

Subjects Heard Overview, Department of Human Resources

- SENATE COMMITTEE ON HUMAN RESOURCES January 18,
1991 Hearing Room 3 p.m. Tapes 2 -3 MEMBERS

PRESENT: Sen. Bill McCoy, Chair Sen. Cliff Trow, Vice-Chair Sen.
Shirley Gold Sen. Bill Kennemer Sen. Paul Phillips STAFF

PRESENT: Janice J. Fiegenger, Committee Administrator Michael
Sims, Committee Assistant Mike Meriwether, Research Assistant

WITNESSES: Kevin Concannon, Director, Oregon Department of Human
Resources Vickie Gates, Director, Program and finances, ODHR

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 2, SIDE A

004 CHAIR McCOY: Calls the meeting to order at 3:07.

008 KEVIN CONCANNON, DIRECTOR, DEPT. OF HUMAN RESOURCES (EXHIBIT A): We
are faced with difficult choices and decisions due to cuts in the
Department budget. The passage of Ballot Measure 5 will result in the
reduction of \$225 million in general-fund monies from the Department
budget. Also lost to the Department will be more than \$100 million in
federal funds lost. To put it another way, it is as much of a reduction
as the total budget of the University of Oregon and half the budget of
Oregon State University combined.

During the last four years we have continually lamented the loss of
state flexibility because of new federal mandates.

This morning I toured Fairview Training Center with Gov. Barbara
Roberts. That's an area where we've had to respond to a number of
federal mandates, we've had to expend large resources on behalf of the
population at Fairview and those persons who've left or have been in the
process of leaving Fairview for the community. Senate Committee on
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The Medicaid program is another program where state decision-making or
state flexibility has considerably changed. New initiatives in welfare
reform as we know it certainly further constrict some of the choices
Oregon has as a state. Given these reduced flexibilities and the reality
of the budget cuts, we tried to approach the impact of Measure 5 in the
following ways: - Are there ways we can maximize or increase use of
federal funds? Oregon has a long tradition in that regard; it certainly
is something I respect and try to support. Making as full use full use
as possible, such as with use of the Medicaid program, for example.

-- We looked at our caseload projections for the 1991-93 biennium and
tried to see if we could fine-tune those a little sharper. -- We looked
at reducing administration in the agency. You'll see that we proposed to
eliminate some 435 positions in the department, which currently has
approximately 11,000 employees. -- We looked at redesigning some of our
services, combining services, reducing the range or scope of services
provided. The budget, however, does contain a commitment to the future
as well as to dealing with current problems. The Governor's budget

reflects an effort to still try to do some courageous, important and effective initiatives on behalf of the people of the state. For example:

- Commitment made to the New Jobs program in the welfare-reform area, a way to position heads of households (95% of whom are single parents) for the future.

We looked at new financing options as well:

- We found about \$11 million in new Medicaid funds by re-arranging the financing of some of our programs. -- In SAIF rates, in part because of actions by the 1989 Legislature and a vigorous management program throughout the department but especially funding in our state institutions and at Fairview, we'll be saving about \$12 million in general-fund expenditures for SAIF costs during the next biennium.

- Reforecasting our caseloads during the 1991-93 biennium, especially in the Adult and Family Services Division and in the medical-care program, generated or produced for us nearly \$14 million in additional funds. 079 SEN. TROW: I was wondering about the caseloads; during the last session they were estimated low and we ended up with a substantial upward revision of the estimates. Are we in the same situation now?

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085 CONCANNON: We are always somewhat anxious about caseload forecasts because one is forecasting into the future at a time when you can't always predict the variables. I believe that the caseloads in the AFS Division. in the Welfare division. have actually come in much closer if not below those caseload forecasts we had in the early part of the 1989 session. But our caseloads in our Seniors Division, I can't underscore the reality of how fast our caseloads have been growing.

096 SEN. TROW: Why is that?

097 CONCANNON: Caseload growth reflects:

- Increased growth in senior population.

