

HOUSE JUDICIARY COMMITTEE

February 21, 2005 Hearing Room 357

8:30 A.M. Tapes 13 - 16

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

GUEST MEMBERS: **Rep. Gordon Anderson**

Rep. Donna Nelson

STAFF PRESENT: **Bill Taylor, Counsel**

Elizabeth Howe, Committee Assistant

MEASURES HEARD: **HB 2020 – Public Hearing**

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

TAPE 13, A

004 Chair Krieger Calls the meeting to order at 8:38 a.m. Makes a statement about HB 2020 and requests respect and professional conduct.

022 Bill Taylor Counsel. Announces prepared statements without public testimony from Robert Castagna at Oregon Catholic Conference (**EXHIBIT A**) and Paula Abrams at Lewis & Clark Law School (**EXHIBIT B**).

034 Chair Krieger Opens a public hearing on HB 2020.

HB 2020 – PUBLIC HEARING

039 Speaker Karen Minnis Speaker of the House. Testifies in support of HB 2020.

065 Arnold Frank Grantski Step-father of Laci Peterson. Testifies in support of HB 2020.

101 Grantski Reads a personal letter to illustrate the potential for good to come out of his personal tragedy losing his daughter and future grandson.

137 Rep. Diane Rosenbaum House District 42. Submits written testimony and statistics on Intimate Partner Violence (**EXHIBIT C**) and testifies in opposition of HB 2020. Discusses violence against women.

167 Rep. Rosenbaum Discusses efforts to address the problem of violence against women.

198 Rep. Rosenbaum Suggests solutions that focus on preventing violence against women, rather than violence against an unborn fetus.

213 Chair Krieger Inquires about the increase in violence against pregnant women.

220 Rep. Rosenbaum Explains that the state of the economy, and high unemployment may contribute to violence against women.

228 Rep. Mary Nolan House District 36. Submits written testimony and testifies in opposition to HB 2020 (**EXHIBIT D**).

251 Rep. Nolan Discusses three questions she believes legislators should ask while they consider legislation.

267 Rep. Nolan Explains why HB 2020 is not written to achieve its proposed goals.

299 Rep. Nolan Discusses whether the proposed measure is the most efficient way to achieve its proposed goals.

341 Rep. Nolan Explains the problems that put women in dangerous family situations.

378 Rep. Nolan Discusses whether HB 2020 is written to avoid negative side effects.

TAPE 14, A

018 Rep. Nolan Offers to be involved in drafting a less divisive bill to protect pregnant women.

027 Rep. Flores References page two (**EXHIBIT D**) listing concerns about social problems. States that she is unclear how social concerns address the issue of punishing a murderer.

040 Rep. Nolan Explains why she believes HB 2020 fails to achieve its goal to protect pregnant women. Discusses preventative measures against domestic violence.

049 Rep. Flores Agrees that social issues are important for women. Stresses that violent crimes against a pregnant woman need to be punished.

058 Rep. Nolan Discusses purpose of criminal sanctions to deter criminal behavior, and social services that could keep women out of harmful situations.

068 Rep. Olson Asks if Rep. Nolan sees a distinction between what the law allows for choice, and the taking of life through a criminal act.

