

**HOUSE JUDICIARY COMMITTEE**

**January 28, 2005 Hearing Room 357**

**8:30 A.M. Tapes 5 - 6**

**Corrected 3/9/05**

**MEMBERS PRESENT: Rep. Wayne Krieger, Chair**

**Rep. Greg Macpherson, Vice-Chair**

**Rep. Andy Olson, Vice-Chair**

**Rep. Bob Ackerman**

**Rep. Jeff Barker**

**Rep. Linda Flores**

**Rep. Bill Garrard**

**Rep. Kim Thatcher**

**Rep. Kelley Wirth**

**STAFF PRESENT: Sam Sears, Counsel**

**Elizabeth Howe, Committee Assistant**

**MEASURES/ISSUES HEARD & WITNESSES:**

**Measure Introduction**

**Oregon Judicial Department - Informational Meeting**

**Chief Justice Wallace Carson, Jr. Oregon Supreme Court**

**Assoc. Justice W. Michael Gillette, Oregon Supreme Court**

**The Honorable Karsten Rassmussen, Lane County Circuit**

**Court and Oregon Circuit Court Judges Association**

**The Honorable Henry Breithaupt, Oregon Tax Court**

## Judge David V. Brewer, Oregon Court of Appeals

**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
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### TAPE 5, A

004	Chair Krieger	Calls the meeting to order at 9:00 a.m. Opens a work session to introduce committee measures.
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### MEASURE INTRODUCTION – WORK SESSION

010	Sam Sears	Committee Counsel. Introduces LC Drafts 1472, 1478, 1748, 1749, 1756, 1997 ( <b>EXHIBITS A-F</b> ).
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027	Vice-Chair Macpherson	<b>MOTION: Moves LCs: 1472, 1478, 1748, 1749, 1756, 1997 BE INTRODUCED as committee bills.</b>
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**VOTE: 9-0-0**

030	Chair Krieger	<b>Hearing no objection, declares the motion CARRIED.</b>
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032	Chair Krieger	Opens an informational meeting.
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### OREGON JUDICIAL DEPARTMENT — INFORMATIONAL MEETING

038	Chief Justice Wallace Carson	Oregon Supreme Court. Submits informational packet on the Oregon Judicial Department ( <b>EXHIBIT G</b> ). Offers his background. Introduces Justice Gillette. Welcomes dialogue between members and presenters.
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062	Associate Justice Michael Gillette	Oregon Supreme Court. Discusses why judges do what they do. Offers history of judges, and enforcing and deciding the law.
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111	Justice Gillette	Continues history of courts and deciding disputes.
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143	Justice Gillette	Recalls Thomas Jefferson's words in the Declaration of Independence.
185	Justice Gillette	Discusses Oregon's elected judiciary.
228	Justice Gillette	Explains the oath that judges must take to follow constitutional law.
255	Justice Gillette	States a judges obligation to make decisions to resolve disputes.
285	Chair Krieger	Notes that the U.S. Supreme Court sometimes votes on decisions five to four while looking at the same set of facts, and admits his trouble with that discord.
301	Justice Gillette	Discusses the close calls that the U.S. Supreme Court makes to enforce decisions that affect the entire country.
350	Justice Gillette	Explains the differences between the U.S. Supreme Court and the Oregon Supreme Court in how judges come to a decision.

#### **TAPE 6, A**

007	Rep. Flores	Discusses philosophical perspective on how judges view the constitution as a static document or a variable document, and asks Justice Gillette to offer his thoughts.
016	Justice Gillette	Asserts that the Constitution is a "snap shot" in time, and judges are obliged to try to understand what the constitutional writers intended.
055	Justice Gillette	Concludes with a statement about the legislature and the constitution.
090	Chief Justice Carson	Mentions next week's meeting about legislative interpretation.
100	Chief Justice Carson	Explains the Oregon Supreme Court's role in legislative interpretation.
120	Chief Justice Carson	Discusses judges' terms of service and running for office.
127	Rep. Garrard	Asks about factors in interpreting the intention of the legislature.

132	Justice Gillette	Explains that judges read what was originally written, listen to committee meetings, and consider the context of the time.
176	Vice-Chair Macpherson	Asks Justice Gillette to discuss how judges determine whose testimony best describes the intention of the legislature.
182	Justice Gillette	Describes how judges determine the weight of different testimony.
025	Rep. Wirth	Asks what percentage of the existing constitution should be there.
235	Justice Gillette	Answers somewhere between 40 and 60 percent. Explains matters for legislation and what things belong in the Oregon Constitution.
272	Chief Justice Carson	Illustrates complications in language that make interpretation difficult.
290	Chief Justice Carson	Relays a case that illustrates the process between judges and legislators.
319	Chief Justice Carson	Introduces Judge Karston Rassmussen, Lane County Circuit Court, Henry Breithaupt, Oregon Tax Court, and Judge David Brewer, Oregon Court of Appeals.
336	Judge Karsten Rassmussen	Lane County Circuit Court and President of the Oregon Circuit Court Judges Association. Discusses Oregon Circuit Courts.
383	Judge Rassmussen	Continues discussion of Circuit Courts and dispute resolution.
430	Judge Rassmussen	Discusses caseload trends for Oregon Circuit Courts ( <b>EXHIBIT G, page 1, section 3</b> ).

