

WORK SESSION ON SB 60,

SB 326, SB 388, SB 1143

TAPES 117 - 118 A/B

SENATE REVENUE COMMITTEE

APRIL 18, 1997 - 9:00 A.M. - HEARING ROOM B - STATE CAPITOL BUILDING

Members Present: Sen. Ken Baker, Chair

Sen. Neil Bryant, Vice Chair (arrived at 10:10 a.m.)(left 10:37 a.m.)

Sen. Joan Dukes (arrived at 10:16 a.m.)

Sen. Verne Duncan

Sen. Tom Hartung

Sen. Randy Leonard (arrived at 9:17 a.m.)

Witnesses: Robert Muir, Department of Justice

Susan Browning, Department of Revenue

Charles Sheketoff, Oregon Law Center

Bob Castagna, Oregon Catholic Conference

Bobbie Weber, Oregon Community College Association

Staff: Ed Waters, Economist

Carol Phillips, Committee Assistant

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TAPE 117, SIDE A

005 Chair Baker Opened meeting at 9:11 a.m.

OPENED INFORMATIONAL MEETING ON SB 1143 AND SB 60

012 Chair Baker Asked Robert Muir if the Committee has the ability to request a continuous appropriation for funds which would be a tax credit for child care expenses or an earned income credit. If the Committee makes this a refundable program, does the appropriation process have to happen in subsequent biennia?

021 Robert Muir In answer to question, no. Have the choice of creating a continuing appropriation, even out of the General Fund. A continuing appropriation can even be created without an expenditure limitation process biennially, but not recommended. The uncertainty created for budget people is they do not know what the actual amount of expenditures will be from that continuing appropriation.

029 Muir Have had only a limited amount of time to study this proposal, but it appears no one will know until returns are actually filed and counted. In fact, until all the amended returns are filed it will be unknown.

034 Chair Baker Asked what the timing of the appropriation should be. For instance, if the 1997 legislature passed a bill to provide a refundable credit for both programs, would this legislature make an appropriation or would the 1999 legislature do the first one for a program not to begin for two years?

037 Muir Stated the 1997 legislature could create the continuing appropriation as part of this bill and declare it to be continually appropriated from the General Fund with such funds as are necessary to provide this refund. That would be lawful under the constitution. In terms of review of that amount, existing under the Emergency Board powers, the Emergency Board can provide a budget for such a program during the biennium.

052 Ed Waters Exhibit A - (-4) Amendments to SB 60. Section 1 has language allowing contributions other than from refunds to be applied.

OPENED WORK SESSION ON SB 60

074 Waters Section 3 has language to allow listing of ten entities up from five currently. Section 5 relates to application procedures. There are two major changes in the (-4) different from the (-3). Section 9 now has no reference to a maximum number of years an entity can be on the form. Section 12 removed statement that new programs were exempt from the \$50,000 minimum requirement. This means any entity, new or otherwise to the form, is subject the \$50,000 minimum contribution requirement in one of two years.

- 115 Waters Language in Section 13 explains how payments would be handled if taxpayers wanted to make contributions over and above what would be allowable from the refunds due them.
- 121 Chair Baker Asked Waters for a quick summary of what this bill does.
- 124 Waters Exhibit B - Time Line. Effective date for SB 60 is January 1999, but the first tax year which would be affected is 2000. Any new entities listed under SB 60 would appear on tax forms people file for 2000, so January to April 2001 is when they would appear on tax form for people to choose from.
- 140 Chair Baker Asked why this should not be included on 1998 tax return forms.
- 144 Waters The reason for the Time Line in Exhibit B is to make sure everyone was clear on the timing and discussion could be held to adjust timing if necessary. Noted also that the Time Line statutory authority for the three entities currently on the form would be repealed in July 2003. The earliest any new programs could be cycled off the form if they fell below the minimum contribution requirement of \$50,000 would be January 2003 for the 2002 tax year.
- 166 Chair Baker Stated he was under the impression that the new entities could come on the form when 1997 returns are filed on 1998 forms. Asked why the delay.
- 169 Waters Stated he was unclear as well regarding the timing and thus made up the Time Line for group discussion. The language in the bill should be adjusted if changing starting date.
- 172 Chair Baker Asked the Committee members if they wanted this program to start as soon as possible. Asked Waters to draft new Amendments to start the new programs when 1997 returns are filed, which brings start date forward two years. Also asked to move repeal up two years to 2001 for those on form by statute.
- 198 Sen. Duncan Asked if Committee was giving entities enough time to gear up to be on form.
- 205 Sen. Hartung Asked if there was not a waiting list with twelve entities already existent.
- 209 Susan Browning Applications for inclusion on form are due July of any year. Need decision by October to be sure everything gets on form for following year. Regarding the waiting list, there were ten or twelve entities on it in 1994. When the Charitable Checkoff Commission met in 1996 two more entities applied, but the Commission had no space and they took no action on the previous list either. Has had contact with some of the groups who have