076 Rep. Nolan Chooses not to interpret the law.

079 Rep. Olson

		Asks why conditions would worsen for women and children with the passage of HB 2020.
083	Rep. Nolan	Admits that she does not have factual evidence that conditions would worsen, but she has experiential evidence about families at risk.
103	Rep. Gordon Anderson	House District 3. Submits written testimony and testifies in support of HB 2020 (EXHIBIT E). Relates a murder case of a pregnant woman in Central Point, Oregon.
140	Rep. Anderson	Questions why a criminal should receive more punishment if the killing of an unborn fetus is not considered killing a human being.
179	Rep. Olson	Asks if there is a distinction between the criminal act and what the law allows through the right to choose.
189	Rep. Anderson	States that the woman's choice is considered in HB 2020.
196	Rep. Donna Nelson	House District 24. Submits written testimony and testifies in support of HB 2020 (EXHIBIT F).
226	Rep. Nelson	Offers statistics that homicide is the leading factor of death among pregnant women from age 14-44.
271	Rep. Nelson	Discusses the need to convict the death of a second person even if the act was unintentional.
295	Rep. Nelson	Relates a personal family tragedy.
344	Rep. Nelson	Questions why there were no statistics offered by other representatives about the deaths of pregnant women.
363	Rep. Debi Farr	House District 14. Testifies in support of HB 2020. Feels that the pain caused by the murder of a pregnant woman includes the pain of losing two loved ones, not only one.
392	Rep. Ackerman	Expresses appreciation for the strength of the representatives' convictions. Asks why HB 2020 has no fiscal impact statement.
411	Rep. Anderson	Believes that life and taking life is above cost.

425 Rep. Nelson Stresses that safety must be a priority in our society.

443 Rep. Farr Asks what the cost is for a double homicide under current statutes.

451 Rep. Ackerman Explains how reclassifying crimes can create profound costs.

TAPE 13, B

019 Chair Krieger Asks Mr. Taylor to explain fiscal impact.

022 Bill Taylor Counsel. Explains that fiscal impact statements are only necessary at a work session, and must also consider the amendments.

043 Marc Blackman Clackamas County. Submits written testimony and testifies in opposition to HB 2020 (**EXHIBIT G**).

063 Blackman Explains how HB 2020 conflicts with legislative policies in Oregon.

088 Blackman Opposes punishing unintended consequences equally with intended consequences.

129 Rep. Olson Asks for the definition of “culpable mental state.”

133 Blackman Defines “culpable mental state.”

143 Rep. Macpherson Asks if someone performing a medical procedure while unaware of the pregnancy could be punished under this statute if they cause the death of the fetus.

153 Blackman Answers affirmatively. Explains possibility of requiring pregnancy tests for many medical procedures because the bill eliminates the need for knowledge of the pregnancy.

171 Rep. Flores Refers to 1. A-G (**EXHIBIT G**). Discusses knowledge and acknowledgement of life.

178 Blackman Discusses implementation of statute requiring a culpable mental state, and problems with punishing unintended consequences.

225	Rep. Flores	Asks about statistics that show violence against pregnant women has not increased.
235	Blackman	Explains why many statistics are not available because society views domestic violence differently today.
261	Rep. Thatcher	Asks for clarification about culpable mental state. Offers an illustration.
271	Blackman	Discusses reckless behavior, and the need to allow for the mental state of the offender. Offers an illustration.
315	Rep. Olson	Disagrees with Mr. Blackman's comments about domestic violence.
323	Rep. Flores	Asks about comments on page four (EXHIBIT G) about interests identified by the sponsors.
335	Blackman	Explains what he believes the interests identified by the sponsors are, and why he believes HB 2020 does not serve those purposes.
354	Kelly Skye	Oregon Criminal Defense Lawyers Association. Submits written testimony and testifies in opposition to HB 2020 (EXHIBIT H).

TAPE 14, B

020	Skye	Discusses difficulties in litigating the murder of an unborn child if the offender, and/or the victim, are not aware of the pregnancy.
049	Skye	Explains why Section 8 of HB 2020 does not protect pregnant women because of the allowance for actions taken by the pregnant woman.
080	Skye	Discusses the kinds of cases that would be swept into the statute if no intent or knowledge is required to prosecute two murders.
100	Rep. Barker	Makes a correction about two manslaughters, not aggravated murder.
106	Skye	States that under the circumstance of her illustration it would be manslaughter, not aggravated murder.

