

HOUSE COMMITTEE ON LABOR

February 27, 1997 Hearing Room E

8:00 A.M. Tapes 27 - 30

MEMBERS PRESENT:

Rep. Steve Harper, Chair

Rep. Mike Fahey, Vice-Chair

Rep. Chris Beck

Rep. Dan Gardner

Rep. Bill Markham

Rep. John Minnis

MEMBER EXCUSED: Rep. Ron Sunseri

STAFF PRESENT:

Cara Filsinger, Administrator

Linda Spaulding, Administrative Support

MEASURE/ISSUES HEARD:

HB 2691 Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

Tape/#	Speaker	Comments
TAPE 27, A		
004	Chair Harper	Calls the meeting to order at 8:03 a.m. Submits written testimony for the record (EXHIBIT G). Opens public hearing on HB 2691.
<u>HB 2691 - PUBLIC HEARING</u>		
		Internal Revenue Service (IRS) Agent; Tip Coordinator, Pacific Northwest District

016	Ginny Walker	Describes tip determination program (EXHIBIT A). Says IRS aware of compliance problem in tipping industry. Explains IRS developed Tip Rate Determination Agreement (TRDA); the program is designed and used in large chain restaurants. Estimates \$9 billion in tip income goes unreported annually in restaurant industry.
069	Walker	Explains Tip Reporting Alternative Commitment (TRAC): alternative from TRDA; commitment is between IRS and employer. TRAC agreement asks three things of employer: * file and pay taxes on time; maintain records * educate employees on reporting all tip income * provide employees with tip reporting format
125	Walker	Explains tip audit process.
153	Walker	Says IRS asking restaurant employees to commit to future compliance through TRAC agreement.
155	Walker	Explains procedures by which IRS or employers may revoke agreement. Explains consequences on non-compliance with TRAC agreement.
161	Walker	Discusses successful results from TRAC agreement. Says 1995 IRS had \$2.8 billion increase in tips reported.
172	Rep. Minnis	Asks how IRS developed method to determine tip income.
186	Walker	Explains Portland metropolitan area restaurant industry has broad spectrum of very high to very low tip rates. Says IRS is trying to achieve fairness throughout the industry.
200	Rep. Minnis	Suggests estimating tip determination on geographic basis would cost less with respect to dollars spent for IRS to conduct on-site audits.
209	Walker	Says IRS tries not to audit; promotes compliance as compromise.
221	Rep. Minnis	Asks confirmation of twenty percent negligence penalty against employee.
222	Walker	Confirms, adding no penalties against employer; responsibility for FICA commences when wages are reported.
232	Rep. Minnis	Asks for clarification that restaurants are accountable for unreported tips for purposes of FICA.
236	Walker	Replies affirmatively; however, IRS first approaches employee to determine actual unreported amount.
243	Rep. Fahey	Asks if IRS uses different formula for different tipped occupations.
245	Walker	Answers IRS is currently developing formulas for different tipped services.

252	Rep. Fahey	Asks average federal tax on \$15,000 income for family of four.
254	Walker	Estimates fifteen percent tax bracket.
260	Rep. Fahey	Asks if employer could claim entertainment gratuities as wages or as other expense.
277	Walker	Explains fifteen percent gratuity is considered employee wages.
286	Rep. Fahey	Asks if tax advantage for restaurant customer to claim gratuity as wages as opposed to expense.
290	Walker	Replies tips are not wages; paying out additional in tips is expense.
299	Rep. Markham	Asks percentage of restaurants audited.
301	Walker	Estimates random chance of audit is one percent.
305	Rep. Markham	Asks Ms. Walker what her specialty in IRS is.
305	Walker	Says her specialty is restaurants.
321	Chair Harper	Asks for current IRS estimate on unreported income.
327	Walker	Says she has no current estimate; however, <u>New York Times</u> reported the amount might be \$30 billion annually.
335	Chair Harper	Asks if TRAC program expects to reduce tax loss.
336	Walker	Answers affirmatively.
338	Rep. Markham	Asks if Oregon has similar TRAC agreement.
342	Walker	Replies she is not aware of state agreement; information is exchanged with state during audit.
348	Rep. Fahey	Asks if IRS has unreported income figures from other industries.
351	Walker	Answers she does not have that information.
353	Chair Harper	Asks if tips are gifts or wages.
356	Walker	Replies tips are not gifts; they are taxable income.
364	Rep. Gardner	Comments tips are income but not wages.
366	Walker	Replies on W-2 tips are considered wages once reported to employer.
382	Rep. Fahey	Asks number of waitpersons earning \$28,000 to \$30,000 annually.
386	Walker	Replies she has no answer for the question.
389	Rep. Minnis	Asks if problem with restaurant owner underreporting cash income.