- Changes in federal policy make access to Medicaid easier.

The last Emergency Board authorized the transfer of about \$5 million in the Department budget to the Senior and Disability Services Division. But we're still not in balance for the rest of the session because of continued caseload growth.

In sum, the overriding questions are ones of numbers and eligibility. We make proposals in the Governor's budget to reduce the numbers of persons who would be served in nursing homes through the Medicaid program as well as community programs, to try and get it down within a manageable budget. Of all of our budgets, it's growing the fastest in terms of caseload. 138 SEN. TROW: So you may have underestimated the caseload there?

139 CONCANNON: It certainly is possible. We continue to be concerned about it and it's our hope that the budget will be heard late in the session so we can see the impact of steps we have taken to contain further the growth. It's the caseload budget I worry about the most. 148 SEN. PHILLIPS: If the goals of your budget were to reduce the support

and emphasis on nursing-home issues, that would indicate that on the reverse side, you support independent living programs for seniors. Would it be accurate to say you would increase the budget support for independent-living programs?

157 CONCANNON: Actually, it's even more complicated than that. If you look purely at the amount of resources going into nursing homes they increase, because of we had a federal lawsuit that we just tried to settle, combined with a state lawsuit that was actually a Washington County suit of several years ago. We tried to increase direct-care costs -- direct care wages available to nursing-home operators, with the concurrence of the nursing-home industry, who agreed with us to try and reduce the numbers in nursing homes paid for by Medicaid down to about 7,300 and we're about 600 or so off that mark right now. Because of the size of the budget cuts we had to make, we had to reduce the dollars in the community side as well. We will see higher reimbursements per case, but there should be fewer people on Medicaid in nursing homes and fewer cases in the community program.

177 VICKIE GATES, DIRECTOR OF PROGRAM AND FINANCE, ODHR: There were two ways the Senior Services budget was reduced: Senate Committee on Human Resources January 18, 1991- Page 4

- Level of impairment; what could we do to serve those people who had more severe needs and make our reductions in those areas, where people could live in the community by themselves

- Ability to pay. In Senior Services, we have always served a higher financial level of seniors than we do anywhere else. We have served, in fact, 300% of the SSI; we will be moving to slightly over 200%.

We have maintained half of our Oregon Project Independence program and we have put some alternative money into helping seniors find community, family or other alternative resources that will make it possible for them to be independent.

199 SEN. PHILLIPS: Let me understand - what you did was to change the variables of the calculation, not the number of people in need but the number served, to address your budget restrictions. You'll have 600 more people who need nursing-home care but won't get it? And we've just changed the calculation so fewer people for whom we'd emphasize independent-living care are eligible?

211 CONCANNON: Exactly. In a moment I'll take the committee through some numbers so you'll see the magnitude of the reductions to which you're referring.

216 SEN. PHILLIPS: The same question goes to Adult and Family Services: Did you change any variables in your statistical calculations that led to lower caseload estimates? Such as reductions in the numbers of people eligible?

223 CONCANNON: In the case of seniors, we changed those variables. In the ADC caseloads, we have not changed the criteria. The reductions there are the scope of the welfare-reform program. We have not changed the income limits or other variables.

Our budget is heavily dependent on two major additional sources of revenue:

- A \$41 million hospital assessment, in the Governor's proposed budget, to larger hospitals whose revenues exceed their costs. This will help finance health-care services and general assistance programs, as well as financing the rural hospitals covered by Senate Bill 438 (1989 session), which sunsets at the end of this session. The receiving hospitals, I think, are excited about it; the giving hospitals less excited.

- The unemployment-insurance compensation trust fund exceeds \$750 million. For at least two legislative sessions, maybe longer, Oregon has used portions of those funds through diversion for unemployment and employment services, before the funds go to Washington, D.C. to sit in the trust fund. We propose to use nearly \$20 million in those funds for ongoing efforts through the Oregon Employment Division, and propose a portion to be used for the Jobs program in AFS and help give unemployed persons necessary skills to enter the workforce.

