HOUSE JUDICIARY SUBCOMMITTEE

ON CRIMINAL LAW

March 01, 2005 Hearing Room 357

8:30 A.M. Tapes 21 - 22

MEMBERS PRESENT:	Rep. Jeff Barker, Chair
Rep. Greg Macpherson	
Rep. Andy Olson	
MEMBER EXCUSED:	Rep. Kim Thatcher
GUEST MEMBER:	Rep. Wayne Krieger
STAFF PRESENT:	Heidi Moawad, Counsel
	Elizabeth Howe, Committee Assistant
MEASURES HEARD:	HB 2444 – Public Hearing
	HB 2136 – Public Hearing

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

TAPE/# Speaker Comments

TAPE 21, A

002Chair BarkerCalls the meeting to order at 8:43 a.m. Opens a public hearing on HB
2444.

HB 2444 – PUBLIC HEARING

014	Judge J. Burdette Pratt	Circuit Court Judge, Malheur County. Testifies in support of HB 2444. Discusses gap in probation system when formal probation is not ordered by the court.
068	Pratt	Continues explanation that most persons convicted of misdemeanors are placed on "bench" probation.
095	Rep. Macpherson	Asks how the fees for misdemeanor offenders compare to felony fees.
101	Pratt	Describes the fees for felonies.
110	Rep. Macpherson	Inquires about the consequence if the offender fails to pay the fee.
119	Pratt	Explains that HB 2444 adds a flat fee to restitution and/or fines, so there would be no further punishment for failing to pay.
134	Heidi Moawad	Counsel. Notes the discretionary ability of the judge.
148	Bradd Swank	Office of the State Court Administrator. Submits written testimony (EXHIBIT A) and testifies neutrally on HB 2444.
169	Swank	Presents proposed amendments (EXHIBIT A, page 2).
180	Pat Schreiner	Oregon Association of Community Corrections Directors (OACCD). Testifies neutrally on HB 2444.
212	Paul Snyder	Association of Oregon Counties. Testifies neutrally on HB 2444.
222	Chair Barker	Closes public hearing on HB 2444.
227	Chair Barker	Opens a public hearing on HB 2136.

HB 2136 – PUBLIC HEARING

234	Colonel J. Michael Caldwell	Deputy Director, Military Department. Testifies in support of HB 2136. Offers background of the bill.		
285	Caldwell	Continues explanation of HB 2136.		
309	Caldwell	Submits and explains proposed amendments (EXHIBIT B).		
339	Chair Barker	Asks about lodging offenders in county jails with no cost to military.		
344	Caldwell	Relates that HB 2136 only clarifies the statute already in existence.		
350	Chair Barker	Asks background for problem regarding military uniforms.		
353	Caldwell	Describes a recent case of a new recruit impersonating a uniformed military officer.		
378	Chair Barker	Clarifies that this statute would only apply to National Guard members.		
380	Caldwell	Answers affirmatively.		
382	Heidi Moawad	Counsel. Expresses concerns of language and suggests an amendment adding intent to defraud.		
TAPE 22, A				
008	Major Mark Ronning	g Judge Advocate, Oregon Military Department. Discusses the Senate bill that addresses intent to defraud as a felony, and "official uniform."		
017	Chair Barker	Mentions that HB 2136 only applies to National Guard members.		
019	Ronning	Notes that the military has no jurisdiction over civilians.		
020	Rep. Macpherson	Asks about the fiscal impact of these newly created crimes.		
037	Caldwell	Explains that it is unlikely that HB 2136 would actually increase the number of incarcerations.		

058	Rep. Macpherson	Suggests eliminating incarceration for this crime and limiting punishment to fines.
066	Caldwell	Discusses citations and options for punishing this crime.
086	Rep. Macpherson	Addresses the nature of military honor and criminal sanctions.
097	Moawad	Offers an illustration to determine if civilian courts could prosecute under this statute, or if only military courts may use it.
102	Ronning	Explains that no authority currently has the ability to prosecute this.
120	Moawad	Clarifies that HB 2136 is only for military enforcement.
126	Ronning	Admits that he does not know if civilian courts could prosecute under this statute.
131	Lieutenant Colonel Rudy M. Murgo	Military Department. Believes that civilian courts could prosecute under this statute.
145	Chair Barker	Clarifies that the purpose of HB 2136 is to assist the National Guard in their internal matters.
148	Murgo	Reiterates that the National Guard may only prosecute National Guard members.
150	Chair Barker	Asks about 90-day rule (Section 34, bottom of page 17).
157	Caldwell	Explains that the 90-day rule allows civilian courts to decide if they want to prosecute, or if the military courts should assume prosecution.
164	Ronning	Reiterates that the 90-day rules allows civilian courts to have discretion to prosecute Class A offenses.
168	Murgo	Describes cases when the military could have assumed prosecution because civilian courts were not handling the case in a timely way.
175	Chair Barker	Closes public hearing on HB 2136.

EXHIBIT SUMMARY

- A. HB 2444, written testimony, Bradd Swank, 3 pp
- B. HB 2136. amendments, Colonel J. Michael Caldwell, 1 p