

SENATE COMMITTEE ON EDUCATION

March 28, 1991 Hearing Room 343 3:00 p.m. Tapes 48 - 49 MEMBERS
PRESENT: Sen. Shirley Gold, Chair Sen. Bill McCoy, Vice-Chair Sen.
Joan Dukes Sen. Peter Brockman Sen. Ron Grensky Sen. Paul Phillips Sen.
Cliff Trow STAFF PRESENT: Jan Barga, Committee Administrator Angela
Muniz, Committee Assistant MEASURES HEARD: SB 984 - Oregon Center for
Gerontology - PH SB 1146 - Early Intervention Services - PH SB 782 -
Early Intervention Program - WS

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation
marks report a speaker's exact words. For complete contents of the
proceedings, please refer to the tapes.

TAPE 48, SIDE A

005 CHAIR GOLD: Calls the hearing to order at 3:25 p.m. Because only
three members are present, they will act as a subcommittee until a
quorum arrives. Present at 3:25: Sen. Trow, Sen. McCoy and Chair Gold.

SB 984 - CENTER FOR GERONTOLOGY - PUBLIC HEARING: Witnesses: Jim Davis,
Council for Senior Citizens G. G. Goldthwaite, Citizen Jennifer
Sasser-Coen, UO Gerontology Center Peter Wotton, Citizen

JAN BARGEN, Committee Administrator: Presents testimony from Christopher
Bolton, director of gerontology at the University of Oregon (EXHIBIT A).
The governor did not specifically recommend that this program be cut
from her budget. It came from the cuts Higher Education made in its
budgets.

028 JIM DAVIS, Oregon State Council of Senior Citizens: Also represents
United Seniors of Oregon and the Gray Panthers. Presents written
testimony (EXHIBIT B). Oregon needs a gerontology program. The older
population is growing.

092 G.G. GOLDTHWAITE, Citizen: Presents written testimony (EXHIBIT C).
Works with the students in the faculty and enjoys the experience. Senate
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120 JENNIFER SASSER-COEN, University of Oregon Center for Gerontology:
Presents written testimony (EXHIBIT D). The University of Oregon is the
only college in the state to offer a gerontology degree. The country
will be experiencing an aging boom as the baby boom gets older.

185 PETER WOTTON, Citizen: Presents written testimony (EXHIBIT E). Uses
the center as a - resource and has also taught there.

226 SEN. TROW: Will support the bill, knows it is a good program. There
are other good programs that are also being cut across the board in
higher education. Will talk to the Ways and Means Committee about the
importance of restoring programs. If Ways and Means doesn't get
additional revenue, it will have to cut somewhere. If we restore
programs without an addition to the general fund, will have to increase
tuition and a surcharge. That would make a difficult decision for Ways
and Means about which programs to restore. Wishes the Revenue Committees
to begin thinking about replacement revenues for these programs.,

CHAIR GOLD: Speak for the revenue side. As you know the initiative needs

to come from the House side. A small number in the Senate Democratic Caucus are pushing for a far reaching additional revenue source that would happen now. You can't sit on those committees and not know that the situation is intolerable.

330 DAVIS: There would have been more people in the hearing today, but they are testifying on a different bill in another committee. Understands the dilemma the Legislature is in. Is frustrated because has felt the lack of care about gerontology even before Measure 5.

WOTTON: Understands that the program may be cut because it is part of a larger item that may be cut. Is putting a personal priority on getting more revenue for the state.

CHAIR GOLD: We need two kinds of replacement revenue: immediate and long term.

SB 1146 - EARLY INTERVENTION SERVICES - PUBLIC HEARING: Witnesses: Karen Brazeau, Department of Education Rick Burke, Department of Education James Toews, Mental Health Division Mike Barker, Department of Education Pam Patton, Morrison Center

455 KAREN BRAZEAU, Department of Education: Presents an overview of PL 99-457 (EXHIBIT F). There are two parts. One lowers special education requirements to cover 3 and 4 year olds. The other part covers children birth to 3. Oregon currently serves children in that age category who have a disability. The law would allow states to more broadly define the population to include the children who are at risk of having a disability. The section for infants and toddlers has more of a family focus. The birth to 3 section is an incentive program and the state benefits from federal funds if it chooses to comply. The portion for the 3 and 4 year olds is mandatory and there are sanctions for non-compliance.

TAPE 49, SIDE A

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034 SEN. TROW: What are those sanctions?