interest in starting a new list altogether.

- 229 Chair Baker Asked if Department of Revenue could move deadline for information to August or September for the entities to apply to the Department.
- 230 Browning Thinks the timing may be a little tight, but possibly could work if the entities applying could get their information together quickly enough.
- 237 Sen. Duncan Concerned with programs currently on list and the financial impact they might feel. Wants this not to start until 1998 tax year.
- 246 Chair Baker Agreed that 1998 tax year would be better. Asked Waters to handle. After discussion it was determined to drop three entities on form by statute in 2000. Questions and discussion.
- 286 Sen. Duncan Acknowledged the group of students which just came into the hearing room and explained to them SB 60 and what it means.
- 320 Browning The waiting list in existence now is from 1994. Those on the old list would be contacted to see if they still want to be included. In other words, starting over. It seems a fair way to proceed.
- 358 Chair Baker Exhibit C - (-5) Amendment to SB 60. This Amendment lowers the minimum needed to remain on the checkoff form from \$50,000 to \$40,000. Asked Waters to integrate the (-5) Amendments into the (-4) Amendments. Questions and discussion.
- 413 Sen. Duncan Asked if an entity collected \$40,000 one year and \$30,000 the next, would they still be retained on the form?
- 416 Chair Baker Yes, they would be retained because they have to reach \$40,000 in one of two consecutive years. But if the following year they collected only \$20,000, they would be off.

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CLOSED WORK SESSION ON SB 60

OPENED WORK SESSION ON SB 326, SB 388, SB 1143

Exhibit D - SB 1143 (-2). Incorporates main elements of SB 1143 (child care credit)

- with SB 388 (refundable earned income credit), now under one bill SB 1143. Credit in (-2) Amendments is now a refundable credit so claimants can take a credit for a portion of their child care expenses, even though they may not have sufficient tax liability.
- 024 Waters Maximum credit applies to those with 150% or less of federal poverty level in earned income and phases out to 0 for those with more than 200% of federal poverty level. Federal poverty level is \$15,600 for a family of four, 150% is \$23,400, and 200% is \$31,200.
- 065 Waters Other main piece of (-2) Amendments is Oregon Earned Income Credit, which a refundable credit. Section 3 page 4 line 10 sets rate to calculate at 5% of federal earned income allowed. Language on page 3 for the child care credit regarding continued appropriation to make refunds available on a continuing basis. Similar language regarding earned income credit on page 5 line 9 regarding continuous appropriation. Questions and discussion interspersed.
- 117 Sen. Hartung Robert Muir indicated that continuously appropriated situation was lawful, but there would be problems with it. What was Muir referring to? Muir did not recommend it as good tax policy.
- 124 Waters Believes Muir's point was it is difficult for agencies to budget if an appropriation is open-ended and do not know how much is at stake. Believes Muir was referring to a limit for any biennium.
- 130 Chair Baker In this case where it specifies 5% or less, it would max out at \$50 million. Questions and discussion.
- 155 Browning It is constitutionally correct to have a continuing appropriation without an expenditure limitation, but it is strongly recommended not to do this. It is how states get into trouble because they keep spending money. Can have a permanent expenditure limitation, but the problem with that is a state may run out of money. Or can use Emergency Board which provides a more flexible mechanism and can base funds on real need for a program. Emergency Board has powers to fund programs and is used to establish a program for which the dollar amount need cannot be established initially.
- 175 Chair Baker Concerned that the 1999 or 2001 legislatures may run out of money and say they do not want to fund this program any more. If language is specific as to how to fund, can we prevent that from happening?
- 180 Browning Does not know if future legislatures can be prevented from defunding programs. Should have Legislative Counsel or Mr. Muir look at that aspect of bill.
- 192 Chair Baker Concerned that this legislature will set up a well funded and good program but that in two years "someone else rips the heart out of it because for whatever reasons they don't have the money to fund the program." That is the problem with a refundable program. But a non-refundable program would not help the people we are targeting with this bill.