TAPE 28, A		
004	Walker	States she has no information on the subject.
005	Rep. Minnis	Asks if she performs audits on restaurant owners suspected of underreporting income.
005	Walker	Answers affirmatively.
005	Rep. Minnis	Questions why she has no information.
006	Walker	States she has no opinion.
009	Rep. Minnis	Comments he has knowledge of restaurant start-ups by alleged low-income individuals with suspicious income. Asks if she gets involved in such cases.
014	Walker	Replies other divisions of IRS handle criminal operations.
026	Jim Bucholz	Oregon Department of Revenue Explains differences in state and federal treatment of tips as income.
052	Chair Harper	Asks for explanation of gratuity added to food check.
040	Bucholz	Answers employers not required to withhold incomes taxes on tip income; Oregon law says withholding done on remuneration paid by employer to employee; tips are not paid by employer, therefore, no withholding. If tips are distributed from pool, withholding is required.
051	Chair Harper	Asks for explanation of gratuity "pooled" as wages.
053	Bucholz	Answers "pool" is tips employer collects for all employees.
065	Rep. Minnis	Asks if tip income included on IRS forms is the same for state.
067	Bucholz	Says starting point for Oregon taxable income is federally adjusted gross income.
070	Rep. Minnis	Asks if he is aware of white-collar crime unit in Oregon that investigates cash skimming.
075	Bucholz	Answers Department of Revenue has no such unit.
083	Rep. Minnis	Asks if Department of Justice has such an investigative unit.
085	Bucholz	Suggests a division may perform those investigations under Secretary of State.
089	Rep. Gardner	Asks if he has estimates on increased state revenue due to increase in minimum wage.
091	Bucholz	Says he cannot speak to the question.
093	Rep. Gardner	States he expects increase in state revenue because of minimum wage increase.
094	Bucholz	Answers it could be possible depending on employment rates shift.

098	Rep. Fahey	Asks average wage reported for waitpersons in Oregon.
100	Bucholz	Says he cannot speak to the question.
101	Rep. Fahey	Asks if can speak to the average.
101	Bucholz	Says department does not track that statistic.
104	Rep. Fahey	Asks if he has knowledge of waitpersons earning approximately \$30,00 annually.
105	Bucholz	Suspects some earn that amount; has no average figure to report. Says IRS does tracking.
108	Rep. Fahey	Asks if restaurant owners have reported increased income with installation of video poker equipment.
110	Bucholz	Answers he has not looked at those figures.
115	Rep. Gardner	Asks if fiscal impact statements were performed for Ballot Measure 36.
117	Bucholz	Says department allows Legislative Revenue to develop revenue impacts.
124	Rep. Gardner	Asks if Revenue Department performed fiscal impact on Measure 36.
125	Bucholz	Replies he does not believe so.
139	Rep. Beck	Asks if there will be a witness to follow up with average wage for tipped restaurant employees.
145	Chair Harper	Says testimony is forthcoming. Asks if statistics are available on tips reported as income last year in Oregon.
149	Bucholz	Says number is not available from Revenue Department.
156	Rep. Minnis	Asks if Department of Revenue engages in scientific targeted surveys to determine rate of compliance.
162	Bucholz	Replies Department does research surveys into specific areas.
163	Rep. Minnis	Asks if Revenue Department surveys tipped income.
164	Bucholz	Answers Oregon Department of Revenue relies on IRS for that type of audit.
167	Rep. Minnis	Observes significant differences between accomplishments of IRS and Oregon Department of Revenue. Concludes no one knows average tip income.
176	Bucholz	Says assessment is fair.
185	Rep. Minnis	Says if Oregon fails to enforce tax law compliance, the state loses income.
188	Bucholz	Agrees; goal for next biennium is looking at ways to close tax gap.
196	Rep. Fahey	Asks if other industries fail to report income.