BRAZEAU: Has not received written information from the federal government, but through discussions thinks the sanctions will be: -- Loss of federal funds to serve children under age 6. About \$2.6 million the state currently gets and \$.5 million that serve 5 year olds in prekindergarten programs would be lost. -- Higher education institutions would be prohibited from applying for personnel training and research and development grants focused on this population. That is about \$3 million.

SEN. TROW: Are those sanctions automatic or optional with the federal government?

Sen. Dukes joins the committee at 4:00 p.m.

BRAZEAU: The choices for the federal government would be to prohibit Oregon from applying in the future, but allow current projects to

continue, or to immediately stop all projects and funds. Thinks it is certain would be prohibited from applying in the future. Is not sure about current projects.

SEN. TROW: So the window to comply is now and we can't do it because of Measure 5.

BRAZEAU: That is one problem. There is also a problem with the current Early Intervention Program that has a general fund problem because of Measure 5. If Oregon doesn't comply with 99~57 then that problem is exacerbated by loss of federal funds.

SEN. TROW: That program takes a lot of additional money, doesn't it?

BRAZEAU: Yes, as a stand alone program it would take about \$29 million, fully funded for the biennium. Has looked at other ways to combine the program with other programs for young children and combine costs.

SEN. MCCOY: Where would you save money?

083 RICK BURKE, Department of Education: Presents a chart of costs for compliance with PL 99-457 (EXHIBIT G). To comply with the new law, should serve about 2,750 children with enhanced programs. Are now serving children in compliance with the law through the federal Head Start program. Serve about 4,400 children in federal Head Start, migrant and indian programs. About 10% of those are eligible for the services asked for in compliance. That is where the 2,750 children estimate comes from. The Oregon Prekindergarten Program (OPP) is a mirror image of the federal program and should serve children in the same way. The governor has allocated \$16 million for Prekindergarten. Estimate another 310 children can be identified as served in compliance through OPP. If you fully fund the base budget for the early intervention program, every 3- and 4-year-old child served there will be in compliance. That moves the number to 2,150. The price tag for that is estimated at \$6 million. At that threshold we are close to meeting compliance and must serve 600 more children to reach full compliance. The cost for that addition is another \$3 million. Has taken the amount to fund the current base budget and the estimates for compliance with other programs and come up with a cost of \$12.6 million total to be in compliance. Is comparing \$12.6 million to \$35 million.

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156 CHAIR GOLD: Assuming we could do what you describe. What does that bring in federal -- money?

BURKE: It preserves the federal funds we have in Early Intervention and the university. That is about \$8 or \$9 million. It may qualify us for some Medicaid reimbursement.

SEN. TROW: Is there an additional amount of money we need to make this operative. Does the shaded area on the chart (EXHIBIT G) mean we are falling short?

BURKE: The chart assumes Oregon wouldn't be in complete compliance until

mid-biennium, so wouldn't pay for those children in the first year, the shaded area.

SEN. TROW: And all the other things are being funded so there is no additional monies?

CHAIR GOLD: It presupposes the governor's proposal for Prekindergarten. It presupposes the \$10.7 for Prekindergarten, correct?

BURKE: It presupposes additional expenditures of about \$12.6 million in the general fund and presupposes diversion of the Prekindergarten money for extra services for 310 children ordinarily served in the Prekindergarten program. That reduces access in the Prekindergarten program by the amount you have available to spend to make sure you serve the 310 children.

CHAIR GOLD: You are talking about the same age group.

BURKE: It's a convoluted way of saying you don't have to spend any more money than the governor's budget on Prekindergarten, but you won't be able to serve as many kids if you spend some of the money on enhanced services.

SEN. TROW: Does it mean that in the federal Head Start program has to spend special money on services to pick up the 440 kids?

201 BURKE: It assumes that they either are or should be spending that money. Understands that there are substantial enhancements coming from the federal government for the federal Head Start.

CHAIR GOLD: Out of the Family Support Act?

BURKE: No, the money comes on its own.

SEN. TROW: Is there going to be an expansion of federal Head Start with those funds?

BRAZEAU: In both federal Head Start and the Oregon Prekindergarten Program there is a requirement that they serve a percentage of disabled children. In the federal program they should be serving an amount that allows Oregon to become compliant. In the state Prekindergarten program, to ensure the 310 children are receiving services in compliance with the law, Oregon may have to fund for those children at a somewhat higher rate than their handicapped peer. The effect is that it reduces the number of children that are served.