In sum, we proposed \$260 million in service cuts and cost-of-living reductions to clients and providers in our department, and some \$42 million in cuts of administrative costs in the agency. The reductions, as Senator Phillips included in his questions, include narrowing the number of

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clients served, for example, by CSD by narrowing the criteria. We propose:

-- Reductions in community services for people with mental illness.

- Reductions in services for children and adults with developmental disabilities.

-- Reductions in vocational services for people with both physical and mental disabilities.

- Greatly-reduced services for seniors based on their financial situation and impairment levels.

296 CONCANNON: Reviews various other populations affected by cuts, and new criteria for services. (EXHIBIT A, PAGE 7). 441 SEN.KENNEMER: What happens with reimbursements to adult foster-homes, nursing homes, etc.? Are there any provisions for increase? We've heard lots of tears over that subject recently and if we draw the net tighter, we may have sicker and more needy people needing higher levels of services.

452 CONCANNON: Points out cost-of-living or Consumer Price Index (CPI) adjustments (EXHIBIT A, PAGE 8).

466 GATES: There are federal regulations with regard to Medicaid and meeting the expenses of an efficient, economically-operated institution. And we've spent a lot of time, especially during the interim, focusing on delivering quality services, and even prior to the passage of Measure 5. Because we had seen a lot of variation among providers, we did not try to treat everyone uniformly. We have some legal differences, some differences in statuses of providers. There are some increases or decreases in reimbursement; reductions to medical providers and nonhospital providers who are getting no CPI. There obviously are issues of access that go with that decision.

TAPE 3, SIDE A 035 CONCANNON: Responding to Senator Kennemer's question

on adult foster homes, I believe they receive the 3-plus percent CPI in each of the 1991-92 and 1992-93 fiscal years. But we recognize a whole range of difficulties across the service landscape, especially for nongovernmental providers who are hurting. We know, and this is important for the Committee to know, Federal law (the so-called Senator Boren amendment) requires us to reimburse hospitals and nursing homes, to assess the adequacy of our reimbursement differently than we do for any other provider. So if you look at the history of this, even during the difficult 1980s, hospitals and nursing homes during the last few biennia have seen double-digit increases in terms of inflation and have outpaced other providers because they have this special status right at the source, and that was the subject of these Federal lawsuits by the nursing-home industry. There is a pending lawsuit by the hospital industry that we expect to go to trial in March of this year, on that very issue.

054 SEN. TROW: Would we get in trouble with the feds for diverting the unemployment compensation trust-fund monies or this particular thing for the Jobs program? Are other states Senate Committee on Human Resources. January 18, 1991- Page 6

doing that? 058 CONCANNON: The Federal government is not on strong ground preaching to states about their use of trust funds. They're using that trust fund as part of their political Gramm-Rudman modified budget. We think our use is consistent with the purposes of the trust fund; Oregon has more than \$750 million in the trust fund because of the employer tax. Our trust fund is in better shape than many states, especially in the East.

069 SEN. TROW: I'm not objecting; I'm just wondering. 070 CONCANNON: But it's something we'd be very careful about in doing and we certainly wouldn't make a recommendation without being absolutely certain it is licit. 073 SEN. TROW: This \$40 million assessment from some hospitals while sending money to other hospitals, what are we assessing? Are we reducing the amount of Federal Medicaid funds going there by what amount? How does the assessment take place? 078 GATES: It's more in the form of a tax. The hospitals, in effect, would be the net winners because of our ability to leverage that money with Medicaid. The bottom line is a net \$13 million increase in revenue because we can match that money with Federal money and change our reimbursements. We're working now on more detailed information so you can look at the set of issues across individual hospitals.

084 SEN. TROW: Using eligibility? 085 GATES: Yes. We've done a lot of that in the last few years just to try and keep things moving. 086 SEN. TROW: It didn't come across that way. I just thought they were going to fork it up and not get anything back.