- 212 Waters Exhibit E - Annual Revenue Impact of Refundable Child Care Credit. Discussed various funding percentage rates. Trying to fund biennium program at \$100 million. If allowable percentage of child care expenses is moved up from 25% to 40%, that would still fall within the \$100 million cost.
- 248 Chair Baker Feels \$100 million is the political threshold for approval. With the economy doing so well, Oregon needs to help working poor who need child care assistance and make it as difficult as possible for future legislatures to defund programs. We want it to "stick". Questions and discussion interspersed.
- 266 Sen. Duncan Stated again that this bill may be one of the most important pieces of legislation to be enacted this session.
- 283 Waters Exhibit F - Revenue Impact of Oregon Earned Income Credits. Discussed funding combinations.
- 303 Chair Baker Regarding Exhibit F, if we take the refundable child care credit at 40% at a biennial cost of \$56 million, and then add the earned income credit 5% refundable at \$44 million, they add up for the 1999-01 biennium to \$100 million.
- 320 Waters Exhibit G - 25% Refundable Child Care Credit and 5% Refundable Earned Income Credit and Exhibit H - 40% Refundable Child Care Credit and 5% Refundable Earned Income Credit. Discussed Exhibit H. Questions and discussion.
- 391 Sheketoff Challenged figures contained in Exhibit H. Questions and discussion.

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- 036 Chair Baker Stated that people may not get a check at year end because they may have taken other deductions during the year.
- 042 Bob Castagna Asked Committee if the 40% child care credit could be phased in at a rate greater than 40% for those at lower income. When you earn more, you get more of a credit. Need to be able to phase that in to direct more income to the lower income people. Questions and discussion.
- 067 Bobbie Weber If a person is earning in the lower ranges, they are still on the Employment Related Day Care program. People will remain on Employment Related Day Care programs as long as they are at low wage levels. The Employment Related Day Care program is administered by Adult & Family Services predominantly with welfare reform dollars and some general fund. A parent can choose a relative or any child care person she wants, that provider is then listed by the state on a voucher program, and a check is cut monthly to the provider. Questions and discussion.

127 Weber What is exciting about the program under SB 1143 is that it rewards people for what we are asking them to do, which is work, instead of punishing them.

145 Sheketoff Pointed out drafting problems on page 1 of SB 1143 (-2) Amendments lines 10 through 13. The word "relative" was added on line 10 but left in "if a caregiver is unrelated" That should come out. Personally thinks the word "babysitter" should not be used; they should be called "child care persons". Second problem is definition of "child care" from statutes. A "child" is under age 13. It was pointed out it should be raised to 18 under certain circumstances. If someone has a developmentally disabled child age 15, and they are working (which is what we want them to do to get off welfare), and having to pay for child care for that child, they would get the Employment Related Child Care subsidy but not this child care credit. After age 18 they would have to rely on the Dependent Care credit. For the purposes of this act, child should mean under age 18. Questions and discussion interspersed.

237 Chair Baker Stated that if someone wanted to defund the program in the Ways and Means process, they would have to defund the Department of Revenue.

240 Sheketoff Answered that someone could in the Ways and Means process do something with the expenditure limitation on the suspense account. It would essentially be the same process as for all other tax credits which have carry-forwards.

254 Castagna See themselves as advocating from a prospective of a preferential option for the poor. The country is going through a radical transformation in terms of how it has approached the poor over the past 60 years. There will be more and more poor people who have been dependent on public assistance coming into the work force. We as a state are making a priority of assisting working poor families. This is the most significant thing this Legislature can accomplish.

279 Sen. Dukes Asked how the qualification on page 1 line 14 can be proven ("...limited to care given in order to afford the qualified taxpayer the opportunity to work or look for work.") Questions and discussion interspersed.

303 Chair Baker Asked if there was any objection to removing lines 14 and 15 on page 1, because it would be unenforceable anyway. Questions and discussion.