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BURKE: This is only the view of the budget analysts. The advocates and the people who run these programs don't like it.

CHAIR GOLD: Understands your perspective.

BARGEN: What is the percentage of Prekindergarten child slots that would be Early Intervention kids in your scenario?

BURKE: About 12 percent.

BARGEN: Only 12 percent. Even after taking away slots for non-disabled children. It means serving fewer kids.

BRAZEAU: The requirement is 10%. The percentage would stay the same.

SEN. TROW: What does this mean? If we do this, does it mean we won't face sanctions? Or does it mean that, plus we get some federal money?

CHAIR GOLD: Both. We won't get federal money at all if we don't do anything.

SEN. TROW: Then the money is matched or just money that comes? 253

BURKE: If you are able to comply, you avoid federal sanctions that have a negative effect on the base early intervention program. Also we will be able to fund a portion of the extended program. It might take an additional general fund match.

BRAZEAU: The federal funds that come via compliance aren't matched the same way some other federal monies are. You are either compliant or non-compliant. If you are compliant you get a per-child amount.

BURKE: On the chart (EXHIBIT G), the shaded line is an uncalculated amount we would get from existing federal fund support. There are a lot of unknowns and potential funding sources. The first thing to consider is to comply or not.

CHAIR GOLD: We are talking about the possibility of \$12 or \$13 million beyond the \$6 million that is now being spent this biennium.

322 BRAZEAU: The \$9 million associated with SB 782 imagines losing the federal funds. That loss goes down to about \$6 million if we have federal compliance. CHAIR GOLD: If this scenario that you describe goes into effect and we meet compliance, instead of having to spend \$20 million beyond the current \$6 million, it would be a lesser amount.

BURKE: The budget would have been about \$35 million for the Education Department and Mental Health Division. Now are thinking around \$12.6 million if this bill is passed. SEN. TROW: Is part of that \$12 million the \$10 million we are spending on Prekindergarten? Senate Committee on Education March 28, 1991 Page 6

BURKE: Get into problems when we identify other items in the governor's budget that are dedicated to a specific area.

SEN. TROW: In order to realize your scenario, do we have to spend \$12 million more than we are now spending?

CHAIR GOLD: Beyond the \$6 million, you mean? The \$6 million is what is being spent in the 1989-91 budget.

BARGEN: The chart you have given doesn't explain what is being done now and what is in the governor's budget. The \$12 million is above the governor's budget which is substantially above what we are doing now for those programs.

392 JAMES TOEWS, Mental Health Division: It will take nearly \$9. 1 million to restore what is not in the governor's budget, assuming the loss of federal funds. The difference between preserving what we have now and moving toward compliance is about \$20 or \$30 million.

CHAIR GOLD: In terms of the number of children you could serve, correct?

TOEWS: Yes.

SEN. TROW: Is there some way to put it all on one sheet of paper so we could see all the money factors and get the total picture?

BURKE: Would like to but you don't have any money in this committee.

SEN. TROW: Assume we have money and show us how this would match in with the monies we spend.

CHAIR GOLD: They are working at it.

430 BURKE: Are there in terms of the gross dollars that it would take, but not to tell you from where the dollars should come and the source of the dollars.

Sen. Grensky and Sen. Brockman join the hearing at 4:20 p.m. and Chair Gold summarizes the discussion on SB 1146.

TAPE 48, SIDE B

030 BURKE: Outlines the money available in the governor's budget on the chalkboard. The current Early Intervention program is jointly operated by the Department of Education and the Mental Health Division and partially funded by the Basic School Support Fund (BSSF). There is the assumption that \$5 million from BSSF will go into the program. The governor's budget doesn't fund about \$6.5 million for the Mental Health Division portion of the program. To maintain the Early Intervention program, it will cost more money. Failure to comply with PL 99-457 will lose about \$9.2 million in federal funds.

Sen. Phillips joins the hearing at 4:25 p.m.

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CHAIR GOLD: We would lose that because we would not be spending any state money?

BURKE: No, it is because we wouldn't be providing sufficient services to specific people to comply with federal law. The Department of Education contributes about \$4.7 million. When this scenario was discussed earlier in session, as well as the interim, said it would cost \$29 million to save the original federal funds and buy back \$5 million in Early Intervention budget cuts. Now are saying it will cost \$12.6 million, but will still need to buy back a portion of the Early Intervention program.

SEN. TROW: So \$5 million plus the \$12.6 million is the total cost? Are you assuming in the \$12.6 the \$10 million to expand the Prekindergarten program?