#### **TAPE 5, B**

002	Judge Rassmussen	Continues explanation of circuit courts and how they relate to other courts.
038	Judge Rassmussen	Explains differences between circuit, appellate, and trial courts.
052	Judge Henry Judge Breithaupt	Oregon Tax Court. Explains history of tax courts, and how his court decisions are reviewed.

100	Judge Breithaupt	Continues explanation of the workings of the Oregon Tax Court.
111	Vice-Chair Macpherson	Asks about the two major sources of tax writing in Oregon, and the extent to which tax judges feel bound by federal income tax laws.
121	Judge Breithaupt	Explains how judges must follow federal definitive statements.
159	Rep. Garrard	Asks Judge Rassmussen how Measure 37 will affect circuit courts, and how new ballot measures and statutes are interpreted.
174	Judge Rassmussen	Remarks that he is obligated to follow the case law and apply it to the methodology of how to interpret statutes.
203	Rep. Ackerman	Asks about alternate dispute resolutions.
219	Judge Rassmussen	Indicates that mediation is an alternative method to help settle disputes.
224	Rep. Ackerman	Asks about arbitration relating to dispute resolutions.
228	Judge Rassmussen	Explains that cases are often referred out for resolution to an attorney who will file arbitration decisions.
248	Rep. Thatcher	Asks Judge Rassmussen whether circuit court judges interface with administrative law judges, and asks whether Judge Rassmussen interfaces with them at all.
259	Judge David Brewer	Chief Judge of Oregon Court of Appeals. Adds that trial courts have little contact with administrative agencies, and that the Court of Appeals has more to do with administration.
272	Judge Breithaupt	Notes change in 1995 which created the magistrate division.
287	Judge Brewer	Provides basic function of the Oregon Court of Appeals.
307	Judge Brewer	Answers Rep. Ackerman's question about appellate dispute resolution settlements.

## **TAPE 6, B**

004	Judge Brewer	Offers basic information about the Oregon Court of Appeals.
036	Judge Brewer	Discusses process of oral arguments.
064	Judge Brewer	Explains what causes spikes and changes in appellate court caseload.
104	Judge Brewer	Relates that the appellate court often sits in schools to educate youth in the Oregon court systems.
120	Vice-Chair Macpherson	Asks Judge Brewer about the nature of litigation in Oregon and why there is so much activity in the Oregon Court of Appeals.
129	Judge Brewer	Discusses the breadth of the appellate courts in Oregon; notes the many types of cases and reviews that come through the appellate courts. States that Oregon has fewer judges than many other states.
154	Judge Rassmussen	Answers Vice-Chair Macpherson regarding circuit courts and his own perspective about the workload in the Court of Appeals.
177	Chief Justice Carson	Concludes with a brief on case law, and describes the duties of the position of Chief Justice.
211	Chief Justice Carson	Offers a thought on “why Oregon is so Appealing.”
249	Chief Justice Carson	Explains which cases come to the Oregon Supreme Court, and why.
275	Rep. Ackerman	Asks if something can be done to limit the scope of cases that go to the Court of Appeals.
288	Chief Justice Carson	Explains that the scope is reviewed often, but offers that limiting the scope would not cut the load as much as would be expected.
309	Judge Brewer	As a former trial judge, offers his view on what limiting the scope would do to limit the workload. Notes that most cases in appellate courts are credibility cases, so the scope limitation breaks down.
337	Rep. Garrard	Wonders to what point a legislator should become involved with a court process at the request of a constituent.

349 Chief Justice Carson Suggests that the legislature has a duty to be involved with judicial administration, but should not provide inside information from constituents to judges.

402 Chair Krieger Closes informational meeting. Adjourns meeting at 10:46 a.m.

### **EXHIBIT SUMMARY**

- A. Introductions, measure, LC 1472, staff, 1 p
- B. Introductions, measure, LC 1478, staff, 2 pp
- C. Introductions, measure, LC 1748, staff, 2 pp
- D. Introductions, measure, LC 1749, staff, 5 pp
- E. Introductions, measure, LC 1756, staff, 2 pp
- F. Introductions, measure, LC 1997, staff, 6 pp
- G. Judicial Department, Oregon, informational packet, Chief Justice Wallace Carson, 136 pp

### **HOUSE COMMITTEE ON** **INFORMATION MANAGEMENT AND TECHNOLOGY**

**March 15, 2005 Hearing Room 357**

**1:00 P.M. Tapes 25 - 26**

**MEMBERS PRESENT: Rep. John Dallum, Chair**

**Rep. Jerry Krummel, Vice-Chair**

**Rep. Kelley Wirth, Vice-Chair**

**Rep. Chuck Burley**

**Rep. Brad Witt**

**STAFF PRESENT: Dallas Weyand, Committee Administrator**

**Louann Rahmig, Committee Assistant**

## MEASURES/ISSUES HEARD:

### High Performance Computing Briefing – Informational Meeting

**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
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#### TAPE 25, A

