funds. In order to meet the matching requirements states can contribute cash or in-kind services such as equipment or other services and supplies which are directly provided to participants. The law is flexible enough that no state should have problems determining an in-kind match for the education set-aside. However, cash contributions are easier to audit. A state which decides to utilize the in-kind match should have clear audit standards in place so that federal auditors will not raise questions.

Another question to consider is whether the match will be made with state or local resources. Use of state resources allows greater direction over the program. The use of an in-kind match does not increase the financial liability on the state (providing adequate records are kept).

Another question is whether the direction and decisions on matching funds should come from the governor or the legislature. This will be decided on a state-by-state basis. For example, in Wisconsin where the legislature

mandated 50% of the state's education set-aside be spent on programs for dropouts or those youth who are behind in academic credit. The monies are further targeted to programs that lead to the GED.

4. Are Standards for JTPA training programs are to be consistent with education standards and requirements where academic credit or certifying educational program attainment is involved?

Creating uniform program standards so that JTPA programs are equivalent to state education standards could be the most serious policy challenge to policymakers on coordinating education and job training programs.

Early evidence suggests that JTPA funded training programs will utilize short-term rather than long-term training programs. This has already become an issue for the Oregon Legislative Assembly Committee conducting oversight of JTPA. There the concern has been raised that JTPA programs are competing with state sponsored apprenticeship programs already in place. The problem stems from the fact that specific jobs often only require skills which can readily be learned in short-term training programs. The skills, however, are not necessarily transferable to other jobs. Learning transferable skills may require long term training such as that acquired in apprenticeship programs. (This will be a concern in any state with an active labor union constituency). Moreover, a fear often raised is that the effect of JTPA may be to provide low wage workers to employers, displacing apprentices with broader skills who demand higher wages. It will take time to assess this issue and to learn what the valid concerns are.

One way to conduct oversight being considered in Oregon is to appoint the Commissioner of the Bureau of Labor and Industries to the State Job Coordinating Council. This would give the commissioner a chance to review

local plans and prevent competition between JTPA and apprenticeship training.

The issue of standards has other implications. Programs funded by JTPA are to be evaluated according to specified measures of performance. Section 106 (b)(2)(A) of the legislation specifies three areas known as youth competencies. These include, according to the U.S. Department of Labor, basic education skills. In short, JTPA dollars will be given to programs which establish education standards. The establishment of such competency standards does not necessarily mean that they are being substituted for state education requirements. In fact, at least one state has considered establishing youth competency standards in law, requiring they be applied to all public education students.

The need to establish youth competency standards does raise a question concerning how equal the various training and graduation requirements being used by various public and private educational institutions in the states are.

5. How much emphasis is being placed on serving youth-at-risk?

Section 203 (b) of JTPA provides that not less than 40 percent of the available Title II A or core training dollars be expended on youth, except where the ratio of economically disadvantaged youth to adults in the SDA differs from the national ratio. Where the ratio differs, the amount to be spent on youth is to be reduced or increased proportionately.

This allows for many innovative uses of these funds. For example, Section 204 specifies no less than 28 permissible uses of the monies for youth. Section 205, Exemplary Youth Programs, allows for intervention at as early as age 14. The funds available for summer youth programs can also be for basic and remedial education, on-the-job training, counseling, work experience and other similar activities. Legislators interested in serving economically



disadvantaged youth, especially minority youth, may wish to examine how innovative the programs being developed by their administrators really are.

These five issues are clear reasons why legislators need to become more involved. No state legislature to date has gotten involved in developing a formal policy for coordinating a state's education and job training resources. Few, if any, have established mechanisms for determining the impact of JTPA funded programs on a state's public education system either in terms of dollars or program quality.

Apart from these basic oversight issues, JTPA represents an opportunity for state education systems to better serve youth-at-risk, dislocated workers, and other economically disadvantaged individuals who are not now being adequately served by a state's education system. If you are interested in developing a policy strategy in your state for coordinating education and job training programs, please contact: The Job Training Program, National Conference of State Legislatures, 444 N. Capitol Street, N.W., Washington, D.C. 20001. (202)-737-7004.