203	Bucholz	Says studies target the gap as a whole rather than specific industries.
212	Jeff Hannum	State Labor Economist, Oregon Employment Department Refers committee to three-part packet (EXHIBIT B). Begins with slide presentation on minimum wage.
239	Hannum	Cites reasons for healthy economy in Oregon: * low unemployment * strong labor demand * employment growth * low-moderate inflation * high corporate profits
244	Hannum	Says greatest problem in nation and Oregon is lagging wages and growing inequality issue.
254	Hannum	Indicates problem is average wages shown in unemployment insurance records. Nominal wage over past fifteen years has risen, but is stagnant due to inflation.
258	Hannum	Explains differences in earnings trends for various education and skill levels: * twenty-six percent loss in purchasing power (1976-1996) for minimum wage earners * education and training are tickets out of low-wage jobs
287	Hannum	Dispels common myths: * minimum wage workers are teenagers; 1996 national data indicates approximately 32 percent were teenagers * raising minimum wage will eliminate poverty; one-third of poor adults work * minimum wage cripples economy with soaring inflation and increase in unemployment; history does not document that claim
		Explains economic effects of minimum wage increase: * agriculture/food processing industry may be most vulnerable * consider metro area with high wages and ability to absorb any increases in wages versus less diversified, weaker rural economies

306	Hannum	<ul style="list-style-type: none"> * short-run versus long-run effects on economy * income gain and loss issue representing a shift in income distribution * inflation of 0.1 to 0.2 percent overall effect on Portland CPIU * job losses or slower job gains
405	Rep. Beck	Asks if model deals with increased earning power of minimum wage worker.
416	Hannum	Explains information is contained in handouts. Refers to economic simulation in third handout (EXHIBIT B).
TAPE 27, B		
012	Hannum	<p>Explains various employer responses to minimum wage increase:</p> <ul style="list-style-type: none"> * raise prices; pass cost to consumers or employees * employee lay-off * reduce hours * absorb increase through lower profits * boost productivity through training or intensive management * replace labor with greater use of technology * seek legislative changes * raise hiring standards * hire more part time or temporary workers to reduce fringe benefits * reduce recruiting costs * adjust pay-step increments
045	Hannum	Explains cost of fringe benefits.
066	Chair Harper	Asks if any way to individually model impact to each element within HB 2691.
073	Hannum	Replies elements may be run through model; refers to minimum wage simulation (EXHIBIT B).
070	Hannum	Refers committee to Washington State minimum wage study that may be a rough proxy for tip-per-hour in Oregon.
106	Rep. Gardner	Asks if vulnerable teen population is finding jobs in Oregon's robust economy.

110	Hannum	Confirms teens are finding jobs quickly; however, expects some negative, but minimal, impacts on teen employment as a result of minimum wage increase.
114	Rep. Gardner	Asks if teens would be first impacted in unfavorable economy.
116	Hannum	Replies affirmatively.
117	Rep. Fahey	Asks for estimates on minimum wage jobs currently not being filled because of lack of manpower.
118	Hannum	Replies he has no estimate; handout identifies people in Oregon who work in different hourly pay categories.
133	Rep. Fahey	Comments in a 20-block area in his district at least 25 establishments have posted help-wanted signs for minimum wage jobs.
137	Hannum	Says he expects many unfilled jobs; lower skills or work habits will make some jobs difficult to attain.
147	Rep. Fahey	Affirms remarks of Rep. Gardner: minimum wage workers in strong economy will find jobs; will lose jobs in weak economy.
154	Rep. Minnis	Asks effect of Oregon minimum wage law as applies to overall inflation rate in Oregon.
159	Hannum	Says the subject was discussed; refers to minimum wage simulation in handout (EXHIBIT B).
171	Rep. Minnis	Asks regarding overall CPI for Oregon.
171	Hannum	Responds there is no overall CPI for Oregon. Says Portland-Vancouver CPI is proxy for Oregon
186	Rep. Minnis	Asks if model is weighted by regions.
188	Hannum	Replies it is state-wide model.
191	Rep. Fahey	Asks what minimum wage would be if last increase had kept up with CPI.
193	Hannum	Answers CPI from 1990 to 1996 is up about 25 percent; minimum wage increased 12 percent. Different time periods will give different results.
207	Rep. Fahey	Says tips reflect one's value of service.
218	Hannum	Agrees it is customary to tip for quality of service.
241	Hannum	References Job Order Wage Report Table (EXHIBIT B).
280	Chair Harper	Asks total average hourly income including tips.
283	Hannum	Replies monthly surveys as part of federal-state cooperative study excludes tips and commissions in surveys.
293	Chair Harper	Asks where is source for tip income data.