087 CONCANNON: No. Application of those funds, fundamentally, goes to a variety of hospital reimbursements. The individual hospital may not receive it all back. But the hospital system, as a whole, is a winner. 096 GATES: With regard to diversion, we looked at using it for placement and other tasks that are very important for the Employment Division mission. The major federal concern seems to be the inadequacy of the fund. 103 SEN. PHILLIPS: Has the long term been examined with regard to cuts and future investment as far as priorities? For example, Project Independence - a cut here could mean that those people might sooner turn up in a nursing home which will cost you more money, perhaps, over the long term. Has anyone calculated figures and put human statistics into some type of modeling program to see how it turns out?

118 CONCANNON: We don't do that precisely but we approached this budget from that respect because a central piece that is protected is in cases such as the minimum required by Federal law, in welfare reform and the Jobs program. Preventive programs, including for example family planning, mean these heads of households will not show up later on in their lives or anning, mean these heads of households will not show up later on in their lives or in their Senate Committee on Hum~o Raourea January 18, 1991- Page 7

childrens' lives in CSD, the mental-health system or worse. But in the case of Project Independence and some of the pre-school developmental disabilities, it's simply a matter of running out of money.

133 SEN. PHILLIPS: Where is your list of cuts if you don't get the \$41 million hospital investment? 147 CONCANNON: Refers Committee to hospital-assessment information (EXHIBIT A, PAGE 18).

142 SEN. PHILLIPS: These are the top priorities for the \$41 million you'd have to replace, or drop it? Is that \$41 million funding for legal reasons versus priority reasons? If you didn't get the assessment, would there be shifts from the chart I'm reading? 160 CONCANNON: Yes. The program recommendations here would basically disappear. And we'd have a considerably larger shortfall in our overall program. I don't know that we'd have to visit other parts of our department, to go deeper. Again, the hospital community is the major baneficiary. 178 SEN. GOLD: Regarding the Early Intervention Program, we're not exactly sure about amounts of money involved. What would it take in money to maintain the current program?

187 CONCANNON: It's a \$5.7 million reduction in mental health.

190 SEN. GOLD: Yes, but it's Federal money that supplements it, am I correct? Money received that would not be received if we didn't go into the new program that requires \$29 million?

193 CONCANNON: Yes. There's a major increased expectation in Federal law of about \$30 million in general-fund dollars that the state was going to be required to go. This certainly makes it absolutely impossible to get to that. 198 SEN. GOLD: If we wish to consider maintaining what we have as a state, it would be more than the \$5.7 million, wouldn't it? 200 CONCANNON: Yes. \$5.7 million only reflects a portion of it, that's over in the Mental Health and Developmental Disabilities budget.

202 GATES: You'd have to add the additional Chapter 1 funds, and we'll get the precise number but I think you're working with something over an additional \$2 million.

206 SEN. GOLD: Is there also money in the Department of Education that is above and beyond that?

208 GATES: Yes, basic set-asides. 212SEN. KENNEMER: You said the worst cuts are in mental health. Could you elaborate, and also tell me more about your sense of the impact on individual and societal bases?

218 CONCANNON: Oregon decided several years ago to focus on the most seriously mentally ill. I still think that was wise; the most seriously mentally ill too often aren't sufficiently cared for. In Oregon, the problem is that by our own estimates, we're only touching about 60% of the most

seriously mentally ill. Oregon ranks 41st among the 50 states in per-capita investment in mentalhealth care. This will move us down further in rankings, but that's not what drives me; it is the knowledge that people with mental disabilities aren't adequately cared for.

In the 1970s and early '80s, it was difficult to invest in public psychiatric hospitals. Public general hospitals in Oregon were upgraded but public hospitals were not. During the 1989 legislative session, the first significant capital investment in a number of years was made. The .50. building at the Oregon State Hospital here was so structurally unsafe, we literally had to tell people to stay away from the sides.

Fairview got so bad we became the #1 target for not one but two Federal agencies.