088 BURKE: Don't have to do anything with the Prekindergarten program except fund it at some level beyond where it is now. The governor's recommended \$10 million level is the preferred level.

SEN. TROW: So the \$12.6 million is in addition to the \$10 million in the

governor's budget. Are trying to find money in Ways and Means.

BURKE: The co-chair's budget from Ways and Means reversed the lottery money to general funds.

SEN. TROW: So it is assuming the governor's budget, plus \$12.6, plus \$5 million?

BARGEN: So it is assuming tripling the Prekindergarten and if we don't the \$12.6 million will go up?

BURKE: It assumes the Prekindergarten program is going to support 310 kids. The most assured way to do that is to expand OPP by about \$10.7 million for the next biennium.

CHAIR GOLD: So it is going to take \$17.6 million beyond the \$10.7 million?

BURKE: Those numbers do not include anything from the Mental Health Division. The price for 310 children can be met in the recommended budget for Prekindergarten or to increase the other figures.

147 BRAZEAU: The easiest way to look at this is: Oregon could come up with \$9.2 million to restore what we are doing now. Or we can spend \$12.3 million, serve 2,000 more kids, get the federal money and have a chance at compliance.

SEN. TROW: How realistic is it? Have other states tried to do this?

BRAZEAU: Other states would be envious if we did it. The more preferred way to provide these services is to provide them in an environment where other children are. There is a lot of work to do to put this scenario in place and be able to claim compliance. It would take at least a year.

SEN. TROW: If we committed the \$12.6 million, how would we know that the federal . Senate Comm~tee on Education March 28,1991- Page 8

government would accept the scenario as compliant?

BRAZEAU: They are not concerned about the placement of children per se. To be compliant, we need to make sure we are properly identifying and sewing the children. If we provide the services then placement is suppose to be a local decision.

SEN. TROW: If we provide the \$12.6 will the federal government accept the system? Is there a risk they would not accept us?

BRAZEAU: Believes they would. There is always a risk, but in general we would be compliant.

SEN. TROW: To get a commitment for \$12.6 million, you will have to provide a solid guarantee that it would work.

CHAIR GOLD: They are working with the co-chairs of Ways and Means already.

201 BARGEN: What is the challenge from the federal government? What are they saying we should be doing? The prescription from the federal government is not what kind of setting they need to get the services in, but the services they get.

BRAZEAU: It does look like magic to go from \$29 million to \$12 million. The \$29 million was a two-year compliance scenario. Now we are hoping to comply in the second year of the biennium only, which produces a reduction in costs. BURKE: It also produces a future risk because of the roll up costs if you enter the 1993-95 biennium without a source of long-term revenue replacement.

CHAIR GOLD: That also reflects on our priorities and if we consider young children with disabilities a priority.

BARGEN: If the Legislature decided not to expand Prekindergarten there are 310 children that would not be served and add costs to the \$12.6 million. By how much would that increase?

MIKE BARKER, Department of Education: If there is not an extension, it would be another \$3 million to pick up the 310 children.

SEN. TROW: If we expanded the program by \$7 million beyond the \$5.6 we would also put back, what would we buy in additional services for kids?

BRAZEAU: In this program, not the Prekindergarten, we would be buying the additional services for children who are in the current program needed to be compliant. There are a number of children who will need to be accommodated some other way than the Prekindergarten and Head Start program. 262 CHAIR GOLD: Those are children who are not as acute or not as well as the average student.

BRAZEAU: Either that or we just run out of slots in the programs. . .
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SEN. MCCOY: Would the \$12.6 serve all the kids you have identified?

BRAZEAU: Yes, to be compliant we have to serve all the children that are eligible.

SEN. MCCOY: And you know where they are?

BRAZEAU: We know where half of them are. They are in the current program. The other half

are either at home or being served in Prekindergarten or Head Start but

not receiving all the services they need. 291 PAM PATTON, Morrison

Center: What happens for the first year you are not in compliance? Do

you run the existing early intervention programs the first year, the

\$5.7 million, and then you subtract the \$5.7 from the \$12.6 million and

that's what it will cost to bring you in line? BURKE: This proposal

assumes that the majority of the existing kids will be served on a full

24-month basis in the current early intervention program. The incentives

for the federal government to believe we are doing the best we can to

comply are the full operation of the biennium of the present Early

Intervention program and Legislative action that indicates imminent

compliance. The federal government doesn't want to enact sanctions.