292	Hannum	Answers he does not perform surveys on tip income.
318	Hannum	Discusses low-wage income study performed in Washington State. Says Washington figures are adjusted to estimate Oregon's hourly tip earnings.
334	Rep. Fahey	Asks for impact of minimum wage increase on industry. Observes projected increase in restaurant workers.
343	Hannum	Responds 1995 industry projections were made prior to Ballot Measure 36; statistics relate to businesses that serve a growing population and will charge appropriately.
366	Rep. Fahey	Comments that new franchises moving into Oregon should indicate a healthy economy.
372	Hannum	Replies new businesses expect to prosper.
378	Rep. Gardner	Refers to chart showing mean and median income of waitpersons; by adding average tips per hour of \$5.57 to wage, income amounts to average of \$10.52-\$10.96 per hour.
394	Hannum	Points out figures in table represent "offered" or entry wages.
TAPE 28, B		
010	Hannum	Explains table that reflects hourly income average at \$5.00 - \$6.50 exclusive of tips. Adding hourly equivalent of tips indicates close estimate of state-wide income within food service industry.
032	Rep. Minnis	Asks reliability of sample.
038	Hannum	Points out data is not a sample; data reflects over 105,000 job orders from 1996.
064	Jennifer Webber	Executive Director, Oregon Commission on Women (EXHIBIT C) Explains Commission analyzes laws of Oregon relating to civil rights, contracts, income, property, and family to ensure equality for women and men. Says HB 2691 would have disproportionate negative impact on women of Oregon. Opposes concept of tip credit.
136	Webber	Says Washington State study provides comprehensive data for tip income; Oregon Employment Department uses data from study to provide average tips per hour. Concludes servers on average made at or below poverty level for family of two in 1996.
164	Chair Harper	Confirms hourly wage including tips at \$9.82 per hour.
167	Webber	Comments data source is self-reported from the US Census long-form.
180	Rep. Minnis	Asks if Commission for Women has research component.
182	Webber	Replies she is Commission research component; holds undergraduate and graduate degrees in research.

190	Rep. Minnis	Says demographic analysis on tips and wages has not come from Oregon universities.
196	Webber	Says her demographic and census data is from Center for the Study of Women in Society at the University of Oregon.
200	Rep. Minnis	Says data on Oregon's tips and wages continues to be limited.
214	Webber	Agrees with Rep. Minnis' statement; points out Washington study was commissioned by Washington Legislature in 1989.
219	Rep. Minnis	Suggests State Chancellor should be in attendance uniting research components of higher education with Oregon Legislature.
239	Celia Nunez-Brewster	Executive Director, Oregon Commission on Hispanic Affairs (EXHIBIT D) Discusses piece-rate work of HB 2691 pertaining to agricultural field workers: * labor intensive: no breaks, no overtime, no vacation or sick pay * overcrowded living conditions * exposure to toxic materials and pesticides
260	Nunez-Brewster	Describes inequities of agricultural field work: * workers pick different crops * field productivity varies * foremen give preferred treatment to some workers * accuracy in farm records varies from good to bad * workers have no proof of hourly wage * sub-minimum wage paid to minors Urges committee to oppose HB 2691.
302	Rep. Gardner	Asks if teens will be given 60-day start period when moving from farm to farm.
311	Nunez-Brewster	Replies this is good question, but cannot answer.
316	Rep. Beck	Asks if Commission has suggested legislation to prohibit piece-rate payment.
314	Nunez-Brewster	Answers Commission has not written legislative concept at this time.
		Says farmers have testified they will hire only the strongest, most