This budget proposes closing six wards. The Mental Health Division is the most heavily-funded (with general-fund monies) of any DHRdivision. The Federal government back in President Pierce's era (the early to mid-1850s) decided to stay out of the mental-health business, by and large, so it's been a state responsibility and even more so since the 1980s when Federal funds were cut.

There is about \$8 million in this budget for community programs to deal with these closures but that won't take care of it all. There are reductions in community programs of about 12% too, and I think it will result in more people on the street and more unhappiness, unfortunately.

296 SEN. KENNEMER: What are we looking at, 5,000 additional people on the streets? 302GATES: We've estimated about 5,500 people affected, according to MHD figures. To return to Kevin's earlier point, we only serve 60% now. 315 CONCANNON: We've tried to preserve the new regional centers. These are examples of parts of system that can help make it a more responsive system and less institutionally oriented. We've made very modest cuts at Fairview. The sheltered workshop program, though, is 100% state general-fund funded. This reduction in state funds affects clients and their families who are the caretakers of adult children. Either they leave home or are put in private or public institutions. 361 SEN. TROW: What is the thinking about Fairview and similar institutions? I've heard some in the community say it'd be better to close those institutions and go to community programs with the money that would have been spent. 369 CONCANNON: If we had millions of dollars for an interim period, we could support that idea but, realistically, we don't. Our proposed budget places 100 persons out of Fairview to the community. Phasing out Fairview, which in essence would mean double-funding it, would cost an exorbitantly high figure and that's not the best use of money now. 390 SEN. TROW: Is it basically a money question, or a service question as well? 392 CONCANNON: Both. I don't know of any state that has placed the number of clients from Fairview, to the degree of severity we have, in the community. We're better to stay on the road

we're on, with 100-200 person reductions, than try to do it all. As it is, the private non-profit system is very strained and I'd rather invest in trying to strengthen them than assume the cost of trying to close Fairview too rapidly.

411 SEN. TROW: It seems that it's too hard for us to send that money out to the community programs adequately. 425 CONCANNON: True. I worry about the frustrations and tensions that arise in that community, the anti-institution feelings, that come from funding and perceived disparities.

442 SEN. TROW: Are we doing anything about those disparities?

444 CONCANNON: We looked at that generally in the 1989 session and we agreed with the Ways and Means subcommittee is to try to introduce to the Mental Health and Developmental Disabilities Division the very successful efforts of rate-setting that have developed in the CSD. It's working in CSD and we've encouraged the introduction on the mental-health side but this budget doesn't provide the resource.

460 SEN. KENNEMER: In that vein, I think the average cost per person at Fairview is about \$120,000 a year now. To follow Senator Trow's comments, about \$22,000 follows a Fairview individual into the community, is that correct? 469 CONCANNON: No. The average cost at Fairview at the end of this biennium is in excess of \$100,000. The latest placements out of Fairview have been \$75,000 to \$80,000 a year. In a few cases, maybe \$85,000. The 20-some thousand, I think, is where people start averaging and that is where the polarization takes place. In truth, people being placed out of Fairview are having more invested in them by the state but it's more like about \$75,000; the \$25,000 is ancient history. In terms of what we're paying, there's still a spread between what's being paid at Fairview and what's being paid in the community. There's no longer anything of that magnitude; it's in the upper part of the hundreds of thousands or moving on toward that mark.

TAPE 2, SIDE B

039 SEN. KENNEMER: Is there any further effort, or have we abandoned efforts, to get the Health Care Financing Administration or others to change their standards for treatment? In my mind, they're absurd standards and are used punitively against Oregon because we're the model example of how not to be, according to these regulators, and are driving the costs just outrageously high. Essentially, in my mind, and this is a fair professional judgement, no improvement in quality of life.