114	Andrea Meyer	American Civil Liberties Union (ACLU). Testifies in opposition to HB 2020.
153	Meyer	Explains why the ACLU opposes HB 2020 because it expands the death penalty.
178	Rep. Thatcher	Asks if the murder would only be considered one, not two in the type of bill the ACLU wants.
187	Meyer	Explains that the fetus would not be recognized as a distinctive life, and therefore the crime would be a single murder.
200	Rep. Olson	Asks the panel if they feel a distinction between the criminal act and what the law allows through choice.
205	Meyer	Believes HB 2020 tries to link the two.
211	Rep. Thatcher	Asks about the North Carolina model of a fetal homicide law that punishes for the death of the fetus when the mother is not killed.
218	Meyer	Describes what would occur under North Carolina's statute.
233	Rep. Thatcher	Understands that the fetus would not be considered a separate life, it would only elevate the punishment for assaulting a woman.
246	Rep. Macpherson	Asks if HB 2020 would place Oregon in the mainstream, or in the extreme of criminal justice.
253	Skye	Believes that Oregon would be placed in the extreme and explains.
270	Senator Kate Brown	Testifies in opposition to HB 2020. Addresses concerns that HB 2020 does not address domestic violence against a pregnant woman.
302	Senator Brown	Offers statistics about violence against pregnant women, and the particular vulnerability of pregnant women.
349	Denise Washington	Executive Director, Oregon Coalition against Domestic and Sexual Violence. Submits written testimony and testifies in opposition to HB 2020 (EXHIBIT I).

406 Washington Discusses safety for battered women. Proposes that domestic violence can be prevented by providing safety services.

TAPE 15, A

010 Rep. Flores Asks if there are women who are murdered regardless of safety provisions.

018 Washington Responds that it does happen

019 Rep. Flores Requests statistics about women who have services available and are still murdered.

024 Washington Offers to do research.

028 Marcia Kelley Oregon Women's Right Coalition. Submits written testimony and testifies in opposition to HB 2020 (**EXHIBIT J**). Submits written testimony and speaks for the American Association of University Women of Oregon (**EXHIBIT K**).

053 Rep. Garrard Asks if murder is violent, and asks why she believes HB 2020 does not address violence against women.

058 Kelley Repeats that she does not believe the focus is on women.

060 Garrard Clarifies that it does address violence, but that it might not be enough.

063 Kelley Agrees it does not go far enough.

075 Jonathan Clark Attorney. Testifies in support of HB 2020.

112 Clark Explains the ways that people consider an unborn fetus to be human.

150 Clark Discusses fetal homicide laws in 30 U.S. states.

168 Clark Refers to section 8 of HB 2020, and purports that doctors would not be in danger of prosecution as HB 2020 allows for the woman's consent.

189	Rep. Wirth	Asks if there are preventions for false accusations that someone else caused a spontaneous abortion or miscarriage.
199	Clark	Suspects that the same preventions against false accusations would exist under HB 2020 as under any other criminal law.
207	Rep. Wirth	Discusses overuse of restraining orders, and false accusations.
216	Clark	Describes requirement for an act against the woman connecting the perpetrator's action with the woman.
226	Rep. Wirth	Continues to give examples of possibility for false accusations.
235	Clark	Explains that prosecutions under HB 2020 not be much different than any other criminal or civil case.
240	Rep. Macpherson	Asks about Mr. Clark's reference to consent exception for medical procedures. Notes that the homicide section of HB 2020 only has an exception for medical abortions. Asks about procedures performed when woman has no opportunity to give consent.
278	Clark	Believes that doctors would have the same protection when assisting a pregnant woman without consent as assisting anyone else.
288	Rep. Macpherson	Recognizes troublesome mechanics.
290	Rep. Ackerman	Questions where the standard came from in HB 2020 in Section 8, subsection A, and subsection B regarding the threshold requirement.
302	Clark	Admits that he does not know where the requirement came from.
303	Rep. Ackerman	Inquires whether subsection B only refers to birth of single child and not twins or triplets.
307	Clark	States that each child would be covered as an unborn child.
317	Rep. Ackerman	Believes that threshold considers single, not multiple births.
324	Rep. Olson	Asks where the threshold was obtained from.

328	Clark	Admits that he does not know.
330	Myrna Shaneyfelt	Grants Pass. Constituent of Rep. Anderson. Testifies in support of HB 2020. Discusses federal law that already does what HB 2020 does on federal property.
390	Shaneyfelt	Urges committee members to keep it simple and provide justice for both lives that are taken in the murder of a pregnant woman.
417	Chair Krieger	Offers to hear public testimony at 3:00 p.m. in hearing room 357. Recesses at 11:05 a.m.