003	Chair Dallum	Calls the meeting to order at 1:00 p.m. Introduces the high school students from Mitchell, Oregon, attending the committee meeting as guests. Opens the informational meeting on high performance computing briefing.
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### **HIGH PERFORMANCE COMPUTING BRIEFING – INFORMATIONAL MEETING**

015	Brian Wornath	LCN Media & Consulting Group. Announces that he represents the Oregon High Performance Computing Consortium. Distributes hard copy of <i>General Proposal for Establishing an Oregon High Performance Computing Infrastructure</i> PowerPoint presentation ( <b>EXHIBIT A</b> ). Begins the presentation with an overview and the goals of developing a supercomputing resource in Oregon.
055	Wornath	Provides an explanation of supercomputing and who would use it.
074	Wornath	Describes the old-style, traditional, single-purpose computer called a “monolith.”
088	Wornath	Discusses types of supercomputers. Refers to case studies in <b>EXHIBIT A, Page 14.</b>
117	Wornath	Discusses how much unused computing time is available after regular office hours, creating an affordable and powerful computing “grid.”



149	Wornath	Continues with justification to develop affordable high performance computing resources within Oregon.
184	Wornath	Proposes to create a state resource that markets the unused capacity and the accompanying consulting services, offering “one-stop shopping” for high-performance computing.
216	Wornath	Outlines sources for general initial capitalization. States that earnings from operations would come from leasing affordable high-performance computing time.
237	Wornath	Shows comparison of estimated financial scenarios ( <b>EXHIBIT A</b> ).
313	Wornath	Discusses the percentage of return and cost per year of operating a computer grid.
381	Wornath	Suggests implementing a pilot project to determine the best technical solution. Displays the estimated pilot profitability.

#### **TAPE 26, A**

019	Wornath	Discusses a possible organizational structure similar to an Oregon high-performance computing consortium. Continues with explanation of challenges.
069	Wornath	Has spoken with Chief Information Officers around the state, who believe the concept is good.
083	Wornath	Summarizes by stating that the technology is proven, can easily be applied to numerous applications and uses, and is easily expandable.
121	Chair Dallum	Asks about the “down side.”
125	Wornath	Responds that information technology people will say this is a very specialized area. Believes that ideally the universities and the state would co-develop a pilot program.
148	Chair Dallum	Inquires if this concept is attractive to private enterprise.
155	Wornath	

Replies, it is. Continues that there are certain niches that don't have the financial resources to take on a project such as this. Cites examples of researchers who believe they can use.

192	Chair Dallum	Asks what proposed legislation should look like.
196	Wornath	Answers that funding for a pilot project could be requested.
227	Rep. Burley	Inquires what is preventing us from using this now.
233	Wornath	Responds, nothing. Indicates from a financial standpoint, it is best to consolidate and not have many small clusters.
261	Rep. Burley	Refers to the case studies in <b>EXHIBIT A</b> that were mostly done by private corporations. Comments that if we were going to use public resources, that is a different set of circumstances particularly since we are concerned with security issues.
270	Wornath	Agrees. Offers to provide more up-to-date information. Reports on other states that are doing this for economic development.
313	Rep. Burley	States that the corporate environment is more controlled than ours as we have computers all across the state. Asks how we would insure security.
323	Wornath	Agrees that some environments are better suited than others.
329	Rep. Krummel	Asks if setting something like this up in the new data center might generate the dollars to pay for it.
338	Wornath	Replies, absolutely. Reports that high performance computing is being done on a limited basis at the Oregon State University Oceanic School.
404	Rep. Krummel	Asks if there have been discussions with the Department of Administrative Services (DAS) or other privately owned data centers to see if there is an interest.
416	Wornath	Has spoken with DAS and some small companies affiliated with academics.

439 Rep. Witt Inquires if one has to be a participant in the network to be able to utilize supercomputing capacity.

**TAPE 25,  
B**

011 Wornath Responds, yes, for security reasons. States that the criteria needs to be identified in the business model.

020 Rep. Witt Asks if he is aware of any claims in other states that there is not equal access.

025 Wornath Answers that he has not heard of any.

027 Rep. Wirth Inquires if anyone has expressed an interest in helping finance a pilot study.

032 Wornath Replies, absolutely.

038 Rep. Wirth Asks how much private money might be available.

046 Wornath Replies that there is interest, and some medical schools are trying to lure grants. Believes discussions with interested parties to determine how much money is available would be needed.

069 Rep. Wirth Inquires if other states have included some public financing, and how far along they are in the process.

077 Wornath Answers, it varies.

089 Wanda Brennan High School Science Teacher, Mitchell, Oregon. Cites problems of areas with limited internet access. Asks how high-performance computing will benefit them.

096 Wornath Responds that not all rural areas will receive the same amount of benefit; however, areas with community colleges perhaps can provide access.

140 Chair Dallum Closes the informational meeting on high performance computing and adjourns the meeting at 2:08 p.m.

## **EXHIBIT SUMMARY**

- A. **High Performance Computing Infrastructure, General Proposal for Establishing, printed copy of PowerPoint presentation, Brian Wornath, 67 pp**