049 CONCANNON: HCFA surveyors are at Fairview and will return next week. I think our relationship with HCFA has considerably improved; I think HCFA has seen the efforts Oregon has made. In short, our relationship with HCFA is better but I must note in your question the appropriateness of some standards. We've been discussing possible changes in standards with our Congressional delegation. We've been talking with Senator Bob Packwood's office, and with others in the U.S. Senate, in hopes of creating different models nationally in the Medicaid program. In the beginning, Medicaid's intent was not to deal with specialized programs for people with disabilities so much. It was a very narrow medical focus. We've been working to Senate Committee on Human Resources January 18, 1991- Page 10

separate and create special categories of Medicaid nationally. We've been working with the - National Governor's Association on that front and are encouraged that there's some receptivity to that in Congressional circles and certainly at the NGA. We're part of the major input into that.

Our experience with the U.S. Department of Justice is less satisfactory. It's like getting attorneys in the middle of things and having them just

hell-bent, it seems, without any regard for cost, practicality or level of effort of the state. I don't know of any state of this size, having the budget opportunities we have or don't have, that has made the investment we've made, and we still have problems with the U.S. Justice Department. It's very frustrating and demoralizing to Fairview workers and families of residents. We have to live with those, though, because we were found guilty earlier and we're sort of stuck in this circumstance. 091 SEN. PHILLIPS: Have you ever brought HCFA or Justice Department people into a legislative setting here, with tours and inspections of these facilities? A first-hand look at the commitment by the policymakers of this state might have some benefits.

100 CONCANNON: HCFA is based in Seattle and follows news from Oregon. They see the budget allocations that are being made; they know about staffing levels. On that level of commitment, U.S. Sen. Mark Hatfield arranged a meeting with Gov. Neil Goldschmidt, and the Attorney General to express first-hand our commitment. That was unquestionably helpful.

The Justice Department is a lot more difficult. They're concerned with litigation and avoiding ex parte contact. 118 CHAIR McCOY: I think that's part of our trouble, to go to our Congressmen. Staff members have been there longer than the members of Congress; resent Congressmen calling their superiors and them and they take it out on us later. 128 JANICE J. FIEGENER, COMMITTEE ADMINISTRATOR: I have a question about the medically needy and the rationale for that reduction.

129 CONCANNON: Reiterates budget-cutting measures: staff reductions, eligibility reductions, and and reducing Medicaid entitlements for those a notch above "medically needy" -- a category above the poorest population of persons.

145 GATES: We've expanded medical coverage to some priority populations: pregnant women and children. In fact, the latest Federal reconciliation will in time raise coverage of children up to age 19. Services in minority populations will be expanded as well.

154 CHAIR McCOY: What is the net number of reduced administrative positions, taking into account those that aren't filled now and those where people will retire?

158 CONCANNON: The total is 435 proposed for the next biennium, if I recall exactly. We have a hiring freeze now; I hope by the time we get to these reductions we'll have reduced the numbers of persons who have been made unemployed by these actions. 171 SEN. TROW: What's an example of combined services? Senate Committee on Human Resources January 18, 1991- Page 11

172 CONCANNON: One example would be the Day-In Residential Treatment Services (DARTS) for special-needs children, emotionally-disturbed children. It's currently in CSD, operated by contracted agencies. But these are children with mental problems; we propose to move DARTS to the Mental Health Division.

By next June all children 18 and younger below the poverty level will be eligible for Medicaid. If one has a child not poor who is in DARTS, schools or other funding sources must pick up the cost; the state no longer will pay.

190 SEN. TROW: Have we had Title XIX program funds for this? , 194 CONCANNON: Yes, but several came to DARTS referred from school where

families didn't qualify for Title XIX funding. The state had to pay through CSD funds. The downside is that though Mental Health Division funds will be available, some will be ineligible except perhaps for pass-through funds from schools.

211 CHAIR McCOY: Adjourns the meeting at 4:19 p.m.

Submitted by: Reviewed by: Michael Sims Janice J. Fiegener
Assistant Committee Administrator

EXHIBIT LOG:

A - Department of Human Resources "Investing In People," 1991-93
Governor's Recommended Budget - Kevin Concannon - 39 pages

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