338	Rep. Beck	productive workers. Asks if Ms. Nunez-Brewster accepts that premise.
352	Nunez-Brewster	Responds most industries want to hire most productive workers; says upcoming witness has data to support testimony regarding the question.
364	Rep. Beck	Requests information to consider if piece-rate payment is suitable method for compensating farm workers.
382	Rep. Minnis	Asks source for demographic information on transitional Hispanic population in Oregon.
394	Nunez-Brewster	Answers she has received 1996 report on Hispanic population from Center for Population Research and Census, Portland State University.
401	Rep. Minnis	Asks if data is broken down by income and employment.
403	Nunez-Brewster	Replies affirmatively, adding report also breaks down geographic and education statistics.
TAPE 29, A		
001	Victor L. Propes	Director, Oregon Commission on Black Affairs (EXHIBIT E) Explains Commission is a public policy research and planning agency created in 1980 to address issues and problems affecting the African-American population of Oregon. Discusses impact of HB 2691 on working poor in urban areas in Oregon. Asks committee to oppose passage of HB 2691.
050	Rep. Beck	Asks for copy of 1996 census data of Mr. Propes' testimony.
052	Propes	Replies he will furnish copies.
055	Rep. Minnis	Asks if research and analysis with respect to development of public policy for community transition exists within university system.
060	Propes	Answers most data available at county and city libraries.
069	Rep. Minnis	Describes accomplishments of legislators in development and expansion of Northeast Portland neighborhoods to create improved community.
090	Propes	Responds regarding dispersion of African-American populations living in North/Northeast Portland.
129	Rep. Minnis	Says urban populations living in poverty are dispersing within the entire community.
134	Jeff Hannum	State Labor Economist, Oregon Employment Department Says demographic data covering five regions is available from Oregon Demographic Survey. Refers to piece-rate compensation in handout (EXHIBIT B).
184	Ramon Ramirez	Pineros y Campesinos Unidos del Noroeste (PCUN) Farm Workers' United (EXHIBIT F) Urges committee to oppose HB 2691.
		Disagrees Oregon growers paying minimum wage will experience labor shortage and competitive disadvantage in national and world markets.

261	Ramirez	Says majority of Oregon products are specialty crops in high demand; increasing minimum wage will have little effect on the market. Describes Oregon agricultural products and sales levels.
327	Rep. Fahey	Asks Mr. Ramirez to describe types of enforcement problems.
329	Ramirez	Answers experience shows little enforcement of minimum wage laws by Bureau of Labor and Industries (BOLI).
342	Rep Fahey	Asks if lack of enforcement is in wages.
344	Ramirez	Answers problems occur in the following areas: <ul style="list-style-type: none"> * abuse by growers and labor contractors * substandard housing * lack of training for mixing and applying pesticides * wages
355	Rep. Gardner	Asks if large number of complaints are filed with BOLI.
359	Ramirez	Answers complaints are filed with union. Advises workers to hire own attorneys. Claims one farm had several hundred minimum wage violations. Approximately 100 out of 300 complaints were submitted to BOLI; BOLI ruled in favor of worker in approximately 60 percent of cases.
410	Rep. Gardner	Asks should HB 2691 be implemented, would problems increase.
414	Ramirez	Estimates amount of problems would double if HB 2691 passes.
TAPE 30, A		
022	Rep. Fahey	Asks if farmers provide workers with safety data information on preparation and use of toxic substances.
025	Ramirez	Replies most farms fail to post warnings of hazardous substances.
031	Rep. Fahey	Clarifies question making specific reference to safety equipment for workers who mix pesticides.
032	Ramirez	Answers considerable safety violations occur in this area of farm labor.
038	Rep. Fahey	Asks to whom violations are submitted.
038	Ramirez	Replies violations were first given to Oregon-OSHA, but says no progress is being made. Says solution is collective bargaining contracts allowing workers to enforce the law.
065	Chair Harper	Adjourns meeting at 10:21 a.m.

Submitted By, Reviewed By,

Linda Spaulding, Cara Filsinger,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2691, written testimony, Ginny Walker, 21 pp

B - HB 2691, written testimony, Jeff Hannum, 33 pp

C - HB 2691, written testimony, Jennifer Webber, 3 pp

D - HB 2691, written testimony, Celia Nunez-Brewster, 2 pp

E - HB 2691, written testimony, Victor L. Propes, 1 p

F- HB 2691, written testimony, Ramon Ramirez, 30 pp

G - HB 2691, written testimony, Staff, 16 pp