SEN. GRENSKY: Can we get an estimate from the federal government about

whether this will work. There has to be some assurance because there is

too much money to gamble. BRAZEAU: Could get that assurance from the

attorney general. SEN. GRENSKY: He is not the one to decide that we get

federal money to match this program. BURKE: Their are two measurements:

the external view of what we are trying to do with the program and the

individual advocate case. BRAZEAU: The federal government doesn't

really give yes or no compliance to a plan. They come out and look at

the children's files. If the children's rights are being met then we are

in compliance. The greater risk comes from the parent who can go to the

federal government and say their child should be getting more services.

Not in our best interest to try to get approval ahead of time. BARGEN:

Is there any way for you to draw up scenarios of the typical child in

the program and the services they would receive? It builds on the idea that there is a list of due process rights these children should receive. BRAZEAU: Can provide that information for the committee. 419 BURKE: There are bound to be advocates that will demand more services from the federal compliance level. Worries about that. SB 782-EARLY INTERVENTION PROGRAMS-WORK SESSION: BARGEN: Presents SB 782-1 amendments (EXHIBIT H) and SB 782-2 amendments Senate Committee on Education March 28, 1991P - e 10

(EXHIBIT I).

MOTION: Sen. McCoy moves adoption of SB 782-1 amendments (EXHIBIT H).

473 BARGEN: Explains the amendments.

SEN. BROCKMAN: What do you estimate the funding to be?

CHAIR GOLD: It depends on what the Department of Education can come up with.

TAPE 49, SIDE B

TOEWS: Assumed that SB 782 was the restoration of the current program. Estimates a \$9.1 million to restore what we have now.

031 SEN. DUKES: What does this include?

BRAZEAU: The dash 2 amendments have more of a family focus. This is just the current program that is in current statute. It doesn't have the due process protections that the new law would require. It simply transfers the existing program from Mental Health to the Department of Education.

SEN. DUKES: What do we need to do to get due process in here?

BRAZEAU: Comply with the federal law.

VOTE: In a voice vote there were no objections.

MOTION: Sen. McCoy moves adoption of the SB 782-2 amendments.

BARGEN: Explains the amendments.

SEN. DUKES: How do we get due process into this? Is concerned that there will not be a process for parents to be involved in structuring the child's participation in early intervention.

TOEWS: This bill just continues the existing program. Recommends sending both SB 782 and SB 1146 to Ways and Means where the level of funding would be determined. There is no way under the current program to put due process in and fund it.

064 BRAZEAU: Except all of those children do have an individual program and it is written with the families. The providers do follow the procedures in special education, but it doesn't carry the weight of federal law. Their recourse is limited if they are unhappy with the level of services.

SEN. DUKES: Is concerned that one bill and not the other will find its way to Ways and Means.

CHAIR GOLD: It is our decision. Both bills are in our committee. SB 1146 needs more work,

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so we cannot vote it out today.

SEN. DUKES: Will vote against this bill because will not vote for a bill that doesn't offer protections for families with a child with disabilities. There has to be some way of modifying the program so that it works.

SEN. TROW: Is there some way to put the Dash-2 amendment in some other bill, or is it needed in this bill?

TOEWS: The Dash-2 is germane to SB 782.

VOTE: In a voice vote there were no objections. MOTION: Sen. McCoy moves passage of SB 782 as amended to Ways and Means by prior reference.
VOTE: In a roll call vote, the motion carries 4-1-2. Voting AYE: Sen. Brockman, Sen. Trow, Sen. McCoy and Chair Gold. Voting NAY: Sen. Dukes. Excused: Sen. Grensky and Sen. Phillips.

120 CHAIR GOLD: Adjourns the hearing at 5:00 p.m.

Submitted by: Reviewed by: Angela Muniz Jan Bargaen
Assistant Administrator

EXHIBIT LOG:

A - Testimony on SB 984 - Christopher Bolton - 4 pages B - Testimony on SB 984 - Jim Davis - 2 pages C - Testimony on SB 984 - G.G. Goldthwaite - 2 pages D - Testimony on SB 984 - Jennifer Sasser-Coen - 4 pages E - Testimony on SB 984 - Peter Wotton - 1 page F - Information on SB 1146 - Karen Brazeau - 1 page G - Information on SB 1146 - Rick Burke - 1 page H - Amendments to SB 782 - Staff - 1 page I - Amendments to SB 782 - Staff - 1 page