321 Chair Baker Referred to page 5 lines 14, 15, and 16 placing a maximum limit in the blank, and asked Susan Browning what the effect would be of that action.

325 Browning If funding is taken out in a continuous appropriation, it amounts to a percent figure, say 5% of all claims which come in for refundable earned income credit and 40% of all refundable child care credit. The Department of Revenue would certify how much money was spent and report it to Paul Warner. At some point there is a potential where enough money could be refunded that it would put the state in jeopardy as far as balancing the budget goes. It makes it very difficult to balance a state budget when

dealing with continuous appropriations where the Department of Revenue is not limited to a certain dollar amount. Questions and discussion interspersed.

353 Sen. Bryant Asked if the "fix" would be to place a limitation on the dollar amount to be distributed?

356 Chair Baker Stated that if a limitation is put in place, does that allow the appropriations process to essentially defund the agency? What this legislation is trying to do is eliminate the potential for a future legislature to simply drop the whole program. Questions and discussion interspersed.

431 Chair Baker Combined total of refundable child care credit and refundable earned income credit is about \$100 million in next biennium. This targets the lower income group who needs help coming off public assistance and are trying to work. Questions and discussion interspersed.

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035 Sen. Dukes Pointed out that since this bill does not take effect until next biennium, there is enough time to determine the exact financial impact.

040 Sen. Hartung Stated that all the Members were in agreement with what the intent of the bill is. This bill shows people that if they work hard and are conscientious they will be rewarded for their successes, i.e. the entrepreneurial spirit. If these people are allowed to succeed at working, it creates more income tax and generates more sales, etc. so many people in the state benefit. This has fantastic potential for the economic growth of not only people but the state as well.

068 Chair Baker Asked if the blank on page 3 lines 22, 23, and 24 needed to be eliminated as well.

072 Sheketoff Stated that if lines 22, 23, and 24 on page 3 are to be eliminated, lines 25 through 31 on page 3 and lines 1 through 4 of page 4 should be eliminated as well. The same with page 5, lines 14 through 16, then lines 17 through 27. Had a question regarding figures on Exhibit E and asked Waters to explain them.

098 Waters Stated that the income distribution figures were taken from Oregon claimants of the earned income tax credit who were the best analog to the target group for this credit. Adjusted gross income is different from earned income, but for low income groups it is pretty much the same. Waters will take a closer look at these figures.

113 Chair Baker Stated he intended the figure \$8,000 simply as a starting point for Waters to do calculations regarding this bill. Questions and discussion.

119 Chair Asked the Members if they wanted to lower the figure to \$6,000 a year rather than \$8,000, which they did. Listed all changes for Waters to make for next revision of this

Baker Amendment.

134 Chair Baker Asked if the Members needed to see this bill again with all the agreed upon changes or wanted to move on it now. They agreed to move on it now. Questions and discussion.

150 Chair Baker MOVES (-2) AMENDMENTS TO SB 1143 BE ADOPTED.
THERE BEING NO OBJECTION, THE CHAIR SO ORDERED

MOVES SB 1143 TO THE SENATE FLOOR WITH DO PASS RECOMMENDATION.

152 Chair Baker ROLL CALL VOTE: MOTION PASSES:
SENATORS VOTING AYE: DUKES, DUNCAN, HARTUNG, LEONARD, BAKER.
Sen. Dukes will carry the bill on the Senate Floor.

176 Chair Baker Adjourned meeting at 10:44 a.m.

Carol Phillips

Committee Assistant

Kim James

Office Manager

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Exhibit Summary:

- A. SB 60, Waters, (-4) Amendments, (DJ/ps) 4/18/97, 16 pages
- B. SB 60, Waters, Time Line, 1 page
- C. SB 60, Waters, (-5) Amendments, (DJ/ps) 4/18/97, 1 page
- D. SB 1143, Waters, (-2) Amendments, (DJ/ps) 4/18/97), 7 pages
- E. SB 1143, Waters, Annual Revenue Impact of Refundable Child Care Credit, 1 page
- F. SB 1143, Waters, Revenue Impact of Oregon Earned Income Credits, 1 page
- G. SB 1143, Waters, 25% Refundable Child Care Credit and 5% Refundable EITC, 1 page
- H. SB 1143, Waters, 40% Refundable Child Care Credit and 5% Refundable EITC, 1 page