TAPE 16, A

003	Chair Krieger	Reconvenes the meeting at 3:05 p.m.
009	Amy Rabon	Oregonians for Life. Testifies in opposition to HB 2020. Discusses wanted and unwanted children and the possibility for adoption.
043	Destiny Rabon	Patton School. Testifies in opposition to HB 2020.
055	Rep. Wirth	Asks if Amy Rabon is representing a pro-life group and asks for clarification about the contradictory message in HB 2020.
060	Amy Rabon	States that when the pregnancy is convenience the fetus is a child, and when the pregnancy is not convenient the fetus is not.
064	Rep. Wirth	Requests suggestions that would make HB 2020 consistent.
065	Amy Rabon	Suggests changing the penal code to redefine murder to include a fetus.
076	Rep. Olson	Asks if there is a distinction between the criminal act and what the law allows through choice.
080	Amy Rabon	Offers her opinion about the bill and her personal belief.
091	Mary Starrett	Oregonians for Life (OFL). Testifies in opposition to HB 2020. Discusses inconsistency regarding wanted and unwanted children.

133	Rep. Wirth	Asks if Oregon Right to Life (ORL) is in support of the bill.
136	Starrett	States that she cannot speak for ORL, but OFL does not believe this is a pro-life bill.
144	Paul deParrie	Believers Against Child Killing. Submits written testimony and testifies in opposition to HB 2020 (EXHIBIT L). Asserts that HB 2020 will legitimize abortion in statute for the first time.
180	deParrie	Suggests that the definition of life be rewritten to include a fetus.
201	Rep. Flores	Asks Ms. Starrett about the 30 states with fetal homicide laws.
207	deParrie	Discusses the California statute that does not make a specific statement excluding abortion.
222	Starrett	Asserts that the aspect of HB 2020 that excludes abortion is the issue.
240	Marc Lucca	Describes his background in criminal justice. Submits written testimony and testifies in support of HB 2020 (EXHIBIT M).
284	Lucca	Suggests that other legislation this session does not go far enough to protect an unborn child and a pregnant woman.
329	Lucca	Asserts that HB 2020 protects the mother and therefore the unborn child.
338	Lucca	Addresses earlier reference to perpetrators culpable mental state.
388	Lucca	States that HB 2020 is not an abortion bill.
414	Lucca	Offers suggestions for possible amendments.
434	Lucca	Believes that the law should value the worth that a pregnant woman places on her unborn child.
465	Chair Krieger	Discusses amendments, and suggests a work group.
478	Chair Krieger	Adjourns the meeting at 3:35 p.m.

EXHIBIT SUMMARY

- A. HB 2020, prepared statement of Robert Castagna, staff, 2 pp
- B. HB 2020, prepared statement of Paula Abrams, staff, 4 pp
- C. HB 2020, written testimony and statistics, Rep. Diane Rosenbaum, 7 pp
- D. HB 2020, written testimony, Rep. Mary Nolan, 3 pp
- E. HB 2020, written testimony, Rep. Gordon Anderson, 4 pp
- F. HB 2020, written testimony, Rep. Donna Nelson, 1 p
- G. HB 2020, written testimony, Marc Blackman, 5 pp
- H. HB 2020, written testimony, Kelly Skye, 2 pp
 - I. HB 2020, written testimony, Denise Washington, 2 pp
 - J. HB 2020, written testimony, Marcia Kelley, 1 p
 - K. HB 2020, written testimony, Marcia Kelley, 1 p
 - L. HB 2020, written testimony, Paul deParrie, 2 pp
 - M. HB 2020, written testimony, Marc Lucca, 4 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
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.

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 (EXHIBIT A). 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 EXHIBIT A, Page 14 .
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 (**EXHIBIT A**).
- 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 EXHIBIT A 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**

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| 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**